



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

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

**DECISION**

**CAPTAIN AL'S RESTAURANT LLC D/B/A CAPTAIN AL'S  
3236 CRANBERRY HIGHWAY  
WAREHAM, MA 02571  
LICENSE#: 00100-RS-1328  
VIOLATION DATE: 8/23/2019  
HEARD: 12/10/2019**

Captain Al's Restaurant LLC d/b/a Captain Al's (the "Licensee" or "Captain Al's") holds an all alcoholic beverages license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, December 10, 2019, regarding an alleged violation of M.G.L. c. 138, § 69 – Sale or delivery of an alcoholic beverage to an intoxicated person (1 Count). Prior to the commencement of the hearing, the Licensee stipulated to the facts alleged in Investigator Binienda's report.

The following documents are in evidence as exhibits:

1. Investigator Binienda's Investigative Report;
  2. Licensee Stipulation of Facts;
  3. Receipt for Alcohol Purchase;
  4. Copy of New License Seasonal Application Approval, 5/15/2009;
  5. Copy of New License (Seasonal to Annual) Application Approval, 2/11/2011;
- A. Licensee's Alcohol Service Policy.

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

**FINDINGS OF FACT**

1. On Friday, August 23, 2019, Investigators Watson and Binienda ("Investigators") conducted an investigation of the business operation of Captain Al's Restaurant LLC d/b/a Captain Al's to determine the manner in which its business was being conducted.
2. Investigators entered the licensed premises at approximately 10:20 p.m., where their attention was drawn to a male individual, Jack (last name unknown), who appeared to be intoxicated. Jack was standing in front of the bar area on the back deck of the establishment and he was drinking a vodka and water.

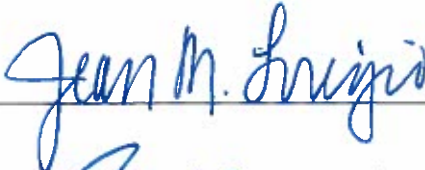
3. Investigators observed that Jack had trouble standing and maintaining his balance. He swayed as he stood in front of the bar and he held onto the barstool for balance. Jack's eyes were glassy and half-closed. On several occasions, Investigators observed that Jack stared blankly.
4. Investigators observed that Jack had an unsteady gait when he attempted to walk. They observed Jack walk sideways in an awkward manner.
5. Investigators observed that Jack was overly loud, and he jumped and yelled in an attempt to frighten another patron. Jack then attempted to take a picture of other people seated at the bar. Jack had difficulty being steady, and swayed side to side as he took the picture. Jack then gave an uncoordinated hug to two male patrons.
6. Shortly after this, the bartender on duty, Jenna, asked Jack to "do the dolphin noise." Jack then made a loud noise. Investigators also observed Jack talking to himself.
7. Based on their training and experience, Investigators formulated the opinion that Jack was intoxicated.
8. At approximately 10:59 p.m., Investigators observed Jack motion to Jenna the bartender for another drink. Investigators observed Jenna deliver a vodka and water to Jack, placing the drink directly in front of him. Jack took possession of the vodka drink and consumed it.
9. Investigators identified themselves to Jenna and then identified Jack. Investigators advised Jenna of the violation and that a report would be submitted to the Chief Investigator for further action.
10. Jenna stated to Investigators that Jack stays on his boat in the marina. Jenna reported that the manager has gone home and also provided to Investigators a copy of Jack's bar bill. The receipt indicated that Jack had four (4) beers and two (2) well drinks.
11. At this point Jack walked outside towards the parking lot, with some other patrons, in order to smoke a cigarette.
12. Investigators went outside and identified themselves to Jack and the other patrons. Investigators explained that they wanted to be sure that Jack got home safely. Jack appeared confused and said sarcastically with slurred speech, "I'm good brother." Jack couldn't complete a sentence and had a vacant stare.
13. A female patron stated to Investigators that Jack was staying on his boat and they would make sure he got to his boat safely.
14. At the Commission hearing the manager, Alfred Harrington, testified that all servers would be retrained on the Licensee's Alcohol Service Policy.
15. The Licensee has held a license under M.G.L. c. 138, § 12 since 2009 with no prior violations.

### CONCLUSION

Based on the evidence, the Commission finds the Licensee violated M.G.L. c. 138, § 69- Sale or delivery of an alcoholic beverage to an intoxicated person (1 Count). As the Licensee has been in business for 10 years with no prior violations, the Commission issues a **WARNING**.

**ALCOHOLIC BEVERAGES CONTROL COMMISSION**

Jean M. Lorizio, Chairman



Crystal Matthews, Commissioner



Dated: December 10, 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  
Jaime Binienda, Investigator  
Lisa Watson, Investigator  
Administration, File