



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

Jean M. Lorizio, Esq.
Chairman

DECISION

**WARSAW INC. D/B/A WHITE EAGLE
116-120 GREEN STREET
WORCESTER, MA 01604
LICENSE#: 00062-RS-1508
VIOLATION DATE: 9/06/2024
HEARD: 10/29/2024**

Warsaw Inc. d/b/a White Eagle ("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, October 29, 2024, regarding an alleged violation 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 (1 Count). Prior to the commencement of the hearing the Licensee stipulated to the facts alleged in Investigator Kenny's report.

The following documents are in evidence:

1. Investigative Report of M. Kenny;
2. ABCC Form 43, Transfer of License Approval, 10/04/2015;
3. Licensee's Stipulation of Facts.

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

FINDINGS OF FACT

1. On Friday, September 6, 2024, at approximately 11:50 p.m., Investigators Gould and Kenny ("Investigators") inspected the business operation of Warsaw Inc. d/b/a White Eagle ("Licensee").
2. Investigators entered the licensed premises and observed a youthful appearing female individual in possession of an alcoholic beverage. Investigators approached, identified themselves and asked to see proof of legal age to possess an alcoholic beverage.
3. Underage #1 was in possession of a vodka soda mixed drink. She presented to Investigators an expired Minnesota driver's license bearing the name of another individual.
4. Investigators informed the manager-on-duty of the violation and that a report would be filed with the Chief Investigator for further review.

5. The Licensee has held a license under M.G.L. c. 138, § 12 since 2015, with no prior violations.
6. Julie Sargentelli, manager of record, appeared at the Commission hearing along with Mr. Jachimczyk, a security employee.

DISCUSSION

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.” 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.

The Commission’s decision must be based on substantial evidence. See Embers of Salisbury, Inc. v. Alcoholic Beverages Control Comm’n, 401 Mass. 526, 528 (1988). “Substantial evidence” is “such evidence as a reasonable mind might accept as adequate to support a conclusion.” Id. Evidence from which a rational mind might draw the desired inference is not enough. See Blue Cross and Blue Shield of Mass. Inc. v. Comm’r of Ins., 420 Mass. 707 (1995). Disbelief of any particular evidence does not constitute substantial evidence to the contrary. New Boston Garden Corp. v. Bd. of Assessor of Boston, 383 Mass. 456, 467 (1981).

Here, the Investigative Report was the only evidence presented, and it indicated the underage patron was born in 2024. (Exhibit 1) The Commission does not find the evidence reliable and as such, finds it does not constitute substantial evidence.

CONCLUSION

Based on the evidence, the Commission finds NO VIOLATION of 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: M.G.L. Ch. 138, § 34C occurred.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Crystal Matthews, Commissioner

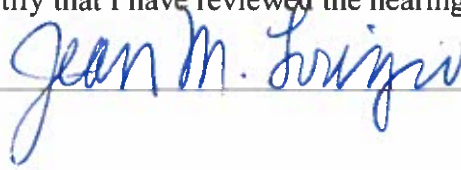


Deborah Baglio, Commissioner



I, the undersigned, hereby certify that I have reviewed the hearing record.

Jean M. Lorizio, Chairman



Dated: September 22, 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.

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2024-000183-ad-enf

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Katherine McCormick, Esq., Associate General Counsel
Mark Kenny, Investigator
Brian Gould, Investigator
Officer Patrick Harrington, Worcester Police Department
Administration, File