

*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

October 23, 2020

**DRACUT FOOD SERVICE CORP. D/B/A THIRSTY'S PUB
25 PARHAM ROAD
TYNGSBOROUGH, MA 01879
LICENSE#: 00005-RS-1298
VIOLATION DATE: 9/03/2020
HEARD: 9/29/2020**

After a hearing on September 29, 2020, the Commission finds Dracut Food Service Corp. d/b/a Thirsty's 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 Massachusetts Executive COVID-19 Order No. 46 (August 7, 2020).

Therefore, the Commission **INDEFINITELY SUSPENDS** the license of Dracut Food Service Corp. d/b/a Thirsty's Pub **effective forthwith** until further written order of the Commission.

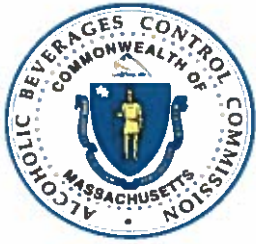
You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

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
Robert Gardner, Investigator
Joseph Di Cicco, Investigator
Katelyn Quinn, Investigator
Michael Flanagan, Dept. of Labor Standards
Administration, File



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Jean M. Lorizio, Esq.
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DECISION

**DRACUT FOOD SERVICE CORP. D/B/A THIRSTY'S PUB
25 PARHAM ROAD
TYNGSBOROUGH, MA 01879
LICENSE#: 00005-RS-1298
VIOLATION DATE: 9/03/2020
HEARD: 9/29/2020**

Dracut Food Service Corp. d/b/a Thirsty's Pub ("Licensee" or "Thirsty's Pub") holds an all alcoholic beverages license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission ("ABCC" or "Commission") held a hearing on Tuesday, September 29, 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 Massachusetts Executive COVID-19 Order No. 46 (August 7, 2020).

Prior to the commencement of the hearing, the Licensee stipulated to the facts alleged in Investigator Gardner's Report.

The following documents are in evidence:

1. Investigator Gardner's Report;
2. Licensee Stipulation of Facts;
3. Copy of License Transfer Application Approval, 8/14/2009;
4. ABCC Decision, 8/23/2011;
5. Massachusetts Executive COVID-19 Order No. 37, 6/6/2020;
6. Massachusetts Executive COVID-19 Order No. 40, 6/19/2020;
7. Massachusetts Executive COVID-19 Order No. 46, 8/7/2020;
8. Massachusetts COVID-19 Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19, 8/10/2020;
9. ABCC Enforcement Memorandum, 9/28/2020.

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

FINDINGS OF FACT

1. On Thursday, September 4, 2020¹, at approximately 12:00 a.m., Investigators Di Cicco, Quinn, and Gardner (“Investigators”) conducted an investigation of Dracut Food Service Corp. d/b/a Thirsty’s Pub (“Licensee” or “Thirsty’s 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.
2. Investigators observed the rear and side parking lots outside the licensed premises appeared to be full. Investigators observed approximately five (5) individuals without any facial coverings standing outside near the front door, as well as other individuals without facial coverings entering and exiting the licensed premises.
3. Investigators entered the licensed premises and observed multiple individuals walking throughout Thirsty’s Pub without any facial covering and in possession of alcoholic beverages.
- ~~4. Investigators observed individuals in possession of alcoholic beverages, while standing at the bar. The Investigators observed the bartender serving alcoholic beverages directly to individuals who approached the bar.~~
5. Investigators observed the bartender, Samantha, serving customers without wearing a facial covering.
6. Investigators observed individuals seated at tables and in possession of alcoholic beverages with no indication of food service.
7. Investigators observed one table in the bar at which individuals with no facial coverings were standing around the table and in possession of alcoholic beverages with no indication of food service.
8. Investigators spoke with Samantha, the bartender, and asked to speak with a manager or owner. Samantha stated to Investigators that no manager or owner was present, and she was the only employee working.
9. Investigators asked Samantha who was preparing food for the customers. Samantha stated that she was also cooking the food, French fries and mozzarella sticks.
10. Investigators informed Samantha of their observations and applicable Governor’s Orders and applicable Sector Specific Safety Standards. Investigators asked Samantha to contact the owner and have the owner contact the Investigators.
11. Later that same evening, Investigators received a telephone call from Ms. Thien Dang, the owner and manager of record of Thirsty’s Pub. Investigators advised Ms. Dang of their observations while they were on the licensed premises. Ms. Dang stated to Investigators

¹ The Investigator’s report contains a scrivener’s error of Thursday, September 4, 2020. The correct date was Friday, September 4, 2020 at approximately 12:00 A.M.

that she would take corrective action and review the Governor's COVID-19 Guidelines with the entire staff.

12. Investigators advised Ms. Dang of the violations and a report would be filed with the Chief Investigator for further review.
13. Ms. Dang appeared at the Commission hearing and testified she was trying hard to follow the guidelines. Ms. Dang indicated she has taken immediate corrective action by holding a staff meeting with all employees and bartenders to reiterate COVID-19 guidelines, along with hiring a specific employee to make sure people walking in and out are wearing masks, and to make sure people remain seated and are not walking around the licensed premises without facial coverings.
14. The Licensee has held a license under M.G.L. c. 138, § 12 since 2009 with one previous violation.

CONCLUSION

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

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- 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 Massachusetts Executive COVID-19 Order No. 46 (August 7, 2020).

The Commission hereby **INDEFINITELY SUSPENDS** the license of Dracut Food Service Corp. d/b/a Thirsty's 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 Cybil Matthews

Deborah A. Baglio, Commissioner Deborah A. Baglio

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

Jean M. Lorizio, Chairman Jean M. Lorizio

Dated: October 23, 2020

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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