

Mailing Date: APR 05 2013

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

PENNSYLVANIA STATE	:	In re: Citation No. 12-1284C
POLICE, BUREAU OF	:	
LIQUOR CONTROL ENFORCEMENT	:	BLCE Incident No. W02-449650
	:	
v.	:	PLCB LID No. 58407
	:	
GEORGIES POYNTELLE INN, INC., T/A GEORGIES	:	PLCB License No. H-AP-SS-6096
700 CROSSTOWN HWY	:	
POYNTELLE PA 18454	:	

JUDGE SHENKLE
BLCE COUNSEL: Craig Strong, Esq.
LICENSEE: Cy Woodmansee

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on August 22, 2012. The citation alleges that Licensee violated §493(1) of the Liquor Code, 47 P.S. §4-493(1), on August 2, 2012, by selling, furnishing, and/or giving or permitting such sale, furnishing or giving of alcoholic beverages to one minor, eighteen years of age.

A hearing was held on February 22, 2013 in Scranton, Pennsylvania. The parties stipulated to the timely service of the notice letter and citation.

FINDINGS OF FACT:

1. On August 2, 2012, a young woman whose birth date was August 28, 1993, who was participating in the Bureau's age compliance check program, purchased a bottle of beer in the licensed premises. Her age was not questioned. She did not drink any beer, but left the premises. An enforcement officer then entered and informed Licensee's bartender of the violation (N.T. 5-12. Exhibit C-3).

2. The young woman is the daughter of a liquor enforcement officer supervisor. She visited five licensed premises that day with her father, and obtained service of an alcoholic beverage in three or four of them. The opinion of her father notwithstanding, this woman could pass for an adult. She does not, however, appear to be older than 30 (N.T. 13-18).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since June 8, 2007, and has had prior violations as follows:

In re Citation No. 07-1897. \$1,000 fine, 1 day suspension and R.A.M.P. – certification mandated.

1. Sales to minors. July 5, 2007.
2. Minors frequenting. July 5, 2007.

In re Citation No. 10-1462. \$1,500.00 fine and R.A.M.P. – certification mandated.

1. Sales to a minor. June 25, 2010.

In re Citation No. 11-0242. \$700.00 fine and 1 day suspension with thereafter conditions.

1. Failed to comply with the order of the Administrative Law Judge mandating R.A.M.P. – certification. December 23, 2010 through January 27, 2011.
2. Failed to maintain complete and truthful records covering the operation of the licensed business for a period of 2 years. January 27, 2011.
3. Refilled liquor bottles. January 27, 2011.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. §4-471, prescribes a penalty of license suspension or revocation or a fine in the \$1,000.00 to \$5,000.00 range, or both, for violations of this type.

Licensee's owner protested that his bartender swore up and down the woman looked older than thirty, and I agree that if this woman had presented credible identification of an approved type (and if Licensee's bartender had taken a photocopy of that identification, or required the completion of an Age Declaration Card) it would not have been unreasonable to believe her adult status.

However, identification was not requested. The young woman had a Pennsylvania Junior Driver's License, so it would have been immediately obvious to Licensee's R.A.M.P. – qualified employee that she was a minor until the date stated in red on the document.

I do not see the down side to requesting identification from young-looking people. No woman I know is insulted because someone thinks she looks younger than she is.

Licensee has been R.A.M.P. – certified twice, so some of this should have begun to sink in.

I am suspending the license at Licensee's request, due to economic conditions.

ORDER

THEREFORE it is hereby ORDERED that the Hotel Liquor License of Licensee, Georgies Poyntelle Inn Inc., t/a Georgies, License No. H-AP-SS-6096, shall be suspended for a period of three (3) days (including all permits and Licensee Discount Card) BEGINNING at 7:00 a.m. on Monday, May 13, 2013, and ENDING at 7:00 a.m. on Thursday, May 16, 2013. Jurisdiction is retained.

Licensee is directed on Monday, May 13, 2013, at 7:00 a.m. to place the enclosed placard of notice of suspension (Form No. PLCB-1925, 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 premises for compliance with this order.

Licensee is authorized on Thursday, May 16, 2013, at 7:00 a.m. to remove the placard of suspension and return the license to its original wall location.

Dated this 3RD day of APRIL, 2013.



David L. Shenkle, J.

jb

NOTICE: MOTIONS FOR RECONSIDERATION CANNOT BE ACTED UPON UNLESS THEY ARE IN WRITING AND RECEIVED BY THE OFFICE OF ADMINISTRATIVE LAW JUDGE WITHIN 15 DAYS AFTER THE MAILING DATE OF THIS ORDER, ACCOMPANIED BY A \$25.00 FILING FEE.

WHETHER OR NOT RECONSIDERATION HAS BEEN REQUESTED, AGGRIEVED PERSONS MAY APPEAL TO THE PLCB, NORTHWEST OFFICE BUILDING, HARRISBURG, PA 17124 WITHIN 30 DAYS AFTER THE MAILING DATE OF THIS ORDER.

THE PLCB CHIEF COUNSEL'S TELEPHONE NUMBER IS 717-783-9454.