

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

Steven Grossman
Treasurer and Receiver General

Kim J. Gainsboro, Esq.
Chairman

DECISION

ULSTER, INC. DBA O'NEILL'S
124-26 WASHINGTON STREET
SALEM, MA 01970
LICENSE#: 106400035
VIOLATION DATE: 10/19/2012
HEARD: 1/08/2013

Ulster, Inc. dba O'Neill'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, January 8, 2013, regarding an alleged violation of 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 (1 Count). Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Doyle's Report

The following documents are in evidence:

1. Licensee's Stipulation of Facts;
2. Investigator Doyle's Investigative Report dated October 19, 2012;
3. RMV Printout of Massachusetts Driver's License for T. Flynn, Jr.;
4. RMV Printout of Massachusetts Driver's License for C. Cataldo; and
5. Copy of Massachusetts Driver's License for T. Flynn, Jr.

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

FACTS

1. On Friday, October 19, 2012, at approximately 11:00 p.m., Investigators Guarino-Wilichoski and Doyle investigated the business operation of Ulster, Inc. dba O'Neill's to determine the manner in which their business was being conducted.
2. Investigators entered the premises and observed several youthful looking individuals in possession of alcoholic beverages.
3. Investigators approached the individuals, identified themselves, and asked for proof of age.
4. One male individual, later identified as Craig Cataldo, date of birth [REDACTED] age nineteen (19) years, was running a tab and his identification was behind the bar.
5. Investigators observed Mr. Cataldo seated at the bar and in possession of a Budweiser Lite beer.
6. The bartender on duty, Mr. Cathal Glynn, retrieved Mr. Cataldo's identification and gave it to investigators.

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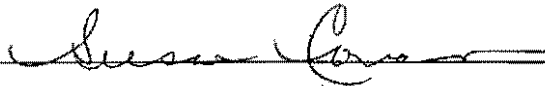
7. Investigators observed the identification was the Massachusetts Driver's License of Timothy Flynn, date of birth [REDACTED] age twenty-four (24) years, height five (5) feet and eleven (11) inches.
8. Investigators asked Mr. Cataldo to stand up from his seat. They observed Mr. Cataldo was taller than the person on the license, and the shape of his nose and face were different from that of Mr. Flynn shown on the driver's license.
9. Investigators asked Mr. Cataldo for another form of identification.
10. Mr. Cataldo provided investigators with his own Massachusetts Driver's License.
11. Mr. Cataldo stated that he was not asked for identification on this night and he had been to the licensed premises in the past using Mr. Flynn's identification.
12. Investigators spoke to the bartender on duty, Mr. Glynn.
13. Mr. Glynn stated he took Mr. Cataldo's identification for the bar tab but he did not check its validity.
14. Investigators spoke to the manager on duty, Mary Levasseur, informed her of the violation and that a report would be submitted to the Chief Investigator for further action.

CONCLUSION

Based on the evidence, the Commission finds the licensee violated of 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 (1 Count). Therefore, the Commission **suspends the license for four (4) days of which four (4) days will be held in abeyance for a period of one (1) year provided no further violations of Chapter 138 or Commission Regulations occur.**

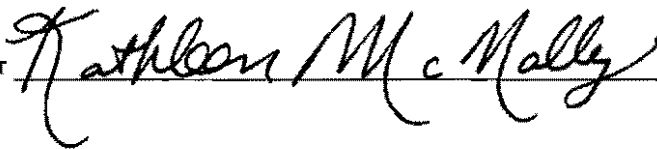
ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner



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

Kathleen P. McNally, Commissioner



DATE: January 9, 2013

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
Brad Doyle, Investigator
Administration
File