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## Meet the New Commissioner

By Sharon Mackay

The Alcoholic Beverage Commission, which in years past has rarely been able to boast about having a woman commissioner, now has two women to help interpret Utah's liquor laws.

Kathryn Balmforth, who was recently appointed by Governor Huntsman and confirmed by the Senate, participated as a commissioner in her first ABC Commission Meeting on July 27<sup>th</sup>. Ms. Balmforth replaces Ted Lewis who was on the Commission for seven years.

Kay, as she prefers to be called, was born and reared in the Los Angeles area, and has lived in Connecticut and Arizona. She came to Utah in 1987 and has six children and sixteen grandchildren.

She was a stay-at-home mom while her children were young, but she jokingly says, "My youngest child and I went to school at the same time....one of us to kindergarten and the other to BYU Law School." Kay joined Mary Ann Wood and together they formed a law firm in 1990.

She is still with that firm now known as Wood Crapo LLC, though in 1997 she took a three-year leave to become the director of the World Family Policy Center at BYU.

Kay is a smart and personable woman. Although involved in the everyday workings of the business world, she still finds time for the simple joys of life including cooking, reading, and shopping with her grandchildren.

Though we are sorry to say good-bye to Commissioner Lewis, we are happy to welcome Kay Balmforth. Kay says she looks forward to learning more about the alcoholic beverage world and is grateful for the opportunity to serve.♦

**The Alcoholic Beverage Control Commission meets once a month on the third Thursday of each month. Meeting dates and times are subject to change. Call 801-977-6800 for the current schedule.**

**The meetings are open to the public and are held in the board room at the DABC office building: 1625 S 900 W Salt Lake City.**

## New Commission Rule Requires Certain Violators to Implement a Written Responsible Alcohol Service Plan

by Earl Dorius

The commission recently approved Rule R81-1-24. It became effective on August 1, 2005. The Rule provides that the commission may direct that a licensed business that has been found by the commission to have violated any provision of the Alcoholic Beverage Control Act relating to the sale, service, or furnishing of alcoholic beverages to an intoxicated person, or to a person under the age of 21, submit to the department a Responsible Alcohol Service Plan. The licensee thereafter shall maintain the Plan as a condition of continued licensing and re-licensing by the commission.

The Plan at a minimum shall:

- (1) outline the policies and procedures of the licensed business to: (a) prevent over-service of alcohol; (b) prevent service of alcohol to persons who are intoxicated; (c) prevent service of alcohol to persons under the age of 21; (d) provide alternate transportation options for problem customers; and (e) deal with hostile customers;
- (2) require that all managers, supervisors, servers, security personnel, and others who are involved in the sale, service or furnishing of alcohol, agree to follow the policies and procedures of the Plan;
- (3) require adherence to the Plan as a condition of employment;
- (4) require a commitment by management to monitor employee compliance with the Plan;
- (5) require periodic training sessions on the house policies and procedures in the Plan, and on the techniques of responsible service of alcohol taught in the Alcohol Training and Education Seminar required by 62A-15-401, such as:
  - (a) identifying legal forms of ID, checking ID, and recognizing fake ID;
  - (b) identifying persons under the age of 21;
  - (c) discussing the legal definition of intoxication;

- (d) identifying behavioral signs of intoxication;
- (e) discussing techniques for monitoring and controlling consumption such as:
  - (i) drink counting;
  - (ii) slowing down alcohol service;
  - (iii) offering food or nonalcoholic beverages; and
  - (iv) cutting off alcohol service;
- (f) discussing third party or "dram shop" liability for the unlawful service of alcohol to intoxicated persons and persons under the age of 21 as outlined in 32A-14a-101 through -105; and
- (g) discussing the potential criminal, civil and administrative penalties for over-serving alcohol, selling, serving, or otherwise furnishing alcohol to persons who are intoxicated, or to persons who are under the age of 21.

The licensed business may choose to include in the Plan incentives for those employees who deserve special recognition for their responsible service of alcohol.

The Plan must be available on the premises of the licensed business: (1) so as to be accessible to all employees of the licensed business who are involved in the sale, service or furnishing of alcohol; and (2) for inspection by representatives of the commission, department and by law enforcement officers.

Any licensed business that fails to submit to the department a Plan as directed by the commission, or to have a Plan available for inspection, shall be subject to the immediate suspension or revocation of its current license, and shall not be granted a renewal of its license by the commission.

The department, at the request of a licensed business, may provide assistance in the preparation of a Plan.♦

## Minors: A Major Issue...

### Additional Covert Underage Buying Operations Show Results

By Tom Zdunich

During a recent Commission Meeting, Commissioners were alarmed at the number of violations that involved the sale of alcohol beverages to minors. The violations were the result of covert underage buying operations (Cub-Op) that were performed over the past two months by both local and state liquor law agents.

Some of our licensees that have been in business for years were caught selling alcohol to minors. Some of those licensees assumed that if their employees had been

through server training classes, adequate attention had been paid to the issue. Although server training addresses the issue of underage drinking, there seems to be more need for consistent reminders of the problem.

Last year 76 DABC licensees received violations derived from the referrals of the different law enforcement agencies around the state. Of those 76 violations, 35 were for the sale of alcoholic beverages to minors (46%)

According to research published

in the National Liquor Law Enforcement Association (NLLEA) newsletter, the Cub-Op performed by law enforcement agencies has the most effective results when performed on a regular basis.

In the past, most of our licensees have been visited by state liquor law enforcement officers once a year. In the future it is possible that our licensees could be visited with more frequency and the Cub-Op might be a part of the additional visits.♦

## Don't Use "Volunteers" in the Service of Alcohol!

By Abe Kader

Some of our club, restaurant, and beer licensees have gotten into trouble for allowing friends, relatives, club members, off-duty employees, and even customers to get involved in activities that are normally done by on-duty employees. In each instance, the licensee was found responsible for violations committed by these "volunteer" workers.

In one case, a restaurant got busy and the owner's relative, who was visiting from out-of-state, started serving alcohol to other customers one of which happened to be an underage police decoy. The licensee unsuccessfully tried to argue that because their relative was not a *paid* employee, the restaurant should not be held responsible for the violation. However, because the relative was performing the duties of an employee, the restaurant was found in violation. The law does not differentiate between paid and unpaid "employees"

We've seen situations where off-duty employees who have been consuming alcohol, have gone behind the bar and started serving alcohol to themselves and others, or performing other duties normally associated with those of an employee such as changing out a keg, ringing up a sale at the cash register, bussing the tables, etc.). In these instances, the bar was cited for allowing consumption on duty, and where the employees served themselves, the bar could alternatively have been cited for allowing patrons to

serve themselves.

In another case, a fraternal club member volunteered to work the door, and unfortunately allowed persons who were not members of the club in – one of which was an undercover liquor agent. The club was issued a non-member entry and sale violation based on the conduct of a well-intending fraternal brother.

The most blatant case involved a bar that allowed an extremely intoxicated customer to serve others and bus tables in return for free drinks.

The bar was cited for serving an intoxicated patron,

allowing her to serve herself while in that condition, and providing alcohol without charge.

The law expressly provides that "a patron may only make alcoholic beverage purchases ... from and be served by a person employed, designated, and trained by the

licensee to sell, dispense, and serve alcoholic beverages." The only exception is where a patron in a club or restaurant has either purchased or brought in a bottle of wine, and then serves it to those at the patron's table.

In summary, never allow anyone other than on-duty employees to perform duties relating to the sale, service, storage, or furnishing of alcoholic beverages, or other related duties outlined in the Alcoholic Beverage Control Act.♦

***The most blatant case involved a bar that allowed an extremely intoxicated customer to serve others and bus tables in return for free drinks.***

## Food Availability in Private Clubs

by Earl Dorius

A local health department in the Salt Lake valley recently advised us that their routine health inspections indicate that a growing number of private clubs are not providing food service. Indeed, many of the kitchens in these clubs have been neglected and cannot be approved by the health department.

The law clearly requires clubs to have food available at all times when alcoholic beverages are sold, served, or consumed on the premises. Utah Code Section 32A-5-107(19). Some clubs have contended that they meet this requirement and do not need to maintain even a small kitchen as long as they make food available in vending machines or by allowing

customers to order take-out and delivery from food establishments located off of the club premises (i.e. pizza delivery).

The private club laws require more than this. 32A-5-102(1)(f) requires all clubs (Class A, B, C, and D) to provide evidence that they operate a club "where a variety of food is prepared and served in connection with dining accommodations."

Clubs are also required to maintain an expense ledger or record showing in detail all expenditures for food purchased, balanced each month supported by delivery tickets, invoices, receipted bills, cancelled checks, petty cash vouchers, or other sustaining data or memoranda. 32A-

5-107(10).

Thus, a club must maintain its own food inventory supported by monthly documentation of expenditures for food purchases. It must also have sufficient culinary facilities to "prepare" a "variety of food," and must "serve" the food in connection with "dining accommodations." This does not necessarily require a large-scale kitchen operation. But it must be sufficient enough to prepare a variety of menu items that are then served by the club.

Finally, it is the club's responsibility to comply with all state and local health standards with respect to its food operations.♦





Department of the Treasury

Alcohol and Tobacco Tax and Trade Bureau

TTB

Press Release

For Immediate Release

(REVISED APRIL 22, 2005)

## Suspension of Special Occupational Tax Payments

Washington, D.C. - On October 22, 2004, H.R. 4520, the American Job Creations Act of 2004, was signed into law. As part of this act, the payment of Special Occupational Tax (SOT) will be suspended for certain businesses.

Although most taxpayers no longer will have to pay this tax during the suspension period, others will still be required to continue paying, and all taxpayers must still file the SOT Tax Return (TTB Form 5630.5) annually with the Alcohol and Tobacco Tax and Trade Bureau (TTB).

Currently, SOT is due by July 1 of every year for most businesses engaged in alcohol and tobacco industries at the manufacturing, wholesaling/importing, and retailing levels (tobacco retailers are not included).

With this new law, most SOT taxpayers will no longer be required to pay this tax for the period beginning July 1, 2005. The suspension of the SOT requirement will last three years and ends on June 30, 2008. No SOT is due for operations conducted between these dates.

Payment of SOT will no longer be required from producers, wholesalers, importers, and retailers of alcohol beverages, as well as manufacturers of non-beverage products.

## License Renewals

by Neil Cohen

**P**ublic liquor licenses fall under **four** categories; full service restaurant, limited service restaurant, airport lounge, and on-premise banquet. These licensees will receive a renewal application in early September. The renewal documents and fees are due on Friday, September 30, 2005.

### Full Service Restaurants

**Renewal fees** are based on the annual cost of liquor, wine, and heavy beer purchased from the DABC state store system (gross cost of liquor). 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 restaurant that is renewing for the first time, the DABC will calculate the renewal fee based on the

projected cost of liquor from any financial statements that have been provided to the DABC or from data in the state store system.

### Limited Service Restaurants

Limited restaurant licensees will receive a renewal packet with forms that need to be filled out and submitted with the renewal fee of \$300.

### Airport Lounges

Currently licensed airport lounges will receive a renewal packet with forms that need to be filled out and submitted with the renewal fee of \$500.

### On-Premise Banquet Licensees

The renewal fee for an on-premise banquet license is \$500. Licensees will receive a renewal notice from the DABC in early September.

...Continued on the next page

**License Renewals***Continued from the previous page***Administrative Details**

Please remember, you must send in your completed renewal application by Friday, September 30<sup>th</sup>. This deadline is set by the legislature and we can not extend it. If you miss this deadline, you can not *renew*. You will have to *re-apply* for your license. This means you will have to pay for an additional application fee and initial license fee. Please do not wait until the last minute.

You may either hand deliver (by 5:00 pm on September 30<sup>th</sup>) the completed renewal or we will accept a postmark up to and including September 30<sup>th</sup> as timely. You do *not* have to pay extra for overnight mail to get it here. If for some reason you bring your renewal to the post office on September 30<sup>th</sup>, 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 September 30<sup>th</sup>, you can get that date's postmark.

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 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.♦

**E=MC<sup>2</sup>....The DABC at the speed of light**

by Keith Zuspan

Do you renew your drivers license on-line?

Do you renew your vehicle registration on-line?

Have you completed alcohol server training on-line?

Did you know the "Compliance Connection" is available on-line?

If you have answered yes to any of these questions, we need your feedback.

***Would you renew your DABC license on-line?***Drop us an email at [DABCsurvey@utah.gov](mailto:DABCsurvey@utah.gov).

Put "Survey Says" in the subject line and give us your comments.

Thanks!

**On-line Resources at The DABC Website**

By Neil Cohen

The DABC website is [www.abc.utah.gov](http://www.abc.utah.gov).

Our website has a link to a list of the following current licensees:

On Premise Beer/Private Club/Restaurant/Airport Lounge/Banquet Catering/Restaurant Limited/Tavern. The lists are sorted by county: [http://www.abc.utah.gov/license\\_permit/lic\\_perm\\_main.html](http://www.abc.utah.gov/license_permit/lic_perm_main.html)

Other links:

- ☛ complete price list: [http://www.alcbev.state.ut.us/Products/products\\_main.html](http://www.alcbev.state.ut.us/Products/products_main.html)
- ☛ application packets: [http://www.alcbev.state.ut.us/license\\_permit/lic\\_app.html](http://www.alcbev.state.ut.us/license_permit/lic_app.html)
- ☛ server training information: [http://www.alcbev.state.ut.us/license\\_compliance/serv\\_train.html](http://www.alcbev.state.ut.us/license_compliance/serv_train.html)
- ☛ server training classes: <http://www.hsdsa.utah.gov/stateapprovedproviders.htm>
- ☛ how to look up a server's training record: <http://www.hsdsa.utah.gov/beverageserverreports.htm>
- ☛ liquor store locations: [http://www.abc.utah.gov/Stores/locate\\_store.html](http://www.abc.utah.gov/Stores/locate_store.html)
- ☛ past issues of this newsletter: [http://www.alcbev.state.ut.us/license\\_permit/newsletter\\_main.htm](http://www.alcbev.state.ut.us/license_permit/newsletter_main.htm)
- ☛ the DABC annual report: [http://www.alcbev.state.ut.us/Background/annual\\_rpt.html](http://www.alcbev.state.ut.us/Background/annual_rpt.html)
- ☛ links to other government sites: <http://www.alcbev.state.ut.us/links.html>

## News From Other States... Don't Horse Around with the DUI Laws

By John Bryant

According to an article in the "State Capitals Newsletter", Millard G. Dwyer, a resident of Somerset, Kentucky, found himself back in the saddle again, but unfortunately he also found himself back in jail again after police said he was drunk at the reins. Dwyer, age 42, who was arrested two months ago for being drunk on a horse, was weaving in the middle of the road and holding up traffic near the city limits. When police found him, Dwyer was riding on State Highway 80 just west of Somerset, headed east toward the city. There was a tractor-trailer and a long line of traffic behind him. Dwyer told police "that the horse needed exercising, and

he was just out exercising it".

The law under which Dwyer was charged defines a vehicle as any device used to transport people on a public roadway. Police couldn't get a good reading on Dwyer's blood-alcohol level because he refused to blow fully into a Breathalyzer. The reading they got showed Dwyer's blood-alcohol level at 0.111. The legal limit in Kentucky is 0.08.

Dwyer was taken to the Pulaski County Detention Center and held under a \$1,000 bond. Police reported he posted bond the next day and was released. His mother came and got the horse. ♦

### Compliance Comix



The Vernal Liquor Store

## Proper Math Is a Factor in Checking Id's

By Tom Zdunich

In another article in this Licensing Newsletter, attention was drawn to the number of violations that involved the sale of alcohol to minors (there were 35 in one year). Additional attention should be drawn to the 28 out of those 35 violations where the server asked for and received a proper ID and then proceeded to serve the minor without doing the math.

Situations involving miscalculation of dates on ID's come from the fact that most of the Cub-Ops are performed at peak business times.

Some steps that can be taken to enhance the proper date screening for ID's include:

- ▶ Ask for a daily posting on the premises of the

proper date that would indicate that an individual is 21 years of age or older (see box below).

- ▶ After you have asked for an ID, write down the date of birth from that ID on the order ticket for food (this allows for a second opportunity to catch a mathematical mistake).
- ▶ If you can't do the math, have someone else look at the ID.
- ▶ Make sure you view the ID in adequate lighting.

These are simple steps that might help in your efforts to keep alcohol service from minors and to avoid a possible violation.♦

### Simple Math.

Anyone born on today's date or before in 1984 is 21 or older.

## An Update on Sales Tax Issues for Liquor Licensees

...or how to avoid double taxing your customers

by Neil Cohen

When you, a liquor licensee, buy liquor from the DABC, the price includes the sales tax. So when you sell a mixed drink, heavy beer, bottle of wine, or wine by the glass, the liquor portion cost that is included in the price (of the drink, glass or bottle of wine, or heavy beer) already includes the sales tax.

There are two sales tax options: 1) you may add sales tax only to the set up or corkage portion of the drink price, or 2) you can set your prices to include all taxes and program your cash registers *not* to add any additional tax.

Most licensees find it too cumbersome to calculate the liquor cost portion of the selling price and program the cash registers to add tax to the set-up part. This is because the liquor cost portion (prices in the liquor stores) may change each month.

It is perfectly acceptable to ring up your drink sales "tax inclusive" (not unlike a small coke at the movie theater being \$2.50 instead of \$2.69). You, the business person, would still have to pay sales tax on the set-up part, but you will have collected the tax in the inclusive selling price from the customer. Calculating how much sales tax to pay: On your sales tax return, add up your gross receipts and subtract your cost of liquor. The remainder is net taxable

receipts. The cost of liquor is *exempt from tax* because you *already paid* the sales tax when you bought the liquor at the state store. You then calculate the sales tax due on the net receipts and pay it to the tax commission.

Many consumers know this, so if you charge tax on the *total price* of the wine, liquor, or heavy beer, you are double charging the customer for a portion of the sales tax.

Now in the case of 3.2% beer, you *do* buy that wholesale. Your options for adding tax or including tax in the selling price are the same, but you need to *pay* the tax on the *entire* selling price. You cannot subtract the cost of beer because you didn't pay sales tax when you bought the beer from the wholesale distributor.

That covers the state sales tax issue, but in some counties, there is a one percent tourism tax. This tax is not imposed in all counties. But where it is, you have to pay the one percent tax on *all* of your gross food and beverage receipts (this is also called the "Restaurant Tax"). You may not subtract out the cost of liquor, BUT you *may* subtract out the SALES TAX you have paid on liquor BEFORE you calculate the one percent tourism tax. This may save you a few dollars.

Please call us at 801-977-6800 or call the tax commission at 801-297-2200 if you have any questions.♦

The Licensing Newsletter 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](mailto:abcmain.hotline@utah.gov) Website: <http://www.abc.utah.gov>

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## Notice to All Beer Wholesalers!

by Earl Dorius

Law enforcement is noting an increase in businesses attempting to sell beer without proper licensing. Some businesses are convenience stores that have failed to obtain a local license. Others are restaurants, clubs and taverns that either have no license, or obtained a local license, but failed to get the state license to sell beer. Some involve changes of ownership where the new business owner has attempted to operate illegally on the prior owner's license.

Typically, during these investigations, law enforcement officers attempt to determine where the business got the beer. If from out-of-state, the business can be cited for unlawful importation in addition to operating without a license. But if the beer was supplied

by a Utah beer wholesaler, the matter is usually referred to our department for administrative action on the beer wholesaler's license. However, the Utah Department of Public Safety recently sent a notice to all beer wholesalers stating that in the future their department intends to refer these cases not only to the DABC, but to local prosecutors for criminal action. This is because the sale or distribution of beer to an unlicensed retailer is a class A misdemeanor. See Utah Code Section 32A-11-106(3).

To help Utah's beer wholesalers comply with the law, our department now posts on a monthly basis all currently licensed on-premise accounts (taverns, on-premise beer retailers, private clubs, full-service restaurants, and limited restaurants) on our web site:

[www.abc.utah.gov](http://www.abc.utah.gov). From our home page, click on "Licenses & Permits" then on "Current Licensees". These accounts are listed by county to help you easily find those accounts in your geographic area. Our department does not license the off-premise accounts, so we do not have a list of the grocery and convenience stores in your area. You will need to check with local licensing authorities to obtain that information.

One final thought - Don't take the business's word for it when they say they are licensed. Insist on seeing the local and state license (which should be prominently posted somewhere in the establishment).

Hopefully, if we work together, we will see a reduction in these types of cases.♦

## Miscellaneous Beer Laws

by Al Potvien

Here are some important reminders for wholesale and retail beer licensees ...

► Beer wholesalers may only provide beer to (a) licensed on-premise beer retailers (holding both a state and local license); (b) locally licensed off-premise beer retailers; and (c) holders of temporary event beer permits or single event permits issued by state and local authorities. Beer wholesalers are often pressured by groups that have not obtained the necessary temporary permits to supply beer for their events. Supplying beer to them is illegal. Some groups (whether holders of permits or not) take it a step further by pressuring beer wholesalers to furnish beer to them without charge. Utah Code Section 32A-12-606(1) provides criminal penalties if a beer industry member (including a beer wholesaler) directly or indirectly or through an affiliate gives away any of its alcoholic beverage products to any person.

► Beer retailers must purchase the beer they sell from the licensed beer wholesaler authorized to sell beer in the geographical area in which the beer retailer is located. One exception is that a retailer may buy beer directly from a licensed "small brewery" that produces less than 60,000 barrels per year.

► On-premise beer retailers may sell beer between the hours of 10 a.m. and 1 a.m. However, the days of sale may be regulated by local authority – and some restrict sales on Sunday and during elections. The beer does not have to be locked during non-sales hours (unlike liquor, wine and heavy beer which must be locked during off-

hours).

- The hours and days of sale for off-premise beer retailers are exclusively regulated by local government authorities.
- On-premise beer retailers may sell beer to go in sealed containers (no "cups to go").
- Beer may not be brought ("brown-bagged") onto the premises of an on-premise beer retailer, private club or restaurant.
- Off-premise beer retailers that sell 3.2% malt beverages other than beer (i.e. malt-based coolers) must display a sign at the location where the product is sold stating: "Many malt beverages contain alcohol. Please read the label."
- Beer may not be sold or possessed for off-premise consumption in containers larger than two liters (no kegs).
- A minor may not sell beer for an off-premise beer retailer except under the supervision of an adult who is on the premises.
- A minor may not be employed by an on-premise beer retailer to sell, dispense, or otherwise furnish beer. However, a minor may be employed to enter the sale at a cash register or other sales recording device. Of course a minor is never allowed on the premises of an on-premise beer retailer that is a tavern.
- Malt beverages may not be sold or distributed if they are not clearly labeled in a manner reasonably calculated to put the public on notice that the beverage is an alcoholic beverage. For example, this law is satisfied if the label says "beer" or "alcoholic beverage". Listing the percentage of alcohol is optional.♦

## Minors in Private Clubs

by Stephne Hanson

Just some reminders about minors in private clubs ...

• **Memberships & Visitor Cards.** A minor may not be a member of any private club or be issued a visitor card. However, the minor child of a member of a class A country club is entitled to all the rights and privileges of the member to the extent permitted by the bylaws or house rules of the club except to the extent restricted by the ABC Act.

Otherwise, a minor may only be admitted to and be on the premises of a club if: (a) the law allows a minor on the premises of that type of club, and (b) the minor is properly hosted by an adult member or holder of a current visitor card.

• **Lounge or Bar Areas.** A minor may not be admitted into, use, or be on the premises of a lounge or bar area of any private club. A "lounge or bar" area includes: (a) the bar structure where alcoholic beverages are stored, dispensed or served; (b) any area in the immediate vicinity of the bar structure where the sale, service, display and advertising of alcoholic beverages is emphasized; or (c) any area that is in the nature of or has the ambience or atmosphere of a bar, parlor, lounge, cabaret or night club.

Commission rule does allow a minor who is otherwise permitted to be on the premises of a class A, B ("fraternal") or C ("dining") club to momentarily pass through the club's lounge or bar area en route to those areas of the club where the minor is permitted to be. However, no minor may remain or be seated in the club's bar or lounge area.

• **Sexually Oriented Entertainment.** A minor may never be admitted into or be on the premises of any private club: (a) that is licensed by local authority as a sexually oriented business; (b) that allows any person on the premises to dance, model, or be or perform in a state of nudity or semi-nudity; or (c) that shows films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of specified anatomical areas or

specified sexual activities listed in Commission Rule R81-5-16.

• **Minors in Class D ("social") Clubs.** As a general rule, a minor may not be admitted into or be on the premises of a Class D club except under the following circumstances:

- To dine or attend a function before 1 p.m. and (a) no alcoholic beverages are being sold, served, furnished, or consumed on the premises; (b) the minor is accompanied at all times by the minor's parent, legal guardian, or spouse that is a member or current visitor card holder; and (c) the club has a full kitchen and is licensed by the local jurisdiction as a food service provider.

- The club qualifies for and has obtained a dance or concert hall permit under the strict conditions and operational restrictions outlined in Utah Code Section 32A-5-107(d) through (l).

- The minor is lawfully employed by the club under two narrow circumstances outlined below.

• **Employment of Minors.** A minor may be employed by a Class A, B, or C club, but may not work in any lounge or bar area, or sell, dispense, or handle alcoholic beverages. A minor may work at a cash register in a Class A or Class C club to ring up the sale of alcoholic beverages.

A minor may not be employed by a class D club except: (a) to perform maintenance and cleaning services during hours when the club is not open for business; or (b) when the club is owned or operated by the minor's parent or legal guardian. However, a minor may never be employed to sell, dispense or handle alcoholic beverages.

• **Local Restrictions.** State law provides that a local government may be more restrictive of a minor's admittance, use of, or presence on the premises of any private club than those guidelines outlined above. So always consult with local authorities to see if their ordinances are more restrictive!♦

### Free training....

*Free liquor law training is available to all licensees and their employees. This training helps licensees to understand the alcoholic beverage laws, 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 specific questions and concerns. 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.*

## Violations and Penalties

by Chris Johnson

Below is a list of the most recent violations and penalties assessed for all licensees. 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!!

CL = Private Club Liquor

OPB = On-Premise Beer

TV = Taverns

RE = Full Service Restaurant

RL = Limited Service Restaurant

TB = Temporary Beer permittees

SE = Single Event Permittees

BW = Beer Wholesaler

\* = Prior Violation History

License Type	Name of Establishment	Description of Violation(s)	Penalty Assessed
RE	Alforno's, Salt Lake	<ol style="list-style-type: none"> <li>1. Open bottles not affixed to a dispensing system</li> <li>2. Unlocked storage</li> </ol>	<ol style="list-style-type: none"> <li>1. Fine of \$500.00 plus costs</li> <li>2. Dismissed</li> </ol>
RE	Asian Star, Salt Lake	<ol style="list-style-type: none"> <li>1. Open bottles not affixed to a dispensing system</li> </ol>	<ol style="list-style-type: none"> <li>1. Fine of \$500.00 plus costs</li> </ol>
CL	Cheaters Lounge, Ogden	<ol style="list-style-type: none"> <li>1. Improper guest hosting</li> <li>2. Issuing a membership w/o collecting fee</li> </ol>	<ol style="list-style-type: none"> <li>1. Fine of \$250.00 plus costs</li> <li>2. Dismissed</li> </ol>
RE	Firehouse BBQ Grill, Salt Lake and Justin Coffman (employee)	<ol style="list-style-type: none"> <li>1. Open bottles not affixed to a dispensing system</li> <li>2. Unlocked storage</li> <li>3. Expired server training card</li> <li>4. No server training records on premise</li> </ol>	<ol style="list-style-type: none"> <li>1. 5 day license suspension</li> <li>2. Dismissed</li> <li>3. Fine of \$150.00</li> <li>4. Fine of \$100.00 plus costs</li> </ol>
CL	Crazy Goat Saloon, Salt Lake	<ol style="list-style-type: none"> <li>1. Non-member entry &amp; sale</li> </ol>	<ol style="list-style-type: none"> <li>1. Written warning</li> </ol>
RE	Lodge Bistro @ Snowbird resort, Salt Lake and Carrie Rutherford (employee)	<ol style="list-style-type: none"> <li>1. Sale to minors</li> </ol>	<ol style="list-style-type: none"> <li>1. Fine of \$3,000.00 plus costs</li> </ol>
RE	Mi Ranchito Mexibachi Grill, South Jordan and Gustavo Cansino (employee)	<ol style="list-style-type: none"> <li>1. Employee consuming on duty</li> <li>2. Furnishing A/B to minors</li> <li>3. Serving A/B without an order for food</li> <li>4. Selling &amp; allowing consumption at a bar</li> <li>5. Over the bar service to patrons</li> <li>6. Selling A/B after hours</li> <li>7. Unlocked storage</li> <li>8. No ID badge</li> </ol>	<ol style="list-style-type: none"> <li>1. 7 day license suspension</li> <li>2. 7 day license suspension</li> <li>3. Fine of \$150.00</li> <li>4. Fine of \$150.00</li> <li>5. Fine of \$150.00</li> <li>6 &amp; 7. Fine of \$250.00 plus costs</li> <li>8. Written warning</li> </ol>
CL	Molly Greens Pub, Brighton and Doug Campbell (employee)	<ol style="list-style-type: none"> <li>1. Employee consuming on duty</li> <li>2. Sale to minors</li> <li>3. Allowing minors in the bar area of a class "C" club</li> <li>4. Non-member entry &amp; sale</li> </ol>	<ol style="list-style-type: none"> <li>1. 7 day license suspension</li> <li>2. 7 day license suspension</li> <li>3. Fine of \$1,000.00</li> <li>4. Fine of \$250.00 plus costs</li> </ol>
RL	Noodles & Co., Murray and Shalea K Parkes (employee)	<ol style="list-style-type: none"> <li>1. Sale to minors</li> </ol>	<ol style="list-style-type: none"> <li>1. 5 day license suspension plus costs</li> </ol>

License Type	Name of Establishment	Description of Violation(s)	Penalty Assessed
RE	Old Spaghetti Factory, Orem and Shane W Smith (employee)	1. Sale to minors	1. 5 day license suspension plus costs
RE	Salt Lake Pizza and Pasta, Salt Lake	1. Open bottles not affixed to a dispensing system 2. Unlocked storage	1. Fine of \$500.00 plus costs 2. Dismissed
CL	Shaggy's Livin Room, Salt Lake	1. Non-member entry & sale *	1. Fine of \$500.00 plus costs
RE	Silver Fork Lodge, Salt Lake and Shyla Christensen (employee)	1. Sale to minors	1. 5 day license suspension plus costs
CL	Sitzmark @ Alta Lodge, Alta and Michael Beppu (employee)	1. Sale to minors 2. More than two A/B at a time 3. Food available at all times	1. 6 day license suspension 2. Fine of \$250.00 plus costs 3. Dismissed
CL	Tracks Brewing, Tooele	1. Allowing patrons to have more than two A/B before them 2. Non-member entry & sale	1. Fine of \$250.00 2. Fine of \$250.00 plus costs
RE	Tucci's, Salt Lake and David Durrant (employee)	1. Sale to minors	1. 5 day license suspension plus costs
CL	Zanzibar, Salt Lake and Matt Foley, Tennille Petty and Jeremy Radford (employees)	1. Non-member entry & sale *	1. 3 day license suspension and a fine of \$500.00 plus costs
TV	Andy's Place, Salt Lake and Derek Johnson and Bryce Margardt (employees)	1. Allowing patrons to leave with open containers 2. Giving away free drinks	1. 6 day license suspension 2. Fine of \$500.00 plus costs
RE	Baja Cantina, Park City and Wes Morrison (employee)	1. Sale to minors	1. 5 day license suspension plus costs
RE	Cedar Creek Grill, Salt Lake and Mirza Miljkovic (employee)	1. Sale to minors	1. 5 day license suspension plus costs
CL	J & J Lounge, Tooele	1. Consumption on duty 2. Allowing patrons to leave with open containers	1. 6 day license suspension 2. 6 day license suspension plus costs
BE	New East Sea Restaurant, West Valley	1. No warning sign 2. No ID badge	1& 2. Written warning
TV	Other Choice, Tooele	1. Allowing patrons to bring A/B onto the premises for consumption 2. Allowing patrons to leave with open containers	1. Fine of \$650.00 plus costs 2. 6 day license suspension
TV	Penney's Services, Stockton	1. Allowing patrons to leave with open containers	1. 5 day license suspension plus costs

License Type	Name of Establishment	Description of Violation(s)	Penalty Assessed
RL	Takashi, Murray and Bonnie Price (employee)	1. Sale to minors	1. Fine of \$3,000.00 plus costs
RL	Shane W Smith, employee of Old Spaghetti Factory, Orem	1. Sale to minors	1. 5 day suspension
RE	Allie's American Grill, Salt Lake and Jennifer Bryant (employee)	1. Sale to minors	1. 5 day license suspension plus costs
BE	Big Ed's, Salt Lake and Mary White (employee)	1. Sale to minors 2. Employee consuming on duty 3. No ID badge	1. 7 day license suspension plus costs 2. 7 day license suspension 3. Dismissed
RL	Chef Tom's Italian Café, Taylorsville and Kelly Overall (employee)	1. Sale to minors	1. 5 day license suspension plus costs
BE	Chubby's, Salt Lake and Jennifer E Koontz (employee)	1. Sale to minors 2. No ID badge	1. 6 day license suspension plus costs 2. Written warning
CL	David's, West Valley and Vickie Herd (employee)	1. Sale to minors 2. Sold a visitor card to a minor	1. 6 day license suspension 2. Fine of \$600.00 plus costs
RE	Desert Star Cowboy Steakhouse, Murray and JennyLyn Little (employee)	1. Sale to minors	1. 5 day license suspension plus costs
CL	Doolan's Bar & Grill, Park City and Joseph R Hauck (employee)	1. Sale to minors 2. Minors on the premises of a class "C" club 3. Non-member entry & sale 4. Wrong ID badge	1 & 2. 7 day license suspension 3. Fine of \$250.00 plus costs 4. Written warning
TV	Family Benefit Association, Tooele	1. Minors on the premise of a tavern 2. Allowing patrons to leave with open containers	1. 6 day license suspension 2. 6 day license suspension plus costs
CL	Game Room Club, Tooele and Joel L Love and Steve Nickell (employees)	1. Sale to minors 2. Minors on the premises of a class "D" club 3. Sold a visitor card to a minor	1 & 2. 6 day license suspension 3. Fine of \$600.00 plus costs
RE	House of Kabob, Salt Lake and Eddy Cordova (employee)	1. Sale to minors 2. No ID badge	1. 6 day license suspension plus costs 2. Written warning
BE	New East Sea Restaurant, West Valley and Trang Dinh (employee)	1. Sale to minors 2. No ID badge	1. 6 day license suspension 2. Fine of \$100.00 plus costs
TV	One and Only, St George and Deana Bundy and David Homer (employees)	1. Sale to minors 2. Minors on the premise of a tavern	1 & 2. 6 day license suspension plus costs

License Type	Name of Establishment	Description of Violation(s)	Penalty Assessed
RE	Romano's Macaroni Grill, Murray and Maricela L Miranda (employee)	1. Sale to minors	1. Fine of \$3,000.00 plus costs
RE	Szechwan Chinese Kitchen, Park City and Nicholas S Djuana (employee)	1. Sale to minors	1. 5 day license suspension plus costs
AL	Terrace Restaurant and Lounge, Salt Lake and Jon Goodro (employee)	1. Sale to minors	1. Fine of \$3,000.00 plus costs
RE	Totem's Café & Steakhouse, Salt Lake and Merri Ann Skinner (employee)	1. Sale to minors	1. 5 day license suspension plus costs
CL	Hog Wallow Pub, Salt Lake and Pamela Beach and Robert Carroll (employees)	1. Sale to minors 2. Minors on the premises of a class "D" club 3. Non-member entry & sale	1& 2. 7 day license suspension 3. Fine of \$250.00 plus costs
CL	The Huddle Sports Bar & Grill, Salt Lake and Kimberly A Bonomo and Patrick Mannos (employees)	1. Sale to minors 2. Minors on the premises of a class "D" club	1& 2. 5 day license suspension and a fine of \$1,000.00 plus costs
CL	Market Street Oyster Bar, Cottonwood	1. Minors in the bar area of a class "C" club	1. Fine of \$500.00 plus costs
CL	Duvan's Karamba, Salt Lake	1. Selling A/B after hours	1. Written warning
RL	Samurai 21, St George and April Bundy (employee)	1. Sale of A/B before legal selling hours	1. Written warning
CL	Whiskey, Murray and Tonya Capson and Tina Halowell (employees)	1. Allowing lewd acts 2. Allowing lewd acts 3. Allowing lewd acts 4. Sale to intoxicated persons 5. Employee consuming on duty	All counts 30 day license suspension plus costs

## Missing Employees

The DABC is attempting to locate the following individuals that either currently or previously worked for the licensees listed below. We have adjudicated violations with the licensees, but the employees either could not be located or did not attend the proceedings when the violations were adjudicated. If any of these employees are currently working for your business, please have them immediately contact Chris Johnson in the Licensing & Compliance Division at 801 977-6800.



Michael Aaron - Head's Up  
 Stan G. Allen - The Standard  
 Anita Anderson - Tony Romas (Sandy)  
 Braeden M. Brinton - The Standard  
 Sara Bryson - Mimi's Café (Orem)  
 Deana Bundy - One & Only  
 David Durrant - Tucci's (Salt Lake)  
 Kristina M. Erskine - Asuka Japanese Sushi  
 Robert J. Gardner - Juhl Hause Deli & Market

David Homer - One & Only  
 Derek Johnson - Andy's Place  
 Lacey B. Miller - World Famous Woody's Tavern  
 Shalea K. Parkes - Noodles & Co. (Murray)  
 Bryce Pearson - Old Spaghetti Factory (Salt Lake)  
 James D. Santini - P.F. Chang's (Orem)  
 Christine Weidner - Chili's (St. George)  
 Jamie Wilson - Ruby Tuesday's (St. George)



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