

**Re: KVR, Inc. dba Loring Liquors**  
**Premise: 70A Loring Avenue**  
**City/Town: Salem, MA 01970**  
**License #: 106400076**  
**Heard: January 11, 2011**

January 25, 2011

### **DECISION**

KVR, Inc. dba Loring Liquors (the "Licensee") holds an all alcohol license issued pursuant to M.G.L. c. 138, §15. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, January 11, 2011, regarding an alleged violation of M.G.L. c.138, §2. Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Caroline Guarino-Wilichoski's report.

The following documents are in evidence:

1. Investigator Caroline Guarino-Wilichoski's Report; and
2. Licensee's Stipulation of Facts.

There is one (1) tape of this hearing.

### **FACTS**

1. On Saturday, November 20, 2010, Investigator Capurso and Guarino-Wilichoski conducted an Enhanced Liquor Enforcement Operation in the City of Salem with Salem Police Detectives.
2. Investigators and Detectives entered the licensed premises at approximately 8:45 p.m. to investigate how the licensee conducts its business operations.
3. The Investigators attention was drawn to a motor vehicle that pulled into the establishment parking lot.
4. A youthful looking male exited the front passenger side of the motor vehicle and entered the front door of the establishment.
5. The male exited the establishment with alcoholic beverages and placed them in the motor vehicle.

6. The male patron and a youthful looking female driver were asked for proof of age.
7. The male patron was twenty-one (21) years of age and the driver was twenty (20) years of age.
8. When the Investigator conducted an inventory of the alcoholic beverages purchased, they observed a 23.5 oz can of Crunk Juice.
9. This product is a malt beverage which contains caffeine as an added ingredient.
10. On Thursday November 18, 2010, the Commission filed an emergency regulation prohibiting the sale of alcoholic beverages that contained caffeine as an added ingredient. The regulation went into effect immediately.
11. Investigators and Detectives entered the establishment and found a cooler with Crunk Juice for sale. The sign read, "Last Chance! 12% alc/vol + caffeine & Ginseng, 99 cents each."
12. Investigator Guarino-Wilichoski spoke with the clerks on duty, Saturday November 20, 2010, and asked why they were selling the Crunk Juice. He said "Because the ban goes into effect Monday."
13. Investigator Guarino-Wilichoski advised him that the regulation went into effect on Thursday November 18, 2010.
14. Investigators asked when the licensee had purchased the Crunk Juice. He said "Another employee had purchased ninety (90) cases from the salesman from Merrimac Valley Distributors on Tuesday and the delivery of the product was made on Thursday morning." He further said "He normally does not sell this particular brand" but the salesman advised him that the distributor did not have Four Loko, so they purchased the Crunk Juice brand.
15. Forty-seven (47) cans of the Crunk Juice in the coolers for sale were confiscated as evidence. Another twenty-four (24) cases of assorted flavors were found in the back refrigeration unit. These cases were not confiscated and were taped off with yellow police tape.
16. Both clerks were advised they could not sell the Crunk Juice.
17. On review of an invoice for this order, Investigators observed a very low price per case.
18. The establishment purchased the Crunk Juice for \$7.00 per case. The cost per can is about \$0.59 and the establishment was selling it at \$0.99. Investigators asked the clerk how much he typically charged for a can of Four Loko. He stated he charges \$2.50 plus deposit per can.

### CONCLUSION

Based on the evidence, the Commission finds the licensee violated Massachusetts General Laws c. 138, §2 . The Commission **suspends the license for three (3) days of which 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.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kim S. Gainsboro, Chairman\_\_\_\_\_

Susan Corcoran, Commissioner\_\_\_\_\_

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 days of receipt of this decision.

cc: Local Licensing Board  
Frederick G. Mahony, Chief Investigator  
Caroline Guarino-Wilichoski, Investigator  
File