



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

Jean M. Lorizio, Esq.
Chairman

NOTICE OF INDEFINITE SUSPENSION

November 19, 2020

**TRESTLE BRIDGE LLC D/B/A THE THIRSTY TURTLE PUB
15 CENTRAL STREET
TEMPLETON, MA 01436
LICENSE#: 03459-RS-1268
VIOLATION DATE: 10/09/2020
HEARD: 10/28/2020**

After a hearing on October 28, 2020, the Commission finds Trestle Bridge LLC d/b/a The Thirsty Turtle Pub violated:

- 1) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 37 (June 6, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 2) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 40 (June 19, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 3) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Violation of Mass. Exec. COVID-19 Order No. 52 (September 29, 2020).

Therefore, the Commission **INDEFINITELY SUSPENDS** the license of Trestle Bridge LLC d/b/a The Thirsty Turtle Pub **effective forthwith** until further written order of the Commission.

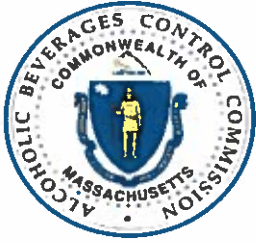
You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

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
Caroline Guarino, Investigator
Mark Kenny, Investigator
Michael Flanagan, Dept. of Labor Standards
Administration, File



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DECISION

**TRESTLE BRIDGE LLC D/B/A THE THIRSTY TURTLE PUB
15 CENTRAL STREET
TEMPLETON, MA 01436
LICENSE#: 03459-RS-1268
VIOLATION DATE: 10/09/2020
HEARD: 10/28/2020**

Trestle Bridge LLC d/b/a The Thirsty Turtle Pub (the "Licensee") holds an alcoholic beverages license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission ("ABCC" or "Commission") held a hearing on Wednesday, October 28, 2020, regarding alleged violations of:

- 1) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 37 (June 6, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 2) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 40 (June 19, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 3) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Violation of Mass. Exec. COVID-19 Order No. 52 (September 29, 2020).

The above-mentioned occurred on October 9, 2020 according to Investigator Guarino's Report.

The following documents are in evidence:

1. Investigator Guarino's Report;
 2. Copy of License Transfer Approval, 6/30/2017;
 3. Massachusetts Executive COVID-19 Order No. 37;
 4. Massachusetts Executive COVID-19 Order No. 40;
 5. Massachusetts Executive COVID-19 Order No. 52;
 6. Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19, 10/01/2020;
 7. ABCC Enforcement Memorandum, 10/27/2020.
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There is one (1) audio recording of this hearing.

FINDINGS OF FACT

1. On Friday, October 9, 2020, at approximately 8:55 p.m., Investigators Kenny and Guarino (“Investigators”) conducted an investigation of Trestle Bridge LLC d/b/a The Thirsty Turtle Pub to determine the manner in which its business was being conducted, and to ensure compliance with Massachusetts Governor Charles Baker’s Executive COVID-19 Orders. (Testimony, Exhibit 1)
2. Investigator Guarino entered the licensed premises and observed several individuals, standing in different areas of the establishment consuming alcoholic beverages. These individuals did not have any facial coverings and there was no indication of food service. Id.
3. As Investigator Guarino walked through the establishment, a female patron approached her and said something the Investigator could not hear. The female patron then reached over and pulled the Investigator’s facial covering, saying, “you don’t need these in here.” Investigator Guarino instructed the female patron not to touch her and walked away. Id.

4. Investigator Kenny observed patrons standing and consuming alcoholic beverages. The Investigator also observed individuals seated at tables consuming alcoholic beverages, but no food was observed at most tables. Id.
5. Investigators observed that the bartenders working behind the bar were not wearing any facial coverings. Id.
6. Mr. Jason Arsenault, the Licensee, appeared at the Commission hearing and testified that every patron is required to order food with their first order of an alcoholic beverage. (Testimony)
7. Mr. Arsenault testified that there was only one bartender on duty on the night of inspection. He explained that the bartender has a medical condition which frequently requires her to pull her mask down. He testified that the second employee working that evening typically does dishes but came out from behind the bar to pick up dishes and must have forgotten to put her mask on. Id.
8. Mr. Arsenault testified that he does not know when it becomes his responsibility to enforce whether a patron is sitting or standing. Id.
9. The Licensee has held a license under M.G.L. c. 138, § 12 since 2017 with no prior violations. (Exhibit 2, 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 Licensee is charged with a violation of 204 CMR 2.05 (2). “No licensee for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to take place in or on the licensed premises.” 204 CMR 2.05 (2). More specifically the Licensee is charged with permitting an illegality on the licensed premises, to wit:

Massachusetts Executive COVID-19 Order No. 37 (June 6, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;

Massachusetts Executive COVID-19 Order No. 40 (June 19, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19; and

Violation of Massachusetts Executive COVID-19 Order No. 52 (September 29, 2020).

The Executive COVID-19 Orders require adherence to all Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19 (October 1, 2020) including:

Require face coverings for all customers and workers at all times, except where an individual is unable to wear a face covering due to medical condition or disability;

Customers must wear face coverings unless seated at tables;

All customers must be seated.

Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19 (October 1, 2020)

Customers were standing throughout the establishment without any facial coverings and consuming alcoholic beverages. The Licensee acknowledged that patrons were standing but argued as to whether or not it was his responsibility to enforce the requirement that all patrons must be seated. He further admitted that his employee was not wearing a facial covering.

The Commission is persuaded by the evidence that a violation of 204 CMR 2.05(2) to wit Massachusetts Executive COVID-19 Orders 37, 40 and 52 did occur.

CONCLUSION

Based on the evidence, the Commission finds the Licensee violated:

- 1) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 37 (June 6, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 2) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 40 (June 19, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 3) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Violation of Mass. Exec. COVID-19 Order No. 52 (September 29, 2020).

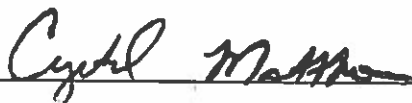
The Commission hereby **INDEFINITELY SUSPENDS** the license of Trestle Bridge LLC d/b/a The Thirsty Turtle Pub **effective forthwith** until further written order of the Commission.

The Commission will not issue any further order without a written request from the licensee showing good cause to reconsider this indefinite suspension.

Good cause for the Commission to consider issuing a further written order revising the order of indefinite suspension will include, but not be limited to the Licensee receives approval from the Massachusetts Department of Labor Standards ("DLS") as to a reopening plan. The Licensee must submit to the DLS a COVID Control Plan to reopen (see link here: <https://www.mass.gov/doc/phase-iii-step-1-restaurants-checklist-92220/download>) and operate in compliance with COVID 19 Orders Nos. 33, 37, 40 and 43, and the Restaurant Sector Specific Standards. Said plan must be submitted to both Michael Flanagan (michael.flanagan@mass.gov) and Mary Dozois (mary.dozois@mass.gov) requesting review and approval.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

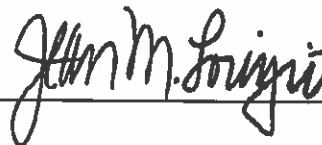
Crystal Matthews, Commissioner



Deborah A. Baglio, Commissioner



Jean M. Lorizio, Chairman



Dated: November 19, 2020

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