



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

Jean M. Lorizio, Esq.
Chairman

NOTICE OF SUSPENSION

January 24, 2024

**GB LL HOLDINGS MA LLC D/B/A GOPUFF
82-84 NEEDHAM STREET
NEWTON, MA 02461
LICENSE#: 89546-PK-0800
HEARD: 1/09/2024**

After a hearing on January 9, 2024, the Commission finds GB LL Holdings MA LLC d/b/a goPuff violated M.G.L. Ch. 138 § 34 Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age (1 count) which occurred on March 31, 2023.

The Commission **SUSPENDS the license of GB LL Holdings MA LLC, d/b/a Go Puff for a period of 20 DAYS to be served.**

The suspension shall commence on Monday, March 18, 2024, and terminate on Saturday, April 6, 2024. The license will be delivered to the Local Licensing Board or its designee on Monday, March 18, 2024, at 9:00 A.M. It will be returned to the licensee on April 7, 2024.

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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‘Đây là tài liệu quan trọng và cần được dịch ngay’
ឯកសារនេះសំខាន់ណាស់ ហើយត្រូវបកប្រែជាបន្ទាន់។

2023-000055-ad-enf

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Brian Gould, Investigator
Mark Kenny, Investigator
Michael Teehan, Investigator
Thaddeus Heuer, Esq.
Kevin Y. Chen, Esq.
Rachel L. Kerner, Esq.
Admin, File



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DECISION

**GB LL HOLDINGS MA LLC D/B/A GOPUFF
82-84 NEEDHAM STREET
NEWTON, MA 02461
LICENSE#: 89546-PK-0800
VIOLATION DATES: 3/23/2023 & 3/31/23**

**GB LOGISTICS LLC
454 NORTH 12TH STREET
PHILADELPHIA, PA 19123
LICENSE#: XM-LIC-000474
VIOLATION DATE: 3/23/2023
HEARD: 1/09/2024**

GB LL Holdings MA LLC d/b/a Gopuff (the “Licensee” or “Gopuff”) holds an alcohol license issued pursuant to M.G.L. c. 138, § 15. The Alcoholic Beverages Control Commission (“ABCC” or “Commission”) held a remote hearing via Microsoft Teams on Tuesday, January 9, 2024, regarding alleged violations of:

- 1) M.G.L. Ch. 138, § 34 – Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age (2 counts) which occurred March 23, 2023, according to Investigator Gould’s Report;
- 2) M.G.L. Ch. 138, § 34 Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age (1 count) which occurred March 31, 2023, according to Investigator Teehan’s Report.¹

GB Logistics LLC (the “Licensee” or “GB Logistics”) holds an express transportation permit issued pursuant to M.G.L. c. 138, § 22. The Alcoholic Beverages Control Commission (“ABCC” or “Commission”) held a remote hearing via Microsoft Teams on Tuesday, January 9, 2024, regarding an alleged violation of M.G.L. Ch. 138, § 34 – Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age (2 counts) which occurred March 23, 2023, according to Investigator Gould’s Report.

¹ On January 4, 2024, the Commission allowed a motion to consolidate scheduled hearings for each licensee into one hearing.

The following documents are in evidence:

1. Investigator Gould's Investigative Report for GB LL Holdings MA LLC;
 2. Screenshots of Gopuff Order Screens;
 3. Connecticut Driver's License;
 4. ABCC Express Transportation Permit for GB Logistics LLC, approved 9/20/2022;
 5. Investigator Gould's Investigative Report for GB Logistics LLC;
 6. Investigator Teehan's Violation Report for GB LL Holdings MA LLC;
 7. Screenshots of Gopuff Order Screens;
 8. Fraudulent Illinois Driver's License;
 9. Photo of Delivery Driver's License;
 10. Photo of Delivery Vehicle's License Plate.
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- A. Gopuff Responsible Delivery Overview Slide Deck;
 - B. Gopuff Responsible Delivery (Regulated Products) Policy (updated March 2022);
 - C. Gopuff Responsible Delivery Training – Massachusetts;
 - D. Affidavit of Chris W. Meyer, 12/4/2023.

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

FINDINGS OF FACT

1. On Thursday, March 23, 2023, Investigators Teehan, Kenny and Gould were traveling on Monadnock Road in Brookline, near the Boston College dormitories, an area where they had previously observed alcoholic beverages being delivered to minors. (Testimony, Exhibit 1)
2. At approximately 7:40 p.m., Investigators observed three male individuals standing by the side of the road by a parked motor vehicle. Investigators observed one male who appeared to scan an identification, walk to the passenger side of the vehicle, and retrieve one 30-pack of Bud Light beer and a brown shopping bag. He then delivered the alcoholic beverages to the other two youthful appearing male individuals. Id.
3. Investigators approached the vehicle, identified themselves, and asked to see proof of legal age to purchase and/or possess alcoholic beverages. Id.
4. Underage #1, actual date of birth 12/15/2003 (age 19), provided to Investigators his brother's Connecticut driver's license. (Testimony, Exhibits 1, 3, 5)
5. Underage #2, actual date of birth 2/10/2004 (age 19), informed Investigators he did not have any identification on his person. (Testimony, Exhibits 1, 5)
6. Investigators spoke to the driver of the vehicle and asked to see his transportation permit. The driver stated that he worked for Gopuff and provided Investigators with a picture of the transportation permit on his mobile phone. (Testimony, Exhibits 1, 4, 5)
7. On Friday, March 31, 2023, Investigators Kenny and Teehan ("Investigators") conducted surveillance of GB LL Holdings MA LLC d/b/a Gopuff at 82-84 Needham Street in Newton to determine the way its business was being conducted. (Testimony, Exhibit 6)

8. At approximately 7:40 p.m., Investigators observed a male individual exit the licensed premises with one 30-pack of Bud Light beer, one 24-pack of Michelob Ultra beer, one 12-pack of Bud Light Lime beer, along with grocery bags. He placed all of these items in his vehicle. Id.
9. Investigators followed the vehicle to the area of Boston College and specifically to 65 Priscilla Road, which is near freshman residence halls. Id.
10. Investigators observed two youthful appearing male individuals standing outside a residence. Investigators observed the driver whom they had followed deliver the alcoholic beverages to the two males. Id.
11. Investigators approached the vehicle, identified themselves and asked to see proof of legal age to purchase and/or possess alcoholic beverages. Id.
12. Underage #1, actual date of birth 1/14/2004 (age 19), provided to Investigators a fraudulent Illinois driver's license bearing his own name but a different birth date and stated he purchased the alcoholic beverages through the Gopuff application. He allowed Investigators to view his order on his mobile phone. (Testimony, Exhibits 6, 7, 8)
13. Underage #2, actual date of birth 1/13/2004 (age 19), stated he did not have any identification on his person. (Testimony, Exhibit 6)
14. Investigators were unable to confirm if the Gopuff driver had a transportation permit. Id.
15. Ben Halpert, Lead of Regulated Products and Corporate Compliance for Gopuff and Tyler Savoy, Senior Manager GIS system and facial analytics for Gopuff, appeared at the Commission hearing and testified as to ongoing efforts to prevent sales and deliveries to persons under the age of twenty-one. (Testimony)

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 Massachusetts General Laws, Chapter 138.

Chapter 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. c. 138, § 23. "[T]he purpose of discipline is not retribution, but the protection of the public." Arthurs v. Bd. of Registration in Medicine, 383 Mass. 299, 317 (1981). The Commission is given "comprehensive powers of supervision over licensees." Connolly, 334 Mass. at 617.

The law is well-settled that the responsibility of the licensee is to exercise sufficiently close supervision so that there is compliance with the law on the premises. A vendor who sells alcohol is "bound at his own peril to keep within the condition of his license." Commonwealth v. Gould, 158 Mass. 499, 507 (1893); Burlington Package Liquors, Inc. v. Alcoholic Beverages Control

Comm’n, 7 Mass. App. Ct. 186, 190 (1979). It is, thus, quite possible for a licensee to offend the regulatory scheme without scienter. Rico’s of the Berkshires, Inc. v. Alcoholic Beverages Control Comm’n, 19 Mass. App. Ct. 1026, 1027 (1985).

The Licensee is charged with the violation of M.G.L. c 138, § 34 - Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age (3 counts). M.G.L. c. 138, § 34 states, in pertinent part, that: “[w]hoever makes a sale or delivery of any alcoholic beverage or alcohol to any person under twenty-one years of age ... shall be punished by a fine of not more than \$2,000 or by imprisonment for not more than one year or both.” M.G.L. c. 138, § 34.

Re: March 23, 2023

In this matter, direct evidence was presented through the investigators’ testimony as to their observations of the delivery via motor vehicle of alcoholic beverages to two persons under the age of twenty-one years. The driver of the motor vehicle was observed delivering alcoholic beverages to two individuals standing on the side of the road. Evidence was presented as to the driver’s employment by the Licensee, GB Logistics, LLC. (Exhibit 4)

The Commission is persuaded by the evidence that GB Logistics, LLC delivered alcoholic beverages to persons under the age of twenty-one years of age. The Commission finds that GB Logistics, LLC committed a violation of M.G.L. c. 138, § 34 - Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age (2 counts).

However, as to GB LL Holdings MA, LLC, the Commission finds the Investigation and Enforcement Division has not sustained its burden of producing satisfactory proof that GB Holdings MA, LLC committed a violation of M.G.L. c. 138, § 34.

Re: March 31, 2023

In this matter, direct evidence was presented through the investigators’ testimony as to their observations of a male individual exiting the licensed premises of GB LL Holdings MA, LLC with alcoholic beverages and loading them into his motor vehicle. Investigators followed said vehicle and observed the male deliver alcoholic beverages to a person later determined to be under the age of twenty-one. In addition, evidence of the order placed with Gopuff was presented. (Exhibit 7)

The Commission is persuaded by the evidence that GB LL Holdings MA, LLC sold alcoholic beverages to a person under twenty-one years of age. The Commission finds that the Licensee committed a violation of M.G.L. c. 138, § 34 - Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age.

CONCLUSION

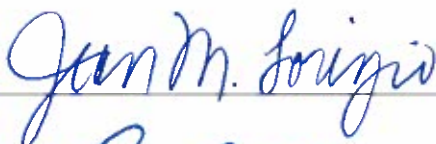
Based on the evidence, the Commission finds GB LL Holdings MA LLC d/b/a Gopuff violated M.G.L. Ch. 138, § 34 – Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age (1 count) on March 31, 2023. As a result, the Commission **SUSPENDS the license for a period of 20 days to be served.**

The Commission finds NO VIOLATION of M.G.L. Ch. 138, § 34 occurred on March 23, 2023, by GB LL Holdings MA LLC d/b/a Gopuff.

Based on the evidence, the Commission finds GB Logistics LLC violated M.G.L. Ch. 138, § 34 – Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age (2 counts). As a result, the Commission **SUSPENDS the license for a period of 40 days to be served.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio, Chairman



Crystal Matthews, Commissioner



Deborah Baglio, Commissioner



Dated: January 24, 2024

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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Administration, File