

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

Deborah B. Goldberg
Treasurer and Receiver General

NOTICE OF SUSPENSION

Kim J. Gainsboro, Esq.
Chairman

February 9, 2016

RTE 97 QUIK PIK INC. D/B/A RTE 97 LIQUORS
0908-D SALEM STREET
GROVELAND, MA 01834
LICENSE#: 048000007
VIOLATION DATE: 08/28/2015
HEARD: 02/02/2016

After a hearing on February 2, 2016, the Commission finds Rte 97 Quik Pik Inc. d/b/a Rte 97 Liquors violated M.G.L. c. 138, §34C Possession of an alcoholic beverage by a person under twenty-one (21) years of age (1 Count).

Based on the evidence, the Commission finds the Licensee violated M.G.L. c. 138, §34C Possession of an alcoholic beverage by a person under twenty-one (21) years of age (1 Count). Therefore the Commission **suspends the license for a period of six (6) days of which three (3) 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.**

By decision dated March 17, 2015, the Commission had previously ordered a four (4) day license suspension but had held the suspension in abeyance for a period of two (2) years provided no further violations of occurred. Based on the violation found above, the Licensee violated the conditions of that four (4) day suspension being held in abeyance. The Commission hereby orders that suspension to be served on and after the three (3) days suspension to be served. The Licensee will serve a total seven (7) days.

The suspension shall commence on Wednesday, March 23, 2016 and terminate on Tuesday, March 29, 2016. The license will be delivered to the Local Licensing Board or its designee on Wednesday, March 23, 2016 at 9:00 A.M. It will be returned to the Licensee Wednesday, March 30, 2016.

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.

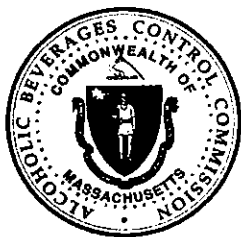
ALCOHOLIC BEVERAGES CONTROL COMMISSION



Kim S. Gainsboro
Chairman

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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Brad Doyle, Investigator
Rose Bailey, Investigator
S. Craig Herndon, Esq. via facsimile 617-739-2568
Administration
File



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Department of the State Treasurer
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DECISION

RTE 97 QUIK PIK INC. D/B/A RTE 97 LIQUORS
0908-D SALEM STREET
GROVELAND, MA 01834
LICENSE#: 048000007
VIOLATION DATE: 08/28/2015
HEARD: 02/02/2016

Rte 97 Quik Pik Inc. d/b/a Rte 97 Liquors (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, §12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, February 2, 2016, regarding an alleged violation of M.G.L. c. 138, §34C Possession of an alcoholic beverage by a person under twenty-one (21) years of age (1 Count) which occurred on August 28, 2015, according to Investigator Doyle's report.

The following documents are in evidence:

1. Investigator Doyle's Investigative Report dated August 28, 2015; and
2. RMV Printout of Driver's License.

There is one (1) audio recording of this hearing and two (2) witnesses testified.

The Commission took Administrative Notice of the Licensee's record.

FACTS

1. On Friday, August 28, 2015, at approximately 3:15 p.m., Investigators Bailey and Doyle ("Investigators") investigated the business operation of Rte 97 Quik Pik Inc. d/b/a Rte 97 Liquors to determine the manner in which their business was being conducted, and to investigate a complaint filed with this Commission.
2. While Investigators conducted surveillance of the parking lot, they observed two youthful male individuals in a Ford Taurus parked directly in front of Rte 97 Liquors.
3. Investigators observed the driver enter the licensed premises and, moments later, exit the premises in possession of alcoholic beverages, specifically, two 12-packs of Corona

Light beer and one 30-pack of Bud Light beer, and place the alcoholic beverages in the trunk of the Ford Taurus.

4. Investigators also observed the male store clerk, Scott Bonasoro, assisting the male driver (Underage #1) in putting the alcoholic beverages in the trunk.
5. Investigators, with neck badges visible, approached the Ford Taurus, identified themselves, and asked for identification.
6. The Underage #1 initially stated he did not have any identification but later supplied his Massachusetts driver's license, which listed his actual date of birth 09/26/1994 (age 20).
7. Investigators asked Underage #1 was asked for identification in the store. He stated that he was not, and that he had purchased alcohol at the package store multiple times and was not asked for identification.
8. The male passenger (Underage #2) stated he did not have any identification but admitted he was 16 years of age (actual date of birth 11/18/1998).
9. Investigator Bailey contacted the parents of Underage #2 and requested they come to the parking lot. The mother arrived at the parking lot, and the Underage #2 was released into his mother's care.
10. Investigator Doyle entered the licensed premises with Underage #1 and identified the minor to the clerk on duty, Mr. Bonasoro.
11. Mr. Bonasoro stated that he did not ask Underage #1 for identification at the time of sale. He also stated that his boss knows the Underage #1, and has sold to him in the past.
12. Investigators informed Mr. Bonasoro of the violation and that a report would be filed with the Chief Investigator for further action.
13. Prior to leaving the premises, a male entered and identified himself to Investigators as Nilesh Kumar Patel. Investigators informed Mr. Nilesh Kumar Patel of the violation and that a report would be filed with the Chief Investigator for further action.
14. The Licensee and license manager, Ms. Devyani Patel, testified before the Commission, that she was not present when this incident occurred.
15. Ms. Devyani Patel testified that Mr. Nilesh Kumar Patel is her cousin, and that she in the process of filing an application with the Local Board for a change of license manager to Mr. Nilesh Kumar Patel.
16. Ms. Devyani Patel intends to sell this store in the very near future.

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 M.G.L. c. 138.

M.G.L. c. 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. Ch. 138, 23, as amended through St. 1977, c. 929, section 7. "[T]he purpose of discipline is not retribution, but the protection of the public." Arthurs v. Board of Registration in Medicine, 383 Mass. 299, 317 (1981) (Emphasis supplied). The Commission is given "comprehensive powers of supervision over licensees" Connolly v. Alcoholic Beverages Control Comm'n, 334 Mass. 613, 617 (1956).

The Commission is given broad authority to promulgate regulations. The Commission may make regulations for "clarifying, carrying out, enforcing and preventing violation of" statutory provisions for the "method of carrying on the business of any licensee," and "for the proper and orderly conduct of the licensed business." G. L. c. 138, § 24, as appearing in St. 1971, c. 478. The Commission has exercised this authority through the promulgation of regulations that are codified at chapter 204 of the Code of Massachusetts Regulations. The Commission also has comprehensive powers of supervision over licensees and has statutory authority (G. L. c. 138, § 64) to revoke or suspend a license for violation of a regulation. Aristocratic Restaurant of Massachusetts, Inc. v. Alcoholic Beverages Control Comm'n, 374 Mass. 547 (1978); Connolly v. Alcoholic Beverages Control Comm'n, 334 Mass. 613, 617 (1956).

General Laws chapter 138, §34 provides, in part, that "[w]hoever makes a sale or delivery of any alcoholic beverage or alcohol to any person under 21 years of age, either for his own use or for the use of his parent or any other person, ... shall be punished." The Appeals Court has stated that "the purpose of the statute [is] to protect the welfare of children from the danger of alcohol" See Tobin v. Norwood Country Club, Inc., 422 Mass. 126, 133-134 (1996); Fran's Lunch, Inc. v. Alcoholic Beverages Control Comm'n 45 Mass. App. Ct. 663, 664 (1998).

M.G.L. chapter 138, section 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." In this matter, the minor did not present any identification showing proof of age, and he was allowed to purchase alcoholic beverages. The Commission is concerned with the operation of this premise in light of a similar violation found by the Commission in March of 2015. The Commission advises the licensee that a liquor license is a privilege, and with that privilege come certain responsibilities. The licensee is responsible for operating its premises pursuant to the laws of the Commonwealth and the Massachusetts' Licensing Authorities.

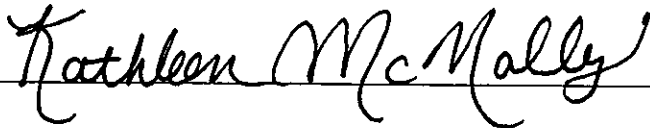
CONCLUSION

Based on the evidence, the Commission finds the Licensee violated M.G.L. c. 138, §34C Possession of an alcoholic beverage by a person under twenty-one (21) years of age (1 Count). Therefore the Commission **suspends the license for a period of six (6) days of which three (3) 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.**

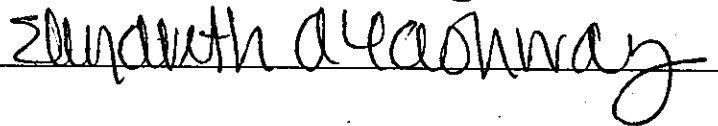
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ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kathleen McNally, Commissioner



Elizabeth A. Lashway, Commissioner



Dated: February 9, 2016

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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