



The

COMPLIANCE CONNECTION

Your liquor law link to the ABC!!



Vol. 12, No. 2

The Utah Department of Alcoholic Beverage Control

Spring 2004

Legislative Update - 2004 General Session



By Earl Dorius

During the 2004 legislative session, several bills passed involving alcoholic beverages. They will become effective on May 3rd.

Senate Bill 58 primarily includes technical, housekeeping amendments to last year's major alcoholic beverage control bill. However, the following new features were added to Utah's Alcoholic Beverage Control Act:

Private Clubs

Membership Applications. A club, in its discretion, may immediately admit an applicant and give him/her temporary membership privileges until the governing body of the club can meet to approve the membership (eliminates the 7-day waiting period). The applicant must pay the application fee which cannot be less than the cost of a visitor card (\$4.00) and the governing board must act on the application within 31 days. Note: Membership fees must still be at least \$12.00 per year.

Membership Exceptions. Employees, independent contractors, and entertainers may be on the club premises to perform their duties without having to be a club member, holder of a visitor card, or guest of a member or visitor card holder.

Minors on Premises. Minors who are at least 18 years of age that are allowed on the premises of a Class D (social) club that holds a minor dance or concert hall permit must be properly hosted into the club by an adult club member or visitor card holder.

Hours of Consumption. Consumption of alcohol in clubs is prohibited between the hours of 2 a.m. and 10 a.m.

Limited Restaurants

No "Over-the-Bar" Service. The new wine and beer only limited license was intended only for restaurants, not bars. However, the law did not preclude patrons of limited restaurants from being seated at a bar and receiving "over-the-bar" bartender-style service. The bill borrows the language used for "full-service" restaurants that restricts such bartender-style service.

On-Premise Beer Retailers

Hours of Consumption. Consumption of alcohol in taverns is prohibited between the hours of 2 a.m. and 10 a.m.

Single Event Permits

State Agencies, Counties, and Cities May Apply for Single Event Permits.

Wineries

Days and Hours of Sale. If a winery has a licensed limited or full-service restaurant and a

package agency on the winery premises, the package agency's days and hours of sale may be the same as the days and hours of sale of the restaurant. This allows sales on any day, including Sundays and holidays, from noon to midnight.

Local Industry Representatives

Local industry representatives and their employees may hold an on-premise beer retailer license and work for an on-premise beer licensee.

No Sale of Pitchers of Beer to an Individual Patron.

Beer may be sold by the pitcher (up to two liters) to two or more patrons, but may be sold to an individual patron only in a container that does not exceed one liter - the maximum beer stein size.

House Bill 335 makes it a class A misdemeanor for a person to use false identification to obtain alcoholic beverages, to enter places where alcoholic beverages are sold or consumed, or to obtain any employment that under the Alcoholic Beverage Control Act may not be obtained by a minor.

House Bill 289 makes it a class B misdemeanor for a minor to have "measurable blood, breath, or urine alcohol concentration in their body" unless it was furnished for medicinal purposes by the minor's parent or guardian, physician or dentist, or it was furnished as part of a church's or religious organization's religious services.

Two DUI bills also passed. **House Bill 128** makes it illegal to drive with a blood or breath alcohol concentration level (BAC) of .05 if there is a person under the age of 16 in the vehicle, and the driver has had a prior DUI conviction. **Senate Bill 20** places several restrictions on courts accepting "pleas in abeyance" and expunging criminal records in cases involving DUI, reckless driving, and automobile homicide.♦



Senate Chambers

Private Club License Renewal Reminders - 2004/2005 Edition

by Neil Cohen

Club License renewal forms and fees are due on Tuesday, June 1, 2004. This is one month before the actual expiration date printed on your current license. We will mail the renewal packet to you by the end of April. If for some reason you do not receive this packet by the first week in May, please call us. The packets contain instructions as to what items must be completed and submitted in order to qualify for renewal of your license.

Renewal fees are based on the annual cost of liquor purchased from the DABC. Renewing licensees in previous years have submitted this figure to the DABC on the "Form E - Financial Spreadsheet" under "cost of sales - liquor". This is the figure the DABC will use to determine renewal fees for this year. For a club renewing for the first time, the DABC will calculate the renewal fee based on the projected cost of liquor provided on the pro forma operating statement (sales and cost projections) turned in with the club's original application.

The renewal fees are based on the following schedule:

Your Gross Cost of Liquor	Your Renewal Fee
under \$10,000	\$1000
\$10,000 to \$24,999	\$1250
\$25,000 to \$74,999	\$1750
\$75,000 or above	\$2250

Please remember, you must send in your completed renewal application by Tuesday, June 1, 2004. This deadline is set by the legislature and we can not extend it. If you miss this deadline, you may not renew. You will have to re-apply for your club license. This means you will have to pay for an additional application fee (\$250) and initial license fee (\$2500). Please do not wait until the last minute.

You may either hand deliver (by 5:00 pm on June 1, 2004) the completed renewal or we will accept a postmark up to and including June 1, 2004 as timely.

You do *not* have to pay extra for overnight mail to get it here by June 1, 2004. If for some reason you bring your renewal to the post office on June 1, 2004, make sure the post office puts that day's postmark on your envelope right there, in front of you, at the window, while you watch. If your local post office is closed, the Salt Lake airport post office is open 24 hours. As long as you get there before midnight on the 1st, you can get that date's postmark.

Below is a list of some of the items you will be asked to compile to complete your renewal:

- Renewal application completed & signed/notarized
- Annual license fee
- Certificate of "general" liability insurance (have your insurance agent send one to us)
- Certificate of "liquor" liability (dram shop) insurance (have your insurance agent send one to us)
- Alcohol server training and ID badge form (we will provide a blank form for you to fill out).
- Financial spreadsheet (we will provide a blank form for you to fill out).
- Criminal History Checks if required as explained in the packet.

Finally, you will be notified *if* you have delinquent taxes or are otherwise not in good standing with the Utah Tax Commission (sales tax/payroll withholding), Labor Commission, Division of Industrial Accidents (workers compensation coverage), or The Department of Workforce Services (unemployment insurance tax requirements).

We will provide you with phone numbers and contacts in each agency. *You* are responsible for calling the appropriate agency directly to find out what *they* want *you* to do to clear up the delinquency. When you satisfy *their* requirements, they will send us a letter of good standing that will clear your account. Please take action to clear up the delinquency as soon as possible. Your license can not be renewed if the delinquency is not cleared.♦



The Compliance Connection is published every four months by the State of Utah, Department of Alcoholic Beverage Control, P.O. Box 30408, Salt Lake City Ut, 84130-0408. Telephone: 801-977-6800, Fax: 801-977-6888, e-mail: abcmain.hotline@utah.gov
Website: <http://www.abc.utah.gov>

Governor: **Olene Walker**
Director: **Kenneth F. Wynn**
Newsletter Editor: **Earl F. Dorius**
Newsletter Coordinator: **Neil Cohen**
Contributing Editors: **John Bryant, John Freeman, Stephne Hanson, Chris Johnson, Abe Kader, Tom Zdunich, Al Potvien**

Tuesday, June 22, 2004 Is a Statewide Regular Primary Election!



A regular primary election is held throughout the state on the fourth Tuesday of June of each even numbered year, to nominate persons for national, state, school board, and county offices.

State law regulates the sale of alcoholic beverages on election days as follows:

State Stores: Closed all day.

Package Agencies: Closed until after the polls close.

Restaurants (full service): No liquor, wine, or heavy beer sales until after the polls close. (Beer sales are regulated by local ordinances.)

Restaurants (limited): No wine or heavy beer sales until after the polls close. (Beer sales are regulated by local ordinances.)

Private Clubs: No liquor, wine, or heavy beer sales until after the polls close. (Beer sales are regulated by local ordinances.)

Single Event Permit Holders: No alcoholic beverages (liquor, wine, heavy beer, or beer) sales until after the polls close

Airport Lounges: No election day restrictions.

On-Premise Banquet Licensees: No alcoholic beverages (liquor, wine, heavy beer, or beer)) until after the polls close.

If you have any questions, call us at (801) 977-6800 and call your local city or county attorney with questions on local beer ordinances.♦

SBI & DABC Training (May 6th & 7th)

by Tom Zdunich

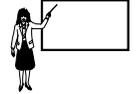
As mentioned in our last few newsletters, SBI and the DABC hold a training session every few months for our licensees. This training is designed to give attendees knowledge of the state laws and the DABC rules that regulate the sale and supply of alcohol in Utah. It also helps attendees understand why their business is being investigated and

what will happen if they are referred to the DABC for a violation.

A detailed presentation from SBI is offered about the performance of their *covert underage buyer* and the *servicing intoxicated persons* operations that are performed in an attempt to stop the sale of alcoholic beverages to minors and the over serving of alcoholic beverages.

Class starts at 10:00 A.M.

and will probably last until about 1:00 P.M. If you or any of your staff members would like to attend one of these classes, contact your Compliance Officer or Tom Zdunich at the DABC. **There is no charge for the class.**♦



Proper Posting of Warning Signs and Licenses

By John G. Freeman

Compliance Officers are often asked where the proper locations are to post licenses and warning signs.

For each alcohol license, the wording is very similar. "...shall display in a **PROMINENT** place...the license that is issue by the department; and a sign in large letters stating: Warning: Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah".

Also, in R81-1-2 Definitions (21) "Warning Sign" means a sign no smaller than six inches high by twelve inches wide, with print no smaller than one half inch bold letters and clearly readable..."

Where then is a prominent place? The guidance

given to licensees is to post the warning sign and license in public view. The location chosen should be unobstructed and close to an average eye level. Many licensees chose to display just inside the entrance of their establishment while others chose to post closer to a bar or serving counter. Wherever you chose, please be sure that it is where it can be easily read.

Also, it is no longer necessary to post the old warning sign which reads, "The consumption of alcoholic beverages purchased in this establishment may be hazardous to your health and the safety of others."

The Department is happy to provide the newer Warning Signs to licensees requesting them.♦

The Alcoholic Beverage Control Commission usually meets on the fourth Friday of each month. Meeting dates and times are subject to change. Please call 801-977-6800 for the meeting schedule.

The meetings are open to the public and are held in the board room at the DABC administrative office building: 1625 South 900 West, Salt Lake City. All interested persons are welcome to attend.

On the Lighter Side

ACompiled by John Bryant
ustralia's oldest parliament won't kick drunken lawmakers out of debating chambers to sober up, but it will order bar staff to stop serving them once they're intoxicated.

Lawmakers in New South Wales state last week voted against a proposal to bar drunken legislators from taking part in debate. Hours later, a member of the ruling Labor government turned up apparently under the influence of alcohol.

He wasn't thrown out, but an opposition lawmaker who used an expletive to describe his condition was.

On Tuesday, the state's political leader, Premier Bob Carr, said his government was planning to extend a law that bans bartenders from serving alcohol to people who are drunk so that it covers the Sydney-based parliament's restaurants, bar and liquor store.

"I can think of no reason that the Parliament should be exempt. I'm

amazed that the Liquor Act doesn't apply," he told reporters. "The government will amend the Act."

It wasn't immediately clear why the law didn't cover parliament in the first place. Carr also said Peter Black, the lawmaker allegedly drunk in the legislature last week, was undergoing private counseling. He didn't elaborate.

Reprinted with permission from "NABCA News Update".♦

News From Other States

The new Alcoholic Beverage Control Act amendments which took effect in May 2003 included many changes. One, which was welcomed by restaurants, allows a patron to have two alcoholic beverages in front of them at any given time. The only restriction is that only one may be of a spirituous nature and contain no more than 2.75 ounces of liquor.

Vermont recently adopted a similar law as you will see in this article, printed with permission from "State Capitals Newsletter":

Compiled by John Bryant

Vermont House Advances Bill to Allow Two Drinks at Once

It was dubbed the "shot-and-a-beer law" by some, the "no drink left behind bill" by others. The Vermont House advanced a measure Wednesday to allow bar patrons to possess two drinks at once.

Backers said the bill would end the inconvenience of a bar patron having to make two trips from table to bar to order drinks for him or herself and a friend. It also would allow ordering a shot of hard liquor with a beer.

In addition, the law would allow someone to take an alcoholic drink to any part of the establishment. Vermonters currently are banned from bringing alcoholic drinks onto a dance floor.

Supporters of ending that ban said it causes bar patrons to leave drinks unattended. In a few cases of women doing so, it has presented someone an opportunity to put so-called "date rape" drugs into a woman's drink, leaving her defenseless against a sexual assault, said Sarah Kenney of the Vermont Network Against Domestic Violence and Sexual Assault.

Kenney said it was believed such a chain of events had occurred four times in the past year in Chittenden County. A woman given one of a range of date-rape drugs will black out and not remember what happened the next day, she said. In the four cases, drug screenings detected one of the date-rape drugs.

Rep. Kurt Wright, R-Burlington, told his House colleagues that another benefit of the bill was that it would end what he called Vermont's "chugalug law."

Servers currently are banned from bringing a drink to a patron when the patron still has some alcoholic

beverage remaining in a glass. The result, he and other supporters argued, is that many patrons swallow the rest of their drink in a hurry when they see the new one coming. The result is people drinking "faster than they should," he said.

Several House members spoke in opposition to the bill, saying bartenders are responsible for making sure the drinks they serve aren't given to minors, and would have a hard time offering such assurance when a person 21 or older took two drinks away from the bar in a crowded restaurant.

The debate was sprinkled with humor. Rep. Kenneth Atkins wondered aloud about the provision allowing people to bring two drinks to the dance floor. He suggested they might have to use a child's "sipper cup" to avoid spills. House Speaker Walter Freed, R-Dorset, interjected, "I trust that wasn't an amendment."

Some House members suggested the issues that might be raised by a new law had not been investigated thoroughly enough. Reps. Thomas Koch, R-Barre Town, and Betty Nuovo, D-Middlebury, both lawyers, suggested it might make bars vulnerable to new kinds of lawsuits. Several rose to share their own experiences as bar owners or servers.

Koch drew some of the biggest laughs when he rose and said, "It appears I'm one of the few members of the House who has never owned an establishment. But I do have a good supply at home, and after this day on the floor I might go home and make good use of it."♦

Editors note: This bill was approved by the Vermont General Assembly on February 26, 2004

Banquet License Pilot Program - Records

by Al Potvien

Last year as part of the liquor laws amendments, an on-premise banquet liquor license was created for the purpose of selling alcoholic beverages at contracted banquet /catering functions for those facilities qualifying as hotels, resorts, convention centers and sports centers.

These licenses are on a limited availability or quota system and currently there are 32 licensed facilities with 48 remaining to be issued by the ABC Commission.

This license was set up on a test basis (pilot program) ending in June, 2005, with all licensees being required to keep an on going record of each private group function. A form has been sent to all of these license holders requesting information consisting of monthly figures for total number of events/persons attending, sales/costs of liquor/wine/beer, food sales (which must exceed 50% of total banquet sales). Hotels must also report room service sales of alcohol as well.

It is important that this information along with your input and comments be submitted to the DABC during the license renewal period in September, 2004. A report on the success or failure of the program and recommendation whether to retain the banquet license will then be forwarded to the legislative interim study committee for their consideration.

We anticipate that this new license will take care of some of the groups that previously had to obtain their own single event permit. We hope it has made it easier to arrange to cater these functions for your clients.

If your facility has not yet applied for a banquet license, and you are interested in what it has to offer for your alcoholic beverage operations, please contact the compliance division. Likewise, if you have any questions or comments about the form and tracking of information or about the operational guidelines, let us know.♦

We hope the banquet license has made it easier to cater functions for your clients.

What is a Primary Liquor?

By Neil Cohen

The 2003 revision of the liquor laws included an important change to the measurement of primary liquor and secondary alcohol flavorings in a drink. The primary liquor may now be **up to** one ounce. The primary liquor may be less than one ounce, but can not exceed one ounce.

No matter what portion size you select as the primary, the secondary liquor portion size has to be LESS than the primary liquor amount. That is because there may only be ONE primary liquor in a drink. If the flavoring portion size is the same as the primary size, there would be TWO primary portions (and there may only be one).

You MAY add multiple flavorings of different liquors (each one being less than the primary), but the total measurement of all liquors combined may not exceed 2.75 ounces. You MAY NOT use the same liquor as both the primary and the secondary flavoring.

The primary liquor is the *base liquor* in the recipe. For example, if the standard recipe for a Black Russian is one part vodka to 1/2 part Kahlua, the primary liquor is *vodka*. If a recipe, such as a Long Island Ice Tea, calls for more than one flavoring, you may add

different flavorings to the primary liquor as long as the measurement of each flavoring is less than the measure of primary liquor.

Triple sec is not the primary liquor in a Margarita. Tequila is the base (primary) liquor in a Margarita recipe and must be dispensed as a metered primary portion of up to one ounce.

The primary liquor in a drink is the *type* of liquor called for in the recipe, not the *brand*. In other words, a martini can *not* be made with one ounce of Tanqueray gin with Bombay Gin added as a secondary flavoring. If a recipe calls for different flavors of a similar but different tasting liquor, you may add them as flavorings if that's what the recipe calls for. For example, you could make a Mai Tai with one ounce of Bacardi Light Rum as the primary and then add Myers's Dark Rum and 151 Rum as flavorings.

In some drinks, like Martinis made with a base liquor of vodka, you may use a flavored liquor, like "limon" or "citron" as a flavoring because it is a different type of liquor. Another example is a Bloody Mary made with vodka as the primary and a "pepper" or "lemon" vodka as a flavoring.♦

Tequila is the base (primary) liquor in a Margarita recipe and must be dispensed as a metered primary portion of up to one ounce.

Change of Club Classification

By Stephne Hanson

Did you know a private club wishing to change its classification may do so?

Private clubs are now classified as class A, B, C, or D.

- Class A includes equity clubs such as country clubs.
- Class B includes mutual benefit associations that are organized under a lodge system such as fraternal or patriotic clubs.
- Class C includes qualified dining clubs that maintain at least 50% of their club business from the sale of food and have adequate culinary facilities to serve full meals.
- Class D includes any other club that does not qualify as a class A, B, or C club, such as a social drinking club that does less than 50% of its business from the sale of food. (The statutory criteria defining the classes can be found in section 32A-5-101 U.C.A.)

Commission Rule R81-5-1 allows a club to request a change of its classification if it does so in writing. An investigation will be conducted by the department to gather information and make recommendations to the commission whether the request should be granted.

The most common request is from a Class D private club that wants to reclassify as a class C. In this case, there must be credible evidence to establish that the club meets statutory criteria to operate under the new classification.

A class C private club must maintain at least 50% of its total private club business from the sale of food. Food sales do not include mix for alcoholic beverages, service charges, membership and visitor card fees.

The following are also considered in the reclassification process:

- a) the total square footage and seating capacity of the premises
- b) the portion of the square footage and seating capacity that will be used as a dining area in comparison to the portion that is the bar or lounge area.

Keep in mind the lounge or bar area (as defined in R81-5-15) includes "the bar structure defined in 32A-1-105(5); any area in the immediate vicinity of the bar structure where the sale, service, display, and advertising of alcoholic beverages is emphasized; OR any area that is in the nature or has the ambience or atmosphere of a bar, parlor, lounge, cabaret or night club."

- c) whether full meals, including appetizers, main courses, and desserts are served
- d) whether the applicant will maintain adequate on-premise culinary facilities to prepare full meals
- e) whether the entertainment provided at the club is suitable for minors and
- f) the club management's ability to manage and operate a dining club including management experience and the type of management scheme employed by the club.

If the commission determines the evidence provided is credible to establish that it meets the statutory criteria to operate under the new class designation, the commission shall approve the request.

Once designated as a Class C club, the club has to keep records that show the quarterly sales and expenses for beer, heavy beer, liquor, wine, set-ups and food. The records must be available for inspection and audit by representatives of the DABC.

If any inspection or audit discloses that the sales of food are less than 50% for any given quarter, an order to show cause is issued by the department to reclassify the club as a class D private club. The reclassification will remain in effect until the licensee files a request for and receives approval from the commission to be classified as a class C private club. The new request must then provide credible evidence to prove that in the future, the sales of food will meet or exceed 50%.

For more information, please contact the compliance division or visit our web site at www.abc.utah.gov.♦

Limited Restaurant Liquor License Update

By John G. Freeman

There continues to be some confusion about which alcoholic beverages are covered under the Limited Liquor License. On occasion during our audits, spirituous liquors are discovered on the premise which opens the door for a violation.

Most licensees are aware that 3.2 beer, heavy beer (purchased at a liquor store) and wines are acceptable. The question arises as to what the definition of wine is.

The statute reads as follows:
32A-4-301. Definitions.

For purposes of this part, wine includes all alcoholic beverages defined as wine under 27 U.S.C. 211 and 27 C.F.R. Section 4.10 including the following alcoholic beverages made in the manner of wine not less than 7% and not more than 24% of alcohol by volume:

- (1) sparkling and carbonated wine;

- (2) wine made from condensed grape must;
- (3) wine made from other agricultural products than juice of sound, ripe grapes;
- (4) imitation wine;
- (5) compounds sold as wine;
- (6) vermouth;
- (7) cider;
- (8) perry; and
- (9) sake.

Remember that distilled and spirituous liquors, brandy, liqueurs, grappa and eau de vie are not allowed on the premise of a limited restaurant licensee.

The new limited restaurant license has been well received and has proven to be very popular, convenient and cost saving for many licensees.♦



The New Beer Portion Size Law

by Neil Cohen

Effective May 3, 2004, the new beer portion size law goes into effect. It states that beer sold for on premise consumption "shall be in a size of container that does not exceed two liters, except that beer may not be sold to an individual patron in a size of container that exceeds one liter."

The law does not mention the word "pitcher" or how much beer can be poured into a pitcher. It mentions the size of container. The largest size container that may be sold to one person is one liter. One liter containers are available as steins, mugs, pitchers, carafes, or decanters from various suppliers. Two liters equals 67.7 ounces. A half gallon is 64 ounces. Pitchers come in different sizes, but the most common size is 60 ounces.

Q&A

1. May one person buy a 60 oz. pitcher that is filled halfway?

No. One person may buy beer in a container that is no larger than one liter.

2. May one person buy a pitcher that is for a table or group of two or more?

Yes, however, the bartender or server must make an effort to determine that the pitcher is not for one person. Individual establishments will have to implement policies and procedures to manage this.

3. May one person buy two containers of one liter each for him/herself?

Although this may not technically violate the language of the new law, it appears to violate the intent of the law. Moreover, if a patron asks for more than one drink for him/herself, the licensee should decide whether the patron SHOULD be served more than one drink depending on the situation. This calls into play many variables; i.e. how much has the person already had? Is that too much to serve one person? Are you sure both beers are for that one person or is the other beer going to someone who may have been cut off or underage?

4. During the one hour cooling off period for clubs and taverns, the largest size of beer that a person may consume is a 26 ounce serving. May one person order one liter at "last call"?

If "last call" is close to 1 a.m. (when sales must cease), the bar or club is faced with a dilemma. Servers need to decide whether the person SHOULD be served a liter at last call. It is management's responsibility to make sure a patron has a single serving of beer that does not exceed 26 ounces after sales cease at 1 a.m. In that case, management needs to decide how to handle the situation depending on the amount of time between last call and 1 a.m. It may be awkward to put servers in the position of having to determine the amount of beer left in peoples' glasses after 1 a.m. Likewise, it would be irresponsible to sell a liter right before 1 a.m. and then tell patrons to make sure they drink it up so they don't have more than 26 ounces after 1 a.m. ♦

Compliance Comix © Thomas Bros. www.thomastoons.com Printed with permission



"Sorry pal, we don't serve miners."

Licensing Activity

by Chris Johnson

Newly Licensed Establishments

DEC, JAN, FEB, & MAR

RESTAURANTS (16)

Casa Valentina, Moab
 Charlie Chow's, Salt Lake
 Citrus Grill, Salt Lake
 Joe's Crab Shack, West Jordan
 La Cocina #4, North Salt Lake
 La Fiesta, Cedar City
 Lupita's, Cedar City
 Navajo Lodge, Brian Head
 Olive Garden, Logan
 Pistol Pete's Mexican Bistro, SLC
 Puerto Vallarta, Salt Lake
 Ruby Tuesday, Salt Lake
 Shabu, Park City
 Shula's Steakhouse, Salt Lake
 Silver Steakhouse, Price
 The Beach, Park City

LIMITED RESTAURANTS (20)

Asuka Japanese, Provo
 Avenue's Bakery, Salt Lake
 Bavarian Chalet, Ogden
 Boccia's Pizzeria, Ogden
 Burr Trail Grill & Deli, Boulder
 Café Sha Sha, Salt Lake
 J.J. Michaels, Sandy
 La Dolce Vita, Provo
 Other Place, Salt Lake
 Otter Creek Marina, Antimony
 Palms @ Airport Inn, Salt Lake
 Pei Wei Asian Diner, Salt Lake
 Pie Pizzeria, Midvale
 Pig Pen Grill, Park City
 Samurai 21, St. George
 Samurai Sushi, Salt Lake
 Silver Summit Café, Park City
 Taggarts, Morgan
 Tona, Ogden
 Two-Bit Street, Ogden

PRIVATE CLUBS (14)

Club One Sixty One, Salt Lake
 Club Vortex, Salt Lake
 Down Under Club, Bountiful
 Good Spirits, Salt Lake
 Hog's Breath, Milford
 J.J.'s Bar, Spanifh Fork
 Liquid Joe's, Salt Lake
 Main Street Monkey Bar, Park City
 Monk's House of Jazz, Salt Lake
 Pinky's, Salt Lake
 Ruby Tuesday, Salt Lake
 Shula's No Name Lounge, SLC
 The Spot, Salt Lake
 Wine Cellar, Ogden

ON-PREMISE BEER (26)

Ben Lomond Golf Course, Harrisville
 Blue Kat, Cedar City
 Canton Garden, Salt Lake

China Panda, Park City
 Chin-Wah, Sandy
 Cobble Rock Restaurant, Vernal
 Down Town Mexican Restaurant, SLC
 El Monte Golf Course, Ogden
 El Taconazo, Midvale
 Escalante Outfitters, Escalante
 Hector's Miramar, Salt Lake
 Island Spices & Catering, Park City
 Karen Pullman's Pro Shop & Design, Sandy
 Los 2 Amigos, Price
 Mt. Ogden Golf Course, Ogden
 Nibley Park Café, Salt Lake
 Nuevo Vallarta, West Valley
 Papacito's, West Valley
 Pig Pen Ice Rink, Park City
 Pizanos Pizzeria, Brian Head
 Rainbow Café, Kanab
 Rim Rock Patio, Torrey
 Taco Taco, Layton
 Tommy's Place, Ogden
 Troc Lounge & Grill, Ogden
 Winger's, Park City

TAVERN (9)

Acapulco Club, Ogden
 Corner Pocket, Tooele
 Eight Ball in the Corner Pocket, Garland
 El Herradero, Salt Lake
 El Rancho Lounge, Price
 Horny Toad Bar & Grille, Ticaboo
 New Lighthouse Lounge, Ogden
 Rush Valley Lounge, Stockton
 Western Billiards, Tremonton

LICENSES AVAILABLE

(as of March 25, 2004)

Restaurants = 24
 Restaurant Limited = 28
 Private Clubs = 21
 On-premise Beer = no quota
 Tavern = 10

Licenses Relinquished

DEC, JAN, FEB, & MAR

RESTAURANTS (9)

Acapulco Grill, Salt Lake
 Bavarian Chalet, Ogden
 Charlie Chow's, Salt Lake
 Chevy's Fresh Mex, Salt Lake
 La Fiesta Mexican Restaurant, Cedar City
 Samurai Sushi, Salt Lake
 Shula's Restaurant, Salt Lake
 The Beach, Park City
 Zaffino's Sports Grill, Draper

LIMITED RESTAURANTS (5)

Café Sha Sha, Salt Lake
 Heartland Café, Cedar City
 Sugi Japanese Steakhouse, Provo

Taggarts, Morgan
 Tucci's, Provo

PRIVATE CLUBS (12)

Club DJ's, Taylorsville
 Club H20, Ogden
 Club Splash, Salt Lake
 Down Under Club, Bountiful
 Good Spirits Cabaret, Salt Lake
 Great Escape, Springville
 Katlynn's, Spanish Fork
 Liquid Joe's, Salt Lake
 Monk's House of Jazz, Salt Lake
 Rita's, Duck Creek
 Sanctuary, Salt Lake
 Shula's No Name Lounge, Salt Lake

ON PREMISE BEER (35)

Bacino's Deli, Sandy
 Ben Lomond Golf Course, Harrisville
 Ben's Café, Moab
 Boiler Room, Salt Lake
 Canton Garden, Salt Lake
 China Inn Restaurant, Delta
 China Lily, Provo
 China Star, Bountiful
 Davis County Golf Course, Layton
 El Monte Golf Course, Ogden
 El Pico De Orizaba, Ogden
 El Rodeo, Ogden
 Escalante Outfitters, Escalante
 Gandolfo's New York Deli, Salt Lake
 Gladstan Golf Course, Payson
 Golden Wok, Salt Lake
 Hitching Post, Morgan
 Hoo-Doo's Restaurant, Tropic
 Los Tarascos, Ogden
 Lupita's, Cedar City
 Marie's Fine Dining, Price
 Miramar, Salt Lake
 Mountain Chicken & Ribs, Park City
 Mt. Ogden Golf Course, Ogden
 New York Burrito, Park City
 Nibbles @ Nibley Golf Course, SLC
 Nuevo Vallarta's Restaurant, WVC
 Other Place, Salt Lake
 Parkside Fun Center, Morgan
 Rainbow Café, Kanab
 Taco Taco, Ogden
 Taqueria Xochitl, Orem
 Torino's Italian Café, Magna
 Troc Lounge & Grill, Ogden
 Wiseguy's Comedy, Ogden

TAVERN (19)

48 Lounge, Tooele
 Acapulco Club, Ogden
 Billiard Parlor, Ogden
 County Line Saloon, Panguitch
 Doug's Bar & Grill, East Carbon
 El Rancho Lounge, Ogden
 Emilio's Bar, Fillmore
 Family Benefit Association, Tooele
 Manny's, Salt Lake

...Continued on the next page

Licensing Activity

...Continued from the previous page

New Lighthouse Lounge, Ogden
 Roosevelt Commercial Club,
 Roosevelt
 Rowdy's, West Haven
 Rush Valley Lounge, Stockton
 Samz Corner Tavern, Garland
 Silver Club, Eureka

Tradewinds Lounge, Salt Lake
 Trails End Saloon, Panguitch
 Western Billiards, Tremonton
 Willow Springs Lodge, Willow Springs

Current number of licensees
 Restaurant = 450
 Restaurant Limited = 157
 Private Clubs = 328
 On-premise Beer = 327
 Tavern = 96
 Total = 1358

Violations and Penalties

by Chris Johnson

Below, and continued on the following pages, are the most recent violations and penalties assessed. Please review the violations listed below with your staff to prevent similar violations from occurring in your own establishment. As you can see by the number of alcoholic violations listed, law enforcement agencies have been very active. PLEASE BE CAREFUL!!

AL = Airport Lounge BE = On-premise Beer BR = Brewer / Importer BW = Beer Wholesaler CL = Private Club Liquor

RE = Restaurant Liquor MR = Manufacturer Representative RL = Restaurant Limited * = Prior Violation History TV= Tavern

License Type	Name of Establishment	Description of Violation(s)	Penalty Assessed
RE	Café Trang II, Holladay and "Hieu" (employee)	1. Sale of liquor at unauthorized times	\$150.00 fine
CL	Club Splash, Salt Lake and "Kelly", Andrea McDonald and Daniel R. Sellers (employees)	2 cases case #1 1. Permitting intoxication 2. Non-member entry & sale 3. No ID badge case #2 1. Sale to minors 2. Minors on the premises of a class "D" club	Surrender of the license and a fine of \$5,000.00
BE	El Chubasco, Park City and Jaime A. Paez (employee)	1. Sale to minors	5 day license suspension
BE	Formosa Grill, Salt Lake and Wing Wong (employee)	1. Untrained server 2. No records or hiring dates of employees 3. Wrong ID badge	Fine of \$150.00 Fine of \$100.00 Written warning
RE	Hoppers Grill & Brewery, Salt Lake and Zachery Eatsman (employee)	1. Sale to minors	Fine of \$3,000.00
BE	Jade Garden, Sandy and Wenjin Yang (employee)	1. Sale to minors 2. No ID badge 3. Wrong warning sign posted	6 day license suspension Written warning Dismissed
CL	Murphy's Bar & Grill, Salt Lake and Alan E Metcalf and Rueben G Quevado (employees)	1. Sale to minors 2. Minor on the premises of a class "D" club 3. Sold visitor card to a minor	6 day license suspension Fine of \$600.00
RE	TGI Friday's, Holladay and Nicole Hixson (employee)	1. Sale of A/B without an order of food	Fine of \$250.00
RE	Bohemian Brewery, Midvale and Karen Fredrickson, Helen Petras and Rick Fields (employees)	1. Sale to minors 2. Wrong name badge 3. Giving away free samples of wine	6 day license suspension Written warning Fine of \$300.00
RL	Jumbo Buffet, Midvale and Gong Tang (employee)	1. Sale to minors	5 day license suspension
BE	Pool Hall Junkies, Salt Lake and Nicole Lovejoy, Richard Rambo and Jacob Shuldberg (employees)	1. Sale to minors 2. Sale of A/B after hours	6 day license suspension Fine of \$300.00

License Type	Name of Establishment	Description of Violation(s)	Penalty Assessed
RL	Singing Cricket Café, Salt Lake and Brooke Mingo (employee)	1. Allowing patrons to leave with open containers	5 day license suspension
CL	Trapp Door, Salt Lake and Randy Bodle, Johnny Harris and Denise Wilson (employees)	1. Sale to minors 2. Minors on the premises of a class "D" club 3. Sold a visitor card to a minor	12 day license suspension Fine of \$500.00
CL	Dimitri's, Salt Lake and "Chad", Cody Cooper, "Heidi", Spencer Humphries and Elliot Patterson (employees)	1. Attire & conduct violations 2. Allowing lewd acts 3. Sale to intoxicated persons 4. Permitting intoxication 5. Encouraging over-consumption 6. Non-member entry & sale	Fine of \$5,000.00 Fine of \$5,000.00 Fine of \$5,000.00 Surrender of the license pending the sale of business or before the March meeting
CL	Banana Joe's, Salt Lake and "Alex" and Joseph Seman (employees)	1. Sale to minors 2. Employee guest hosting	5 day license suspension and a fine of \$500.00 Fine of \$250.00
CL	Club Vegas, Salt Lake	1. Non-member entry & sale	3 day license suspension
CL	Dragons Lair Pub, Salt Lake and Gerald Olsen and Laree Shultz (employees)	1. Sale to minors 2. Minors on the premises of a class "D" club 3. Sold a visitor card to a minor 4. Giving away free drinks	6 day license suspension 5 day license suspension Fine of \$100.00
TV	Outlaw Saloon, Moab and Diana Hacker (employee)	1. Sale to intoxicated person 2. Employee consuming on duty	10 day license suspension Dismissed
RL	Smoky Mountain Pizza & Pasta, Sandy and Matthew J Ririe (employee)	1. Sale to minors	5 day license suspension
RL	Urban Bistro, Salt Lake	1. Sale of A/B before legal hours 2. License not displayed 3. Warning sign not displayed 4. No ID badge	Fine of \$150.00 Written warning Written warning Written warning
TV	Vaquero, Salt Lake and Allen R Diamond (employee)	1. Sale to minors 2. Minors on the premises of a tavern 3. No ID badge	6 day license suspension Written warning
RE	Wasatch Broiler & Grill, Salt Lake and David Forrester (employee)	1. Free-pouring 2. Sale of A/B without an order of food	6 day license suspension Fine of \$250.00
RE	Al Forno's Restaurant, Salt Lake and Erick Romero (employee)	1. Sale of A/B before hours	Written warning
TV	B & G Pool Hall, Salina and Joseph Bechthold (employee)	1. Consumption on duty	20 day license suspension Fine of \$1,000.00

We've been asked...

by Neil Cohen

A cocktail waitress at a private club sent us an e-mail with **ten questions**. We appreciated her asking these questions because many others have asked similar questions. We also think that the answers are important enough to share with other licensees who may be interested. Below are her exact questions and our responses.

1. I just have a few questions about the liquor laws which went into effect in May 2003 ... because some of the laws are very ambiguous. At last call, is it the law that I can only serve each person ONE drink, or can they have two?

A. Neither. The law says that the patron may finish consuming any single drink "after the club ceases the sale and service of alcoholic beverages", not after "last call". Last call is very different from "after sales cease". Sales and service may continue after last call. Sales and service do NOT continue after sales cease (1 a.m. at the latest). This law is not ambiguous. It is very clear that a patron may finish consuming ONE drink, after sales cease.

2. The two different bars that I have worked at since the new laws took effect have each interpreted the law differently. At one bar, I was able to serve people more than one drink at last call, and at the other, I was only allowed to serve each person one drink at last call.

A. They were not interpreting the "law" differently, they were establishing different policies dealing with last call.

3. And the bar I work at now just hired a new bartender, who has been taught that no matter how many drinks you have served somebody at last call, as soon as 1:00 am comes, each customer is only allowed to have one drink IN FRONT of them, which means that we can serve a person two drinks at last call, but if they haven't finished one of them by the time 1:00 am comes, then we have to take that drink away. Or, even if that customer was not served any drinks at last call, and the customer has more than one drink in front of him come 1:00 am, then I have to take one of his drinks away from him (and probably have the customer yell at me for charging him for that drink, but then not let him drink it). OR, if a customer has a pitcher of beer which he ordered at 12:15 (a while before last call), but has more than 25 oz. to finish come 1:00 am - I have to measure 25 oz. of his beer, which I can let him have, and then take the rest away from him?

[Editors note: effective May 3, 2004 beer may not be sold to an individual patron in a size of container that exceeds one liter.]

A. These are all correct assumptions. Nevertheless, if a patron asks for more than one drink at last call, the licensee has to decide two things; 1) whether the patron SHOULD be served more than one drink, and 2) IF the patron is served more than one drink, the licensee has to make sure that after 1 a.m., the patron only has only one single drink to finish. This could be very difficult for the licensee, especially if it is very busy at last call. An easier way to manage last call is to serve a single drink at last call. This relates to the situation you described regarding serving two drinks at last call and taking one away by 1

a.m. or regarding a customer that has two drinks already (regardless of last call) when 1 a.m. comes along. It is your management's responsibility to develop policies to deal with these situations. Whenever a patron asks for more than one drink, (remember, two is the limit anyhow), the overriding question you should be asking yourself is, SHOULD you serve more than one drink, not CAN you.

4. I was told at work that we can only serve each customer 25 ounces of beer at last call, which means that if a table of two wants a pitcher of beer (64 oz.) at last call, they cannot have a full pitcher. I was told at the bar I formerly worked at that this is not true, so can you clarify this?

A. Here again, be sure you are not confusing "last call" with the restrictions that take effect "after sales cease". Under the current law, you MAY serve a pitcher to a table of two at last call, but as in the answer above, you need to make a determination as to whether you SHOULD serve a pitcher to two people at 12:15 a.m. It is your responsibility to make sure your patrons have one drink after sales cease, so in the case of beer it is 25 ounces (after May 3, 2003 it will change to 26 ounces). YOU and your management need to decide how to handle the situation. Do you want to put yourself in the position to measure the beer left in peoples' pitchers or to tell your patrons to make sure they drink it up so they don't have more than 25 ounces at 1 a.m. (26 ounces after May 3rd). That would contradict the principles of responsible service of alcohol that is taught in the server training classes (i.e. SMART, SII, TIPS, etc.)

5. Another problem I have is that as a cocktail waitress, I am supposed to make sure that no customer has more than two drinks before them, and also that they don't have more than 2.75 oz. of "spirituous liquor" before them. I, myself, as would be the case with most cocktail waitresses, do not know how much liquor is in any given mixed drink. If I knew all of the drink recipes, then surely I would become a bartender rather than a waitress, since bartenders usually make more money. With these new laws, I suppose

that I could be fined because somebody, unbeknownst to me, has more than 2.75 oz. of "spirituous liquor" in front of them? Is this true?

A. As a server, you have to make an effort to know what and how much your customers are drinking. If you are serving drinks, it is your responsibility to keep your customers on the safe side of social drinking and to follow the "rules". A professional server will and should know how strong the drinks are that patrons are drinking. That is a basic tool in being able to serve responsibly, and a basic skill taught in the server training classes that you are required to take every three years. Remember, you are not a vending machine. Just because people give you money, you don't have to give them drinks. You have a LEGAL DUTY not to allow your patrons to become intoxicated. If either you or the bartender allow customers to have more than 2.75 ounces of spirituous liquor in front of them, it is possible that, if cited for a violation, you and the bartender

...continued on the next page

...continued from the previous page

could be fined and/or be suspended from working for any liquor licensee. Also the club could be fined and/or have its license suspended.

6. Also, say the "sin police" were to visit the bar I work at. How would they measure exactly how many ounces of liquor is in a customer's mixed drink?

A. Policing this situation is a shared responsibility between servers, bartenders and management. The DABC is not an enforcement bureau. Liquor laws are enforced by separate state and local enforcement agencies. We do not know all of the techniques the liquor enforcement agents (state or local) use.

7. And what if the customer has consumed half of a drink that, when first prepared, contained 2 oz. of spirituous liquor, but since it is halfway gone, presumably contains only 1 oz. of spirituous liquor. Am I then allowed to serve that customer a second mixed drink, which contains 1.5 oz. of spirituous liquor, because technically, the customer would then have only 2.50 oz. of spirituous liquor before them? I'm not sure how to interpret that rule, so could you please clarify that?

A. Technically, that is correct. But, think about this: If a customer has a drink that contains 2 oz of spirituous liquor and orders another one that has 1.5 ounces of spirituous liquor, when should you deliver it? a) after he finishes the first one, or b) after he drinks about half of the first one. Well the answer could be either a or b, but in either case, only if the customer is not showing signs of intoxication, and it's your responsibility to try to determine that. Those techniques are taught in the server training seminars (i.e. SMART, SII, TIPS, etc.), and further developed by your management team into policies that you should follow.

8. One more issue - at the other bar I worked at, they told me that the waitress can only serve a person two drinks. But if the person then goes up to the bar and orders another, that the waitress is not responsible for that person having three drinks. The bar I currently work at has told me that I have to police the floor and make sure that nobody has more than two drinks in front of them. This means that I have to go around and take people's drinks away. This does not make people happy. If a person then goes up to the bar, unbeknownst to the waitress, and orders another, thus having three drinks before him, can the waitress be fined, or can the bartender be fined? How does that work?

A. If either you or the bartender allow customers to have more than two drinks or more than 2.75 ounces of spirituous liquor in front of them, it is possible that the server, bartender and/or the club could be fined. Policing this situation is a shared responsibility between servers, bartenders and management. You may very well find that different bars that you work in have different policies to deal with this responsibility.

9. And my last question is a question I had to ask out of curiosity. What is the motivation behind the law which requires that a person buy a "membership" to be able to enter a bar which serves liquor? Is it merely to discourage

people from going to bars? Every now and then, we have people from out of town come through the door of the "private club" which I work at, and ask if they are not allowed in. They see "private club" and they figure that the club is actually private - since they are not members of whatever organization it may be, they are not allowed in. However, we have to explain to them that we are only required to label the business as a "private club" by law, and that there are no membership restrictions.

A. The private club system and membership requirements were created by the legislature in 1969 as a control measure for bars that serve liquor as opposed to 3.2% beer only. The club laws were patterned after country clubs and fraternal organizations that do indeed require a person to be a member or a guest of a member to patronize the premises. Social clubs came on the scene in the early seventies and had to fit their business plans under the existing club laws (i.e. non-profit corporations, membership requirements, etc.). The legislature, last year, recognized that social clubs were different from equity and fraternal organizations, and classified all clubs into four classes and removed the non-profit requirement from any club. The membership system remained in place with the qualifications for membership, approval procedures, and amount of dues (minimum is \$12 per year), to be established by each club in its bylaws.

This is part of the regulatory scheme established in Utah by the legislature. FYI, we published a history of Utah Liquor laws in earlier editions of our newsletters, written by Earl Dorius, DABC Licensing and Compliance Manager. It makes for some interesting reading. Some of the pertinent information regarding clubs dates way back to the repeal of prohibition in 1933.

"The legislature enacted the first Liquor Control Act in 1935. Its stated purposes were to protect public health, peace and morals; to prevent the recurrence of abuses associated with saloons; and to eliminate the evils of unlicensed and unlawful manufacturing, selling, and dispensing of alcoholic beverages. The state became the sole warehouse and retailer of liquor. State liquor stores and package agencies were created as the only available outlets where liquor could be purchased. All liquor was sold in sealed packages. Liquor could not be sold in clubs, restaurants, or saloons.

In 1968, the statewide "Liquor by the Drink" referendum was put to the voters. It would have allowed the sale of liquor and wine by the drink in public establishments. Although it was defeated by a 2 to 1 margin, the Legislature recognized that one third of the populace wanted broader liquor availability than offered by packaged sales in state stores and package agencies. They wanted the ability to purchase liquor at public establishments, rather than having to "brownbag" in their own.

In 1969, the Legislature responded by making sweeping revisions to the Liquor Control Act. The new law created the concept of locating state store outlets inside restaurants and "non-profit private locker clubs" where packaged liquor could be purchased for on-premise consumption. Clubs included social clubs, and recreational, athletic, or kindred associations incorporated under the Utah Non-Profit Corporation Act. They had to be licensed to and operate "a place where a variety of hot food

...continued on the next page

...continued from the previous page

is prepared and cooked and complete meals are served in connection with indoor dining accommodations." They had to have by-laws which included provisions relating to: standards for admitting members, collecting membership dues, admitting visitors and issuing guest cards, holding meetings and electing officers, keeping records, etc.

In clubs, members, and properly sponsored guests and visitors could purchase packaged liquor from the outlet. There was no restriction on the size of the liquor or wine bottles that could be purchased. Members could store liquor purchased from the outlet or brought in and stored in their own individual lockers located on the premises. There were no set hours of sale except that on Sundays and holidays liquor could not be sold after midnight and prior to noon. Clubs were not allowed to advertise open house activities, banquets, cocktail hours or similar functions."

Today, most of the advertising laws have been repealed, the non-profit requirement has been removed, and the hours of sale are the same everyday of the week including holidays. The private club concept and membership requirements are still in place. Membership dues and qualifications for membership are set by the individual club in the club's bylaws. Even though the minimum dues are \$12 per year, some clubs do charge more (i.e. Elks, Eagles, country clubs and the like), and some clubs prorate the dues at \$1 per month. Visitor cards (the minimum charge is \$4 for three weeks) are also available. It is the club's option whether or not to sell them.

10. My boyfriend's father and step-mother came into town from Michigan not long after the new laws came into effect in May 2003. I was explaining to them all the new liquor laws and restrictions. The father was very confused and told me, "Where we live, we can just go somewhere and have a drink." So, basically, I was just wondering what the reason behind the "membership" runaround was, and if it really is just to discourage people from drinking alcohol or visiting bars.

A. Actually, the club and membership system was created in 1969 to ALLOW people to buy alcohol in bars, not to discourage people. Remember that prior to 1969, liquor was not allowed to be sold in restaurants, clubs, and saloons, although people could drink alcohol in those establishments. Apparently and in practice, people were allowed to "brownbag" alcohol into restaurants, clubs, and saloons, because the law was silent on the issue.

In 1975, the Legislature announced that liquor control was to be run as a public business using sound management principles and practices with an efficient and economical organizational structure. The sale of alcoholic beverages was to be done in such a manner as to reasonably satisfy the public demand and protect the public interest, yet recognizing the rights of those who do not wish to be involved with alcohol. This sets up a delicate balance that accounts for many of Utah's unique approaches to alcoholic beverage control. These approaches are commented on frequently by visitors to Utah (like your boyfriend's father), who may be confused at first, but for the most part, quickly adapt, and may very well have a wonderful time here in this pretty, great state.♦

When Is Enough...Enough?

By John G. Freeman

As Licensing and Compliance Officers, one issue that is a constant concern of licensees is the over consumption and over serving of alcohol. This especially becomes a problem as patrons enter their establishments after they have already been drinking and are impaired.

There are many reasons for people drinking prior to entering an establishment. The most common however is one of economics. Patrons will buy a six pack of beer or less expensive distilled liquor and drink it at home or even worse in their car in the parking lot prior to entering the licensee's establishment. They can get a "buzz" going and then only plan to spend a minimal amount on drinks. This is why many licensees arrive at their establishment in the morning to find empty alcohol bottles or cans strewn around their parking lot.

Most licensees are very committed to making sure that over consumption doesn't occur in their

establishments. They are fighting a difficult battle to maintain customer service and profits while at the same time remaining in compliance. Here are a few tips to help identify those patrons that may be at risk of being impaired:

- Whenever possible, use the same server with the same patron. This allows the server to have a personal knowledge of the condition and personality changes that may occur in a patron. For example, someone may come in who is very quiet and reserved but after one drink becomes loud and obnoxious.
- Sometimes patrons will wear sunglasses to hide the tell tale signs of intoxication of having drooping eyelids, bloodshot eyes, slow winks and slow to focus.
- Observe patrons as they walk around the premise or to the restroom to see if there is impairment.
- Listen to speech patterns and sentence structure. Listen for comments that are repeated over and

over.

- Watch as patrons smack their lips as if they are thirsty often times exposing their tongues.

The statistics relating to over consumption are staggering. The U.S. Department of Health and Human Services recently indicated that there are 18 million Americans that are problem drinkers. Many of these people do not know when to say "no" because as an individual becomes intoxicated, cognitive reasoning, the ability to make common sense decisions, is the first impairment. This is the reason that so much responsibility is placed on the licensee.

Statistically, Americans drink an average of 2.21 gallons of ethyl alcohol per person a year. This is equal to about 50 gallons of beer, 20 gallons of wine, or five gallons of liquor. That's a lot no matter who's counting, or who's pouring.

...continued on the next page

...continued from the previous page

So, when has an individual had too much? There are a number of factors that come into play, including social setting, alcohol dependency, the presence of other drugs in a person's system, fatigue, weight, tolerance based on previous consumption & experience and even the time of day.

One thing that doesn't change is the rate in which alcohol is metabolized or processed by the body. This is consistent at about one-third ounce per hour. This rate cannot be changed no matter how much coffee is consumed or how "cold" of a shower is taken.

It's also important to remember that the alcohol content and effect is consistent in a 12 ounce bottle of beer, or a 5 ounce serving of

wine or a shot of 86-proof distilled liquor.

Many people feel they can't get as "drunk" on beer and wine as they can on hard liquor. This simply is not true. It is hard to imagine but this is a common misconception.

In summary, the best rule to follow is to err on the conservative side rather than risk over serving a patron.♦

Unlicensed Businesses Cited for Furnishing Alcohol

By Earl Dorius

Agents from the state Bureau of Investigation and Salt Lake County Sheriff's office recently held a press conference to announce that they had cited several day spa businesses for serving wine to their customers. In one instance, the spa allegedly had used underage employees to serve the wine. The Salt Lake Tribune reported that the law enforcement agencies wanted to spread the word among those in the spa industry that the practice is illegal. Apparently, many of the spas were unaware of the following state laws.

Unlawful Selling Without a License. Utah Code Section 32A-12-201(6) states that it is unlawful for any person in this state other than [a manufacturer, supplier or importer of liquor that is selling to the Department or Alcoholic Beverage Control, or a manufacturer, supplier or importer of beer that is selling to a licensed beer wholesaler] to sell any alcoholic beverage directly or indirectly to any other person in this state, except as otherwise provided by this title.

The "otherwise provided by this title" means the various licensing chapters of the ABC Act. Any business that directly or indirectly sells alcoholic beverages to its patrons must be licensed to do so.

Is providing an alcoholic beverage without separately charging for it a sale? If a member of the general public comes into an establishment for a service such as a massage or manicure, and the business offers that person an alcoholic beverage, the beverage is included in the price of the service. The price of the service is the same whether the person accepts the beverage or not. The cost of the beverage is part of the cost of doing business, the same as the cost of magazine subscriptions, coffee, soft drinks, etc. for the waiting area. All patrons bear the cost of the overhead of the business in the price of the service. Patrons must be in the establishment to buy the service. If that service includes an alcoholic beverage, then the business is indirectly selling the beverage, and that is a sale of alcohol without a license.

Why does state law require licensing? Licensing

laws set up the parameters of how liquor and beer may be sold, served, dispensed, and stored. Otherwise there would be no controls to prohibit minors selling and serving alcohol, employees consuming and being intoxicated on duty, patrons leaving with open containers, alcohol being stored in unlocked areas accessible to minors, free-pouring, unlimited sizing of the drinks, unlimited hours, etc. Other restrictions in the licensing laws also prohibit providing free alcohol to patrons.

Current licensing laws do not contemplate licensing businesses that want to provide alcohol in settings other than restaurants, cafes, private clubs, taverns, etc. Such licensing would require new legislation.

Unlawful "Brown-Bagging". Utah Code Section 32A-12-213 says that a person may not bring for on-premise consumption any alcoholic beverage onto the premises of "any establishment open to the general public" subject to the following exceptions:

- Bottled wine into a licensed restaurant or private club.
- Any alcohol as a passenger in a limousine or chartered bus (under certain guidelines).
- At a "privately hosted event" that is not open to the public. A privately hosted event is defined in 32A-12-105(42) as a specific social, business, or recreational event for which an entire room, area, or hall has been leased or rented, in advance by an identified group, and the event or function is limited in attendance to people who have been specifically designated and their guests. It does not include an event or function to which the general public is invited, whether for an admission fee or not.

Thus, a business open to the general public that brings alcoholic beverages onto its premises to serve to its patrons with or without charge would violate Section 32A-12-213.

Offering "Free" Alcohol. Utah Code Section 32A-12-401(5) provides that the advertising or use of any means or media to offer alcoholic beverages to the general public without charge is prohibited.♦

Bar Structures & Service in Restaurants

By Neil Cohen and Tom Zdunich

Existing limited restaurant licensees and restaurant liquor licensees planning remodeling projects need to be aware of the restrictions regarding the service of alcoholic beverages at a "bar" which was newly defined in the 2003 changes to the liquor laws.

There are **four key issues** with respect to how alcohol is served in restaurants:

1. Alcoholic beverages may not be served to or consumed by a patron at a bar.

- A bar is defined as a counter or similar structure
- a) at which alcoholic beverages are stored or dispensed, or
 - b) from which alcoholic beverages are served

2. Alcoholic beverages shall be delivered by a server [i.e. waitperson] to the patron;

3. Any alcoholic beverage may only be consumed at the patrons table; and

4. A patron may only make alcoholic beverage purchases in the restaurant from a server [i.e. waitperson] designated and trained by the licensee.

Also, there are **two key** commission **rules** that relate to this subject:

1. A patrons table may be located in waiting, patio, garden and dining areas previously approved by the department, but may not be located at the site where alcoholic beverages are dispensed or stored; and

2. Consumption of any alcoholic beverage must be within a reasonable proximity of a patrons table.

The rationale behind these laws is that restaurants are not bars, but public dining establishments where alcohol is available as a complement to the cuisine and the service of food is emphasized. The **two basic requirements** that underscore this are:

1. At least 70% of a restaurants overall business must be in food sales; and

2. Alcoholic beverages may only be served in connection with an order for food.

Applying these issues and rules to your design

Restaurants that normally would like to have traditional bars in their concepts have to make modifications to their plans to comply with the law. This can be accomplished by moving the storage and dispensing location, altering the appearance of the bar structure, and/or by changing the mechanics of service to the patron.

These modifications are done in various ways but follow three general plans. In practice, all of these plans are in use. Here is a summary of the plans:

Plan A:

- All alcoholic beverages are stored and dispensed at a service bar that can be a room or counter where there are no seats. (Compliance: There is no service or consumption at the location where alcohol is dispensed and stored.)
- Drinks are made at the service bar and picked up by servers at a pick-up window or service station for delivery to the patron at a table or at a counter in another location. (Compliance: Alcoholic beverages are not dispensed directly to a patron, but delivered to the patron by a server.)
- The service bar can be located in the kitchen, dining area, or waiting/lounge area. There may be a counter elsewhere in the restaurant where patrons can consume alcoholic beverages (in the dining area, or waiting/lounge area), but there are no alcoholic beverages stored or dispensed there. (Compliance: There is no storage or dispensing in the area where the patron is seated. In other words, the counter is not a "bar".)

Plan B:

- Alcoholic beverages are moved to a work area at the end of the counter where there are no seats. All storage and dispensing is done at that work area. (Compliance: There is no storage or dispensing in the area where the patron is seated.)
- Drinks are made and placed at a service pick-up area at that work station and delivered by a server to the patron who is seated at another area of the counter. (Compliance: There is no service or consumption at the exact location – i.e. the "bar" portion of the counter where alcohol is dispensed and stored.)
- The server delivers the drink to the patron from the patrons side of the counter. (Compliance: There is no service at the counter *from* which alcoholic beverages are served or stored.)

Plan C:

- Alcoholic beverages (liquor, wine, and beer) are stored in an area behind the counter, and drinks are made at a work station in that area. A panel of barriers is constructed to separate the work station and storage area from the patron at the counter. (Compliance: There is no service or consumption at the exact location where alcohol is dispensed and stored because it is being done behind a wall or barrier.)
- The barrier is of sufficient height so that there is no service to the patron from the work station over the barrier. (Compliance: There is no service over the bar.)
- Drinks are made and placed at a designated service pick-up area at the counter and delivered by a server to the patron who is seated at the counter. (Compliance: There is no service over the bar.)
- The server delivers the drink to the patron from the patron's side of the counter. (Compliance: There is no service over the bar.)

NOTE: Plan C is confusing to customers and restaurant staff. It requires constant explanation.♦

Utah's Wine Industry Works to Stay Competitive

by Abe Kader

Thirty years have passed since the first commercial wine grapes were planted in Utah. Since that time, the wine industry has experienced a bumpy ride. Before the first grape production in 1972, the local economy was predominantly agriculture based, with a 1950-70 side trip into uranium mining. For 20 years the uranium took center stage, and when the mines closed down, the locals returned to the life they had known before—farming.

It was at this time that the Southern Utah Economic Development District conducted the Agricultural Development Project. In 1972, demonstration plots were planted with a variety of grapes to determine the feasibility of growing wine grapes in the Grand County area.

The study found that the grapes that showed the most promise were Pinot Noir, French Columbar, Gewurstraminer, and Muscat. After three years of cultivation the grape harvest was sent to New Mexico to be processed into wine. The results came in - Utah grapes produced a wine with market potential!

Commercial wine grapes were planted in the Moab area in the 1980's with the encouragement of the Utah Department of Agriculture. Wine grapes were a viable option for the climate and would replace traditional crops like fruit orchards and alfalfa.

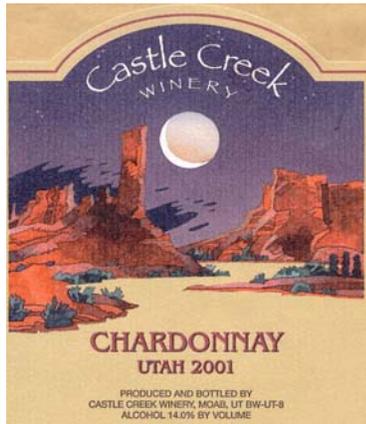
Studies showed that Moab is an ideal area for growing wine grapes because of the following characteristics:

1. Wine grapes do well with simple irrigation techniques and require only one fourth of the water that alfalfa hay uses.

2. Wine grapes do well in the rocky, sandy soil. Many varieties of wine grapes do well in the hot, dry climate.
3. Wine grapes lend themselves to smaller, irregular shaped fields as opposed to traditional crops that require larger acreage.
4. Small scale wine grape farmers require only basic, inexpensive equipment.
5. Wine grapes can produce \$5,000.00 per acre as opposed to a few hundred dollars for traditional crops.
6. Wine grapes are always in demand locally because the identity of local wineries is dependent on local fruit.

Eighty five miles from Moab, in the Grand Valley area of Colorado, the Colorado wine industry is flourishing because of its slight head start. Wine making began in the Grand Junction area over a century ago and the first modern Colorado winery opened in 1968. Nevertheless, in Moab, it's full steam ahead as the wine industry looks forward to becoming a more competitive and successful business.

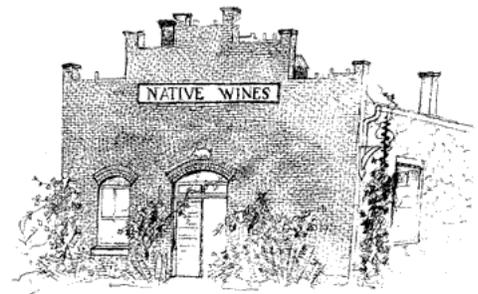
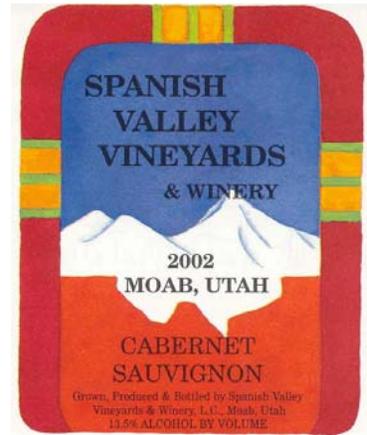
Today, Utah has five commercial wineries. Three are in the Moab/Grand County area. In future issues of the Compliance Connection, we will feature profiles of these wineries.♦



Round Mountain Vineyard



La Caille



The Winery



www.abc.utah.gov

Please be sure to visit our website for information about the DABC. The site has on-line services for vendors, licensees, consumers, our complete price list, a summary of changes to the alcoholic beverage control laws, links to the statutes and rules, downloadable

application forms for all of the licenses and permits, on-line versions of current and past issues of *The Compliance Connection Newsletter*, a liquor store finder, several industry and government links, general information for residents, visitors, licensees, and more.

On-line ordering has been available for liquor licensees since the Spring of 2001. If you need more information or would like to open an on-line ordering account please call Stores and Agencies support at (801) 977-6851. ♦

worth repeating...

The Alcoholic Server Training Seminar Requirement

Every individual who is employed by an on-premise licensed establishment to:

- (a) sell or furnish alcoholic beverages to consumers for consumption on the premises, or
 - (b) manage or supervise the service of alcoholic beverages;
- must complete an Alcohol Server Training and Education Seminar.

The subjects taught in the seminar include:

- Alcohol as a drug and its effects on the body and behavior.
- Recognition of the problem drinker.
- An overview of state alcohol laws.
- Dealing with problem customers.
- Discussing alternative means of transportation for

customers who need help safely arriving at home.

Alcohol servers, managers, and supervisors must take and pass the seminar every three years.

Persons holding an ownership interest in an on-premise licensed establishment must also take the seminar if they perform duties as a manager, supervisor, or server.

Managers, supervisors, and servers must complete the training within 30 days of commencing employment.

The programs are authorized and approved by the Division of Substance Abuse (DSA) within the Department of Human Services (phone: 801-538-3939 or on-line at http://www.utahdsa.com/alcohol_servers.htm). Individual trainers are certified by each of the programs. ♦

Liquor Law Training by The Compliance Division

by Abe Kader

The DABC's licensing and compliance division offers free training to all licensees and their employees. This training is available to licensees to help them better understand the alcoholic beverage laws, to help prevent violations, and to provide better and consistent service to patrons. It gives licensees and employees the opportunity for a one-on-one session with the DABC to deal with their

specific questions and concerns. Compliance training is available for any of the different types of outlets licensed by the state including the new on-premise banquet license (see article on page 5) and the limited restaurant license. We will tailor our training to fit your needs and schedule. If you are interested in having one of our Compliance Specialists present a training session to your staff, please call at (801) 977-6800. ♦

This training gives licensees and employees the opportunity for a one-on-one session with the DABC to deal with their specific questions and concerns.



THE DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
 PO BOX 30408
 SALT LAKE CITY UT 84130-0408

PRSR STD
 U.S. POSTAGE
PAID
 Salt Lake City, UT
 Permit No. 4621

Return Service Requested

In This Issue

Legislative Update - 2004 General Session	1
Private Club License Renewal Reminders - 2004/2005 Edition	2
Statewide Regular Primary Election	3
SBI & DABC Training (May 6 th & 7 th)	3
Proper Posting of Warning Signs and Licenses	3
On the Lighter Side	4
News From Other States	4
Banquet License Pilot Program - Records	5
What is a <i>Primary Liquor</i> ?	5
Change of Club Classification	6
Limited Restaurant Liquor License Update	6
The New Beer Portion Size Law	7
Compliance Comix	7
Licensing Activity	8
Violations and Penalties	9
We've been asked	11
When Is Enough...Enough?	13
Unlicensed Businesses Cited for Furnishing Alcohol	14
Bar Structures & Service in Restaurants	15
Utah's Wine Industry Works to Stay Competitive	16
www.abc.utah.gov	17
The Alcoholic Server Training Seminar Requirement	17
Liquor Law Training by The Compliance Division	17