



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

Jean M. Lorizio, Esq.
Chairman

DECISION

**MAINSTSPORTS, INC.
D/B/A MAIN STREET SPORTS BAR AND GRILL
39 MAIN STREET
PLYMOUTH, MA 02360
LICENSE #: 05322-RS-0984
VIOLATION DATE: 03/01/2024
HEARD: 06/18/2024**

MainStSports, Inc. d/b/a Main Street Sports Bar and Grill ("Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, §12. The Alcoholic Beverages Control Commission ("ABCC" or "Commission") held a hearing on Tuesday, June 18, 2024, regarding an alleged violation of M.G.L. c. 138, §69 - Sale or delivery of an alcoholic beverage to an intoxicated person (1 count).

The following documents are in evidence:

1. Investigative Report of A. Cutter;
2. ABCC Licensing Authority Certification, Transfer of License Approved 11/21/2019;
3. ABCC Decision, 06/08/2022.

A. Licensee's Video Surveillance footage.

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

FINDINGS OF FACT

1. On Friday, March 1, 2024, Investigators Cutter and David ("Investigators") inspected the business operation of MainStSports, Inc. d/b/a Main Street Sports Bar and Grill ("Licensee" or "Main Street"). (Testimony, Exhibit 1)
2. At approximately 9:50 p.m., working in an undercover capacity, Investigators began making observations of an unidentified male individual ("UM") standing near the upstairs bar. Investigators determined that the UM was exhibiting signs of intoxication and after making said determination, observed the patron served alcoholic beverages by the Licensee's employee. Id.
3. The Licensee has surveillance cameras within the licensed premises which record the activity inside the establishment at the upstairs bar. (Testimony, Exhibit A)

4. Investigators Velez and Kenny entered the licensed premises, identified themselves to the manager, informed her of the violation and that a report would be filed with the Chief Investigator for further review. (Testimony, Exhibit 1)
5. Kayleiana Tusi, the bartender who was working on the night of March 1, 2024, interacted with the UM. Ms. Tusi did not notice the UM had slurred speech or glassy eyes. She did not observe any signs of intoxication. Music was playing and Ms. Tusi could hear UM had a heavy foreign accent. (Testimony, Exhibit A)
6. Lisa Russell, General Manager, was working on the night of March 1, 2024. She saw the UM and did not interact with him, but noticed he had a heavy foreign accent. Ms. Russell did not observe any signs of intoxication. The UM “looked like he was having a great time with a group of people.” Ms. Russell spoke with Investigators and instructed her staff to escort the UM out of the licensed premises and to save the surveillance footage. (Testimony)
7. The Licensee has held a license under M.G.L. c. 138, § 12 since 2019. (Exhibit 2, 3)

DISCUSSION

The Licensee is charged with service to an intoxicated person in violation of M.G.L. c. 138, § 69. “No alcoholic beverage shall be sold or delivered on any premises licensed under this chapter to an intoxicated person.” M.G.L. c. 138, § 69. “[A] tavern keeper does not owe a duty to refuse to serve liquor to an intoxicated patron unless the tavern keeper knows or reasonably should have known that the patron is intoxicated.” Vickowski v. Polish Am. Citizens Club of Deerfield, Inc., 422 Mass. 606, 609 (1996) (quoting Cimino v. Milford Keg, Inc., 385 Mass. 323, 327 (1982)). “The negligence lies in serving alcohol to a person who already is showing discernible signs of intoxication.” Id. at 610; see McGuiggan v. New England Tel. & Tel. Co., 398 Mass. 152, 161 (1986).

To substantiate a violation of M.G.L. c. 138, § 69, there must be proof of the following elements: (1) that an individual was in or on the licensed premises; (2) that an employee of the licensed premises knew or reasonably should have known that the individual was intoxicated; and (3) that after the employee knew or reasonably should have known the individual was intoxicated, the employee should or delivered an alcoholic beverage to the intoxicated individual. See Vickowski, 422 Mass. at 609. “The imposition of liability on a commercial establishment for the service of alcohol to an intoxicated person..., often has turned, in large part, on evidence of obvious intoxication at the time a patron was served.” Id.

The Commission’s decision must be based on substantial evidence. See Embers of Salisbury, Inc. v. Alcoholic Beverages Control Comm’n, 401 Mass. 526, 528 (1988). “Substantial evidence” is “such evidence as a reasonable mind might accept as adequate to support a conclusion.” Id. Evidence from which a rational mind might draw the desired inference is not enough. See Blue Cross and Blue Shield of Mass. Inc. v. Comm’r of Ins., 420 Mass. 707 (1995). Disbelief of any particular evidence does not constitute substantial evidence to the contrary. New Boston Garden Corp. v. Bd. of Assessor of Boston, 383 Mass. 456, 467 (1981).

To find a violation of M.G.L. c. 138, § 69 evidence must exist that “the patron in question was exhibiting outward signs of intoxication by the time he was served his last alcoholic drink.” Rivera

v. Club Caravan, Inc., 77 Mass. App. Ct. 17, 20 (2010); see Vickowski, 422 Mass. at 610 (“The negligence lies in serving alcohol to a person who already is showing discernible signs of intoxication”). The Commission must determine whether substantial evidence exists to find that the Licensee, its staff or employees, sold or delivered an alcoholic beverage to an intoxicated person in violation of M.G.L. c. 138, § 69.

Here, direct evidence was presented through the testimony of Investigators Cutter and David who were inside the licensed premises and made observations of a male patron whom they allege was exhibiting signs of intoxication and then served an alcoholic beverage. (Testimony)


Additionally, direct evidence was presented through the testimony of the bartender and general manager who refuted the Investigators’ allegations. The Licensee argues the video evidence depicting the inside of the licensed premises on the night of Friday, March 1, 2024, during the time within which the alleged violation occurred corroborates the employees’ testimony and shows the male patron in question was not exhibiting outward signs of intoxication. (Testimony, Exhibit A) The Commission agrees and, as a result, finds no violation.

CONCLUSION

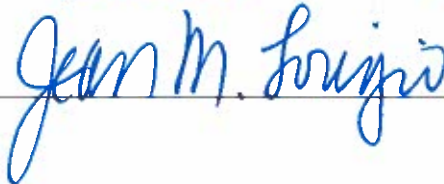
Based on the evidence, the Commission finds NO VIOLATION of M.G.L. c. 138, § 69 occurred.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Deborah Baglio, Commissioner



Jean M. Lorzio, Chairman



Dated: July 9, 2025

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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这份文件是重要的，应立即进行翻译。

यह दस्तावेज़ महत्वपूर्ण है और इसका तुरंत अनुवाद किया जाना चाहिए

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

ឯកសារនេះសំខាន់ណាស់ ហើយត្រូវបកប្រែជាបន្ទាន់។

2024-000062-ad-enf

cc: Local Licensing Board
Katherine McCormick, Esq., Associate General Counsel
Frederick G. Mahony, Chief Investigator
John David, Investigator
Alicia Cutter, Investigator
Albert DeNapoli, Esq.
Administration, File