

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ADMINISTRATIVE LAW JUDGE
FOR
PENNSYLVANIA LIQUOR CONTROL BOARD

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-1107C
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W08-351925
v.	:	
	:	LID - 47900
ERIE SPORTS BARS INC	:	
T/A COACH'S SPORTS BAR & GRILL	:	
3804 ELMWOOD AVENUE	:	
ERIE PA 16509-1345	:	
	:	
	:	
ERIE COUNTY	:	
LICENSE NO. R-SS-1845	:	

BEFORE: JUDGE RODERICK FRISK

APPEARANCES:

For Bureau of Enforcement
Nadia Vargo, Esquire

For Licensee
James Moran, Esquire

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on May 25, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter Bureau) against Erie Sports Bars, Inc., t/a Coach's Sports Bar & Grill, License Number R-SS-1845 (hereinafter Licensee).

The citation charges Licensee with violation of Section 493(1) of the Liquor Code [47 P.S. §4-493(1)], in that on April 9, 2007, Licensee, by its servants, agents or employees, sold, furnished and/or gave or permitted such sale, furnishing or giving of alcoholic beverages to one female minor, 19 years of age.

ERIE SPORTS BARS, INC.

Citation Number 07-1107C

An administrative hearing was conducted on October 30, 2007, at 2084 Interchange Road, Erie, Pennsylvania. The Bureau was represented by Nadia Vargo, Esquire. Licensee was represented by James Moran, Esquire.

After hearing the testimony presented, and upon review of the evidence submitted, the following Findings of Fact and Conclusions of Law are entered:

FINDINGS OF FACT:

1. The Bureau commenced its investigation of Licensee's premises on April 9, 2007, and completed its investigation on April 10, 2007. (Exhibit C-1)
2. The Bureau notified Licensee of the nature of the alleged violation(s) disclosed by its investigation by letter dated April 30, 2007, which was sent by certified mail and received by Licensee on May 1, 2007. (Exhibit C-2)
3. The citation was issued on May 25, 2007, and was sent by certified mail and received by Licensee on May 29, 2007. (Exhibits C-3, C-4)
4. On April 9, 2007 at 5:56 p.m., Liquor Enforcement Officer G. R. Weber entered Licensee's premises in an undercover capacity and observed a female bartender rendering service to one patron. (N.T. 42)
5. As part of the Age Compliance Check Program, at 6:06 p.m., a 19-year-old female identified as Underage Buyer #163 entered Licensee's premises and approached the bar. (N.T. 20, 39)
6. Underage Buyer #163 then requested a 12-ounce bottle of Bud Light beer from the female bartender who retrieved the bottle of beer from the cooler and served it to the minor without question relative to her age. (N.T. 20-21, 39-40)
7. Underage Buyer #163 paid \$2.00 for this purchase, placed her hand on the bottle, and turned the bottle so that the label was facing Officer Weber. (N.T. 21, 40)
8. Underage Buyer #163 departed Licensee's premises at 6:07 p.m., without consuming any of the beer which she had purchased. (N.T. 21-22, 40-41)

ERIE SPORTS BARS, INC.
Citation Number 07-1107C

DISCUSSION:

Following the testimony of the Bureau's witnesses, counsel for Licensee moved for dismissal of this citation as the Bureau failed to offer credible evidence that immediate verbal notification was provided to Licensee's Board-approved manager or person in charge of the premises once an alleged violation was established.

37 Pa. Code §23.23(1) provides, in part, as follows:

Section 23.23. Notification of results of age compliance check. A Bureau officer will be responsible for insuring notification is made of the results of the age compliance check to the Board-approved manager or person in charge of the licensed premises.

(1). If the licensed premises is not in compliance, immediate verbal notification will be provided followed by written notification within 10 working days.

The record is clear that the Bureau failed to provide reliable evidence of the immediate verbal notification as required pursuant to 37 Pa. Code §23.23(1).

ORDER:

THEREFORE, it is hereby ORDERED that Citation No. 07-1107C is DISMISSED.

Dated this 11th day of December, 2007.

Roderick Frisk, J. bg

NOTE: MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER IN THE OFFICE OF ADMINISTRATIVE LAW JUDGE AND REQUIRE A \$25.00 FILING FEE. A WRITTEN REQUEST FOR RECONSIDERATION MUST BE SUBMITTED WITH THE FILING FEE.

