



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

Jean M. Lorizio, Esq.
Chair

DECISION

**JMAR LLC D/B/A 107 TAP
107 WATER STREET
WORCESTER, MA 01604
LICENSE#: 06886-RS-1508
VIOLATION DATE: 5/04/2024
HEARD: 9/17/2024**

JMAR LLC d/b/a 107 Tap ("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, September 17, 2024, regarding alleged violations of 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: Ch. 138, § 34C – Possession of an alcoholic beverage by a person under 21 years of age (2 Counts).

The following documents are in evidence:

1. Investigative Report of S. Fleming;
2. ABCC Licensing Authority Certification, New License Approved 6/29/2022.

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

FINDINGS OF FACT

1. On Saturday May 4, 2024, at approximately 11:10 p.m., Investigators Di Cicco, Gould, Smiddy, Velez, and Fleming ("Investigators") inspected the business operation of JMAR LLC d/b/a 107 Tap ("Licensee"). (Testimony, Exhibit 1)
2. Investigators DiCicco and Fleming approached two youthful appearing females in possession of alcoholic beverages. Investigators identified themselves and requested proof of legal age to possess alcoholic beverages. Id.
3. Underage #1, actual date of birth 7/22/2004 (age 19), was in possession of a High Noon Hard Seltzer. Id.
4. Underage #2, actual date of birth 11/18/2003 (age 20), was in possession of a High Noon Hard Seltzer. Id.

5. Jefferson Mararian, Licensee, appeared at the Commission hearing and testified that he has since purchased an upgraded identification scanner. (Testimony)
6. The Licensee has held a license under M.G.L. c. 138, § 12 since 2022. (Exhibit 2)

DISCUSSION

Licenses to sell alcoholic beverages are a special privilege subject to public regulation and control, Connolly v. Alcoholic Beverages Control Comm'n, 334 Mass. 613, 619 (1956), for which States have especially wide latitude pursuant to the Twenty-First Amendment to the United States Constitution. Opinion of the Justices, 368 Mass. 857, 861 (1975). The procedure for the issuance of licenses and required conduct of licensees who sell alcoholic beverages is set out in Massachusetts General Laws, Chapter 138.

Chapter 138 gives the Commission the authority to grant, revoke and suspend licenses. Chapter 138 was “enacted ... to serve the public need and ... to protect the common good.” M.G.L. c. 138, §23. “[T]he purpose of discipline is not retribution, but the protection of the public.” Arthurs v. Bd. of Registration in Medicine, 383 Mass. 299, 317 (1981). The Commission is given “comprehensive powers of supervision over licensees.” Connolly, 334 Mass. at 617.

The Licensee is charged with a violation of 204 CMR 2.05 (2) - Permitting an illegality on the licensed premises, to wit: chapter 138, §34C – Possession of an alcoholic beverage by a person under twenty-one (21) years of age. A Commission regulation promulgated at 204 CMR 2.05(2) provides in pertinent part, that “[n]o licensee for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to the place in or on the licensed premises. The licensee shall be responsible therefore, whether present or not.” The law is well-settled that “under the regulation, [204 C.M.R. 2.05(2)] the responsibility of the licensee is to exercise sufficiently close supervision so that there is compliance with the law on the premises. A vendor who sells alcohol is “bound at his own peril to keep within the condition of his license.” Burlington Package Liquors, Inc. v. Alcoholic Beverages Control Comm'n, 11 Mass. App. Ct. 785, 788 (1981); Commonwealth v. Gould, 158 Mass. 499, 507 (1893). It is, thus, quite possible for a licensee to offend the regulatory scheme without scienter. The licensee is responsible for illegalities that occur on the licensed premises. Rico's of the Berkshires, Inc. v. Alcoholic Beverages Control Comm'n, 19 Mass. App. Ct. 1026, 1027 (1985).

Massachusetts General Laws, Chapter 138, §34C states, in pertinent part, that: “Whoever, being under twenty-one years of age and not accompanied by a parent or legal guardian, knowingly possesses any alcohol or alcoholic beverages, shall be punished.” M.G.L. c. 138, §34C.

Evidence was provided through the eye-witness testimony of Investigator DiCicco who observed two patrons younger than twenty-one years of age who were each in possession of an alcoholic beverage on the licensed premises.

The Commission is persuaded that the Licensee committed a violation of 204 CMR 2.05 (2) - Permitting an illegality on the licensed premise, to wit: M.G.L. c. 138, §34C- Possession of an alcoholic beverage by a person under twenty-one years of age (2 counts).

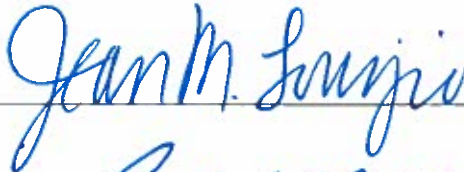
CONCLUSION

Based on the evidence, the Commission finds the Licensee violated 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: Ch. 138, § 34C – Possession of an alcoholic beverage by a person under 21 years of age (2 Counts).

Therefore, the Commission **suspends the license for a period of 2 days which will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission regulations are found by this Commission.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

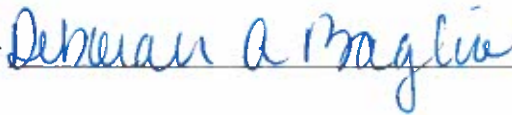
Jean M. Lorizio, Chairman



Crystal Matthews, Commissioner



Deborah Baglio, Commissioner



Dated: July 1, 2025

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.

This document is important and should be translated immediately.
Este documento es importante y debe ser traducido inmediatamente.
Este documento é importante e deve ser traduzido imediatamente.
Ce document est important et devrait être traduit immédiatement.
Questo documento è importante e dovrebbe essere tradotto immediatamente.
Το έγγραφο αυτό είναι σημαντικό και θα πρέπει να μεταφραστούν αμέσως.
这份文件是重要的，应立即进行翻译。
यह दस्तावेज़ महत्वपूर्ण है और इसका तुरंत अनुवाद किया जाना चाहिए
Dokiman sa a enpòtan epi li ta dwe tradwi touswit
'Đây là tài liệu quan trọng và cần được dịch ngay'
ឯកសារនេះសំខាន់ណាស់ ហើយត្រូវបកប្រែជាបន្ទាន់។

2024-000140-ad-enf

cc: Local Licensing Board
Katherine McCormick, Associate General Counsel
Frederick G. Mahony, Chief Investigator
Sean Fleming, Investigator
Joseph DiCicco, Investigator
Brian Gould, Investigator
Sean Smiddy, Investigator
Nicholas Velez, Investigator
Officer Patrick Harrington, Worcester Police Department
Administration, File