

The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
Boston, Massachusetts 02114

Steven Grossman
Treasurer and Receiver General

Kim J. Gainsboro, Esq.
Chairman

NOTICE OF SUSPENSION

August 23, 2011

DRACUT FOOD SERVICE CORPORATION DBA THIRSTY'S
25 PARHAM ROAD
TYNGSBOROUGH, MA 01879
LICENSE#: 129800005
HEARD: 7/12/2011

After a hearing on July 12, 2011, the Commission finds Dracut Food Service Corporation dba Thirsty's in violation of 204 CMR 2.05 (1), 204 CMR 2.05 (2) and 204 CMR 2.05 (2) and the Commission decision dated August 10, 2010.

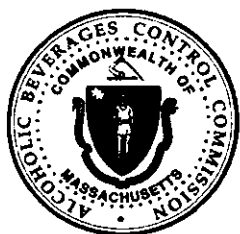
The Commission **suspends the licensee's license for a total of eleven (11) days to be served.** The suspension shall commence on **Wednesday, October 26, 2011 and terminate on Friday, November 5, 2011.** The license will be delivered to the Local Licensing Board or its designee on Wednesday, October 26, 2011 at 9:00 A.M. It will be returned to the licensee Saturday, November 6, 2011.

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

Kim S. Gainsboro
Chairman

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Michael Teehan, Investigator
Administration
File



The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
Boston, Massachusetts 02114

Steven Grossman
Treasurer and Receiver General

Kim J. Gainsboro, Esq.
Chairman

DECISION

DRACUT FOOD SERVICE CORPORATION DBA THIRSTY'S
25 PARHAM ROAD
TYNGSBOROUGH, MA 01879
LICENSE#: 129800005
HEARD: 7/12/2011

Dracut Food Service Corporation dba Thirsty's (the "Licensee") holds an all alcohol license issued pursuant to M.G.L. c. 138, §12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, July 12, 2011, regarding an alleged violation of 204 CMR 2.05 (1), 204 CMR 2.05 (2) and 204 CMR 2.05 (2). Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Michael Teehan's report.

The following documents are in evidence:

1. Licensee's Stipulation of Facts;
2. Investigator Michael Teehan's Report; and
3. Caroline Guarino's Memorandum dated May 17, 2011.

There is one (1) tape of this hearing.

FACTS

1. On Wednesday, April 6, 2011 at approximately 1:55 p.m., Investigators Kenny and Teehan investigated the business operation of Dracut Food Service Corporation dba Thirsty's.
2. Upon entering the bar, Investigators observed two (2) automatic amusements devices. Both of the machines were located in the bar area.
3. While conducting their Investigation, Investigator Teehan placed twenty (20) dollars of U.S. currency into the poker machine and over a period of time accumulated one hundred and thirty (130) replays.
4. At that point, he informed the female bartender on duty that he needed to cash out.
5. The female bartender walked over to the machine and printed a receipt, which then reset the machine.
6. She proceeded to the cash register behind the bar and handed him fifty-five (55) dollars in U.S. currency.
7. While still conducting the Investigation, he observed certain characteristics, which he knew from his training and experience, were indications that the machines are being utilized as gambling devices.
8. The video device was activated by inserting money into it.
9. He selected the number of points (the amount he wanted to bet).
10. The device registered the bet by displaying the number of points he had selected and the

- device then displayed the odds on the chances of winning the poker hand dealt the player.
11. He would then manipulate a button to obtain a poker hand.
 12. The device's video screen would display five (5) cards representing a poker hand.
 13. He could then double his bet by hitting the double up button.
 14. Each video device had markings that indicated "for amusement only."
 15. The video device accepted dollar bills ranging from one (1), five (5), ten (10) and twenty (20).

CONCLUSION

Based on the evidence, the Commission finds the licensee violated 204 CMR 2.05 (1), 204 CMR 2.05 (2) and 204 CMR 2.05 (2). Therefore, the Commission **suspends the licensee's license for a period of eight (8) days. In addition, the licensee must not possess in or on the licensed premises any automatic amusement device or video poker machine.**

By decision dated August 10, 2010, the Commission had previously ordered a three (3) day license suspension but had held the suspension in abeyance for a period of two (2) years provided no further violations occurred. Based on the violation found above, the licensee violated the conditions of that three (3) day suspension being held in abeyance. The Commission hereby orders that suspension to be served on and after the eight (8) day suspension. The licensee will serve a total eleven (11) days. No fine in lieu of suspension will be accepted for this eight (8) day or three (3) day suspension.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kim S. Gainsboro, Chairman

Robert H. Cronin, Commissioner

Dated: August 23, 2011

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.

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Michael Teehan, Investigator
Peter Niroso, Esq. via Facsimile
Administration
File