



STATE OF MICHIGAN

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LIQUOR CONTROL COMMISSION

In the matter of)	
)	
AUTO CITY SERVICE, INC.)	Business ID No. 236536
D/B/A KENSINGTON BP)	
60999 Grand River Ave)	
New Hudson, Michigan 48165-9580)	
)	
Lyon Township)	Oakland County
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At the May 15, 2018 hearing of the Michigan Liquor Control Commission in Lansing, Michigan.

PRESENT: Andrew J. Deloney, Chairman
Teri L. Quimby, Commissioner
Dennis Olshove, Commissioner

PENALTY HEARING ORDER

Under MCL 436.1903(1), the Commission shall impose a suspension or revocation of the 2018 Specially Designated Merchant license with permission for motor vehicle fuel pumps issued under MCL 436.1541(6) held by Auto City Service, Inc., d/b/a Kensington BP (“licensee”) at the above-noted address, as the licensee was found liable for three (3) violations of MCL 436.1801(2) on different occasions within a 24-month period. Those violations occurred on November 30, 2016, September 18, 2017, and December 19, 2017.

The penalty hearing was held on May 15, 2018 at the Commission’s Lansing office. Representing the licensee at the hearing was stockholder, David Leshock.

After reviewing the record of the three (3) violations within a consecutive 24-month period requiring the statutory imposition of a suspension or revocation of the license, hearing arguments from Mr. Leshock, and review of the MLCC file, the Commission finds that revocation of the license is not necessary at this time. However, the Commission further finds that a suspension of the license is statutorily required, and

the licensee has demonstrated reasons to order a suspension in this matter for the following reasons:

- The Commission finds that the license was originally issued to the licensee on January 20, 2015. The three (3) minors were sold alcoholic beverages in violation of MCL 436.1801(2) within a timeframe of less than 13 months.
- The Commission finds that the minors who were sold alcoholic beverages were 17 and 19 years of age. Identification was not requested in any of the incidents.
- The Commission finds that the following products were sold to the minors: 6-pack of cider, 12-pack of beer, and a 6-pack of beer.
- The Commission finds that the licensee has demonstrated that a general written policy was put in place after the September 18, 2017 violation indicating that all employees must acknowledge, warning of the consequences of selling alcohol to minors. The licensee did not appear to take any remedial actions until after the second violation.
- The Commission finds that the licensee has demonstrated that a policy is in place requiring employees to request identification of all customers purchasing alcoholic beverages, but the policy is not clear as to what types of identification are acceptable and does not include details as to how an employee would determine the authenticity of the identification. The policy is specific in that it instructs an employee to not make a sale when the employee has any doubt and to call 911 if the customer hassles the employee.
- The Commission finds that the licensee has demonstrated that a point of sale system is installed to aid in the prevention of selling age restricted products to minors, but does not provide clear instruction in the general policy as to when identification should be “swiped” and methods to further authenticate the identification aside from the magnetic strip information.
- The Commission finds that all three (3) employees who sold alcoholic beverages were terminated.

- The Commission finds that the licensee has implemented a policy of rewarding employees \$100 for passing “controlled buy” operations. The Commission has taken note of two (2) “passes” in the official Commission records.
- The Commission finds there was no failure to cooperate with law enforcement or with the Commission.
- The Commission finds that the licensee stated that more could have been done to prevent sales to minors.

Under MCL 436.1903(1), the Commission shall issue a penalty of suspension or revocation in this matter. The Commission finds that a one hundred and two (102) day suspension is warranted for the reason stated on the record, to be served beginning on May 25, 2018 through September 3, 2018; with the license to be returned on September 4, 2018.

Commissioner Quimby stated that based on the details of the violation history and the licensee’s admitted statements that more training and tools should have been in place, the record supports a stronger penalty.

THEREFORE, IT IS ORDERED THAT:

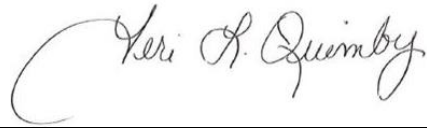
A. The 2018 Specially Designated Merchant license with permission for motor vehicle fuel pumps issued under MCL 436.1541(6) held by Auto City Service, Inc., d/b/a Kensington BP is SUSPENDED for one hundred and two (102) days, to be served beginning on May 25, 2018 through September 3, 2018; with the license to be returned on September 4, 2018.

B. The suspension is to run consecutively and not concurrently with any other suspension ordered by the Michigan Liquor Control Commission for this licensee.

MICHIGAN LIQUOR CONTROL COMMISSION



Andrew J. Deloney, Chairman



Teri L. Quimby, Commissioner (dissent)



Dennis Olshove, Commissioner

Date Mailed: May 17, 2018

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