

*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

October 13, 2020

**MALDEN DOCKSIDE INC. D/B/A DOCKSIDE AT MALDEN
229 CENTRE ST.
MALDEN, MA 02148
LICENSE#: 00011-RS-0646
VIOLATION DATE: 8/29/2020
HEARD: 9/16/2020**

After a hearing on September 16, 2020, the Commission finds Malden Dockside Inc. d/b/a Dockside at Malden 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 Malden Dockside Inc. d/b/a Dockside at Malden **effective forthwith** until further written order of the Commission.

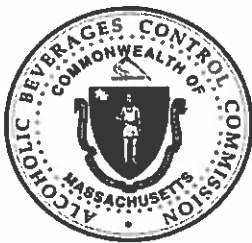
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ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio
Chairman

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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Kyle E. Gill, Esq., Associate General Counsel
Caroline Guarino, Investigator
Christopher Temple, Investigator
Michael Flanagan, Dept. of Labor Standards
Administration, File



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DECISION

**MALDEN DOCKSIDE INC. D/B/A DOCKSIDE AT MALDEN
229 CENTRE ST.
MALDEN, MA 02148
LICENSE#: 00011-RS-0646
VIOLATION DATE: 8/29/2020
HEARD: 9/16/2020**

Malden Dockside Inc. d/b/a Dockside at Malden (the "Licensee") 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, September 16, 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;
- 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 stipulated to the facts alleged in Investigator Guarino's Report.

The following documents are in evidence:

1. Investigator Guarino's Report;
2. Licensee Stipulation of Facts;
3. Copy of License Transfer Approval, 7/17/1991;
4. Copy of Alteration of Premises Approval, 7/28/2006;
5. ABCC Decision, 2/24/2003;
6. Massachusetts Executive COVID-19 Order No. 37;
7. Massachusetts Executive COVID-19 Order No. 40;

8. Massachusetts Executive COVID-19 Order No. 46;
9. Massachusetts Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19, 8/10/2020;
10. ABCC Enforcement Memorandum, 9/16/2020.

A. Licensee's Policies, Procedures, Trainings, and Employee Handbook.

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

FINDINGS OF FACT

1. On Saturday, August 29, 2020, at approximately 7:10 p.m., Investigator Guarino conducted an investigation of Malden Dockside Inc. d/b/a Dockside at Malden 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. Investigator Guarino observed the deck area of the establishment and her attention was drawn to a male patron in conversation with another man. Investigator Guarino observed this male patron was unsteady on his feet, his eyes were red and glassy, and his speech was slurred. Based on her training and experience, the Investigator determined the male patron was intoxicated.
3. Investigator Guarino entered the bar area of the licensed premises and spoke to the female bartender on duty about the intoxicated male patron on the back deck. The bartender stated that she had stopped serving any alcoholic beverages to that male patron. The intoxicated male patron then came into the bar area. The bartender identified this man to Investigator Guarino.
4. Investigator Guarino then asked for the male patron's bar tab. When the bartender handed the receipt to the Investigator, she said that the tab was for two people, the intoxicated male and one other patron. The bar receipt indicated the tab was opened at 1:16 p.m. and had a total of 25 alcoholic beverages on it. There was one food item on the bill. There was no charge indicated for the food item. The total bill was \$124.50.
5. While Investigator Guarino was speaking with the bartender, she observed a male patron seated at the bar drinking from a bottle of Coors Light beer. He attempted to have a conversation with the Investigator.
6. Investigator Guarino observed the male patron at the bar had slurred speech and she could not understand him when he spoke to her. Based on her training and experience, the Investigator determined the male patron seated at the bar was intoxicated.
7. The bartender informed Investigator Guarino that the male patron seated at the bar had consumed food in the dining room earlier in the night, but he stopped at the bar for one last beer.
8. Investigator Guarino advised Debbie, the manager on duty, of the violations and that a report would be filed with the Chief Investigator for review.

9. Jack Urbaczewski, President of the Licensee corporation, appeared at the Commission hearing and testified as to the Licensee's policies and procedures for operation. As employees are hired they receive and are required to review and acknowledge by signature the Licensee's written Employee Handbook which includes their Policy on Responsible Alcohol Service, as well as the General Rules for Licensees of Alcoholic Beverages in the City of Malden. Mr. Urbaczewski stated that all employees are required to obtain TIPS certification. He stated that prior to COVID-19 they held monthly meetings to reinforce the importance of compliance and added that he they are sensitive to the current issues and doing their best to comply. Mr. Urbaczewski stated that employees were given the Governor's COVID-19 orders as they were issued. He informed the Commission that since being allowed to reopen, they operate each day from 1:00 p.m. to 8:00 p.m.
10. Pam Sawyer, the bartender on duty on the night of the incident, appeared at the Commission hearing and testified that the cost of the food was removed from the bill as there had been an hour delay in the food being served to the patron.
11. The Licensee has held a license under M.G.L. c. 138, § 12 since 1991 with one prior violation.

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 Malden Dockside Inc. d/b/a Dockside at Malden **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

Jean M. Lorizio, Chairman



Crystal Matthews, Commissioner



Deborah A. Baglio, Commissioner



Dated: October 13, 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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