

*Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
239 Causeway Street
Boston, MA 02114
Telephone: 617-727-3040
Facsimile: 617-727-1510*

Jean M. Lorizio, Esq.
Chairman

DECISION

**PITTSFIELD AMERICAN LEGION INC.
41 WENDELL AVENUE
PITTSFIELD, MA 01201
LICENSE#: 0974-00082
VIOLATION DATE: 5/18/2017
HEARD: 12/12/2017**

Pittsfield American Legion Inc. (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, December 12, 2017, regarding an alleged violation of 204 CMR 2.05 (1) – Permitting Gambling on Licensed Premises. Prior to the commencement of the hearing, the Licensee stipulated to the violation alleged in Investigator Kujawski's Report.

The following exhibits are in evidence:

1. Investigator Kujawski's Investigative Report;
2. Licensee's Stipulation of Facts.

The Commission took Administrative Notice of the Licensee's Commission files.

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

FINDINGS OF FACT

1. On Thursday, May 18, 2017, at approximately 5:15 p.m., Investigators Velez and Kujawski ("Investigators") investigated Pittsfield American Legion Inc. to determine the manner in which its business was being conducted.
2. Investigators entered the licensed premises and identified themselves to the bartender on duty, Tina Obert, and informed her of their inspection of the licensed premises.
3. Investigators asked to speak to someone in charge, and Ms. Obert called the acting Commander of the Post, John Barrett.
4. Investigators observed a room situated in the rear of the premises with three automatic amusement devices. The devices were labeled Crazy Bugs (#1), Fruit Bonus (#2) and Crazy Bugs (#3).


5. Investigators observed that the automatic amusement devices had the following characteristics which, based on their training and experience, indicated the devices was being used for illegal gambling:
 - Devices #1 and #2 accepted U.S. Currency in bills ranging from \$1, 5, 10 and 20;
 - Devices were marked “for amusement only”;
 - Devices had the capability to select the number of points (the amount to bet);
 - Devices registered the bet by displaying the number of points selected;
 - Devices had the capability to double up the bet by selecting a double-up button;
 - Devices had a “knock off” button on the rear of the machine which, when pressed, to reset the credits earned to zero.
6. Ms. Obert stated to Investigators that the winning member would notify the bartender, who then recorded the number of credits earned and cleared the points on the machine. She said that the bartender on duty would place the paper with the number of points next to the register.
7. Obert stated the representative of Pace Vending (who owns the machines) would then leave the money for the winner in an envelope near the bar. When the member came in, the bartender on duty pays the member his winnings in cash.
8. Investigators informed Mr. Barrett of the violation and told him that a report would be filed with the Chief Investigator for further review.
9. Administrative review of the Licensee’s file indicates Pittsfield American Legion has held the license since the 1920s.

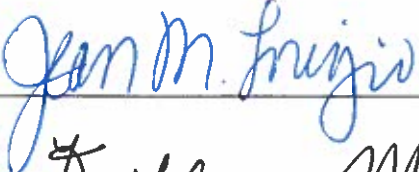
CONCLUSION


Based on the evidence, the Commission finds the Licensee violated 204 CMR 2.05 (1) - Permitting Gambling on Licensed Premises. Therefore, the Commission **suspends the license for five (5) days which 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 devices or video poker machines.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Elizabeth A. Lashway, Commissioner 

Jean M. Lorizio, Chairman 

Kathleen McNally, Commissioner 

Dated: December 13, 2017

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.

This document is important and should be translated immediately.
Este documento es importante y debe ser traducido inmediatamente.
Este documento é importante e deve ser traduzido imediatamente.
Ce document est important et devrait être traduit immédiatement.
Questo documento è importante e dovrebbe essere tradotto immediatamente.
Το έγγραφο αυτό είναι σημαντικό και θα πρέπει να μεταφραστούν αμέσως.
这份文件是重要的，应立即进行翻译。

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Jan Kujawski, Investigator
Nicholas Velez, Investigator
William Barry, Esq. via facsimile 413-442-2666
File, Administration