

**HEARING BEFORE A PANEL
OF THE BOARD OF
ALBERTA GAMING, LIQUOR AND CANNABIS COMMISSION**

**IN THE MATTER OF the *Gaming, Liquor and Cannabis Act*
Revised Statutes of Alberta 2000, Chapter G-1, as amended
and the Regulation**

and

**2103211 Alberta Ltd.
o/a Bud Mart (Applicant)
17-1301 8 Street SW
Airdrie, AB T4B 0M9**

DATE OF HEARING:	February 22, 2024
HEARING PANEL:	Vincent Vavrek, Presiding Member Patti Grier, Panel Member Angela Tu Weissenberger, Panel Member
APPLICANT / REPRESENTATIVE:	Gurdev Singh Bhullar, Owner/Operator
REGULATORY SERVICES DIVISION:	Petrina Nash, Hearing Officer Toni Hazelwood, Resource Officer

DECISION OF THE HEARING PANEL

The Panel finds that Bud Mart contravened section 90.04 of the *Gaming, Liquor and Cannabis Act* (the Act).

In accordance with section 94(7)(a) of the Act, the Panel confirms the original administrative sanction imposed by Regulatory Services of a \$5,000 fine or a 20-day suspension of the Class CS-Retail Cannabis Store Licence numbered 781450-1.

The fine is to be paid on or before May 13, 2024 or the suspension served commencing with the normal opening of business on May 14, 2024 and continuing until the normal close of business on June 2, 2024.

I. Jurisdiction and Preliminary Matters

[1] By letter dated November 22, 2023, the Regulatory Services Division (Regulatory Services) of Alberta Gaming, Liquor and Cannabis Commission (AGLC) advised 2103211 Alberta Ltd., operating as Bud Mart (the Licensee), that the Licensee contravened:

- Section 90.04 of the Act: No cannabis licensee or employee or agent of a cannabis licensee may give or sell or permit any person to give or sell cannabis to a minor in a licensed premises.

[2] Regulatory Services imposed an administrative sanction of a fine of \$5,000 or, in the alternative, a 20-day suspension of the Licensee's Class CS-Retail Cannabis Store Licence numbered 781450-1.

[3] The Licensee subsequently applied for a hearing before a Panel of the Board of AGLC pursuant to section 94(1) of the Act.

[4] In accordance with section 11 of the Act, the Board Chair designated three members of the Board to sit as a Panel to conduct the hearing and make a decision – Vincent Vavrek (Presiding Member), Patti Grier, Angela Tu Weissenberger.

[5] The parties and the Hearing Panel were provided with a record containing various documents pertaining to the issues before the Panel. The Applicant confirmed receipt of the Notice of Hearing dated January 4, 2024 and the attached hearing record. The following documents were entered into evidence:

- Exhibit 1 Hearing Record, including Tabs 1 to 3
- Exhibit 2 Video surveillance provided by Regulatory Services

II. Issues

[6] Did the Licensee contravene section 90.04 of the Act? If so, should the administrative sanction of a \$5,000 fine or a 20-day suspension imposed by Regulatory Services be confirmed, replaced, or cancelled?

[7] If the Licensee contravened section 90.04 of the Act, is there evidence that the Licensee took all reasonable steps to prevent its employee or agent from contravening the provision in accordance with section 121 of the Act?

III. Regulatory Services Submissions

[8] Regulatory Services called two witnesses: AGLC Inspectors Dreydon Ward and Alec Steele. Inspector Ward has been an inspector with AGLC for approximately one year and eight months, and Inspector Steele has been an inspector with AGLC for approximately five months. They co-authored an Incident Report which details an incident that occurred at Bud Mart on November 5, 2023 (Exhibit 1, Tab 2).

[9] The following is a summary of the evidence provided by Inspector Ward and Inspector Steele.

[10] Inspector Ward explained to the Panel that AGLC inspectors carry out operating checks of licensed premises to ensure licensees are following the Act and AGLC's policies and guidelines.

[11] During the evening of November 5, 2023, Inspectors Ward and Steele visited Bud Mart to conduct a routine operating check. While observing the outside of the licensed premises, they saw a vehicle pull up and an individual who appeared to be under the age of 18 (the Minor) exit the vehicle and enter Bud Mart.

[12] Inspector Ward walked through video surveillance footage of the events described in paragraphs [13], [17] and [19] during the hearing (Exhibit 2).

[13] Inspectors Ward and Steele followed the Minor into Bud Mart and watched him discuss cannabis products with a staff member identified as P.K.

[14] Inspector Ward confirmed that he did not see P.K. request identification from the Minor when he entered Bud Mart and stated that there was ample opportunity to ask for identification since there were no other patrons in the licensed premises at the time.

[15] Inspector Ward explained that no one under the age of 18 is permitted to be in a retail cannabis store, and a licensee must request identification from anyone who appears to be under the age of 25 as soon as they enter a retail cannabis store.

[16] Inspector Ward advised the Panel he was not asked for identification when he entered the licensed premises. He further stated that he is frequently asked for identification when he enters licensed premises and produces his AGLC inspector badge when conducting inspections.

[17] After a few minutes, the Minor selected a cannabis product for purchase and P.K. asked him for identification. The Minor told P.K. that he did not have a physical piece of government-issued identification and instead offered to show P.K. a digital photo of his identification on his cell phone. Inspector Ward stated that P.K. looked at the digital photo for about three to five seconds, said it was acceptable and processed the transaction.

[18] Inspector Ward opined that examining a piece of identification for three to five seconds is not enough time to ensure that the identification is valid.

[19] As the Minor went to exit Bud Mart, Inspector Ward said that he stopped the Minor, identified himself and Inspector Steele as AGLC inspectors, and asked the Minor to produce a piece of government-issued identification.

[20] The Minor told Inspector Steele that he only had a digital photo of his identification. When asked for his date of birth, the Minor stuttered initially and then admitted to being 16 years old.

[21] Inspector Ward asked Inspector Steele to call the RCMP's non-emergency line and request a police officer to attend Bud Mart in order to verify the Minor's identity.

[22] Inspector Ward stated that the Minor disclosed his first and last name, and a few minutes later he told Inspector Ward that he needed to leave the licensed premises. Inspector Ward told the Minor that he could not leave with the cannabis product, and the Minor responded that he wasn't going to

hand over his purchase without a refund and fled Bud Mart. Inspector Steele then provided the RCMP with a description of the Minor and his last known location.

[23] Inspectors Ward and Steele spoke with P.K., obtained a reprinted receipt detailing the Minor's cannabis purchase (Exhibit 1, Tab 2, Attachment 1), requested the video surveillance footage of the Incident (Exhibit 2), and advised P.K. that they would be informing the premises manager that cannabis was sold to a minor.

[24] Inspector Ward said that he asked P.K. whether he was aware of AGLC's Under 25 policy and identification requirements, and P.K. responded that he was familiar with both and thought that the digital photo of the Minor's identification was acceptable since it had an image of the Minor and his date of birth.

[25] Inspector Ward explained to the Panel that primary identification must meet seven requirements pursuant to AGLC policy. Two of those requirements are that the identification must be government issued and original (not a copy) so that the physical security features can be examined.

[26] Inspector Ward stated that he asked P.K. what type of training he had received for his position, and P.K. said that he had taken SellSafe Cannabis Staff Training.

[27] When the RCMP arrived at Bud Mart, Inspectors Ward and Steele discussed the incident with the officer and provided him with the Minor's name. The officer conducted a search of the Minor's name in the Registries Online Access Delivery System database and confirmed he was 16 years old (Exhibit 1, Tab 2, Attachment 2).

[28] Inspector Steele advised that RCMP did not press charges against the Minor.

[29] On November 6, 2023, Inspector Ward stated that he and Inspector Steele contacted Gurdev Singh Bhullar to inform him that an incident report would be submitted regarding the violation that occurred on November 5, 2023. Mr. Bhullar said that his staff members had already informed him of the incident, and he stated that P.K. did not thoroughly inspect the Minor's identification because he was having family issues that evening. Mr. Bhullar also asked if the inspectors could be lenient with the penalty.

[30] Inspector Ward advised the Panel that he did not observe P.K. showing any signs of distress.

[31] Inspectors Ward and Steele offered to provide a staff training seminar to the Licensee's staff. Mr. Bhullar declined the offer and stated that he already spoke with his staff.

[32] Prior to drafting the Incident Report, Inspector Steele stated that he conducted a file search on the Licensee to determine whether they had any previous incidents involving minors and found that the Licensee failed an Under 25 audit that was conducted on March 4, 2021.

[33] Inspector Ward explained to the Panel that the objective of AGLC's Under 25 Program is to see how licensees and their staff respond to situations where an individual who intentionally appears to be

under the age of 25 enters a licensed premises. If a licensee fails to request identification from an Under 25 agent during the first Under 25 audit, they receive a verbal warning and a record of the warning is placed on their file. If a licensee fails the second Under 25 audit, it could lead to an incident report. The two Under 25 audits lead to one administrative penalty.

[34] When asked by the Panel whether he was involved with the Under 25 audit of Bud Mart conducted on March 4, 2021, Inspector Ward confirmed that he was not but knew that Bud Mart failed the audit and received a verbal warning.

[35] Inspector Steele confirmed that the Licensee was offered a staff training seminar after the failed Under 25 audit and declined the offer.

IV. Bud Mart Submissions

[36] The Representative for the Licensee, Gurdev Singh Bhullar, gave evidence on behalf of Bud Mart.

[37] The following is a summary of the evidence provided by Mr. Bhullar.

[38] Mr. Bhullar advised that he has been operating liquor and cannabis businesses since 2009, and this is the first time an incident like this has happened. He further contended that he was either unaware of or may have forgotten about the failed Under 25 audit on March 4, 2021 and that P.K. was not an employee of Bud Mart at the time of the audit.

[39] Mr. Bhullar said that the current economic situation is making it very difficult to survive and causing small businesses like Bud Mart to struggle. Further, he had to close one of his stores in Calgary and is still responsible for the liabilities.

[40] Mr. Bhullar submitted that P.K. did not ask Inspector Ward for identification when he entered Bud Mart because he was busy helping the Minor.

[41] Mr. Bhullar said that the incident on November 5, 2023 was a mistake and should not have happened.

[42] Mr. Bhullar agreed with Regulatory Services that the Minor looked very young and should have been asked for identification.

[43] Mr. Bhullar advised that P.K.:

- had worked at Bud Mart for over a year;
- was well aware of AGLC's policies and guidelines;
- was going through personal issues on the day of the incident but thought he could still manage working; and
- quit his job at Bud Mart a few days after the incident and would not answer Mr. Bhullar's phone calls.

[44] Mr. Bhullar stated that if he had known P.K. was going through personal issues, he would have given P.K. time off from work.

[45] When asked by Regulatory Services whether an employee being distracted absolves them from carrying out their job requirements, Mr. Bhullar responded that it does because P.K. was “lost on that day.”

[46] Mr. Bhullar explained the training procedures for staff at Bud Mart as follows:

- Mr. Bhullar’s son spends a couple of days with newly hired staff members and reviews what they learned in SellSafe Cannabis Staff Training.
- Newly hired staff members also work with existing staff members for their first four to six weeks to ensure they learn the rules and guidelines.
- Mr. Bhullar’s son and daughter provide ongoing training for staff members.
- A notebook with guidelines is available for staff members.

[47] When asked by Regulatory Services what specific training Mr. Bhullar’s son would have provided to P.K. with regard to requesting identification, Mr. Bhullar said that his son would have explained all of AGLC’s guidelines and requirements and shown P.K. how to examine physical identification.

[48] When asked by Regulatory Services and the Panel to explain why he did not accept Inspector Ward’s offer for a staff training seminar, Mr. Bhullar said that:

- he runs a small operation and doesn’t have many staff members;
- closing his stores for a staff training seminar would be unmanageable; and
- AGLC’s rules and guidelines are straightforward, so his children can manage training their staff members and are able to explain everything an inspector would explain.

[49] When asked by the Panel to explain why a staff training seminar could not be held in the morning before his stores open, Mr. Bhullar explained that his stores are located in different cities and it would be inconvenient for his staff members. He further asserted that his son takes care of training their staff members.

[50] Mr. Bhullar advised the Panel that he has a total of 11 part-time and full-time employees, and two or three employees work at the Bud Mart in Airdrie.

[51] When asked by the Panel whether he felt it would be manageable and beneficial to have the two or three Bud Mart Airdrie employees attend a staff training seminar before the store opens, Mr. Bhullar said he could arrange that if that’s what the Panel wants, but his children and inspectors use the same handbooks and guidelines to train people so there is nothing an inspector can add.

V. Summation

Regulatory Services

[52] Regulatory Services contends that the issue of minors having access to cannabis is one that AGLC takes very seriously, and it is charged with ensuring compliance with legislation and policies.

[53] Albertans expect that licensees that are not in compliance with legislation and policies are held accountable.

[54] As per section 4.4.4 of the Retail Cannabis Store Handbook (the Handbook), the onus is on licensees and their staff to ensure that minors are not provided with or sold cannabis. Furthermore, as per section 4.4.3 of the Handbook, licensees and their staff are required to request identification at the point of entry into a cannabis store, not just at the time of purchase.

[55] Inspectors Ward and Steele provided evidence that a young-looking male entered Bud Mart in Airdrie, engaged in a conversation about cannabis with a store employee, selected a cannabis product, and then purchased it.

[56] While the employee did eventually request identification from the Minor, Regulatory Services submits that it was not done so in compliance with AGLC policies and legislation.

[57] Since the identification provided was a picture on a phone and no original identification was ever presented, Regulatory Services contends that the employee could not have validated the Minor's identification.

[58] The Handbook guidelines suggest to licensees that identification should be carefully examined to ensure the photograph is a true likeness, the identification has not been tampered with and that the security features exist on that piece of identification.

[59] Additionally, Inspector Ward testified that the picture of the identification was viewed so quickly by the staff member that it would have been nearly impossible for that staff member to establish that the person presenting the identification was at least 18 years old and was a true representation of the person presenting the identification.

[60] Regulatory Services takes the position that the Licensee and its staff member did not take all reasonable steps to prevent the Minor from being sold cannabis in accordance with section 121 of the Act.

[61] Mr. Bhullar advised the Panel that his son trains his staff, and his staff member P.K. advised the inspectors that he was aware and knowledgeable about the Under 25 policy. If this were accurate information, P.K. would not have quickly glanced at a picture on a phone and accepted it as a piece of valid identification.

[62] Regulatory Services submits that a breach of section 90.04 of the Act occurred and requests that the Panel uphold the administrative sanction of a \$5,000 fine or a 20-day licence suspension.

Bud Mart

[63] Mr. Bhullar submits that staff members who are required to take ProServe Liquor Staff Training and/or SellSafe Cannabis Staff Training learn the basics during these programs, including how to validate identification. From there, it is the Licensee's responsibility to train their new staff members properly, and Mr. Bhullar is of the opinion that the Licensee did its part to train P.K.

[64] Mr. Bhullar submits that the incident on November 5, 2023 should not have happened, and the Licensee is willing to take suggestions and do anything AGLC wants them to do.

[65] Mr. Bhullar requests that the Panel be lenient.

VI. Analysis

[66] The Panel carefully considered the oral and documentary evidence submitted by Regulatory Services and the oral evidence provided by the Licensee in making its finding of fact.

[67] The issue of minors having access to cannabis is one that AGLC takes very seriously.

[68] Inspectors Ward and Steele provided evidence that on November 5, 2023, they observed a staff member of Bud Mart neglect to request identification from a young-looking male upon his entry into the licensed premises and a subsequent sale of cannabis to the young-looking male without validating original, government-issued identification.

[69] The Panel finds that P.K. was an experienced employee who ought to have known the identification requirements pursuant to section 4.4.6 of the Handbook.

[70] Mr. Bhullar did not dispute that cannabis was sold to a minor in Bud Mart and acknowledged that it should not have happened; however, he suggested that P.K.'s failure to carry out his job duties in accordance with AGLC's policies could be excused because he was experiencing personal issues. As a long-standing licensee, Mr. Bhullar should be fully aware of the Licensee's responsibility to ensure staff are performing their duties in accordance with the Act and AGLC's policies without exception.

[71] The Panel finds that the onus is on the Licensee and the staff of the licensed premises to obtain valid identification from any person who appears to be under 25 years old immediately upon entering a retail cannabis store.

[72] Based on the evidence provided by Inspectors Ward and Steele, the Panel finds as fact that a 16-year-old was able to enter and purchase cannabis products from Bud Mart.

[73] As such, the Panel finds that the Licensee contravened section 90.04 of the Act.

[74] The Panel heard evidence that the Licensee has been offered a free staff training seminar for the Licensee's staff members on two occasions and declined both offers. Further, the Panel heard Mr. Bhullar repeatedly assert that he does not believe a staff training seminar would be beneficial for his staff. The Panel finds Mr. Bhullar's disregard for and unwillingness to accept a staff training seminar to be deeply concerning.

[75] By failing to ensure that staff at Bud Mart receive adequate training, the Panel finds that the Licensee did not take all reasonable steps to prevent the contravention from occurring in accordance with section 121 of the Act.

VII. Finding

[76] For the reasons stated above, the Panel finds that Bud Mart contravened section 90.04 of the Act. The Panel finds that the Licensee did not take all reasonable steps to prevent the contravention from occurring.

[77] In accordance with section 94(7)(a) of the Act, the Panel confirms the original administrative sanction imposed by Regulatory Services of a \$5,000 fine or a 20-day suspension of the Class CS-Retail Cannabis Store Licence numbered 781450-1.

[78] The fine is to be paid on or before May 13, 2024 or the suspension served commencing with the normal opening of business on May 14, 2024 and continuing until the normal close of business on June 2, 2024.

Signed at Calgary, this 14th day of March, 2024

A handwritten signature in blue ink, appearing to read 'Vincent Vavrek', is written over a horizontal line.

Vincent Vavrek, Presiding Member, Hearing Panel