



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

Jean M. Lorizio, Esq.
Chairman

NOTICE OF SUSPENSION

March 10, 2023

**ANSH INC. D/B/A KJ BAARON'S FINE WINE & SPIRITS
730 WEST BOYLSTON STREET
WORCESTER, MA 01606
LICENSE#: 00260-PK-1508
VIOLATION DATE: 10/07/2022
HEARD: 12/13/2022**

After a hearing on December 13, 2022, the Commission finds Ansh Inc. d/b/a KJ Baaron's Fine Wine & Spirits violated M.G.L. Ch. 138, § 34 Sale or Delivery of an alcoholic beverage to a person under twenty-one (21) years of age (1 Count). The Commission **suspends the license for a period of one (1) day to be served.**

The suspension be served on Monday, May 1, 2023. The license will be delivered to the Local Licensing Board or its designee on Monday, May 1, 2023, at 9:00 A.M. It will be returned to the licensee on May 2, 2023.

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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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Kyle E. Gill, Esq., Associate General Counsel
Melissa Anderson, 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

**ANSH INC. D/B/A KJ BAARON'S FINE WINE & SPIRITS
730 WEST BOYLSTON STREET
WORCESTER, MA 01606
LICENSE#: 00260-PK-1508
VIOLATION DATE: 10/07/2022
HEARD: 12/13/2022**

Ansh Inc. d/b/a KJ Baaron's Fine Wine & Spirits (the "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, December 13, 2022, regarding an alleged violation of M.G.L. Ch. 138, § 34 Sale or Delivery of an alcoholic beverage to a person under twenty-one (21) years of age (1 Count). The above-captioned occurred on October 7, 2022 according to Investigator Anderson's Report.

The following documents are in evidence:

1. Investigator Anderson's Report;
 2. ABCC Form 43, License Transfer Approval, 12/3/2015;
 3. Photograph of Fraudulent New Hampshire Driver's License Confiscated.
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- A. Owner's Identification;
 - B. Manager's Identification;
 - C. Employees' Certificate for Alcohol Service Training;
 - D. New Forensic Identification Scanner with Instructions and Receipt of Purchase;
 - E. Staff Meeting Training for Employees;
 - F. List of Acceptable Identifications and Sign Inside Store;
 - G. Photo of Fraudulent Driver's Licenses;
 - H. Sale Receipt for Alcohol Purchase;
 - I. Online Review of Establishment.

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

FINDINGS OF FACT

1. On Friday, October 7, 2022, at approximately 5:55 p.m., Investigators Gould and Anderson (“Investigators”) conducted an inspection of the business operation of Ansh Inc. d/b/a KJ Baaron’s Fine Wine & Spirits. (Testimony, Exhibit 1)
2. At approximately 6:15 p.m., while conducting surveillance outside the establishment, Investigators observed a black Dodge Durango SUV enter the parking lot. A youthful appearing male individual exited the vehicle and entered the premises. Shortly afterward, the same male exited the store with alcoholic beverages. 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 12/19/2001 (age 20), provided Investigators with a fraudulent New Hampshire driver’s license which he had used to purchase the alcoholic beverages. He was in possession of one 750 milliliter bottle of Knob Creek Whiskey and one 12-pack of Corona beer. Investigators confiscated the alcoholic beverages and the fraudulent license. (Testimony, Exhibit 3)
5. At approximately 6:20 p.m., Divyenkumar Patel, Licensee and Manager, approached the Investigators in the parking lot. Investigators informed Mr. Patel of the violation and that a report would be filed with the Chief Investigator for further review. (Testimony, Exhibit 1)
6. Mr. Patel, appeared at the Commission hearing and testified regarding the Licensee’s efforts to prevent future sales to minors, including adopting a new policy wherein out-of-state identifications are no longer accepted. (Exhibit F). Additionally, he purchased a new scanner that captures an image of the photo on the identification which is displayed on a screen to assist the clerk in comparing the photo to the actual individual attempting to make a purchase. (Exhibit D)
7. The Licensee has held a license under M.G.L. c. 138, § 15 since 2015 with no prior violations.

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 M.G.L. c 138, § 34 Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age (1 count). 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.


Here, the evidence shows a person under the age of twenty-one presented a fraudulent New Hampshire driver’s license and was sold alcoholic beverages by the Licensee. Relying on a fraudulent New Hampshire driver’s license which purports to show that a patron is 21 years of age or older does not provide a Licensee with an affirmative defense to a violation pursuant to Section 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, a false out-of-state identification provides no such defense.

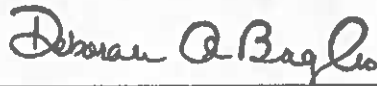
The Commission is persuaded by the evidence and finds that Ansh Inc. d/b/a KJ Baaron’s Fine Wine & Spirits committed a violation of M.G.L. c. 138, § 34.

CONCLUSION

Based on the evidence, the Commission finds the Licensee violated M.G.L. Ch. 138, § 34 Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age (1 Count). Therefore, the Commission **suspends the license for a period of 1 day.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Crystal Matthews, Commissioner 

Deborah Baglio, Commissioner 

I, the undersigned, hereby certify that I have reviewed the hearing record and concur with the above decision.

Jean M. Lorizio, Chairman 

Dated: March 10, 2023

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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2022-000182-ad-enf

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