

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

IN THE MATTER OF

Bottoms Up Package Store
Bottoms Up Wine & Spirits LLC, Backer
Anita Ojha, Permittee
Permit No. LIP.15038
Docket No. 2015-658

Case No. 2014-909
November 24, 2015

MEMORANDUM OF DECISION

This matter involves a package store liquor permit issued to Bottoms Up Package Store, 3450 Whitney Avenue, Hamden, Connecticut. A formal administrative hearing was held before the Department of Consumer Protection on September 24, 2015. Anita Ojha, permittee and sole member of the backer limited liability company, appeared at the hearing. She was accompanied by Narendra Mandania, the store clerk. At the conclusion of the hearing, the record was left open for the submission of additional documents by the Respondent.

The allegations against the permit premises arose from a special investigation conducted by the Department of Consumer Protection's Liquor Control Division agents. It is alleged that on or about February 26, 2015, the Respondent violated Sec. 30-86(b) of the Connecticut General Statutes in that it sold or delivered alcoholic liquor to two minors. The Respondent denied the charges and the matter proceeded to a hearing.

The following facts are found based upon the evidence and testimony submitted at the hearing. On February 26, 2015, beginning at approximately 8:00 p.m., liquor control agents conducted surveillance at Bottoms Up Package Store.

They had a clear and unobstructed view of the front door. The agents observed a white male enter Bottoms Up Package Store empty handed. He exited a short time later carrying a multipack of Bud Light beer. He was thereafter identified by his valid Connecticut driver's license as Nicolai Aanonsen whose date of birth is June 23, 1995. Mr. Aanonsen informed agents that the sales clerk had carded him and he had presented a fraudulent Rhode Island driver's license bearing his name and photograph. The fraudulent license which showed him to be 21 years of age was confiscated by the agents. Agents did not observe any obvious signs that the license was fraudulent, except when it was compared to the 2014 I.D. Checking Guide, noted that it bore a red heart but not the words "ORGAN DONOR" as would have been on an authentic Rhode Island license.

The sales clerk at Bottoms Up Package Store utilized a "transaction scan device," within the meaning of Sec. 30-86(a)(4), Connecticut General Statutes, to check the validity of the license. The license scanned as valid. The clerk also requested back-up identification, and Mr. Aanonsen presented a "Q-Card" and a debit card. The name on the "Q-Card" and the debit card matched that on the fraudulent license. At the hearing, the clerk presented evidence, by way of the printout from the transaction scan device, which verified that Mr. Aanonsen was identified as of legal age to purchase alcohol.

We find that evidence that (1) Mr. Aanonsen presented a driver's license at the time of sale; (2) that a transaction scan of the driver's license presented indicated that the license was valid; and (3) that the alcohol was sold to Mr. Aaronson in reasonable reliance upon the identification presented and the completed transaction scan. Therefore, pursuant to Sec. 30-86(e), Connecticut

General Statutes, we dismiss the alleged violation of Sec. 30-86(b) as directed to Nickolas Aanonsen.

While the liquor control agents were interviewing Mr. Aanonsen, two young-looking females walked past the agents. The agents asked if the females were over 21 and they said they were. A short time later, they exited the package store carrying bags found to contain alcohol and were stopped by the agents. Natalie Delgado, age 18, whose date of birth is September 11, 1996, had purchased a 1.75 liter Jack Daniels's honey whiskey, a 1.75 liter Svedka Strawberry Colada vodka, a 1.5 liter Robert Mondavi Chardonnay and a 23.5 oz. can of Four Loko Strawberry malt beverage. Ms. Delgado stated that she was not asked for age identification by the Respondent prior to purchasing the alcohol. She advised the agents that a week or so prior she had been at the premises and purchased alcohol after presenting her New Jersey driver's license which had been altered to make her 24 years of age. On neither occasion had Ms. Delgado been asked to complete an age statement form and the Respondent was unable to provide proof or any other evidence that a transaction scan device had been used prior to Ms. Delgado's alcohol purchase on this date.

Accordingly, based upon the foregoing, we find the Respondent to be in violation of Section 30-86(b), Connecticut General Statutes, as it relates to Ms. Delgado. The Liquor Control Act vests in the Commission a liberal discretionary power to determine factual matters with regard to liquor permits. Gulia v. Liquor Control Commission, 164 Conn. 537, 325 A.2d 455 (1973). Based upon the foregoing, we hereby suspend the Respondent's package store liquor permit for three days, two of which will be held in abeyance for six months, and impose a

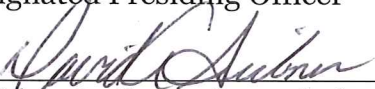
\$750 civil penalty, \$250 of which will be held in abeyance for six months. If there are no violations of Section 30-86(b), Connecticut General Statutes, for sales to a minor during such abeyance period, the remaining two-day suspension and \$250 civil penalty will be dismissed.

**DEPARTMENT OF CONSUMER PROTECTION
LIQUOR CONTROL COMMISSION**

BY:



Elisa A. Nahas, Esq.
Designated Presiding Officer



David A. Scribner, Commissioner

Parties:

Anita Ojha, 128 Tumblebrook Road, Meriden, CT 06450-4781

Non-Parties:

John Suchy, Director, Liquor Control Division
Connecticut Beverage Journal
Connecticut State Library, 231 Capitol Avenue, Hartford, CT 06106