



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

Jean M. Lorizio, Esq.
Chairman

NOTICE OF SUSPENSION

May 24, 2022

**BURTONS GRILL OF LYNNFIELD LLC D/B/A BURTONS GRILL & BAR
1355 MARKET STREET
LYNNFIELD, MA 01940
LICENSE#: 05600-RS-0640
VIOLATION DATE: 11/24/2021
HEARD: 5/24/2022**

After a hearing on May 24, 2022, the Commission finds Burtons Grill of Lynnfield LLC d/b/a Burtons Grill & Bar violated M.G.L. c. 138, § 69 – Sale or delivery of an alcoholic beverage to an intoxicated person (1 Count). The Commission **suspends the license for a period of one (1) day to be served.**

The suspension shall commence on Monday, July 11, 2022, and terminate on Monday, July 11, 2022. The license will be delivered to the Local Licensing Board or its designee on Monday, July 11, 2022, at 9:00 A.M. It will be returned to the licensee on Tuesday, July 12, 2022.

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.

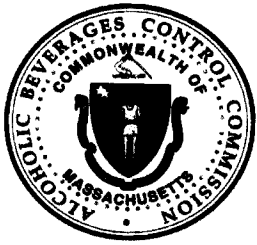
You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio
Chairman

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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Kyle E. Gill, Esq., Associate General Counsel
Christopher Temple, Investigator
David Bolcome, Investigator
Gregory C. Demakis, Esq.
Administration, File



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DECISION

**BURTONS GRILL OF LYNNFIELD LLC D/B/A BURTONS GRILL & BAR
1355 MARKET STREET
LYNNFIELD, MA 01940
LICENSE#: 05600-RS-0640
VIOLATION DATE: 11/24/2021
HEARD: 5/24/2022**

Burtons Grill of Lynnfield LLC d/b/a Burtons Grill & Bar ("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, May 24, 2022, regarding an alleged violation of M.G.L. c. 138, § 69 – Sale or delivery of an alcoholic beverage to an intoxicated person (1 Count). Prior to the commencement of the hearing, the Licensee stipulated to the violation in Investigator Temple's report.

The following documents are in evidence:

1. Investigator Temple's Report;
2. ABCC Licensing Authority Certification, New License approved, 5/21/2020;
3. Receipt;
4. Licensee's Stipulation of Facts.

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

FINDINGS OF FACT

1. On Wednesday, November 24, 2021, Investigators Bolcome and Temple ("Investigators") inspected Burtons Grill of Lynnfield LLC d/b/a Burtons Grill & Bar to determine the manner in which their business was being conducted.
2. While standing outside of the licensed premises at approximately 10:00 p.m., Investigator Temple was approached by an unidentified male ("UM") in his mid-40s. The UM wore a hat, a red sweatshirt with a shirt over that, and had a scruffy beard. The UM asked the Investigator if the restaurant was open. Investigator Temple observed the UM's speech was slurred, his gaze was glassy, and he had watery bloodshot eyes. Based on his training, experience, and observations, Investigator Temple determined the UM was intoxicated.

3. The UM asked Investigator Temple for the location of the entrance to the premises. Investigator Temple indicated the door which was 5-6 feet away.
4. The UM entered the licensed premises, went to the corner of the bar and ordered an alcoholic beverage from the bartender on duty. Investigator Temple observed the bartender deliver a Budweiser beer to the UM.
5. Investigator Bolcome entered the licensed premises, sat next to the UM, and observed his conversation with the bartender. Investigator Bolcome observed the UM's speech was slurred and he appeared to be forgetful, asking the bartender multiple times, "Did I already ask you that?"
6. Investigator Bolcome observed the UM appeared to lean on the bar for support. He observed the UM take off his shirt and then struggle to put it back on having difficulty coordinating his arms into the sleeves.
7. Investigators observed the UM order a shot of Fireball whiskey. The bartender stated the Licensee does not serve shots but could give him a drink on the rocks. The UM then ordered a Jack Daniels whiskey on the rocks.
8. The UM paid for the drink and the bartender delivered the alcoholic beverage to the UM.
9. Investigators identified themselves to the bartender on duty and asked to speak with a manager. Brian Whalen identified himself as the general manager. Investigators identified the UM, stating that the UM showed various signs of intoxication and was served another alcoholic beverage by the bartender.
10. Investigators requested the UM's bar bill. Mr. Whalen spoke to the bartender and returned to Investigators with the UM's bar receipt.
11. Investigators spoke with the bartender who confirmed he delivered the Jack Daniels alcoholic beverage to the UM.
12. Investigators informed Mr. Whalen of the violation and that a report would be filed with the Chief Investigator for review.
13. Denise Herrera, Manager of Record, appeared at the Commission hearing along with Bill Nebes. The Commission was informed the Licensee has taken internal measures to prevent such in incident in the future. It was also explained that the establishment had just opened for business 5 days prior to the Investigators' visit. It was the night before Thanksgiving and had been a busy night. Employees were cleaning getting ready to close for the night.
14. The Licensee has held a license under M.G.L. c. 138, § 12 since 2020 with no previous violations.

CONCLUSION

Based on the evidence, the Commission finds the Licensee violated M.G.L. c. 138, § 69 – Sale or delivery of an alcoholic beverage to an intoxicated person (1 Count). Therefore, the Commission **suspends the license for a period of 1 day.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Deborah Baglio, Commissioner

Jean M. Lorizio, Chairman

Dated: May 24, 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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2022-00023-ad-enf

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