



*Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
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Jean M. Lorizio, Esq.
Chairman

DECISION

**PORT RESTAURANT & BAR INC.
541 ROUTE 28
HARWICH, MA 02646
LICENSE#: 0506-00074
VIOLATION DATE: 8/17/2018
HEARD: 12/4/2018**

Port Restaurant & Bar Inc. (the "Licensee" or "Super Liquors") holds an alcohol license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission (the "Commission" or "ABCC") held a hearing on Tuesday, December 4, 2018, regarding an alleged violation of 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: M.G.L. c. 138, § 34C – Possession of an alcoholic beverage to a person under twenty-one years of age (3 counts). Prior to the commencement of the hearing, the Licensee stipulated to the facts alleged in Investigator Temple's Report.

The following documents are in evidence:

1. Investigator Temple's Investigative Report; and
2. Licensee Stipulation of Facts.

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

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

FINDINGS OF FACT

1. On Friday, August 17, 2018, Investigators Binienda, Velez, and Temple ("Investigators") conducted an investigation of the business operation of Port Restaurant & Bar Inc. to determine the manner in which its business was being conducted.
2. At approximately 11:20 p.m., Investigators entered the licensed premises and observed four youthful appearing females, located in the back-patio area of the licensed premises, in possession of alcoholic beverages. Investigators identified themselves and asked to see proof of legal age.
3. Underage #1, actual date of birth 11/04/1997 (age 20), was in possession of a cranberry vodka. She presented to Investigators a fraudulent New York license although she stated that she was not asked for identification when she entered the premises.

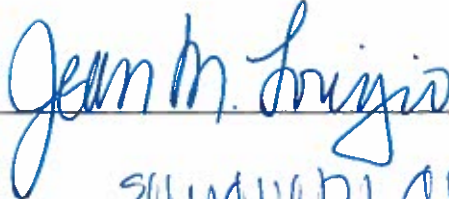
4. Underage #2, actual date of birth 8/26/1999 (age 18), was in possession of a Cape Cod beer. She presented to Investigators a fraudulent Rhode Island driver's license.
5. Underage #3, actual date of birth 9/27/1999 (age 18), was in possession of a cranberry vodka drink. She stated that she was not asked for identification when she entered the premises. She presented to Investigators a fraudulent identification.
6. Underage #4, actual date of birth 12/02/1998 (age 19), was in possession of a cranberry vodka drink. She presented to Investigators a fraudulent Massachusetts driver's license. Investigators determined that the Licensee reasonably relied on this identification; therefore, they did not charge the Licensee with committing a violation for this additional minor in possession of an alcoholic beverage.
7. Investigators spoke to the manager, Jake Domos, and identified the underage individuals to him.
8. Investigators informed Domos of the violations and that a report would be filed with the Chief Investigator for further action.
9. The Licensee has been in business for 14 years with no previous violation.

CONCLUSION

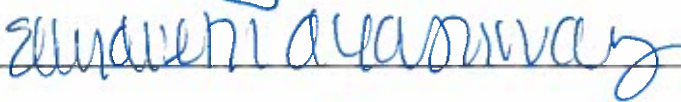
Based on the evidence, the Commission finds the Licensee violated 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: M.G.L. c. 138, § 34C – Possession of an alcoholic beverage to a person under twenty-one years of age (3 counts). Therefore, the Commission **suspends the license for a period of six (6) days which 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

Jean M. Lorizio, Chairman



Elizabeth A. Lashway, Commissioner



Kathleen McNally, Commissioner



Dated: December 6, 2018

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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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Christopher Temple, Investigator
Jamie Binienda, Investigator
Matthew P. Kelley, Esq. via facsimile 508-430-8662
Administration, File