

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

Jean M. Lorizio, Esq.
Chairman

NOTICE OF SUSPENSION

August 23, 2024

**VIN-GO LLC
980 AIRWAY COURT, SUITE A-F
SANTA ROSA, CA 95403
LICENSE#: DS-LIC-001519
HEARD: 4/26/2022**

After a hearing on April 26, 2022, the Commission finds Vin-Go LLC violated M.G.L. c. 139, § 18 and M.G.L. Ch. 138, § 2, to wit: M.G.L. c. 138, §19F. The Commission **suspends the license for 30 days to be served.**

The suspension shall commence on Monday, October 7, 2024, and terminate on Tuesday, November 5, 2024. The license will be delivered to the Alcoholic Beverages Control Commission or its designee on Monday, October 7, 2024, at 9:00 A.M. It will be returned to the Licensee on Wednesday, November 6, 2024.

You are advised that pursuant to the provisions of M.G.L. c.138 § 23, you may petition the Commission to accept an offer in compromise in lieu of suspension within twenty (20) calendar days following such notice of such suspension. If accepted, you may pay a fine using the enclosed form which must be signed by the Licensee and a Massachusetts Licensed Accountant.

You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio
Chairman

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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

Dokiman sa a enpòtan epi li ta dwe tradwi touswit

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

ឯកសារនេះសំខាន់ណាស់ ហើយត្រូវបកប្រែជាបន្ទាន់។

2021-000152-ad-enf

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cc: Frederick G. Mahony, Chief Investigator
Nicholas Velez, Investigator
Administration, File



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Jean M. Lorizio, Esq.
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DECISION

**VIN-GO LLC
980 AIRWAY COURT, SUITE A-F
SANTA ROSA, CA 95403
LICENSE#: DS-LIC-001519
LICENSE #: CC-LIC-028835
HEARD: 4/26/2022**

Vin-Go LLC (the "Licensee") holds a Direct Wine Shipper license issued pursuant to M.G.L. c. 138, § 19F and a Certificate of Compliance issued pursuant to M.G.L. c. 138, § 18B. Both the Direct Wine Shipper license and the Certificate of Compliance are issued to the Licensee at 980 Airway Court, Suite A-F, Santa Rosa, California. The Alcoholic Beverages Control Commission ("ABCC" or "Commission") held a remote hearing via Microsoft Teams on Tuesday, April 26, 2022, regarding an alleged violation of M.G.L. Ch. 138, § 18. In order to ensure the necessary control of traffic in alcoholic beverages for the preservation of the public peace and order, the shipment of such beverages into the commonwealth, except as provided in this section and §§ 19F and 19G, is hereby prohibited, and M.G.L. Ch. 138, § 2, to wit: M.G.L. Ch. 138, § 19F. Under this section a Direct Wine Shipper licensee may make sales and delivery of wine directly to residents of the Commonwealth who are 21 years of age or older, for personal use and not for resale.

The following documents are in evidence:

1. Investigator Velez's Report;
2. Vin-Go's Direct Wine Shipper License Commission File;
3. Vin-Go's Certificate of Compliance Commission File;
4. 10th Mountain Whiskey Transaction and Advertisement.

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

FINDINGS OF FACT

1. On Friday, May 29, 2020, Investigator Velez ("Investigator"), visited the website www.10thwhiskey.com and purchased one bottle of Colorado Clear Mountain Moonshine for \$25.00 to be delivered to an address in Falmouth, Massachusetts. (Testimony, Exhibit 1)
2. On June 16, 2020, a package containing one 750ml bottle of Colorado Clear Mountain Moonshine was delivered to Investigator Velez at his residence in Falmouth. The label

indicated the bottle contained 100% corn whiskey, 80 proof and 40% alcohol by volume. Id.

3. Investigator Velez observed the shipping label on the package indicated it had been delivered by Gio Express, with a point of origin of Ship Manager, 14257 Don Julian Road, Industry, California, and a telephone number of 626-986-4188. Id.
4. The address was found to belong to Vin-Go, LLC. Id.
5. Investigator Velez called the telephone number on the shipping label and a female answered the phone, stating "Hello, this is Vin-Go." Id.
6. Investigator Velez then called the telephone number on the shipping label and spoke to a female. He asked her to explain the label on the package he received. She stated the address of Ship Manager, 14257 Don Julian Road, Industry California, is that of Vin-Go. She asked if Investigator Velez had purchased wine or spirits. He indicated he purchased spirits. The female then stated to Investigator Velez that third-party companies utilize VIN-GO to ship alcohol to various states within the country. Id.
7. Investigator Velez then informed the female that VIN-GO's § 19F Direct Wine Shipper license does not allow for the shipment of distilled spirits into Massachusetts. Id.
8. Douglas Jones, Manager, appeared at the Commission hearing on behalf of the Licensee and acknowledged distilled spirits should not have been shipped into Massachusetts. Mr. Jones testified it was allowed by way of an error within their system. (Testimony)
9. The Licensee has had no previous violations. (Commission Records)

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). The procedure for the issuance of licenses and required conduct of licensees who sell alcoholic beverages is set out in Massachusetts General Laws, Chapter 138.

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 "[r]egulation of the liquor industry in Massachusetts is comprehensive and pervasive." Cellarmaster Wines of Mass., Inc. v. Alcoholic Beverages Control Comm'n, 27 Mass. App. Ct. 25, 27, 534 N.E.2d 21 (1989); see Miller Brewing Co. v. Alcoholic Beverages Control Comm'n, 56 Mass. App. Ct. 801, 808-809 (2002). "Massachusetts law requires that alcohol products sold in this State by manufacturers or suppliers be sold initially to licensed Massachusetts wholesalers. Those wholesalers in turn sell to retailers who sell to consumers. G.L. c. 138, §§ 12, 15, 18, 18B,

19.” Heublein, Inc. v. Capital Distributing Co., 434 Mass. 698, 699 (2001); see Miller Brewing Co., 56 Mass. App. Ct. at 808-809. However, M.G.L. c. 138, § 19 F allows for a Direct Wine Shipper licensee to “...make sales and delivery of wine directly to residents of the commonwealth who are over 21 years of age or older, for personal use and not for resale.” M.G.L. c. 138, § 19 F.

Every violation the Commission finds 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, 710 (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).

The Licensee is charged with a violation of:

M.G.L. c. 138, § 18 In order to ensure the necessary control of traffic in alcoholic beverages for the preservation of the public peace and order, the shipment of such beverages into the commonwealth, except as provided in this section and sections 19F and 19G, is hereby prohibited;

M.G.L. c. 138, § 2, to wit: M.G.L. c. 138, § 19F Under this section, a direct wine shipper licensee may make sales and delivery of wine directly to residents of the commonwealth who are 21 years of age or older, for personal use and not for resale.

The Licensee, holder of a § 19 F Direct Wine Shipper license, admittedly delivered distilled spirits to a resident of the commonwealth. Section 19 F allows only for the delivery of wine directly to residents of the commonwealth.

The Commission finds the evidence demonstrates the Licensee violated M.G.L. c. 138, § 18 and M.G.L. c. 138, § 2 to wit, M.G.L. c. 138, § 19 F.

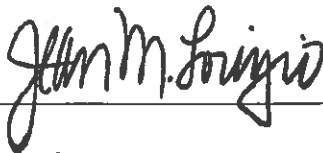
CONCLUSION

Based on the evidence, the Commission finds the Licensee, DS-LIC-001519, violated M.G.L. c. 139, § 18 and M.G.L. Ch. 138, § 2, to wit: M.G.L. c. 138, §19F. Therefore, the Commission **suspends the license for a period of 30 days.**

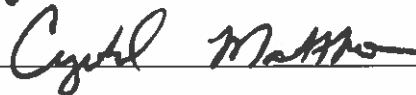
Given the above ruling, the Commission declines to take action against CC-LIC-028835 as doing so would be duplicative.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio, Chairman



Crystal Matthews, Commissioner



Deborah A. Baglio, Commissioner



Dated: August 23, 2024

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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