

Mailing Date: JAN 16 2013

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	IN RE: Citation No.: 12-0883
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	BLCE Incident No.: W04-445608
	:	
MELVIN R. HATFIELD	:	
T/A HATFIELD'S SHOOTERS	:	PLCB LID No.: 41712
SALOON	:	
1007 GREEN ST.	:	PLCB License No.: R-AP-SS-13666
CANTON TWP.	:	
WASHINGTON, PA 15301-2335	:	
	:	
	:	

**BEFORE:** JUDGE RODERICK FRISK

APPEARANCES:

**BLCE COUNSEL:** Emily L. Gustave, Esquire  
**LICENSEE COUNSEL:** Melvin R. Hatfield, Pro Se

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on June 11, 2012, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter Bureau) against Melvin R. Hatfield, t/a Hatfield's Shooters Saloon, License Number R-AP-SS-13666 (hereinafter Licensee).

This citation charges Licensee with a violation of Section 471 of the Liquor Code, [47 P.S. §4-471] and Section 637.2 of the Clean Indoor Air Act, [35 P.S. §637.2] in that on April 19, 2012, Licensee, by its servants, agents or employees, permitted an individual under eighteen (18) years of age to be in a portion of the licensed premises where smoking was permitted.

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t/a Hatfield's Shooters Saloon  
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An administrative hearing was conducted on December 18, 2012, at Two Parkway Center, 875 Greentree Road, Pittsburgh, Pennsylvania. The Bureau was represented by Emily L. Gustave, Esquire. Licensee appeared pro se.

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 19, 2012, and completed its investigation on May 3, 2012. (N.T. 6, 7, Exhibit C-1)
2. The Bureau notified Licensee of the nature of the alleged violation(s) disclosed by its investigation in a letter dated May 17, 2012, which was sent by certified mail, and received on May 18, 2012. (N.T. 6, 7, Exhibit C-2)
3. This citation was issued on June 11, 2012, and was sent by certified mail and received by Licensee on June 13, 2012. (Exhibits N.T. 6-7, C-4)
4. On April 19, 2012 at 7:55 p.m., a Liquor Enforcement Officer entered Licensee's premises in an undercover capacity as part of an Age Compliance detail. Licensee's bartender properly refused service of a six-pack of beer to the underage buyer. (N. T. 7, 8)
5. While on the premises, the Enforcement Officer observed a sign posted behind the bar indicating that Licensee possessed an Exception to the Clean Indoor Air Act. (N. T. 9)
6. The Enforcement Officer further noted that Licensee's daughter, (seven years of age), was present in the bar room area of the premises. (N. T. 8-9, 14, 15)
7. During the course of this visit, the Enforcement Officer did not observe any patrons smoking and no ash trays were visible. (N.T. 9)
8. The Enforcement Officer departed Licensee's premises at 8:10 p.m. (N. T. 9)

DISCUSSION:

Upon thorough review of the testimony and evidence presented, this court is of the opinion that the Bureau has established the violation as charged 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).

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CONCLUSION OF LAW:

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

2. On April 19, 2012, Licensee, by its servants, agents or employees, permitted an individual under eighteen (18) years of age to be in a portion of the licensed premises where smoking was permitted, in violation of Section 471 of the Liquor Code, [47 P.S. §4-471] and Section 637.2 of the Clean Indoor Air Act, [35 P.S. §637.2].

PRIOR RECORD:

Licensee has been licensed since February 19, 1998, and has had two prior violations.

IN RE:

Citation No. 10-1880. Fine \$250.00.

1. Failed to post signage as required by the Clean Indoor Air Act.  
July 22, 2010.
2. Permitted a person under 18 years of age to be in a portion of the licensed premises where smoking was permitted.  
July 22, 2010.

Citation No. 11-1947. Fine \$225.00.

1. Permitted a person under 18 years of age to be in a portion of the licensed premises where smoking was permitted.  
August 24 and September 21, 2011.

PENALTY:

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 the type found in this case.

At the hearing, Licensee Melvin Hatfield testified that smoking had been prohibited on his licensed premises for approximately one year prior to the date of this violation. However, Mr. Hatfield was unaware that it was necessary for him to surrender the exception to the Clean Indoor Air Act previously granted. Accordingly, subsequent to the issuance of this citation, Mr. Hatfield surrendered his exception to the Clean Indoor Air Act.

For the foregoing reasons, a penalty shall be imposed in the amount of \$50.00.

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ORDER:

THEREFORE, it is hereby ordered that Melvin R. Hatfield, t/a Hatfield's Shooters Saloon, License Number R-AP-SS-13666, pay a fine of \$50.00 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.

Jurisdiction is retained to ensure compliance with this Order.

Dated this 9<sup>TH</sup> day of January, 2013.



Roderick Frisk, J.

clm

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

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