

Mailing Date: SEP 29 2014

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	IN RE: CITATION NO. 13-2203C
LIQUOR CONTROL ENFORCEMENT	:	
	:	BLCE INCIDENT NO. W06-468247
	:	
v.	:	
	:	
	:	PLCB LID - 67831
DON PATRON MEXICAN GRILL	:	
SHAMOKIN, LLC	:	PLCB LICENSE NO. R-SS-13979
9355 STATE ROUTE 61	:	
COAL TOWNSHIP, PA 17866-4170	:	

**ADJUDICATION**

**BEFORE JUDGE FLAHERTY  
BUREAU COUNSEL PIETRZAK  
LICENSEE: NO APPEARANCE**

**BACKGROUND:**

This proceeding arises out of a citation that was issued on November 7, 2013, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against DON PATRON MEXICAN GRILL-SHAMOKIN, LLC, License Number R-SS-13979 (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 September 28, 2013, Licensee, by its servants, agents or employees, sold, furnished and/or gave or permitted such sale, furnishing or giving of alcoholic beverages to one minor, nineteen (19) years of age.

The investigation which gave rise to the citation began on September 28, 2013 and was completed on October 1, 2013; and notice of the violation was sent to Licensee by Certified Mail on October 17, 2013. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on July 16, 2014 at The Lysock Complex, 542 County Farm Road, Montoursville, Pennsylvania. No one appeared at the hearing on behalf of Licensee. A citation hearing notice was sent to Licensee at its address of record, 9355 State Route 61, by certified mail on May 30, 2014. The notice set forth the date and time of the hearing as July 16, 2014 at 9:30 a.m., and the place of hearing as The Lysock Complex, 542 County Farm Road, Suite 2, Montoursville, PA 17754-9865.

Upon review of the transcript of this hearing, we make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

1. Underage Buyer No. 649 (hereinafter UAB) was born on March 29, 1994; and, on September 28, 2013, she was 19 years old (N.T. 14).
2. On September 28, 2013, UAB entered the licensed premises and sat at the bar (N.T. 14).
3. UAB ordered a Bud Light draft. One of the bartenders poured a draft of beer and handed it to UAB. The bartender did not ask for identification, nor did he ask her how old she was (N.T. 15).
4. UAB handed the bartender \$3.00 and the bartender gave her back \$.61 in change (N.T. 15).
5. After paying for the beer, UAB told the bartender she forgot her cell phone in the car and left (N.T. 15).

CONCLUSION OF LAW:

The charge in the citation is **sustained**.

PRIOR RECORD:

Licensee has been licensed since May 21, 2013, and has had no prior violations. Licensee is, therefore, entitled to be treated as a first time offender.

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 \$1,000.00 or more than \$5,000.00 or both for violations of the type found in this case.

That Section further provides for mandatory compliance with Liquor Code Section 471.1 [47 P.S. §4-471.1], pertaining to Responsible Alcohol Management when, as in this matter, Licensee has been found to have violated Section 493(1) as a first offense as it relates to sales to minors or sales to a visibly intoxicated patron.

Under the circumstances of this case, the penalty imposed shall be a fine of \$1,400.00 and mandatory RAMP training.

ORDER

THEREFORE, it is hereby ordered that Licensee DON PATRON MEXICAN GRILL-SHAMOKIN, LLC, pay a fine of \$1,400.00 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 Licensee shall comply with the requirements set forth in Liquor Code Section 471.1, pertaining to Responsible Alcohol Management in the following manner. Licensee is directed to initiate contact with The Bureau of Alcohol Education, Pennsylvania Liquor Control Board (Toll Free Telephone No.: 1-866-275-8237; Web Site: [www.lcb.state.pa.us](http://www.lcb.state.pa.us); Email Address: [LBEducation@state.pa.us](mailto:LBEducation@state.pa.us)) within 30 days of the mailing date of this Adjudication. Licensee must receive Certification within 90 days of the mailing date of this Adjudication. Licensee must remain in compliance for a period of one year from the date such Certification is issued.

Failure to comply with this Order will be grounds for modification of penalty in this case. Failure to comply may also constitute grounds for issuance of a new citation as authorized by Section 471(d) of the liquor Code [47 P.S. §4-471(d)].

Jurisdiction is retained.

Dated this 16<sup>TH</sup> day of September, 2014.



Daniel T. Flaherty, Jr., J.

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**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.**

**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 – Note Citation Number on Check**

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The fine must be paid by cashier's check, money order or a check drawn on the business or trust account of an attorney licensed in Pennsylvania. **Personal and business checks are NOT acceptable unless bank certified.** Please make your guaranteed check payable to the Commonwealth of Pennsylvania and mail it, along with any required documentation to:

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

IN RE: CITATION NO. 13-2203  
DON PATRON MEXICAN GRILL  
SHAMOKIN, LLC

**Credit/debit cards may be used:** visit [www.lcb.state.pa.us](http://www.lcb.state.pa.us) scroll over LEGAL and then click on Office of ALJ for instructions..