

Mailing Date: MAR 11 2020

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

PENNSYLVANIA STATE POLICE,	:	
BUREAU OF LIQUOR CONTROL	:	IN RE: CITATION NO. 19-1488C
ENFORCEMENT	:	
	:	BLCE Incident No. PA 2019-957921
	:	
v.	:	
	:	
	:	PLCB LID - 69095
1313 RESTAURANT ENTERPRISES,	:	
LLC	:	PLCB License No. R-AP-SS-9453
1313 N. 2 ND ST.	:	
HARRISBURG, PA 17102-2601	:	
	:	
DAUPHIN COUNTY	:	

ADJUDICATION

BEFORE: John H. Pietrzak, ALJ
FOR BLCE: Jessica H. Lathrop, Esquire
LICENSEE COUNSEL: Steve C. Nicholas, Esquire

BACKGROUND:

This proceeding arises out of a citation that was issued on September 26, 2019, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (BLCE) against 1313 RESTAURANTS ENTERPRISES, LLC (Licensee).

The citation charges Licensee with violation of Section 493(1) of the Liquor Code [47 P.S. §4-493(1)] in that on August 31, 2019, Licensee, by its servants, agents or employees, sold, furnished and/or gave or permitted such sale, furnishing or giving of alcoholic beverages to one (1) minor, nineteen (19) years of age.

An evidentiary hearing was held on this matter on January 29, 2020, in the Office of Administrative Law Judge, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania.

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

FINDINGS OF FACT:

1. The investigation which gave rise to the citation began on July 18, 2019 and was completed on September 9, 2019; and notice of the violation was sent to Licensee by Certified Mail on September 11, 2019. The notice of violation was received by Licensee. (N.T. 4 and Exhibit C-1).

2. On August 31, 2019, during an Age Compliance Check conducted by the Bureau, a 19 year old underage buyer was served a Miller Lite draft beer for which he paid \$3.25 (N.T. 7-8; Exhibit C-5)

CONCLUSION OF LAW:

1. The Bureau satisfied all investigatory and notice requirements of Section 471 of the Liquor Code [47 P.S. §4-471], and the Age Compliance Regulations [37 Pa. Code §§23.21-23.23].

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

PRIOR RECORD:

Licensee has been licensed since December 20, 2013 and has one (1) prior violation:

IN RE:

Citation No. 16-0722C. Fine \$750.00 and RAMP certification mandated.

1. Sales to a minor. April 22, 2016.

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.

Jesse Hamilton, member and Board-approved manager of the licensed corporation, testified in mitigation that he put into place additional measures since this violation to ensure that his staff identify and avoid serving underage patrons.

This office takes notice that the licensed premises became RAMP certified on April 11, 2019.

The penalty imposed shall be a fine of \$2,000.00 and RAMP compliance.

ORDER

THEREFORE, it is hereby ordered that Licensee 1313 RESTAURANT ENTERPRISES, LLC, pay a fine of \$2,000.00 within 20 days of the mailing date of this Order. In the event the 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 must remain in compliance for a period of one year from the mailing date of the Order.

Jurisdiction is retained.

Dated this 27TH day of February, 2020.



John H. Pietrzak, ALJ

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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

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

Credit/Debit Cards may be used: If you have registered with PLCB+ you may pay by Credit/Debit card at www.lcb.pa.gov by following the PLCB+ link. If you have not registered with PLCB+ you may obtain the information on how to register by sending an email message to: RA-LBLICENSINGMOD@pa.gov.

In re: Citation No. 19-1488C
1313 Restaurant Enterprises, LLC