



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

Jean M. Lorizio, Esq.
Chairman

NOTICE OF INDEFINITE SUSPENSION

September 24, 2020

**731 MAIN STREET LLC D/B/A TAVERN 731
731 MAIN ST.
YARMOUTH, MA 02664
LICENSE#: 00155-RS-1518
VIOLATION DATE: 8/15/2020
HEARD: 9/15/2020**

After a hearing on September 15, 2020, the Commission finds 731 Main Street LLC d/b/a Tavern 731 violated:

- 1) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 37 (June 6, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 2) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 40 (June 19, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 3) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Violation of Massachusetts Executive COVID-19 Order No. 46 (August 7, 2020).

Therefore, the Commission **INDEFINITELY SUSPENDS** the license of 731 Main Street LLC d/b/a Tavern 731 **effective forthwith** until further written order of the Commission.

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
Katelyn Quinn, Investigator
Christopher Temple, Investigator
Nicholas Velez, Investigator
Michael Flanagan, Dept. of Labor Standards
Administration, File



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DECISION

**731 MAIN STREET LLC D/B/A TAVERN 731
731 MAIN ST.
YARMOUTH, MA 02664
LICENSE#: 00155-RS-1518
VIOLATION DATE: 8/15/2020
HEARD: 9/15/2020**

731 Main Street LLC d/b/a Tavern 731 (the "Licensee") holds an all alcoholic beverages license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission ("ABCC" or "Commission") held a hearing on Tuesday, September 15, 2020, regarding alleged violations of:

- 4) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 37 (June 6, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 5) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 40 (June 19, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 6) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Violation of Massachusetts Executive COVID-19 Order No. 46 (August 7, 2020).

Prior to the commencement of the hearing, the Licensee stipulated to the facts alleged in Investigator Quinn's Report.

The following documents are in evidence:

1. Investigator Quinn's Report;
2. Licensee Stipulation of Facts;
3. New License Approval, 5/8/2013;
4. Photographs of Interior of Licensed Premises;
5. Massachusetts Executive COVID-19 Order No. 37, 6/6/2020;
6. Massachusetts Executive COVID-19 Order No. 40, 6/19/2020;
7. Massachusetts Executive COVID-19 Order No. 46, 8/7/2020;

8. Massachusetts COVID-19 Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19, 8/10/2020;
9. Copy of Licensee's Social Media Post;
10. ABCC Enforcement Memorandum, 9/15/2020.

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

FINDINGS OF FACT

1. On Saturday, August 15, 2020, Investigators Temple, Velez, and Quinn ("Investigators") conducted an investigation of 731 Main Street LLC d/b/a Tavern 731 to determine the manner in which its business was being conducted, and to ensure compliance with Massachusetts Governor Charles Baker's Executive COVID-19 Orders.
2. Investigators entered the licensed premises and observed staff members wearing facial coverings, with some patrons wearing facial coverings and others without facial coverings.
3. Investigators observed several patrons in possession of alcoholic beverages walking around the premises and not wearing any facial coverings. Investigators also observed the bare-faced patrons socializing in close proximity to one another while congregating at the bar.
4. Investigators spoke to the manager on duty, who was also working as the cook. Investigators informed the manager that there were patrons without facial coverings, ordering alcoholic beverages at the bar, and gathering in close proximity to one another, all in violation of the Governor Baker's Executive Orders.
5. The manager stated this was not true and stated the only customer without a facial covering was a baby. He stated to Investigators that all the patrons inside the premises belonged to the same family and had just ordered food. He asked Investigators to wait so they could see the food being served and then he returned to the kitchen.
6. As Investigators waited for the manager to return, they observed two patrons being served alcoholic beverages from behind the bar. Investigators observed that patrons continued to walk around the premises without facial coverings and in possession of alcoholic beverages.
7. Investigators continued to observe patrons walk up to the bar where they were directly served alcoholic beverages, in violation of Governor Baker's Executive Orders.
8. Investigators advised the manager of the violations and advised him that a report would be filed with the Chief Investigator for further action.
9. Michael Kane, the manager and chef, appeared at the Commission hearing. Mr. Kane acknowledged that the bartender served patrons at the bar. He testified as to steps taken to comply with the Governor's Orders.
10. The Licensee has held a license under M.G.L. c. 138, § 12 since 2013 with no prior violations.

CONCLUSION

Based on the evidence, the Commission finds the Licensee violated:

- 1) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 37 (June 6, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 2) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 40 (June 19, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 3) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Violation of Massachusetts Executive COVID-19 Order No. 46 (August 7, 2020).

The Commission hereby **INDEFINITELY SUSPENDS** the license of 731 Main Street LLC d/b/a Tavern 731 **effective forthwith** until further written order of the Commission.

The Commission will not issue any further order without a written request from the licensee showing good cause to reconsider this indefinite suspension.

Good cause for the Commission to consider issuing a further written order revising the order of indefinite suspension will include, but not be limited to the Licensee receives approval from the Massachusetts Department of Labor Standards ("DLS") as to a reopening plan. The Licensee must submit to the DLS a COVID Control Plan to reopen and operate in compliance with COVID 19 Orders Nos. 33, 37, 40 and 43, and the Restaurant Sector Specific Standards. Said plan must be submitted to both Michael Flanagan (michael.flanagan@mass.gov) and Mary Dozois (mary.doizios@mass.gov) requesting review and approval.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio, Chairman



Crystal Matthews, Commissioner



Deborah A. Baglio, Commissioner



Dated: September 24, 2020

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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