

Town of Falmouth
Board of Selectmen

Alcoholic Beverages License Violation Policy

Adopted February 22, 2016

Scope: Pursuant to the provisions of Massachusetts General Laws Chapter 138, § 1 *et seq.*, the Board of Selectmen (hereinafter “the Board) shall have the authority to suspend, revoke or take other appropriate action regarding an alcoholic beverages license of a duly authorized licensee (hereinafter “licensee”) after a hearing as required by law.

In addition to any criminal penalties sought by local law enforcement against the licensee, the Board adopts this Alcoholic Beverages Violation Policy to promote fair enforcement of alcoholic beverage licensing laws. This policy is for guidance only and does not limit the discretion of the Board to take other action under appropriate circumstances.

First Offense:

- Minimum sanction – written warning with a clear indication that any further violations will be penalized in accordance with the guidelines provided for a second offense.
- Maximum sanction – up to a six-day suspension of license and/or fine up to \$1,000.
 - For sales to minor, where there are no aggravating circumstances, the Board of Selectmen, in the exercise of its discretion, may offer first time violators the option to purchase and install Age Verification apparatus (hereinafter “license swiping machine”) in exchange for penalty reduction. License-swiping machines have been demonstrated to reduce instances of the sale of alcoholic beverages to minors. In the event the licensee agrees to this option, the licensee must install the license-swiping machine within thirty days of issuance of the sanction and submit monthly reports for three months following the purchase and installation of the apparatus.

Second Offense:

- Minimum sanction – three-day suspension of license.
- Maximum sanction – six-day suspension of license and/or fine up to \$1,000.

Third Offense:

- Minimum sanction – six-day suspension of license.
- Maximum sanction – twelve-day suspension of license or revocation of license and/or fine up to \$1,000.

Fourth or Subsequent Offense:

- Minimum sanction – fourteen day suspension of license.
- Maximum sanction – revocation of license and/or fine up to \$1,000.

Mitigating and/or Aggravating Factors

In the exercise of its discretion, the Board may also consider the following factors in the imposition of penalties against the licensee. This list is not intended to be exhaustive and the Board may consider other aggravating or mitigating factors that may be present in any given situation.

1. Actions taken by the licensee to prevent future violations, including, but not limited to the purchase of age verification apparatus or server training;
2. Past history in relation to compliance checks or health inspections, including the number of years operating the business;
3. Deliberateness of the violation;
4. Management level of employees involved in the violation; and
5. Licensee's failure to comply with server training requirements.

Additional Requirement/Considerations

Only offenses that have occurred within the last four years preceding the date of the violation shall be used in calculating the number of offenses for the purposes of these policy guidelines. A change of ownership of the licensed establishment, will reset the count of previous offenses at zero. This shall not apply where the new owner is a family member or former employee of at least one year duration.

In the event of a suspension issued pursuant to these guidelines, licensees must post notices on the front door of the establishment as well as on all cooler doors (where applicable) stating clearly that the establishment's license to sell alcohol has been suspended, the time period of the suspension, the reason for the suspension; internal cooler doors must be locked during the suspension period.

Establishments that are targeted by local law enforcement compliance checks and abide by the laws of the Commonwealth of Massachusetts with respect to the sale of alcohol to minors during said compliance checks shall be noticed in writing by local law enforcement within thirty days, with a copy to the Board.

Correspondence between licensees, local law enforcement and/or the Board, regarding license violations shall be sent via certified and regular mail or hand delivered.

The Board will consider the day of the week and the season of the year when determining dates for suspension of license and suspension shall be served on corresponding days and seasons. The Board will consider the 5-day appeal period to the Massachusetts Alcoholic Beverages Control Commission in determining appropriate dates for suspensions.

The preceding guidelines shall not be construed to restrict, in any manner, the powers of the Board to otherwise modify, suspend or revoke any liquor license as a result for a licensee's failure to comply with the laws of the Commonwealth of Massachusetts.