



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

Jean M. Lorizio, Esq.
Chair

DECISION

**D & M LIQUOR CORP. D/B/A S & M LIQUORS
258-262 WATER STREET
WAKEFIELD, MA 01880
LICENSE#: 00013-PK-1310
VIOLATION DATE: 8/23/2019
HEARD: 12/17/2019**

D & M Liquor Corp. d/b/a S & M Liquors (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, § 15. The Alcoholic Beverages Control Commission ("Commission" or "ABCC") held a hearing on Tuesday, December 17, 2019, regarding an alleged violation of 204 CMR 2.05 (2)- Permitting an illegality on the licensed premises, to wit: M.G.L. Ch.138 §34- Sale or delivery of an alcoholic beverage to a person under twenty-one years of age (1 Count). Prior to the commencement of the hearing, the Licensee stipulated to the facts alleged in Investigator Bolcome's Report.

The following documents are in evidence:

1. Investigator Bolcome's Investigative Report;
2. Licensee Stipulation of Fact;
3. Fraudulent Maine Driver's License;
4. Copy of License Transfer Approval, 6/5/2015.

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

FINDINGS OF FACT

1. On Friday, August 23, 2019, Investigators Di Cicco and Bolcome ("Investigators") conducted an investigation of the business operation of D & M Liquor Corp. d/b/a S & M Liquors to determine the manner in which its business was being conducted.
2. At approximately 9:15 p.m., Investigators observed a youthful appearing female individual enter the package store and later exit the premises in possession of alcoholic beverages.
3. Investigators approached the motor vehicle, identified themselves, and asked for proof of legal age.

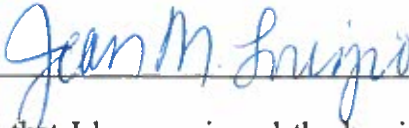
4. Underage #1, actual date of birth 12/7/2001 (age 17), was in possession of 10 root beer flavored Dr. McGillicuddy nips. Underage #1 presented to Investigators a fraudulent Maine driver's license which she had used to purchase the alcoholic beverages.
5. Investigators identified the other four youthful appearing individuals in the vehicle. All four individuals were found to be under twenty-one years of age, which included one underage individual aged 17. Investigators contacted the parents of these individuals under 18 years of age and informed them of the incident.
6. Investigators entered the licensed premises and talked to the clerk on duty, Rukesh Kumar Patel ("R.K. Patel"). They showed Mr. Patel the fraudulent driver's license used by Underage #1 and informed him of the violation.
7. R. K. Patel admitted to selling the alcoholic beverages to Underage #1. R.K. Patel stated to Investigators that Underage #1 responded consistently with the information on the fraudulent identification when he asked her about the identification.
8. Investigators observed that a camera number 16 covered the cash register area. At first R. K. Patel was not forthcoming about the violation and initially directed Investigators to contact the owner since he was unable to review the security camera recording because it was not working.
9. As Investigators finished questioning R. K. Patel, the owner, Rakesh Patel, arrived on the premises. The owner acknowledged the violation and appeared to admonish the clerk.
10. Investigators informed Rakesh Patel of the violation and that a report would be submitted to the Chief Investigator for review.
11. The Commission was informed at its hearing that the Licensee no longer accepts out of state licenses as proof of legal age.
12. The Licensee has held a license under M.G.L. c. 138, § 15 since 2015 with no previous 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: M.G.L. Ch.138 §34- Sale or delivery of an alcoholic beverage to a person under twenty-one years of age (1 Count). The Commission issues a **WARNING**.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio, Chairman



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

Crystal Matthews, Commissioner



Dated: December 19, 2019

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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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Kyle E. Gill, Esq., Associate General Counsel
David Bolcome, Investigator
Joseph Di Cicco, Investigator
Gregory Demakis, Esq.
Administration, File