



*Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
Chelsea, Massachusetts 02150-2358*

Jean M. Lorizio, Esq.
Chairman

DECISION

**5 PHAN LLC D/B/A KYOTO OF HOLDEN
695 MAIN STREET
HOLDEN, MA 01520
LICENSE#: 00032-RS-0534
VIOLATION DATE: 5/24/2022
HEARD: 8/02/2022**

5 Phan LLC d/b/a Kyoto of Holden ("Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission ("ABCC" or "Commission") held a remote hearing via Microsoft Teams on Tuesday, August 2, 2022, regarding an alleged violation of 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: M.G.L. Ch. 138, § 34 Sale or Delivery of an alcoholic beverage to a person under twenty-one years of age. Prior to the commencement of the hearing, the Licensee stipulated to the facts alleged in Investigator Kujawski's Compliance Check Field Report.

The following documents are in evidence:

1. Investigator Kujawski's Compliance Check Field Report;
2. ABCC Form 43, New License Approval, 9/8/2014;
3. Licensee's Stipulation of Facts.

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

FINDINGS OF FACT

1. On Tuesday, May 24, 2022, at approximately 6:44 p.m., Investigators Gould and Kujawski ("Investigators"), inspected the business operation of 5 Phan LLC d/b/a Kyoto of Holden.
2. An underage operative, working with Investigators, purchased an alcoholic beverage, one bottle of Bud Light beer for four dollars and fifty-two cents (\$4.52). The underage operative was not asked for identification.
3. Mr. Thien Phan, Licensee, appeared at the Commission hearing. Mr. Phan testified he held a meeting with all employees regarding the importance of ensuring they only serve those patrons who are over 21 years old.

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. Ch. 138, § 34 Sale or Delivery of an alcoholic beverage to a person under twenty-one years of age. Therefore, the Commission issues a **WARNING**.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio, Chairman



Crystal Matthews, Commissioner



Deborah A. Baglio, Commissioner



Dated: August 5, 2022

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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2022-000084-ad-enf

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Kyle E. Gill, Esq., Associate General Counsel
Jan Kujawski, Investigator
Brian Gould, Investigator
Administration, File