

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

Steven Grossman
Treasurer and Receiver General

Kim J. Gainsboro, Esq.
Chairman

DECISION

BIG VIN'S LIQUOR, INC. DBA BIG VIN'S LIQUOR
248 COMMERCIAL ST
PROVINCETOWN, MA 02657
LICENSE#: 100400072
VIOLATION DATE: 08/16/2012
HEARD: 12/04/2012

Big Vin's Liquor, Inc. dba Big Vin's Liquor (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, §15. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, December 4, 2012, regarding an alleged violation of c. 138 §69-Sale or Delivery of an alcoholic beverage to an intoxicated person (1 count). Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Velez's Report.

The following documents are in evidence:

1. Investigator Velez's Investigative Report dated, 2012;
2. Licensee's Stipulation of Facts.

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

FACTS

1. On Thursday, August 16, 2012, at approximately 10:30 p. m., Investigators Binienda, Kenny, and Velez conducted an investigation of the business operation of Big Vin's Liquor, Inc. dba Big Vin's Liquor to determine the manner in which their business was being conducted.
2. Investigators were located outside the licensed premises to make observations.
3. Investigators observed a female subject, later identified as Ms. Codie Waite, who appeared to be intoxicated. Investigators observed Ms. Waite enter the licensed premises.
4. Investigators Binienda and Velez entered the premises after Ms. Waite, while Investigator Kenny remained outside.
5. Investigators observed Ms. Waite, staggering near the front counter, reach into a container of nip-size bottle of alcoholic beverages, take three (3) nips of vodka, and proceed to the cash register line.
6. Investigators observed two (2) other individuals in line ahead of Ms. Waite.
7. Investigators observed that the store clerk, later identified as Mr. Donald Morris, had a direct line of sight to observe Ms. Waite.
8. Investigators observed that Ms. Waite had glassy, red, and bloodshot eyes. They also noted that her eyes were half-closed at times.

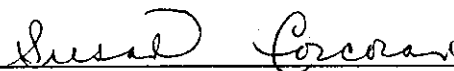
9. Investigators observed a strong odor of alcoholic beverages coming from her body.
10. Investigators observed Ms. Waite appeared to have difficulty removing her driver's license from her wallet, and her speech was slurred when she spoke briefly to the store clerk.
11. Based on their training and experience, investigators determined that Ms. Waite was intoxicated.
12. Investigators observed Ms. Waite hand United States currency to the store clerk, and saw Mr. Morris sell her the three (3) nips of vodka.
13. Investigators approached Ms. Waite after the transaction, and identified themselves.
14. Ms. Waite stated that she had consumed a few drinks before she came to the package store.
15. Ms. Waite stated that she was walking back to her boyfriend's apartment a few blocks away, and that she was not driving.
16. Investigators then identified themselves to Mr. Morris, the store clerk, and Mr. Duarte, the owner.
17. Investigator Binienda identified Ms. Waite to Mr. Morris and advised him that she was intoxicated.
18. Investigators informed Mr. Duarte of the violation and that a report would be submitted to the Chief Investigator for review.

CONCLUSION

Based on the evidence, the Commission finds the licensee violated c. 138 §69-Sale or Delivery of an alcoholic beverage to an intoxicated person (1 count). As the licensee has been in business for ten (10) years and has had no previous violations, the Commission issues a **WARNING**.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner



I, the undersigned, hereby certify that I have reviewed the hearing record and concur with the above decision.

Kim S. Gainsboro, Chairman



DATE: December 4, 2012

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
Nick Velez, Investigator
Administration
File