



*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

November 10, 2020

**M&M LOUNGE INC. D/B/A JOKER'S LOUNGE
135 STEWART STREET
DRACUT, MA 01826
LICENSE#: 00028-RS-0292
VIOLATION DATE: 9/11/2020
HEARD: 10/14/2020**

After a hearing on October 14, 2020, the Commission finds M&M Lounge Inc. d/b/a Joker's Lounge violated:

- 1) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 37 (June 6, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 2) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 40 (June 19, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 3) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Violation of Massachusetts Executive COVID-19 Order No. 46 (August 7, 2020).

Therefore, the Commission **INDEFINITELY SUSPENDS** the license of M&M Lounge Inc. d/b/a Joker's Lounge **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
David Bolcome, Investigator
Joseph Di Cicco, Investigator
Michael Flanagan, Dept. of Labor Standards
Administration, File



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DECISION

**M&M LOUNGE INC. D/B/A JOKER'S LOUNGE
135 STEWART STREET
DRACUT, MA 01826
LICENSE#: 00028-RS-0292
VIOLATION DATE: 9/11/2020
HEARD: 10/14/2020**

M&M Lounge Inc. d/b/a Joker's Lounge ("Licensee" or "Joker's Lounge") holds an all alcoholic beverages license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission ("ABCC" or "Commission") held a hearing on Wednesday, October 14, 2020, regarding alleged violations of:

- 1) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 37 (June 6, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 2) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 40 (June 19, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19; and
- 3) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Violation of Massachusetts Executive COVID-19 Order No. 46 (August 7, 2020).

Prior to the commencement of the hearing, the Licensee partially stipulated to the facts alleged in Investigator David Bolcome's Report.

The following documents are in evidence:

1. Investigator Bolcome's Report;
2. Licensee Partial Stipulation of Facts;
3. Copy of Transfer License Approval, 5/20/1992;
4. ABCC Decision, 5/17/2004;
5. ABCC Decision, 9/7/2004;
6. ABCC Decision, 1/23/2012;
7. Massachusetts Executive COVID-19 Order No. 37, June 6, 2020;
8. Massachusetts Executive COVID-19 Order No. 40, June 19, 2020;

9. Massachusetts Executive COVID-19 Order No. 46, August 7, 2020;
 10. Massachusetts COVID-19 Specific Workplace Safety Standards for Restaurants to Address COVID-19, 8/10/2020;
 11. ABCC Enforcement Memorandum, 10/13/2020.
- A. Copy of Licensee's Sign, "No Mask No Entry Period!";
 - B. Copy of Licensee's Sign, "Please Respect State Law";
 - C. Copy of the Town of Dracut's Board of Health sign, "Capacity: 65".

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

FINDINGS OF FACT

1. On Friday, September 11, 2020, at approximately 9:00 p.m., Investigators DiCicco and Bolcome ("Investigators") conducted an investigation of M&M Lounge Inc. d/b/a Joker's Lounge 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.
2. Investigators entered the licensed premises and observed two (2) individuals, without facial coverings, standing against the bar.
3. Investigators observed the bartender, later identified as Kathy, without any facial covering, deliver alcoholic beverages to one of the individuals standing against the bar. When Kathy noticed the Investigators, she put on a facial covering.
4. Investigators observed approximately eight (8) individuals inside the premises.
5. In addition, the Investigators observed an active softball game behind the premises with a nearly full parking lot of vehicles adjacent to the premises and softball field.
6. Investigators continued to observe the premises and noticed that customers had alcoholic beverages on their tables with no food.
7. Investigators approached Kathy, gave her their contact information, and requested she contact the Investigators when she was able to do so.
8. On September 15, 2020, Investigator Bolcome spoke with Ed Morgan, owner of Joker's Lounge ("Mr. Morgan"), and informed him of the Investigators' observations. Investigator Bolcome reviewed the COVID-19 guidelines and Sector Specific Workplace Safety Standards for Restaurants with Mr. Morgan and informed him that COVID Safety Standards must be followed. Mr. Morgan stated he would have his staff's actions corrected relating to COVID Safety Standards.
9. Investigators advised Mr. Morgan of the violations and that a report would be filed with the Chief Investigator for further review.
10. Mr. Morgan appeared at the Commission hearing and stipulated to the facts in the Investigator's report, with one exception. He testified that food was, in fact, served to his patrons along with alcohol service. Mr. Morgan stated that he takes the COVID-19 Orders seriously and all patrons entering the establishment must order food.

11. Kathy Masterson, the bartender on the night of the incident, appeared at the Commission hearing. She testified that all patrons are required to order food, even if it is a “basket of french fries.” Ms. Masterson explained that the two men sitting at the bar without masks were told they needed to put on a mask, but they complained of underlying conditions. She admitted that she removed her mask in order to answer the phone.
12. Mr. Morgan provided the Commission with copies of signage he has posted in the licensed premise regarding masks being required and respect for state law. He testified that since the incident he has retrained employees. He emphasized that no employees or patrons are allowed on the premise without a mask.
13. The Licensee has held a license under M.G.L. c. 138, § 12 since 1992 with three (3) previous violations.

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: Massachusetts Executive COVID-19 Order No. 37 (June 6, 2020) - ~~Violation of sector specific workplace safety standards for restaurants to address COVID-19;~~
- 2) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 40 (June 19, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 3) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Violation of Massachusetts Executive COVID-19 Order No. 46 (August 7, 2020).

The Commission hereby **INDEFINITELY SUSPENDS** the license of M&M Lounge Inc. d/b/a Joker's Lounge **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/phase-iii-step-1-restaurants-checklist-92220/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) and Mary Dozois (mary.dozois@mass.gov) requesting review and approval.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Deborah A. Baglio, Commissioner Deborah A. Baglio

Jean M. Lorizio, Chairman Jean M. Lorizio

Crystal Matthews, Commissioner Crystal Matthews

Dated: November 10, 2020

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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