



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

Jean M. Lorizio, Esq.
Chairman

TAVERN ON THE WHARF LLC
D/B/A TAVERN ON THE WHARF
6 TOWN WHARF
PLYMOUTH, MA 02360
LICENSE# 00242-RS-0984
VIOLATION DATE: 11/27/2024
HEARD: 09/09/2025

Tavern on the Wharf LLC d/b/a Tavern on the Wharf ("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, September 9, 2025, regarding an alleged violation of 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: Ch. 138, § 34C – Possession of an alcoholic beverage by a person under twenty-one years of age (1 Count).

The following documents are in evidence:

1. Investigative Report of S. Smiddy;
2. ABCC Form 43, New License Approval, 5/1/2015.

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

FINDINGS OF FACT

1. On Wednesday, November 27, 2024, at approximately 8:00 p.m., Investigators Smiddy and Velez ("Investigators") inspected the business operation of Tavern on the Wharf LLC d/b/a Tavern on the Wharf. (Testimony, Exhibit 1)
2. Upon entering the licensed premises Investigators observed a table of four youthful appearing individuals in possession of alcohol. Investigators identified themselves and requested proof of legal age to purchase and/or possess alcoholic beverages. Id.
3. Underage #1, actual date of birth 3/26/2004 (age 20), was in possession of a can of Sun Cruiser Iced Tea. Id.
4. Investigators informed the manager-on-duty of the violation and that a report would be filed with the Chief Investigator for further review. Id.
5. Paul Tupa, Licensee, appeared at the Commission hearing. (Commission Records)

6. The Licensee has held a license under M.G.L. c. 138, § 12 since 2015. (Exhibit 2)

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).

Massachusetts General Laws, 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 Licensee is charged with a violation of 204 CMR 2.05 (2) – Permitting an illegality on the licensed premises, to wit: chapter 138, § 34C – Possession of an alcoholic beverage by a person under twenty-one (21) years of age (1 Count). A Commission regulation promulgated at 204 CMR 2.05(2) provides in pertinent part, that “[n]o licensee for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to the place in or on the licensed premises. The licensee shall be responsible therefore, whether present or not.” The law is well-settled that ‘under the regulation, [204 C.M.R. 2.05(2)] 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.” Burlington Package Liquors, Inc. v. Alcoholic Beverages Control Comm'n, 11 Mass. App. Ct. 785, 788 (1981); Commonwealth v. Gould, 158 Mass. 499, 507 (1893). It is, thus, quite possible for a licensee to offend the regulatory scheme without scienter. The licensee is responsible for illegalities that occur on the licensed premises. Rico's of the Berkshires, Inc. v. Alcoholic Beverages Control Comm'n, 19 Mass. App. Ct. 1026, 1027 (1985).

Massachusetts General Laws, Chapter 138, § 34C states, in pertinent part, that: “Whoever, being under twenty-one years of age and not accompanied by a parent or legal guardian, knowingly possesses any alcohol or alcoholic beverages, shall be punished.” M.G.L. c. 138, § 34C.

Here, Investigators observed and interacted with a patron who was under the age of twenty-one and in possession of an alcoholic beverage on the licensed premises.

The Commission is persuaded by the direct evidence presented in this matter and finds the Licensee committed a violation of 204 CMR 2.05 (2) – Permitting an illegality on the licensed premise, to wit: M.G.L. c. 138, § 34C- Possession of an alcoholic beverage by a person under twenty-one years of age (1 count).

CONCLUSION

Based on the evident, the Commission finds the Licensee violated 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: Ch. 138, § 34C – Possession of an alcoholic beverage by a person under twenty-one years of age (1 Count). As a result, the Commission issues a WARNING.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Crystal Matthews, Commissioner

Crystal Matthews

Deborah Baglio, Commissioner

Deborah A. Baglio

I, the undersigned, hereby certify that I have reviewed the hearing record.

Jean M. Lorizio, Chairman

Jean M. Lorizio

Dated: June 24, 2026

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

ឯកសារនេះសំខាន់ណាស់ ហើយត្រូវបកប្រែជាបន្ទាន់។

2025-000002-ad-enf

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Nicholas Velez, Investigator
Sean Smiddy, Investigator
Kristen Scanlon, Esq.
Administration, File