



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

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

NOTICE OF SUSPENSION

January 8, 2024

**WORCESTER RANDELL PACKAGE STORE INC.  
D/B/A RANDELL PACKAGE STORE  
108 CANTERBURY STREET  
WORCESTER, MA 01603  
LICENSE#: 00293-PK-1508  
VIOLATION DATE: 2/10/2023  
HEARD: 7/25/2023**

After a hearing on July 25, 2023, the Commission finds Worcester Randell Package Store Inc. d/b/a Randell Package Store violated 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: M.G.L. Ch. 138, § Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age. (5 Counts). The Commission **suspends the license for a period of five (5) days to be served.**

**The suspension shall commence on Monday, February 26, 2024, and terminate on Friday, March 1, 2024.** The license will be delivered to the Local Licensing Board or its designee on Monday, February 26, 2024, at 9:00 A.M. It will be returned to the licensee on March 2, 2024.

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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'Đây là tài liệu quan trọng và cần được dịch ngay'  
ឯកសារនេះសំខាន់ណាស់ ហើយត្រូវបកប្រែជាបន្ទាន់។

cc: Local Licensing Board  
Frederick G. Mahony, Chief Investigator  
Kyle E. Gill, Esq., Associate General Counsel  
Sean Fleming, Investigator  
Brian Gould, Investigator  
Administration, File



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

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

**DECISION**

**WORCESTER RANDELL PACKAGE STORE INC.  
D/B/A RANDELL PACKAGE STORE  
108 CANTERBURY STREET  
WORCESTER, MA 01603  
LICENSE#: 00293-PK-1508  
VIOLATION DATE: 2/10/2023  
HEARD: 7/25/2023**

Worcester Randell Package Store Inc. d/b/a Randell Package Store ("Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, § 15. The Alcoholic Beverages Control Commission ("ABCC" or "Commission") held a remote hearing via Microsoft Teams on Tuesday, July 25, 2023, regarding 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 (21) years of age. (5 Counts).

The following documents are in evidence:

1. Investigator Fleming's Report;
2. ABCC Form 43, Transfer of License Approval, 1/13/2016;
3. Photograph of Fraudulent Identifications Confiscated;
4. ABCC Decision, 5/31/2022;
5. List of City of Worcester Violations Submitted by Officer Harrington, Worcester Police Department, 10/4/2021.

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

**FINDINGS OF FACT**

1. On Friday February 10, 2023, at approximately 5:00 p.m., Investigators Gould and Fleming ("Investigators") conducted surveillance of Worcester Randell Package Store Inc. d/b/a Randell Package Store ("Licensee"). (Testimony, Exhibit 1)
2. At approximately 6:50 p.m., Investigators observed a green Toyota Highlander motor vehicle enter the parking lot. A youthful appearing male individual exited the vehicle and entered the establishment. Shortly thereafter, the same male exited the store with alcoholic beverages and proceeded back to the motor vehicle. Id.

3. Investigators approached the male, identified themselves and asked to see proof of legal age to purchase and/or possess alcoholic beverages. Id.
4. Underage #1, actual date of birth 5/24/2004 (age 18), was in possession of one 12-pack of Coors Light beer, one 25-ounce can of Natural Light beer, a can of Four Loko Blue Raz malt beverage, and a sleeve of Dr. McGillicuddy's Grape nips. Id.
5. He presented to Investigators a fraudulent Rhode Island driver's license bearing his name but a different birth date. He informed Investigators he had presented the fraudulent Rhode Island license when asked for identification by the clerk in the licensed premises. (Testimony, Exhibits 1, 3)
6. At approximately 7:30 p.m., Investigators observed a silver Subaru Forester motor vehicle enter the parking lot. A youthful appearing male individual exited the vehicle and entered the licensed premises. Shortly thereafter, the same male exited the store with alcoholic beverages and proceeded back to the vehicle. (Testimony, Exhibit 1)
7. Investigators approached the male, identified themselves and asked to see proof of legal age to purchase and/or possess alcoholic beverages. Id.
8. Underage #2, actual date of birth 5/22/2004 (age 18), was in possession of two 12-packs of Twisted Tea malt beverage. He presented to Investigators a fraudulent Rhode Island driver's license bearing his name but a different birth date. He informed Investigators he had presented the fraudulent Rhode Island license when asked for identification by the clerk in the licensed premises. (Testimony, Exhibits 1, 3)
9. At approximately 7:35 p.m., Investigators observed a gray Volkswagen motor vehicle. One youthful appearing male individual exited the vehicle and entered the licensed premises. Shortly thereafter, the same male exited the store with alcoholic beverages and returned to the vehicle. (Testimony, Exhibit 1)
10. Investigators approached the male, identified themselves and asked to see proof of legal age to purchase and/or possess alcoholic beverages. Id.
11. Underage #3, actual date of birth 4/09/2004 (age 18), was in possession of two bottles of Barefoot wine, one sleeve of Dr. McGillicuddy Grape nips, and one 36-pack of Coors Light beer. He presented to Investigators an imposter Colombian driver's license. (Testimony, Exhibits 1, 3)
12. At approximately 7:50 p.m., Investigators observed two youthful appearing female individuals enter the parking lot on foot and enter the licensed premises. Shortly thereafter, the same females exited the store with alcoholic beverages. (Testimony, Exhibit 1)
13. Investigators approached the females, identified themselves and asked to see proof of legal age to purchase and/or possess alcoholic beverages. Id.
14. Underage #4, actual date of birth 7/12/2003 (age 19), and Underage #5, actual date of birth 11/06/2003 (age 19), were in possession of two bottles of Barefoot wine, one bottle of Smirnoff vodka, and one bottle of Svedka vodka. Id.

15. Both Underage #4 and Underage #5 stated they were 19 years of age. Underage #4 provided Investigators with a fraudulent Rhode Island driver's license bearing her name with a different birth date. Underage #5 provided Investigators with a fraudulent Rhode Island driver's license bearing her name with a different birth date. (Testimony, Exhibits 1, 3)
16. At approximately 10:00 p.m., Investigators entered the licensed premises and spoke to the store clerk who called the Licensee. Investigators informed the Licensee of the violations and that a report would be filed with the Chief Investigator for further action. (Testimony, Exhibit 1)
17. Mr. Palak Shah appeared on behalf of the Licensee and testified the Licensee invested in a new point-of-sale system to help in assessing identification. (Testimony)
18. The Licensee has held a license under M.G.L. c. 138, § 15 since 2016 with one prior violation. (Exhibits 2,4)

### 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, § 34 - Sale or delivery of an alcoholic beverage to 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, §34 states, in pertinent part, that: “[w]hoever makes a sale or delivery of any alcoholic beverage or alcohol to any person under twenty-one years of age ... shall be punished by a fine of not more than \$2,000 or by imprisonment for not more than one year or both.” M.G.L. c. 138, § 34. Massachusetts General Laws, Chapter 138, § 34B offers protection from license suspension or revocation or criminal penalties to license holders who reasonably rely on one of the types of identification specified in the statute, including a valid Massachusetts driver’s license, Massachusetts liquor identification card, Massachusetts identification card, a United States passport, or a passport issued by the government – recognized by the United States – of a foreign country, a passport card for a U.S. passport, or a valid U.S. military identification card. See M.G.L. c. 138, § 34B. Consequently, an out-of-state or out-of-country identification provides no such defense.

Here, the evidence shows, and the Licensee concurred, that the Licensee relied upon Rhode Island driver’s licenses and a Colombian driver’s license. The Commission is persuaded by the evidence that Worcester Randell Package Store, Inc., d/b/a Randell Package Store sold alcoholic beverages to persons who were under twenty-one years of age. The fact that the minors presented out-of-state and/or out-of-country drivers licenses provides no defense to the Licensee. The Commission finds 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, § 34 - Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age (5 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: M.G.L. Ch. 138, § 34 Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age. (5 Counts). As a result, the Commission **suspends the license for a period of eight (8) days of which five (5) days will be served and three (3) days will be held in abeyance for a period of two 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: January 8, 2024

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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2023-000029-ad-enf

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