



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

Jean M. Lorizio, Esq.
Chairman

NOTICE OF SUSPENSION

June 12, 2023

**APPLE NEW ENGLAND LLC D/B/A APPLEBEE'S
214 BROADWAY
SAUGUS, MA 01906
LICENSE#: 00024-RS-1078
VIOLATION DATE: 12/09/2022
HEARD: 2/14/2023**

After a hearing on February 14, 2023, the Commission finds Apple New England LLC d/b/a Applebee's 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 (21) years of age. (2 Counts). The Commission **suspends the license for a period of three (3) days to be served.**

The suspension shall commence on Monday, July 31, 2023, and terminate on Wednesday, August 2, 2023. The license will be delivered to the Local Licensing Board or its designee on Monday, July 31, 2023, at 9:00 A.M. It will be returned to the licensee on August 3, 2023.

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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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Kyle E. Gill, Esq., Associate General Counsel
Dennis Keefe, Investigator
Melissa Anderson, Investigator
John P. Connell, Esq.
Joseph P. Devlin, Esq.
Administration, File



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DECISION

**APPLE NEW ENGLAND LLC D/B/A APPLEBEE'S
214 BROADWAY
SAUGUS, MA 01906
LICENSE#: 00024-RS-1078
VIOLATION DATE: 12/09/2022
HEARD: 2/14/2023**

Apple New England LLC d/b/a Applebee's (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission ("ABCC" or "Commission") held a remote hearing via Microsoft Teams on Tuesday, February 14, 2023, 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 (21) years of age. (2 Counts). Prior to the commencement of the hearing, the Licensee stipulated to the facts alleged in Investigator Keefe's Report.

The following documents are in evidence:

1. Investigator Keefe's Report;
 2. ABCC Form 43, Transfer of License Approval, 10/19/2011;
 3. Color Photocopy of Fraudulent Massachusetts Driver's Licenses Confiscated;
 4. ABCC Decision, 6/6/2021;
 5. ABCC Decision, 6/17/2021;
 6. Licensee's Stipulation of Facts.
- A. Chief Mahony's Email, dated 8/10/2021, to Licensee;
B. Licensee's Notice to Employees.

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

FINDINGS OF FACT

1. On Friday, December 9, 2022, at approximately 10:25 p.m., Investigators Anderson and Keefe (Investigators) inspected the business operation of Apple New England LLC d/b/a Applebee's.
2. Investigators observed two youthful appearing female individuals in possession of what appeared to be alcoholic beverages, seated at a table near the bar.

3. Investigators identified themselves and asked to see proof of legal age to possess alcoholic beverages.
4. Underage #1, actual date of birth 1/04/2003 (age 19), was in possession of a glass of Sangria. She presented to Investigators a fraudulent Massachusetts driver's license in her own name with a different birth date.
5. Underage #2, actual date of birth 7/02/2003 (age 19) was in possession of a Pina Colada mixed drink. She presented to Investigators a fraudulent Massachusetts driver's license in her own name with a different birth date.
6. Investigators spoke with the Manager of Record, Paul Benko, and the bartender, and informed them of the violations and that a report would be filed with the Chief Investigator for further review.
7. Mr. Benko appeared at the Commission hearing and testified as to the extensive in-house training conducted by the Licensee. He stated each new guest-facing employee must complete and score 100% prior to being allowed to work on their own. He testified that every guest-facing employee was recertified in September. Mr. Benko also described the "Power Shift" meetings with employees held prior to the start of each shift which entail reinforcing the Licensee's policies and procedures for checking identifications. He testified employees are required to request identification from any patron who appears to be under 40 years of age, and identification must be checked each time such a patron comes into the establishment. In addition, any out of state identification must be brought to the attention of a manager for verification. Any questionable identification must also be brought to the attention of a manager.
8. After the Investigators' visit, the Licensee reached out to the ABCC Investigation and Enforcement Division seeking information regarding identification scanner machines. (Exhibit A)
9. The Licensee has held a license under M.G.L. c. 138, § 12 since 2011 with two prior violations.

CONCLUSION

Based on the evidence, 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 (21) years of age. (2 Counts). Therefore, the Commission **suspends the license for a period of 3 days to be served.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Crystal Matthews, Commissioner




Deborah A. Baglio, Commissioner



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

Jean M. Lorizio, Chairman



Dated: June 12, 2023

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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2022-000211-ad-enf

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