



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

Steven Grossman

Treasurer and Receiver General

NOTICE OF SUSPENSION

FRIAR VENTURES, LLC DBA HURRICANE O'REILLY'S
150 CANAL ST
BOSTON, MA 02109
LICENSE#: 011600707
VIOLATION DATE: 12/31/2013
HEARD: 08/05/2014

Kim S. Gainsboro, Esq.

Chairman

August 6, 2014

After a hearing on August 5, 2014, the Commission finds Friar Ventures, LLC dba Hurricane O'Reilly's in violation of:

- 1) 204 CMR 2.05(2) Permitting an Illegality on the Licensed Premises to wit: c. 138 §34C Possession of an alcoholic beverage by a person under twenty-one (21) years of age;
- 2) 204 CMR 2.05(2) Permitting an Illegality on the Licensed Premises to wit: c. 138 §69 Sale or Delivery of an Alcoholic Beverage to an Intoxicated Person;
- 3) 204 CMR 4.03 (B) – Delivery of more than two (2) drinks to one (1) person at a time.

The Commission suspends the licensee's license for a total of six (6) days to be served. A request by the licensee to reschedule the suspensions for an earlier date has been allowed by this Commission. The suspension shall commence on Wednesday, August 27, 2014 and terminate on Monday, September 1, 2014. The license will be delivered to the Local Licensing Board or its designee on Wednesday, August 27, 2014 at 9:00 A.M. It will be returned to the licensee Tuesday, September 2, 2014.

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
Caroline Guarino-Wilichoski, Investigator
Christopher Temple, Investigator
Bill Burke, Esq. via email
Administration, File



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Department of the State Treasurer
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DECISION

FRIAR VENTURES, LLC DBA HURRICANE O'REILLY'S
150 CANAL ST
BOSTON, MA 02109
LICENSE#: 011600707
VIOLATION DATE: 12/31/2013
HEARD: 08/05/2014

Friar Ventures, LLC dba Hurricane O'Reilly's (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, §12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, August 5, 2014, regarding an alleged violation of:

- 1) 204 CMR 2.05(2) Permitting an Illegality on the Licensed Premises to wit: c. 138 §34C Possession of an alcoholic beverage by a person under twenty-one (21) years of age;
- 2) 204 CMR 2.05(2) Permitting an Illegality on the Licensed Premises to wit: c. 138 §69 Sale or Delivery of an Alcoholic Beverage to an Intoxicated Person;
- 3) 204 CMR 4.03 (B) – Delivery of more than two (2) drinks to one (1) person at a time.

Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Guarino-Wilichoski's Report.

The following documents are in evidence:

1. Licensee's Stipulation of Facts;
2. Investigator Guarino-Wilichoski's Investigative Report dated December 31, 2013;
3. Photocopy of U.S. Passport and MA Driver's License in the name of Lauren Smith; and
4. RMW Printout for Caroline Fahey.

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

FACTS

1. On Tuesday, December 31, 2013, at approximately 9:35 p.m., Chief Investigator Mahony, along with Investigators Kelleher, Temple, and Guarino-Wilichoski ("Wilichoski") investigated the business operation of Friar Ventures, LLC dba Hurricane O'Reilly's to determine the manner in which their business was being conducted.
2. Investigators entered the premises and observed two youthful appearing females in possession of alcoholic beverages. Investigators asked to see proof of age.

3. One female, who was in possession of a bottle of Budweiser Light beer, presented to investigators a MA Driver's License in the name of Lauren Smith, date of birth [REDACTED] (age 23). Investigators observed that the person in the license picture was not that of the person who presented it. The female then presented investigators with a United States Passport in the name of Lauren Smith which also clearly showed that she was not the person on the passport; the person pictured had a very pointy chin and Ms. Fahey had a square chin. They recorded the following information for this individual: Caroline Fahey, actual date of birth [REDACTED] (age 20).
4. Investigators asked Ms. Fahey if she got the alcoholic beverage from the bar and had been checked for proof of age. Ms. Fahey replied yes, she got the beer from the male bartender, who did not check for proof of age. However, she stated that she provided proof of age prior to entering the establishment.
5. Investigators observed that the doormen checking identifications were outside in a poorly lit area.
6. During the course of the evening, investigators observed that the bartender on duty checked for proof of age at the time of service to any patron.
7. However, on at least three occasions, Chief Mahony observed the bar staff deliver more than two alcoholic beverages to one person. Those individuals then walked well away from the bar, and into the crowd. Bartenders did not continue to observe these individuals. Chief Mahony brought these actions to the attention of the manager on duty, Brendan (last name unknown). Brendan stated that he would immediately address this matter with the bar staff.
8. Investigators observed that on this evening the licensed premises was very busy with over 400 patrons in the establishment, and that there were not enough staff to handle the patrons.
9. On several occasions, investigators pointed out intoxicated individuals to staff employees. On five occasions, intoxicated patrons were removed from the establishment. Chief Mahony advised Brendan that he needed to gain control of the establishment and prevent the service to intoxicated patrons.
10. At approximately 10:40 p.m., Chief Mahony observed a male individual leaning on the bar and swaying side to side. Chief Mahony observed that the individual had glassy, drooping eyes, and a bobbing head; that his movements were slow and deliberate as he attempted to gain the attention of the bartender on duty.
11. Investigator Wilichoski observed this same individual, Charles Kaminer, actual date of birth [REDACTED] (age 21) being loud and having difficulty ordering shots of an alcoholic beverage. At approximately 10:50 p.m., Investigator Wilichoski observed Mr. Kaminer order five "Jägermeister bomb" shots (Jägermeister liqueur and Red Bull energy drink).
12. Investigator Wilichoski observed the bartender on duty, Carlos Alberto serve the five shots of "Jägermeister bomb" to Mr. Kaminer. After consuming one shot, Mr. Kaminer walked away from the bar with difficulty, while swaying from side to side. Investigator Wilichoski identified herself to Mr. Kaminer, who then turned and vomited into a trash can.
13. Investigator Wilichoski, with Chief Mahony, asked Mr. Kaminer if he was okay. Mr. Kaminer replied that he "just had too much to drink." Investigators observed that his speech was slurred. When they asked how long he had been in the bar, Mr. Kaminer replied, "I think since 9:30 p.m." When asked how many drinks he had consumed, he said he didn't know. Mr. Kaminer stated that his friends were buying drinks for him. Investigators asked how much the five shots had cost him and Mr. Kaminer replied about forty-seven dollars (\$47.00).
14. Investigators spoke to the bartender on duty, Mr. Alberto, about the cost of the five "Jägermeister bomb" shots which he had served to Mr. Kaminer. Mr. Alberto stated the cost was fifty-eight dollars and fifty cents (\$58.50). When investigators asked to see a copy of the receipt, Mr. Alberto said that as the purchase was paid in cash (and not a credit card transaction) there was no receipt. He further stated that Mr. Kaminer did not have a tab.

15. Investigators informed the manager on duty, Brendan, of the violations and that a report would be filed with the Chief Investigator for review.
16. The door staff at the establishment requested assistance of investigators when those patrons who had been ejected from the premises became aggressive and threatening at the front entrance. Investigators advised staff to contact Boston Police Department and assisted them in keeping the situation from escalating until Boston Police Department officers arrived on scene.

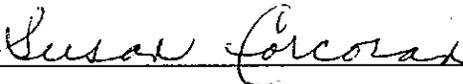
CONCLUSION

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: c. 138 §34C Possession of an alcoholic beverage by a person under twenty-one (21) years of age;
- 2) 204 CMR 2.05(2) Permitting an Illegality on the Licensed Premises to wit: c. 138 §69 Sale or Delivery of an Alcoholic Beverage to an Intoxicated Person;
- 3) 204 CMR 4.03 (B) – Delivery of more than two (2) drinks to one (1) person at a time.

Therefore, the Commission **suspends the license for ten (10) days, of which six (6) 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 

Kathleen McNally, Commissioner 

Dated: August 6, 2014

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
Caroline Guarino-Wilichoski, Investigator
Christopher Temple, Investigator
Bill Burke, Esq. via email
Administration
File