

The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
Boston, Massachusetts 02114

Steven Grossman
Treasurer and Receiver General

Kim S. Gainsboro, Esq.
Chairman

NOTICE OF SUSPENSION

April 11, 2012

SALTY DOG SALOON, INC. DBA SALTY DOG
1 KELLEY SQUARE
WORCESTER, MA 01608
LICENSE#: 150800491
HEARD 4/10/2012

After a hearing on April 10, 2012, the Commission finds Salty Dog Saloon, Inc. dba Salty Dog in violation of M.G.L. c. 138 §69 (1 count) and M. G. L. c.138, §34 (1 count).

The Commission suspends the licensee's license for a total of ten (10) days. The suspension shall commence on Wednesday, May 30, 2012 and terminate on Friday, June 8, 2012. The license will be delivered to the Local Licensing Board or its designee on Wednesday, May 30, 2012 at 9:00 A.M. It will be returned to the licensee Saturday, June 9, 2012.

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. All checks must be certified and accompanied by the enclosed form, which must be signed by 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.

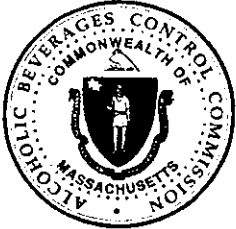
ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kim S. Gainsboro
Chairman

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Jamie Binienda, Investigator
Administration
File

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The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
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DECISION

SALTY DOG SALOON, INC. DBA SALTY DOG
1 KELLEY SQUARE
WORCESTER, MA 01608
LICENSE#: 150800491
HEARD 4/10/2012

Salty Dog Saloon, Inc. dba Salty Dog (the "Licensee") 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, April 10, 2012, regarding alleged violations of M.G.L. c. 138 §69 (1 count) and M. G. L. c.138, §34 (1 count). Prior to the commencement of the hearing the licensee stipulated to the violation alleged in Investigator Jamie Binienda's Investigative Report.

The following documents are in evidence:

1. Licensee's Stipulation of Facts to M. G. L. c.138, §34;
2. Investigator Binienda's Investigative Report dated September 30, 2011; and
3. RMV Printout of Minor – S. Pericolo.

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

FACTS

1. On Friday, September 30, 2011, at approximately 1:10 a. m., Investigators Brad Doyle, Jack Carey, and Jamie Binienda, with Worcester Police Officers Ed Saucier and William Stout, investigated the business operation of Salty Dog Saloon, Inc. dba Salty Dog to determine the manner in which their business was being conducted.
2. Investigators and Officers identified themselves to the doorman and entered the licensed premises to make observations.
3. The doorman advised them that it was an eighteen (18) plus night, and that underage [patrons] would have an "X" on their hands while patrons who were twenty-one (21) and over would have a wristband.
4. Investigator Doyle observed a youthful looking patron in possession of an alcoholic beverage and asked him for identification.
5. The youthful looking male patron provided this information: Mr. Samuel Pericolo, of 10 Cherry St., Wrentham, date of birth of December 3, 1990, age twenty (20) years old.
6. Investigators observed Mr. Pericolo in possession of a draft beer in a plastic cup.

7. Investigators observed that Mr. Pericolo had an "X" on his hand indicating he was underage, and that he did not have a wristband.
8. Mr. Pericolo stated he did not have any false identification on his person.
9. Investigator Binienda and Officer Stout observed a male patron, later identified as Mr. Michael Anthony Lester, who appeared to be intoxicated.
10. Mr. Lester was in possession of a Bud Light bottle, and he staggered as he attempted to walk towards the back bar.
11. Investigator Binienda observed Mr. Lester stagger from the back bar to the front of the licensed premises, and later return, staggering, to the back bar.
12. Investigator Binienda observed Mr. Lester's eyes to be half-closed, and that he had trouble maintaining his balance while standing.
13. Mr. Lester said something to Investigator Binienda, but his speech was badly slurred and unintelligible so that the investigator was unable to determine what Lester said.
14. Based on their training and experience, Investigator Binienda and Officer Stout determined that Mr. Lester was intoxicated.
15. Mr. Lester then ordered another bottle of Bud Light beer from the bartender on duty, later identified as Miss Lisa Whitten, at the back bar.
16. Investigator Binienda and Officer Stout observed the bartender deliver a bottle of Bud Light beer to Mr. Lester.
17. Investigator Binienda and Officer Stout observed Mr. Lester take possession of the bottle of Bud Light beer, and drink from it.
18. Investigator Binienda identified himself to the bartender on duty, Miss Whitten, and stated Mr. Lester was clearly intoxicated.
19. Miss Whitten stated that Mr. Lester is a regular, and that he always acts that way.
20. Investigator Binienda asked Mr. Lester how he was getting home.
21. Mr. Lester stated he lived next door, and he was not driving.
22. Investigator Binienda identified Mr. Lester to Investigator Carey.
23. Investigator Carey advised Investigator Binienda that the bartender on duty at the front of the licensed premises had shut off Mr. Lester before Lester was served at the back bar.
24. Investigator Binienda spoke with a security staff member, Mr. Janusz Krawczynski (aka Ski).
25. Ski advised Investigator Binienda that Lester was "shut off" at the front bar earlier.
26. Investigator Binienda then spoke with the owner, Mr. Mike Buehrle, and informed him of the violations, and that a report would be submitted to the Chief Investigator for further action.

CONCLUSION

Based on the evidence, the Commission finds the licensee violated of M.G.L. c. 138 §69 (1 count) and M. G. L. c.138, §34 (1 count). Therefore, the Commission **suspends the license for fourteen (14) days of which ten (10) days will be served and four (4) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner *Susan Corcoran*

Kathleen McNally, Commissioner *Kathleen McNally*

Dated: April 11, 2012

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.

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Jamie Binienda, Investigator
Administration
File