

Mailing Date: OCT 11 2011

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 11-0780
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W04-426913
v.	:	
	:	LID - 62153
REDNECKS BAR & GRILL LLC	:	
771 OLD ROUTE 71	:	
CHARLEROI PA 15022-3039	:	
	:	
	:	
WASHINGTON COUNTY	:	
LICENSE NO. R-AP-SS-14367	:	

**BEFORE:** JUDGE RODERICK FRISK

APPEARANCES:

**BLCE COUNSEL:** Michael Nickles, Esquire  
**LICENSEE COUNSEL:** No Appearance

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on May 6, 2011, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter Bureau) against Rednecks Bar & Grill, LLC, License Number R-AP-SS-14367 (hereinafter Licensee).

The citation contains two counts.

The first count charges Licensee with violation of Section 15.62(a) of the Liquor Control Board Regulations, [40 Pa. Code §15.62(a)], in that on March 14, 15, 16 and 22, 2011, Licensee, by its servants, agents or employees, failed to post in a conspicuous place on the outside of the licensed premises, or in a window plainly visible from the outside of the premises, a Notice of Suspension.

The second count charges Licensee with violation of Sections 491(1), 492(2) and 493(16) of the Liquor Code, [47 P.S. §§4-491(1), 4-492(2) and 4-493(16)], in that on March 14, 16 and 22, 2011, Licensee, by its servants, agents or employees, sold, furnished and/or gave alcoholic beverages during a time when its Restaurant Liquor license was suspended at Citation No. 10-1404C.

An administrative hearing was conducted on September 12, 2011, at Two Parkway Center, 875 Greentree Road, Pittsburgh, Pennsylvania. The Bureau was represented by Michael Nickles, Esquire. Licensee was not present.

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 February 24, 2011, and completed its investigation on March 25, 2011. (Exhibit C-1)
2. The Bureau notified Licensee of the nature of the alleged violation(s) disclosed by its investigation in a letter dated April 20, 2011, which was sent by certified mail and was unclaimed and returned to sender on May 3, 2011. (Exhibit C-2)
3. The citation was issued on May 6, 2011, and was sent by certified mail to Licensee and was unclaimed and returned to sender on May 6, 2011. (Exhibits C-3, C-4)
4. The citation was issued on a second attempt to Licensee's address on May 18, 2011, and was sent by certified mail and was received by Licensee on May 20, 2011. (Exhibit C-5)
5. In a Supplemental Order issued by this court at Citation No. 10-1404C, dated February 23, 2011, Licensee's Restaurant Liquor license was suspended for a period of one day commencing at 7:00 a.m., on Monday, March 14, 2011, and continuing thereafter until Licensee paid the fine imposed in the original Order of \$1,250.00. Licensee did not pay this fine until March 25, 2011. (N.T. 4, 10-11, 21)

6. On Monday, March 14, 2011, at 4:24 p.m., a Liquor Enforcement Officer approached Licensee's premises and noted that it was closed. The Enforcement officer further inspected the exterior of the premises and observed that there was no suspension placard posted anywhere visible from outside. (N.T. 10-11)

7. On Monday, March 14, 2011, at 7:25 p.m., a Liquor Enforcement Officer entered Licensee's premises in an undercover capacity and observed a female bartender rendering service to five patrons. Upon taking a seat at the bar, the Enforcement officer purchased a 12oz bottle of Coors Light beer and a shot of apple Pucker liquor for a total of \$4.25, which Licensee's bartender keyed into the cash register. The officer further observed a patron was in possession of and consuming from a 12oz bottle of Coors Light beer, a second patron was in possession of and consuming from an unidentified bottle of beer and a third patron was in possession of and consuming from an unidentified glass of draft beer. During the course of this visit, the Enforcement officer noted that Licensee did not post a suspension placard anywhere visible from outside the premises. (N.T. 19-20)

8. On Tuesday, March 15, 2011, at 4:30 p.m., a Liquor Enforcement Officer again approached Licensee's premises and found it to be closed. The Enforcement officer inspected the exterior of the premises and noted that there was no suspension placard posted anywhere visible from outside. (N.T. 11-12)

9. On Wednesday, March 16, 2011, at 6:35 p.m., an Enforcement officer returned to Licensee's premises and found it to be open for business. Prior to his entry, the Enforcement officer noted that there was no suspension placard posted anywhere visible from outside. Upon entering, the Enforcement officer observed a female bartender rendering service to three patrons. Upon entering, and again at 7:00 p.m., the Enforcement officer purchased a 12oz bottle of Coors Light beer and paid the bartender \$2.25 for each purchase. (N.T. 13-14)

10. On Tuesday, March 22, 2011, at 5:15 p.m., two Liquor Enforcement Officers arrived at Licensee's premises and found it to be open for business. A check of the exterior revealed that there was no suspension placard posted anywhere visible from outside. Upon entering in undercover capacities, the Enforcement officers observed a female bartender rendering service to six patrons. One of the Enforcement officers purchased a 12oz bottle of Coors Light beer from the bartender for \$2.25. Following this purchase, the Enforcement officers identified themselves to the bartender who then contacted Licensee's LLC member/manager, Sharon Wooddell, who arrived at the premises a short time later. Upon speaking with Ms. Wooddell regarding the ongoing suspension, she closed the establishment. (N.T. 14-15)

CONCLUSIONS OF LAW:

1. The notice provisions as prescribed by Section 471 of the Liquor Code [47 P.S. §4-471] have been satisfied.

2. On March 14, 15, 16 and 22, 2011, Licensee, by its servants, agents or employees, failed to post in a conspicuous place on the outside of the licensed premises, or in a window plainly visible from the outside of the premises, a Notice of Suspension, in violation of Section 15.62(a) of the Liquor Control Board Regulations, [40 Pa. Code §15.62(a)].

3. On March 14, 16 and 22, 2011, Licensee, by its servants, agents or employees, sold, furnished and/or gave alcoholic beverages during a time when its Restaurant Liquor license was suspended at Citation No. 10-1404C, in violation of Sections 491(1), 492(2) and 493(16) of the Liquor Code, [47 P.S. §§4-491(1), 4-492(2) and 4-493(16)].

DISCUSSION:

At the Administrative hearing held ex parte, this court is of the opinion that the Bureau has established the violations as charged in counts one and two of this citation by a clear preponderance of the evidence. *Pennsylvania Liquor Control Board v. Leggens*, 542 A.2d 653 (Pa. Cmwlth. 1988); *Omicron Enterprises*, 449 A.2d 857 (Pa. Cmwlth. 1982); *Com. v. Moreno*, 14 A.3d 133 (Pa.Super. 2011).

PRIOR RECORD:

Licensee has been licensed since October 9, 2009, and has had two (2) prior violation(s) to wit:

Citation No. 10-1404C. Fine \$1,250.00 and R.A.M.P. training mandated.

1. Sales to a minor.  
June 15, 2010.

Citation No. 10-2531. Fine \$2,500.00.

1. Sales after the license expired and had not been renewed and/or validated.  
July 28, 2010.
2. Used loudspeakers or devices whereby the sound of music could be heard outside.  
September 24, 2010.

PENALTY:

As to Count One, Section 471 of the Liquor Code [47 P.S. §4-471] prescribes a penalty of license suspension or revocation or a fine of not less than \$50.00 or more than \$1,000.00 or both for violations of this type. Relative to Count Two, Section 471 of the Liquor Code [47 P.S. §4-471] prescribes a penalty of license suspension or revocation or a fine of not less than \$1,000.00 or more than \$5,000.00 or both for violations of this type.

Further, Section 471(c) of the Liquor Code [47 P.S. §4-471(c)] requires that the penalty imposed include license revocation or suspension where the violation in question is the third or subsequent violation of any of the offenses referred to in subsection 471(b) of the Liquor Code [47 P.S. §4-471(b)] and/or the Crimes Code within a four year period. Therefore, license revocation or suspension must be included as part of the penalty.

Licensee's failure to submit a pre-hearing memorandum and its failure to appear at the Administrative hearing demonstrates a clear lack of interest in this Liquor license.

For the foregoing reasons, the following penalties shall be imposed: Count One - \$500.00 and Licensee's Restaurant Liquor license shall be suspended for a period of one day and Count Two - \$1,500.00 and Licensee's Restaurant Liquor license shall be suspended for a period of three days.

ORDER:

THEREFORE, it is hereby ordered that Rednecks Bar & Grill, LLC, License Number R-AP-SS-14367, pay a fine of \$2,000.00 within 20 days of the mailing date of this Order. In the event the aforementioned fine is not paid within 20 days from the mailing date of this Order, Licensee's license shall be suspended or revoked.

IT IS FURTHER ORDERED that License No. R-AP-SS-14367 be suspended for a period of four (4) days **BEGINNING** at 7:00 a.m. on Tuesday, November 15, 2011 and **ENDING** at 7:00 a.m. on Saturday, November 19, 2011.

Licensee is directed on Tuesday, November 15, 2011 at 7:00 a.m. to place the enclosed placard of notice of suspension (identified as Form No. PLCB-1925 and as printed with red and black ink) in a conspicuous place on the outside of the licensed premises or in a window plainly visible from outside the licensed premises and to remove said license from the wall and place it in a secure location.

Licensee is advised if replacement placards are needed for any reason they are available at all Pennsylvania Liquor Stores/Wine & Spirits Shoppes.

The Bureau is directed to visit and monitor the aforementioned licensed premises for compliance with this Order.

REDNECKS BAR & GRILL, LLC  
Citation Number 11-0780

Licensee is authorized on Saturday, November 19, 2011 at 7:00 a.m. to remove the placard of suspension and return the license to its original wall location.

Jurisdiction is retained to ensure compliance with this Order.

Dated this 4<sup>TH</sup> day of October, 2011.



Roderick Frisk, J.

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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.

If you wish to appeal the decision of the Administrative Law Judge's Order, the appeal must be filed within 30 days of the mailing date of the Order. Please contact Chief Counsel's Office at 717-783-9454.

Detach Here and Return Stub with Payment

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The fine must be paid by Treasurer's Check, Cashier's Check, Certified Check or Money Order. **Personal checks, which include business-use personal checks, are not acceptable.** Please make your guaranteed check payable to the Commonwealth of Pennsylvania and mail to:

PLCB-Office of Administrative Law Judge  
Brandywine Plaza  
2221 Paxton Church Road  
Harrisburg PA 17110-9661

Citation No. 11-0780  
Rednecks Bar & Grill, LLC