



The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
Boston, Massachusetts 02114

Steven Grossman
Treasurer and Receiver General

NOTICE OF SUSPENSION

Kim J. Gainsboro, Esq.
Chairman

September 12, 2011

HERRICK'S, INC. DBA HERRICK'S TAVERN
207 DANIEL SHAYS HIGHWAY
ORANGE, MA 01364
LICENSE#: 093200040
HEARD: 07/26/2011

After a hearing on July 26, 2011, the Commission finds Herrick's Inc. dba Herrick's Tavern in violation of 204 CMR 2.05 (1), 204 CMR 2.05 (2) and 204 CMR 2.05 (2).

The Commission **suspends the licensee's license for a total of two (2) days to be served**. The suspension shall commence on **Wednesday, October 19, 2011 and terminate on Thursday, October 20, 2011**. The license will be delivered to the Local Licensing Board or its designee on Wednesday, October 19, 2011 at 9:00 A.M. It will be returned to the licensee Friday, October 21, 2011.

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. All checks must be certified and accompanied by the enclosed form, which must be signed by 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

Kim S. Gainsboro
Chairman

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Rosemary Bailey, Investigator
Administration
File



The Commonwealth of Massachusetts
Department of the State Treasurer
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DECISION

Kim J. Gainsboro, Esq.
Chairman

HERRICK'S, INC. DBA HERRICK'S TAVERN
207 DANIEL SHAYS HIGHWAY
ORANGE, MA 01364
LICENSE#: 093200040
HEARD: 07/26/2011

Herrick's Inc. dba Herrick's Tavern (the "Licensee") holds an all alcohol license issued pursuant to M.G.L. c. 138, §12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, July 26, 2011, regarding an alleged violation of 204 CMR 2.05 (1), 204 CMR 2.05 (2) and 204 CMR 2.05 (2). Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Rose Bailey's report.

The following documents are in evidence:

1. Licensee's Stipulation of Facts;
2. Investigator Rosemary Bailey's Report; and
3. Envelope with Thirteen Dollars (\$13.00).

There is one (1) tape of this hearing.

FACTS

1. On September 29, 2010, Investigators Keefe, Kujawski and Bailey conducted a covert investigation of the business operation of Herrick's Inc. dba Herrick's Tavern.
2. Upon entering the licensed premise, investigators observed one (1) electronic video device.
3. They noticed the machine had characteristics indicating it may be utilized as a gambling device.
4. After a period of time, Investigator Bailey inserted five (5) dollars of U.S. currency into an electronic device and observed twenty (20) credits displayed.
5. The machine "registered" the bet by displaying the number of credits selected.
6. Observations of a video gambling device were noted including:
 - Double up button
 - Reset bolts on the exterior of the machine
 - No signage labeled "For Amusement Only"
 - No specific insertion amount to use the machine
7. Subsequent to this, the investigator was "paid out" and the investigator noticed a "knock off" mechanism used to reset the winning credits to zero (0).
8. On April 7, 2011, Investigator Keefe, Doyle and Kenny entered the establishment and informed the manager that an inspection was going to be conducted of the premises relative to violations of illegal gambling.
9. The manager stated that the machine was for amusement only.
10. As this conversation was taking place, other investigators noticed that the machines were placed in the back room.

DISCUSSION

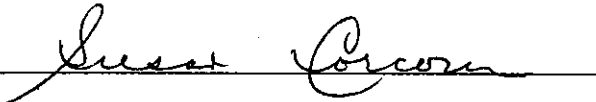
The investigators testified that when they came into the establishment the second time to investigate they noticed that the machines were in a back room unplugged. When they questioned the manager about this, they were told that they were informed that they knew that the Commission Investigators were coming back so they wanted to conceal the machines. However, the machines have since been removed. The licensee has been owner since 2007 and does not have any prior violations.

CONCLUSION

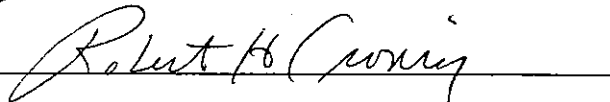
Based on the evidence, the Commission finds the licensee violated 204 CMR 2.05(1), 204 CMR 2.05(2) and 204 CMR 2.05(2). The licensee has no prior violations. Therefore, the Commission suspends the license for a period of five (5) days of which two (2) days will be served and three (3) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur. In addition, the licensee must not possess in or on the licensed premises any automatic amusement device or video poker machine.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner



Robert H. Cronin, Commissioner



Dated: September 12, 2011

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.

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Rosemary Bailey, Investigator
Administration
File