



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

September 21, 2011

Avenue Pub, LLC
1629 Lakeview Ave.
Dracut, MA 01826
License #: 029200017
Heard: 07/26/2011

After a hearing on July 26, 2011, the Commission finds Avenue Pub, LLC in violation of 204 CMR 2.05 (1), 204 CMR 2.05 (2) and 204 CMR 2.05 (2).

The Commission **suspends the licensee's license for a total of five (5) days to be served**. The suspension shall commence on **Wednesday, November 9, 2011 and terminate on Sunday, November 13, 2011**. The license will be delivered to the Local Licensing Board or its designee on Wednesday, November 9, 2011 at 9:00 A.M. It will be returned to the licensee Monday, November 14, 2011.

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
Rosemary Bailey, Investigator
Administration
File



The Commonwealth of Massachusetts
Department of the State Treasurer
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DECISION

Avenue Pub, LLC
1629 Lakeview Ave.
Dracut, MA 01826
License #: 029200017
Heard: 07/26/2011

Avenue Pub, LLC (the "Licensee") holds an all alcohol license issued pursuant to M.G.L. c. 138, §12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, July 26, 2011, regarding an alleged violation of 204 CMR 2.05 (1), 204 CMR 2.05 (2) and 204 CMR 2.05 (2). Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Rose Bailey's report.

The following documents are in evidence:

1. Licensee's Stipulation of Facts; and
2. Investigator Rose Bailey's Report.

There is one (1) tape of this hearing.

FACTS

1. On Friday, April 8, 2011, Investigators Kujawski and Bailey conducted a covert investigation of the business operation of Avenue Pub, LLC.
2. Upon entering the licensed premises, Investigators observed two (2) electronic video devices located to the right of the bar area.
3. Investigators observed that the electronic video device had characteristics to be indicators that the electronic video device is utilized as a gambling device.
4. After a period of time, the investigators inserted ten (10) dollars of U.S. currency into the electronic video device "River Boat Poker," "Ace's or Better" and observed forty (40) credits displayed on the screen.
5. After inserting the money into the machine, Investigator Bailey selected the number of credits that she wanted to bet.
6. The machine "registered" the bet by displaying the number of credits she had selected.
7. The following additional observations were noted relative to the characteristic of the video poker device:
 - Double up button
 - Specific currency insertion amounts of one (1), five (5), ten (10) and twenty (20)
 - Labeled with signage "For Amusement Only"

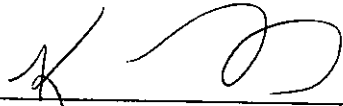
8. Investigator Bailey continued to play and over a period of time she had accumulated fifty (50) credits.
9. She informed the female bartender, she wanted to cash out.
10. The bartender approached the device and made note of the winning credits.
11. The bartender appeared nervous and proceeded to make a phone call.
12. She did not speak with anyone during the call.
13. Investigator Bailey observed her opening the cash register, remove the insert and remove cash from the bottom of the register drawer.
14. She then approached the investigator and handed her twelve dollars and fifty cents (\$12.50) U.S. currency.
15. From investigator training and experience, the investigators are aware that the standard pay-off rate for most gambling electronic video devices is twenty-five cents (\$0.25) per credit.

CONCLUSION

Based on the evidence, the Commission finds the licensee violated 204 CMR 2.05 (1), 204 CMR 2.05 (2) and 204 CMR 2.05 (2). Therefore, the Commission **suspends the licensee's license for a period of five (5) days. In addition, the licensee must not possess in or on the licensed premises any automatic amusement device or video poker machine.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kim S. Gainsboro, Chairman



Susan Corcoran, Commissioner



Dated: September 21, 2011

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
Rose Bailey, Investigator
Administration
File