



*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

**YARMOUTH LODGE #2270 LOYAL ORDER OF MOOSE, INC.  
769 ROUTE 28  
YARMOUTH, MA 02664  
LICENSE#: 00044-RS-1518  
VIOLATION DATE: 8/22/2020  
HEARD: 9/16/2020**

After a hearing on September 16, 2020, the Commission finds Yarmouth Lodge #2270 Loyal Order of Moose, Inc. 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 Yarmouth Lodge #2270 Loyal Order of Moose, Inc. **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  
Jamie Binienda, Investigator  
Lisa Watson, Investigator  
Michael Flanagan, Dept. of Labor Standards  
Mail to: P.O. BOX 186, South Yarmouth MA 02664  
Administration, File



*Commonwealth of Massachusetts  
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*Chairman*

**DECISION**

**YARMOUTH LODGE #2270 LOYAL ORDER OF MOOSE, INC.  
769 ROUTE 28  
YARMOUTH, MA 02664  
LICENSE#: 00044-RS-1518  
VIOLATION DATE: 8/22/2020  
HEARD: 9/16/2020**

Yarmouth Lodge #2270 Loyal Order of Moose, Inc. ("Licensee" or "Moose Lodge") 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 Wednesday, September 16, 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 Binienda's Report.

The following documents are in evidence:

1. Investigator Binienda's Report, 8/22/2020;
2. Licensee Stipulation of Facts;
3. Copy of New License Application Approval, 5/29/1981;
4. Copy of Change of Location Approval, 4/15/2010;
5. Massachusetts Executive COVID-19 Order No. 37;

6. Massachusetts Executive COVID-19 Order No. 40;
  7. Massachusetts Executive COVID-19 Order No. 46;
  8. Massachusetts COVID-19 Sector Specific Workplace Safety Standards, 8/10/2020;
  9. ABCC Enforcement Memorandum, 9/16/2020.
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- A. Mission Statement of Moose International Inc., August 2019;
  - B. Town of Yarmouth Food Establishment Inspection Report, 8/25/2020.

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

#### FINDINGS OF FACT

1. On Saturday, August 22, 2020, at approximately 7:30 p.m., Investigators Watson and Binienda ("Investigators") conducted an investigation of Yarmouth Lodge #2270 Loyal Order of Moose, Inc. ("Licensee" or "Moose Lodge") 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 through an interior glass window, they observed several individuals, seated and standing at the bar, consuming alcoholic beverages with no indication of food service. The sector specific workplace standards state that, "All customers must be seated."
3. Investigators observed at least three (3) patrons not wearing any facial coverings and standing at the bar.
4. Investigators observed another three (3) patrons, without any facial coverings, walking through the establishment. The sector specific workplace standards state that, "face coverings are required for all customers and workers at all times."
5. Investigators observed approximately nine (9) patrons standing and seated who were consuming alcoholic beverages with no indication of food service. The sector specific workplace standards state that, "alcoholic beverages may only be served for on-site consumption if accompanied by food prepared on-site. For each customer, an item of food must be ordered at the same time as the initial alcoholic beverage."
6. Investigators approached the bartender, Raymond Roy, and asked to speak to the person in charge. Mr. Roy stated that he was in charge that evening.
7. Investigator Binienda informed Mr. Roy that they were there to inspect because of a complaint which had been submitted to the Commission. The Investigator further informed Mr. Roy of his observations that evening including the absence of facial coverings and food service. Mr. Roy stated that none of the patrons had ordered or consumed any food on premises.
8. Investigator Binienda informed Mr. Roy that the establishment is required to be aware of and adhere to all Covid-19 safety standards. The sector specific workplace standards state that, "the operator of the restaurant is accountable for adhering to all local, state, and federal

requirement. The operator of the restaurant is also responsible for staying abreast of any updates to these requirements.”

9. Investigators advised Mr. Roy of the violations and advised him that a report would be filed with the Chief Investigator for further review.
10. Raymond Roy appeared and testified before the Commission and again acknowledged that the Licensee had not been serving food and testified as to steps taken after this incident to ensure compliance with the Governor’s COVID-19 Orders.
11. The Licensee has held a license under M.G.L. c. 138, § 12 since 1981 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;
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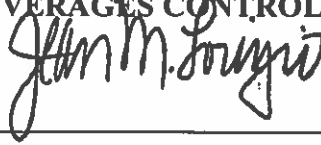
The Commission hereby **INDEFINITELY SUSPENDS** the license of Yarmouth Lodge #2270 Loyal Order of Moose, Inc. **effective forthwith** until further written order of the Commission.

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.dozois@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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