



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

**Jean M. Lorizio, Esq.**  
*Chairman*

NOTICE OF SUSPENSION

February 8, 2023

**APPLE NEW ENGLAND LLC**  
**D/B/A APPLEBEE'S NEIGHBORHOOD GRILL & BAR**  
**990 PROVIDENCE HIGHWAY**  
**WALPOLE, MA 02081**  
**LICENSE#: 00025-RS-1314**  
**VIOLATION DATE: 5/13/2022**  
**HEARD: 7/26/2022**

After a hearing on July 26, 2022, the Commission finds Apple New England LLC d/b/a Applebee's Neighborhood Grill & Bar violated 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: M.G.L. c. 138, § 34C- Possession of an alcoholic beverage by a person under twenty-one (21) years of age (7 counts). The Commission **suspends the license for a period of eight (8) days to be served.**

**The suspension shall commence on Monday, March 27, 2023, and terminate on Monday, April 3, 2023.** The license will be delivered to the Local Licensing Board or its designee on Monday, March 27, 2023, at 9:00 A.M. It will be returned to the Licensee on April 4, 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  
Melissa Anderson, Investigator  
Christopher Temple, Investigator  
John Connell, Esq.  
Elizabeth Pisano, Esq.  
Administration, File



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

**Jean M. Lorizio, Esq.**  
*Chairman*

**DECISION**

**APPLE NEW ENGLAND LLC D/B/A APPLEBEE'S NEIGHBORHOOD GRILL & BAR  
990 PROVIDENCE HIGHWAY  
WALPOLE, MA 02081  
LICENSE#: 00025-RS-1314  
VIOLATION DATE: 5/13/2022  
HEARD: 7/26/2022**

Apple New England LLC d/b/a Applebee's Neighborhood Grill & Bar (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, July 26, 2022, regarding an alleged violation of 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: M.G.L. Ch. 138, § 34C Possession of an alcoholic beverage by a person under twenty-one years of age (7 Counts). Prior to the commencement of the hearing, the Licensee stipulated to the facts in Investigator Anderson's Report.

The following documents are in evidence:

1. Investigator Anderson's Report;
2. Copy of ABCC Form 43, Transfer of License Approval, 10/19/2011;
3. Photograph of Fraudulent Driver's Licenses Confiscated;
4. Photograph of Capital One Credit Card;
5. Photograph of Receipt;
6. ABCC Decision, 7/15/2021;
7. Licensee's Stipulation of Facts.

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

FINDINGS OF FACT

1. On Friday, May 13, 2022, at approximately 11:50 p.m., Investigators Temple and Anderson ("Investigators"), inspected Apple New England LLC d/b/a Applebee's Neighborhood Grill & Bar in Walpole to determine the manner in which its business was being conducted.
2. Upon entering the licensed premises, Investigators observed two separate tables of youthful appearing individuals.

3. Investigators approached the first table of youthful appearing female patrons and observed they were in possession of what appeared to be alcoholic beverages. Investigators identified themselves to the patrons and asked to see proof of legal age to possess alcoholic beverages.
4. Underage #1, actual date of birth 8/14/2001 (age 20), was in possession of a margarita mixed drink. She initially provided to Investigators a fraudulent Massachusetts driver's license in her name with a different birth date. She also produced her Westfield State University identification.
5. Underage #2, actual date of birth 11/30/2001 (age 20), was in possession of a margarita mixed drink. She initially provided to Investigators a fraudulent Massachusetts driver's license in another's name with a different birth date. Investigators determined that the appearance of the individual before them did not resemble the photograph on the identification presented. Underage #2 had a round shaped face and green eyes. The fraudulent identification depicted a woman with an oval shaped face with blue eyes. Investigators determined that a reasonable person would have seen the fraudulent identification did not match the person presenting it.
6. Underage #3, actual date of birth 6/20/2002 (age 19), was in possession of a margarita mixed drink. She provided to Investigators a fraudulent Massachusetts driver's license in another's name with a different birth date.
7. Underage #4, actual date of birth 5/13/2001 (age 20), was in possession of a margarita mixed drink and sangria. She produced her Fitchburg State University identification. Underage #4 informed Investigators she was not asked for any identification when she ordered the alcoholic beverages.
8. Investigators asked the server if she had requested identification from these patrons. She stated she had asked for proof of legal age from everyone at this table except for Underage #4.
9. Investigators then spoke to the assistant manager and advised her of the violations.
10. Investigators then approached the second table of youthful appearing male patrons and observed they were in possession of what appeared to be alcoholic beverages. Investigators identified themselves to the patrons and asked to see proof of legal age to possess alcoholic beverages.
11. Underage #5, actual date of birth 6/13/2003 (age 18), was in possession of a malt beverage. Underage #5 informed Investigators that the server did not ask him for any identification.
12. Underage #6, actual date of birth 8/15/2002 (age 19), was in possession of a malt beverage. He provided to Investigators a fraudulent Massachusetts driver's license in his name with a different birth date. Underage #6 informed Investigators that the server did not ask him for any identification.
13. Underage #7, actual date of birth 8/1/2002 (age 19), was in possession of a Grey Goose vodka and ginger ale mixed drink. Underage #7 informed Investigators the server did not ask him for any identification.

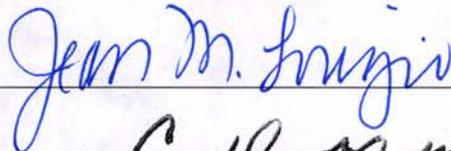
14. The employee who served the previously mentioned table of female patrons also served the table of male patrons. Investigators again spoke with her, and she stated she had asked for identifications but could not recall what the patrons provided.
15. Investigators spoke with the assistant manager and advised her of the additional violations and that a report would be submitted to the Chief Investigator for further action.
16. Ken Tousignant, Area Director for Apple New England LLC, attended the Commission hearing.
17. Mr. Tousignant testified that upon hire servers undergo extensive training and are required to complete the Licensee's "Serving Alcoholic Beverages Responsibly" program. An exam is administered, and an employee must score 100% to be allowed to work on the floor. Employees are recertified annually. The server in this instance was ultimately terminated after failing to report for two regularly scheduled shifts following the Investigator's inspection. Mr. Tousignant further testified about upgrades to the Licensee's point-of-sale system wherein servers are prompted to check identification.
18. The Licensee has held a license under M.G.L. c. 138, § 12 since 2011 with one prior violation.

#### CONCLUSION

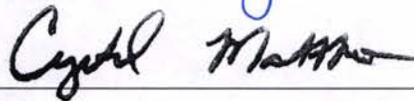
Based on the evidence, the Commission finds the Licensee violated 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: M.G.L. Ch. 138, § 34C Possession of an alcoholic beverage by a person under twenty-one years of age (7 Counts). Therefore, the Commission **suspends the license for a period of eight (8) days to be served.**

#### **ALCOHOLIC BEVERAGES CONTROL COMMISSION**

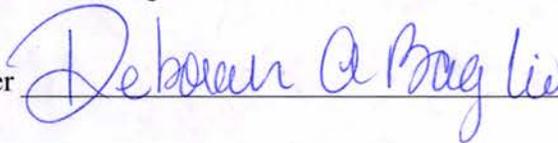
Jean M. Lorizio, Chairman



Crystal Matthews, Commissioner



Deborah A. Baglio, Commissioner



Dated: February 8, 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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2022-000075-ad-enf

- cc: Local Licensing Board
- Frederick G. Mahony, Chief Investigator
- Kyle E. Gill, Esq., Associate General Counsel
- Melissa Anderson, Investigator
- Christopher Temple, Investigator
- John Connell, Esq.
- Elizabeth Pisano, Esq.
- Administration, File