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Violation Prevention

On pages 6 and 7 of this newsletter, is a list of the violations and penalties for the previous four months. The DABC compliance specialists are committed to visit with all licensees throughout Utah for the purpose of training staff and management on the liquor laws, reviewing compliance issues, and answering questions in order to make sure licensees have the information they need to operate within the guidelines of the liquor laws and to avoid being cited for any violations.

The liquor law enforcement agencies on the state and local levels, routinely check the licensees for violations by way of undercover investigations, responding to complaints, or conducting open premise inspections. Previous editions of this newsletter have contained articles on checking IDs, preventing intoxication and over-service, and various ways to stay violation free.

This newsletter features a special "Violation Prevention" section. Included are three articles on recently cited violations; allowing open containers to go, employees drinking on the job, and serving too many drinks to one person. There are also two reminder articles on club advertising and checking IDs to prevent sales to minors.

If you would like a compliance specialist to conduct a free violation prevention training session for your staff, please call the DABC Compliance Division at 801-977-6800.

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
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The Alcoholic Beverage Control Commission meets once a month toward the end of each month. Meeting dates and times are subject to change.

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. Call 801-977-6800 for the current schedule.

Violation Prevention Section

Open Container – To Go?

By Al Potvien

Recently, we have been receiving far too many reports from law enforcement against our licensees for allowing patrons to leave with open bottles of beer. The law states that a licensee/permittee and its employees may not permit a patron to carry from the premises an open container that is used primarily for drinking purposes and contains any alcoholic beverage.

The cases we are getting typically involve undercover officers who openly, and in plain view, leave with open containers. The officers are not sneaking out with the beverages. Rather, they typically hold the beverage in front of them above their waist in an effort to draw an employee's attention to it. They attempt to establish eye contact with an employee, and in some instances even engage the employee in conversation before exiting the premises with the beverage.

The law does allow on-premise beer retailers, taverns, private clubs and restaurants to sell 3.2% beer to

go in sealed containers. However, this law does not allow patrons to leave with open containers of alcohol. Also, remember that in restaurants that hold either a full service liquor license or limited (wine/beer) license, patrons must also meet the "dining" requirement that alcoholic beverages may only be purchased in connection with an order for food prepared, sold and served at the restaurant.

The officers are not sneaking out with the beverages. They hold the beverage in front of them in an effort to draw an employee's attention to it.

We urge door persons, hosts, hostesses, servers, and other employees to carefully monitor patrons as they leave to ensure that they do not leave with open containers of alcohol. We also urge licensees to make sure you have sufficient staff to monitor the exit doors of your business.♦

All employees....not just one.....

By Stephne Pilling

We are reminding all of the licensees that it is for your own protection, safety, and security that you comply with the law that prohibits employees, while on duty, from consuming an alcoholic beverage or from being intoxicated.

We have seen situations where the bar gets busy and the off-duty personnel, including managers,

owners and staff who have been consuming alcohol at the premises, have gone behind the bar to help change a keg, wait on a customer, change a cash register tape, or just get ice....you get the picture. In these instances, the bar was cited for allowing an employee to consume alcohol while on duty.

The establishment can still be cited even though the person

consuming alcohol did not clock in, or was not being paid; the law does not differentiate between paid and unpaid "employees". The person just has to get involved in activities that are normally done by on-duty employees.

And keep in mind..... If a license is suspended, it's tough on *all employees* to be shut down for a violation.♦

Three Shots and You're Out

by Abe Kader

In the past year there have been 12 reported violations issued to private clubs for allowing a patron to have more than two alcoholic beverages at a time and to have more than 2.75 ounces of spirituous liquor at a time before the patron. In one case the patron bought five shots of liquor at the bar and took them to his table for himself.

This type of violation is classified as a "Serious" offense. The penalty range for a serious violation for a first offense is a 5 to 30 day license suspension and/or \$500 to \$3,000 fine. A second serious violation is a 10 to 90 day license suspension and/or \$1,000 to \$9,000 fine and a third serious violation is a 15 day suspension to revocation and/or \$9,000 to \$25,000 fine.

The law states that "Each club patron may have no more than 2.75 ounces of spirituous liquor at a time before the patron" UCA 32A-5-107 (25) (c) and "Each club patron may have no more than two alcoholic beverages of any kind

If a patron orders more than two drinks at a time, you should have policies in place to confirm that a multiple drink order is not for just one patron.

at a time before the patron." UCA 32A-5-107 (20) (c)

Employees may also be cited for these violations. The penalty range for employees for a first offense is a 5 to 30 day employment suspension and/or up to a \$100 fine. A second offense is a 10 to 90 day suspension and/or up to a \$150 fine and a third offense is a 15 to 120 day suspension and/or up to a \$500 fine.

If a patron orders more than two drinks at a time, your club should have some policies in place to make sure that the bartenders confirm that a multiple drink order is not for just one patron. In essence, it is risky to allow one patron to determine how many drinks are served to other patrons in your bar.

It is the server's, bartender's, and ultimately management's responsibility to monitor the number of drinks and quantity of spirituous liquor that patrons have before them.

...Continued on the next page

Three Shots and You're Out ...continued from the previous page

Here are some suggestions:

➤Do not serve more than two drinks at a time to a patron. This is the simplest policy and pretty much assures compliance. Of course the bartender may have to assess whether the patron *should* be served two drinks as opposed to one at a time.

➤Have the patron tell you how many people the round is for and point them out. The bartender may be able to see if there are already drinks on the table. A problem with this policy is that some of the people at the table may have consumed too much and should not be served any more alcohol. If it is early in the day/evening and it is the first round, it may not be a problem.

➤Have the patron bring the people to the bar that he/she is ordering for. The bartender may be able to determine if there are any suspected minors or intoxicated people in the group.

It may be cheaper to lose out on the sale of a couple of drinks compared to the amount of a fine or the cost of a license suspension if you are cited for serving too many drinks at a time to one person. One shot is ok, two shots may be ok, but three shots and you're out of compliance. To have policies in place could be very helpful especially if it gets very busy or the club is understaffed.

If you establish some policies and follow them, you could reduce your chances of being cited with a violation.♦

MySpace is UrSpace

By Keith Zuzpan

With the explosive expansion of MySpace.com © and other electronic media sites to connect with the public, many private clubs are taking advantage of this forum. Private club advertisements, whether through print or electronic media, must conform with DABC statutes and rules.

Advertising by a club, whether by the club directly, the club employees, or third parties or persons under contract with the club including

DJs, bands, promoters or entertainers must include the phrase, "a private club for members" to clearly identify the establishment as being a private club. In print media, the private club identification information must be no smaller than 10 point bold type.

Additional requirements of Rule 81-5-5 prohibit a private club, its employees, agents, or members, or any person under a contract or agreement with the club to directly or indirectly engage in or participate in any public advertising or promotional scheme that runs counter to the concept that clubs are private and not

open to the general public. These advertising schemes include:

- offering or providing complimentary club memberships or visitor cards to the general public
- offering or providing full or partial payment of membership fees or dues, or visitor card fees to members of the general public
- offering or implying an entitlement to a club membership or visitor card to members of the general public
- offering to host members of the general public into the club.♦

May I See your ID?...

A Tavern's Take on the Subject

By Robert Howe

It was a warm fall afternoon. I decided to go out for a ride on the Harley because it might be the last one of the year as we all know how Utah weather is. I rode down to get a hamburger, fries, beer, and watch football at the Rainbow Saloon.

I sat down at a table and was promptly greeted by Kara. She was polite and immediately requested to see my identification. I provided my driver's license for her to inspect. She took my order and returned with my beverage as a couple sat down at another table. Kara promptly greeted them and asked for their identification also. I told Kara that at first I just thought she was joking with me until I saw her check the couple's IDs. She replied that she checks everyone's identification, it's her job.

As I was finishing my meal and watching the game, about a dozen guys walked into the tavern. They were wearing leather jackets, lots of patches, chains, tattoos - a little boisterous but in good spirits. The group had a box in the corner for donations for "Toys for Tots". One of the

gentlemen looked into the box and was not pleased. He announced to everyone in the tavern that the box was there and they were in need of donations and it was for a good cause.

The group visited with everyone and were having a good time when... Kara walked to the group and asked for IDs. One said he left his outside, another said he was old enough to be her father and a few pulled their wallets out and showed her their IDs. Kara didn't back down. She told them that if they didn't have ID they couldn't stay. A couple of them humbled, walked outside to get their ID and the others quickly found their IDs.

It was nice to see someone take that part of their job seriously and make no exceptions. She not only was protecting her employer but also herself from a possible violation. Taverns and clubs are not allowed to have minors on their premises. Greeting everyone promptly and obtaining their ID helps reduce the possibility of a violation.

...continued on the next page

May I see your ID...**A Tavern's Take on the Subject***...continued from the previous page*

By state statute, acceptable ID or "proof of age" is defined as:

- An identification card that includes date of birth and has a picture affixed;
- An out-of-state identification card with date of birth and has a picture affixed;
- A driver license certificate that includes date of birth and has a picture affixed;
- A military identification card that includes date of birth and has a picture affixed
- A valid passport.

I was talking about checking IDs with a liquor agent. He said that most of the violations during C.U.B. (covert underage buyer) operations occur when the server asks

Although it is this establishment's policy, it is not required by law to check everyone's identification.

for the CUB's identification but doesn't LOOK at the birth date, or the server has poor math skills. Bottom line, avoid violations by asking for IDs as a policy and always be sure to verify the person is old enough. Oh, I did take a toy up for the box the next week!

This is a true incident. Although it is this establishment's policy, it is not required by law to check everyone's identification. The law prohibits selling or serving alcohol to a minor. Also, taverns cannot allow minors on the premises. Minors are restricted on the premises of "Class D" clubs and in the lounge or bar areas of any club.

A person does not have to order an alcoholic beverage before being asked for identification. Of course if the employee questions the age of a person, it is a good policy to verify his/her age.♦

On-Premise Beer License Renewals

By Neil Cohen

On-Premise Beer License renewal forms and fees are due on **Thursday, January 31, 2008**. This is a month before the actual expiration date printed on your current license. We will mail the renewal packet to you by the end of December. If for some reason you do not receive this packet by the first week in January, please call us. The packet contains instructions as to what items must be completed and submitted in order to qualify for renewal of your license.

► **The renewal fee is \$200 for on-premise beer retailers that are not taverns.**

► **The renewal fee for taverns is \$1000.**

Please remember, you must send in or hand in your completed renewal application by **Thursday, January 31**. This deadline is set by the legislature and we cannot extend it. If you miss this deadline, you may 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 January 31**) the completed renewal or **we will accept a postmark** up to and including **January 31** as timely.

Forms A, B, and C will be pre-printed with data

that you submitted for last year's renewal or in your initial application. You will only need to make changes if the data has changed or is incomplete.

In addition to the renewal application forms, you will also be asked to submit:

- A copy of your local (city, town, or county) business/alcohol license
- A certificate of general liability and liquor liability insurance
- A completed alcohol server training & ID badge form (provided in the packet as Form D). Now would be a good time to contact trainers if you need to schedule a class. A list of approved programs is on-line at: <http://www.dsamh.utah.gov/stateapprovedproviders.htm>
- The financial spreadsheet form provided in the packet as Form E.

Tax delinquencies

Licensees must be in good standing with The Utah Tax Commission, 801-297-6229 (sales tax/payroll withholding), Labor Commission, Division of Industrial Accidents, 801-530-6831 (workers compensation coverage), and the Department of Workforce Services, 801-526-9561 (unemployment insurance tax requirements) in order to qualify for renewal. If you suspect that you might not be in good standing, you may want to contact them now to find out what you need to do to clear up the delinquency.♦

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 BE = On-Premise Beer TV = Taverns * = Prior Violation History
 RE = Full Service Restaurant RL = Limited Service Restaurant TB = Temporary Beer Permittees
 SE = Single Event Permittees BW = Beer Wholesaler AL= Airport Lounge

License Type	Name of Establishment	Description of Violation(s)	Penalty Assessed
CL	Eagles 3114, Logan and Tyler Jensen (employee)	1. Sale to intoxicated persons 2. Allowing a patron to have more than 2 A/B in front of them at a time	1. 22 day license suspension 2. Fine of \$250.00 plus costs
RE	Grill @ Garden Inn, Salt Lake and Maria Aviles and Scott Hendrick (employees)	1. Sale to minors 2. No ID badge	1. 6 day license suspension plus costs 2. Written warning
RE	La Frontera, Tooele and Heriberto Villanueva (employee)	1. Sale to minors	1. 5 day license suspension plus costs
RE	Little America Rest./ Coffee shop/Petit Café and Rebecca Mosquera (employee)	1. Sale to minors	1. Fine of \$3,000.00 plus costs
CL	Ore House, Copperton and Collette Back (employee)	1. Sale to intoxicated persons 2. Freepouring	All counts: 5 day license suspension, fine of \$3,745.00 plus costs and surrender the license
CL	Spot, Salt Lake and Sharon Crawford (employee)	1. Sale to minors 2. Minors on the premises of a class "D" club 3. Allowing patrons to leave with open containers 4. Non-member entry & sale	1& 2. 6 day license suspension 3. 6 day license suspension 4. Fine of \$250.00 plus costs
CL	New Cassidy's Club, Vernal	1. Sale to intoxicated persons 2. Allowing patrons to leave with open containers 3. Non-member entry & sale	All counts: Surrender of the club license
CL	Duvan's Karamba, Salt Lake and Bret R Johnson (employee)	1. Minors on the premises of a class "D" club	1. Fine of \$1,000.00 plus costs
CL	Cabana, Salt Lake and Rhett Allen (employee)	1. Employee intoxicated on duty 2. Consumption after legal hours 3. Unlocked storage	1. 11 day license suspension 2. 6 day license suspension 3. Fine of \$250.00 plus costs
CL	Club 900, Cedar City and Candice Diekmann, Kenneth Fletcher and Kristina Fuller (employees)	1. Sale to intoxicated persons 2. Employee consuming on duty 3. More than 2 A/B at a time before a patron 4. Availability of food in a private club	1. 16 day license suspension 2. 6 day license suspension 3. Fine of \$500.00 plus costs 4. Dismissed
CL	Kate Calder (former employee of the Hotel, Salt Lake)	1. Sale to intoxicated persons 2. More than 2 A/B at a time and more than 2.75 oz. of spirituous liquor in front of a patron at a time	1. Fine of \$150.00 2. Fine of \$100.00
CL	Area 51, Salt Lake and Crystal Guidice (employee)	1. More than 2 A/B at a time and more than 2.75 oz. of spirituous liquor in front of a patron at a time 2. Non-member entry & sale	1. Fine of \$2,000.00 2. Fine of \$3,000.00 plus costs
CL	Bayou, Salt Lake and "Michelle" and Jennifer Zaugg (employees)	1. Serving beer in containers exceeding one liter 2. More than 2 A/B at a time and more than 2.75 oz. of spirituous liquor in front of a patron at a time	1. Fine of \$500.00 2. Fine of \$600.00 plus costs
RE	Claim Jumper, St George and Vikki D Houghton (employee)	1. Sale to minors	1. 10 day license suspension plus costs
CL	Club Vegas, Salt Lake and Jose "Chance" Barera (employee)	1. More than 2 A/B at a time and more than 2.75 oz. of spirituous liquor in front of a patron at a time 2. Non-member entry & sale	1. Fine of \$1,500.00 2. Fine of \$750.00 plus costs

License Type	Name of Establishment	Description of Violation(s)	Penalty Assessed
RE	Fernando's Hideaway, Kanab and Tammy D Cox (employee)	1. Sale to minors	1. 5 day license suspension plus costs
RL	Gabor Brothers Main Street Grill, Layton and Nikki Gabor (employee)	1. Purchasing A/B for a patron 2. A/B sold & served in a location not approved by the department 3. Allowing consumption at a bar 4. Unlocked storage 5. No ID badge	1. 4 day license suspension 2. Fine of \$500.00 3. 5 day license suspension 4. 5 day license suspension plus costs 5. Written warning
RE	Bryce J Billingsley (former employee of Iggy's Sports Grill, St George)	1. Sale to minors	1. Fine of \$100.00
RL	Jessie's Bar & Grill, Springdale and "Julie" and Kathy D Burchill (employees)	1. Sale to minors 2. Allowing patrons to leave with open containers	1. 6 day license suspension 2. 6 day license suspension plus costs
RE	Outback Steakhouse, St George, and Billie Jo Lange (employee)	1. Sale to minors 2. Untrained server	1. 6 day license suspension 2. Fine of \$150.00 plus costs
RE	Sharky's Woodfired Mexican Grill, St George and Steven M Broderick (employee)	1. Sale to minors 2. No ID badge	1. 6 day license suspension plus costs 2. Written warning
RL	Thai Sapa, Springdale and Thein T Tran (employee)	1. Sale to minors	1. 5 day license suspension plus costs
BE	Gladstan Golf Course, Payson and Kaylee Jellum (employee)	1. Minor selling A/B 2. Untrained server 3. No ID badge	1. 6 day license suspension 2. Fine of \$150.00 plus costs 3. Written warning
CL	Green Street Social Club, Salt Lake and Tina Overgaard (employee)	1. Sale to intoxicated persons	1. 15 day license suspension plus costs
TV	Papa Joe's, Price and Brenda Conners and James D Johnson (employees)	1. Sale to intoxicated persons 2. Employee intoxicated on duty	1. 15 day license suspension 2. 10 day license suspension plus costs
CL	Kellie Davidson (former employee of Play Pen, Ogden)	1. Sale to intoxicated persons	1. 13 day suspension
CL	The Hotel, Salt Lake and Kate Calder (employee)	1. Permitting intoxication 2. More than 2 A/B to a patron at a time 3. Minors on the premises of a class "D" club	1. 7 day license suspension 2. Fine of \$1,500.00 3. Fine of \$750.00 plus costs
CL	Suede, Park City and Jay Gibb, Jason Mertlich and Jonathon F Green (employees)	2 Cases Case #1 1. Sale to intoxicated persons 2. Employee consuming on duty 3. Non-member entry & sale 4. No License posted 5. No warning sign posted Case #2 1. Sale to intoxicated persons 2. Sale to minors 3. Minors on the premises of a class "D" club 4. Non-member entry & sale	All Counts: 40 day license suspension Fine of \$19,500.00 and surrender of the club license on 1/1/08 @ 12:00 pm plus costs

Free compliance 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.

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 Lapriel Dye at the Utah Attorney General's Office at 801 366-0157.

Stan G. Allen - The Standard
 Cynthia M Anderton - Applebee's (West Valley)
 Michael R Arcaris - Squatter's Pub
 Braeden M. Brinton - The Standard
 Sara Bryson - Mimi's Café (Orem)
 Catherine Clark - Goldbar Saloon
 David Durrant - Tucci's (Salt Lake)
 Kristina M. Erskine - Asuka Japanese Sushi
 Robert J. Gardner - Juhl Haus Deli & Market
 David Homer - One & Only
 Charles Lamb - Jeremy Golf & Country Club
 George H Lasater - Eddie McStiff's
 Lacey B. Miller - World Famous Woody's Tavern
 Bryce Pearson - Old Spaghetti Factory (Salt Lake)
 Courtney J Rios - Art's Place
 James D. Santini - P.F. Chang's (Orem)
 Kate Christianson - Chili's (St. George)
 Sean Hill - Chili's (St. George)
 Jared B Hileman - Shaggy's Livin Room
 Danielle Sims - Sportsman's Lounge
 "Bubba" - Sportsmans' Lounge
 Sarah E Ellis - Alpine Internet Café



Vincent Laguardia - Alpine Internet Café
 Troy Mattinson - Applebee's (St George)
 Monica M Salazar - Cheater's Lounge
 Susan Pontius - Applebee's (Orem)
 Jake Warren - Eddie McStiff's
 Alicia Bowman - Palms @ Holiday Inn
 Isaac Seborn - Red Lobster (Orem)
 Laurie A Johnson - Don Jose Mexican Restaurant
 Jason M Green - Sunset West Bowling Center
 Nathan Richmond - Copper Creek Pub & Grub
 Jeffery S Anderson - La Frontera (Bountiful)
 Mia Crawford - Play Pen
 Michael A Dy - Play Pen
 Clay Petty - World Famous Woody's Tavern
 Brian Laudico - World Famous Woody's Tavern
 Rebecca Mosquera - Little America Restaurant
 Vikki D Houghton - Claim Jumper(St George)
 "Julie" - Jessie's Bar & Grill
 Billie Jo Lange - Outback Steakhouse (St George)
 Kaylee Jellum - Gladstan Golf Course
 Tina Overgaard - Greet Street Social Club
 Brenda Conners - Papa Joe's

The DABC website is www.abc.utah.gov.

Other links:

☛ Current and past issues of this newsletter:

http://www.abc.utah.gov/license_permit/newsletter_main.htm

☛ server training information: http://www.abc.utah.gov/license_compliance/serv_train.html

☛ how to look up a server's training record: www.dsamh.utah.gov/webapps_alcoholserver.htm

☛ complete price list: http://www.abc.utah.gov/Price_List/product_price_legend.html

Utah State Division of Substance Abuse and Mental Health Approved Alcohol Server Education Programs

Updated 11/07

Alcohol Servers Training of Utah Online Training Certification Program

P.O. Box 71115
Salt Lake City, UT 84171
801-265-9435 #3
Contact: Jerry Diana
E-mail: jerry@smart-utah.com

Dixie State College Alcohol Handlers Seminar

225 South 700 East
St. George, UT 84770
435-673-6386
Contact: Don Reid
E-mail: reid@dixie.edu

Learn2serve (Online Training Certification Program)

360 Training
Corporate Headquarters
13801 N. Mo-Pac Expwy, Ste 100
Austin, TX 78727
Corporate Sales (800) 480-3890
Customer Service (800) 442-1149
Fax: (512) 441-1811
Contacts: Janiece Attal
e-mail: janiece.attal@360training.com

Professional Server Certification Corp: Responsible Server Certification Online

www.servercertificationcorp.com
112 Egan Ave. N.
P.O. Box 303
Madison, SD 57042
Phone: (800) 983-6322
Fax: (605) 427-2647
Contact: Robb Graham
support@professionaltrainingservice.com

ServerLicense.com (online training)

www.utahpermit.com
Diversys Learning, Inc.
3445 Executive Center Drive
Suite 118
Austin, TX 78731
Phone: (512) 343-2600 ext. 110
Contact: Rhiannon Eltiste
reltiste@diversyslearning.com

ServSafe Alcohol

175 West Jackson Blvd., Suite 1500
Chicago, IL 60604
Phone: (312) 261-5319
Fax: (312) 583-9767
Contact: Matt Stangley
www.nraef.org

Service Industries, Inc. (Serves the Wasatch Front and Southern Utah)

3438 Buck Circle
Salt Lake City, UT 84121
(801) 942-0742
Contact: Lou Bertram
exfed562@aol.com

The SMART Program (Statewide and online)

PO Box 71115
Salt Lake City, UT 84171
(801) 265-9435
Cell: (801) 915-8609
Contact: Jerry Diana
For online training and other training services, visit
www.smart-utah.com.

TEAM Coalition, Inc.

1800 Diagonal Road
Suite 600
Alexandria, VA 22314
(703) 647-7432
e-mail: info@teamcoalition.org
Contact: Jill Pepper

The TIPS Program (Statewide*) Health Communications, Inc.

1101 Wilson Blvd
STE 1700
Arlington, VA 22209
1-800-Get-Tips, Contact: Gary Roberson

eTIPS (Online Certification Training- Statewide) Health Communications, Inc.

1101 Wilson Blvd
Arlington, VA 22209
1-800-Get-Tips, Contact: Gary Roberson
<http://www.gettips.com/eTIPS.shtml>

The Utah Division of Substance Abuse and Mental Health certifies training providers whose content meets the standards prescribed by Utah law and Administrative Rule. While we make every effort to provide appropriate content and good customer service for our consumers, we cannot guarantee that all providers have valid website security certificates and can provide safe and current internet protections. Use online providers at your own risk. If you have any concerns about the quality of the curriculum or the security or integrity of any of our listed providers, please contact Holly Watson at (801) 538-4233.

2008 Holiday Calendar

State liquor stores, package agencies, DABC administrative offices and warehouse will be closed.

New Years Day January 1 st (TUE)	Labor Day September 1 st (MON)
Martin Luther King Jr. Day January 21 st (MON)	Columbus Day October 13 th (MON)
Washington & Lincoln Day February 18 th (MON)	Veteran's Day November 11 th (TUE)
Memorial Day May 26 th (MON)	Thanksgiving Day November 27 th (THU)
Independence Day July 4 th (FRI)	Christmas Day December 25 th (THU)
Pioneer Day July 24 th (THU)	

New Year's Eve and other Party Packages

by Neil Cohen

Those who want to drink alcohol on New Year's Eve will most likely do so without any extra encouragement. We advise licensees who want to promote a "value added" New Year's Eve package (or any holiday package) *not* to emphasize the drinking part, but to promote the value in the food and entertainment (and in any lodging deal if it applies).

Licensees who are planning party packages for the holidays may not include, pre-sell, or give away alcoholic beverages as part of a package, because:

- ▶ The club and restaurant laws specifically require liquor, wine, and heavy beer to be listed on a separate price list and sold by the glass or bottle.
- ▶ In clubs, the prices must be set in the house rules.
- ▶ The advertising rules prohibit promotions that encourage over-consumption or promote increased consumption.
- ▶ Promotions are not allowed that require the purchase or consumption of alcoholic beverages in order to participate.

Remember:

- A "midnight toast", a bottle of champagne, or any other alcoholic beverages may *not* be included in the price of a New Year's Eve Package.
- Alcoholic beverages may not be pre-sold.
- Alcoholic beverages must be priced and charged for separately.
- A price list must be made available for patrons.
- All servers are required to be trained to keep track of the number of drinks served to a patron and not to over-serve a patron.

So our advice is to promote the food, festivities, favors, and fun. Be wise, do your best to keep your patrons safe, don't over-serve, and have a happy New Year. ♦



News From Other States

by John Bryant

A man accused of drunken driving tried to outrun the police but his vehicle wasn't up to the task. Michael Ginevan of Bunker Hill, West Virginia, was driving a riding lawnmower on Rummymeade Road about a mile from his home when a Berkeley County sheriff's deputy attempted to pull him over. Ginevan, 39, allegedly sped away and Deputy J.H. Jenkins stopped his cruiser and gave chase on foot. Jenkins caught up to the lawnmower after a short chase but Ginevan allegedly wouldn't stop so the deputy pulled him off the machine. Ginevan refused to take a field sobriety test and was arrested. Jenkins then found a case of beer strapped to the front of the lawnmower. Ginevan was charged with fleeing while driving under the influence and obstructing an officer. ♦

Update:

New Rules Establish Additional Sanctions for Returned Checks

By Neil Cohen

The number of returned checks from our licensees has continued to increase. A new rule, R81-1-3(6), regarding the penalties for returned checks went into effect on June 29, 2007 and may be found on the at: <http://www.rules.utah.gov/publicat/code/r081/r081-01.htm#T3>

Checks are returned for the following reasons:

- insufficient funds,
- refer to maker
- account closed or
- stop payment.

The Commission Rule states that the department will assess a \$20 charge for any check payable to the department that is returned for any of these reasons, and a returned check "may result in the **immediate suspension** of the license, permit or operation of the package agency of a person tendering the check..."

If a suspension is imposed and the face value of the check plus the \$20 returned check charge is not paid, it could result in a revocation. The rule states that "Failure to make good the returned check and pay the twenty dollars returned check charge within **thirty days** after the license, permit, or operation of the package agency is **suspended**, is grounds for **revocation** of the license or permit, or **termination** of the package agency contract, and the **forfeiture** of the licensee's, or package agent's bond."

In addition to the above penalties, the licensee, permittee, or package agent will be placed on "cash only" basis with the department as follows:

(1) two or more returned checks received by the department within three consecutive months shall require that the licensee, permittee, or package agent be on "cash only" status for a period of three to six consecutive months from the date the department received notice of the second returned check;

(2) one returned check received by the department within

six consecutive months after the licensee, permittee, or package agent has come off "cash only" status shall require that the licensee, permittee, or package agent be returned to "cash only" status for an additional period of six to 12 consecutive months from the date the department received notice of the returned check;

(3) one returned check received by the department at any time after the licensee, permittee, or package agent has come off "cash only" status for a second time shall require that the licensee, permittee, or package agent be on "cash only" for an additional period of 12 to 24 consecutive months from the date the department received notice of the returned check;

(4) a returned check received by the department for either an application or initial license or permit fee shall require that the applicant be on "cash only" status for a period of three consecutive months from the date the department received notice of the returned check;

(5) a returned check received by the department from or on behalf of a licensee or permittee for a license or permit renewal fee shall require that the licensee or permittee be on "cash only" status for a period of three consecutive months from the date the department received notice of the returned check;

(6) a returned check received by the department from or on behalf of an applicant for or holder of a single event permit or temporary special event beer permit shall require that the person or entity that applied for or held the permit be on "cash only" status for any future events requiring permits from the commission that are conducted within a period of up to 18 consecutive months from the date the department received notice of the returned check. ♦

Local Licensing – Special Section for Cities, Towns & Counties

by Earl Dorius

In our last Licensing Newsletter (Summer 2007) we introduced what we hope will be a regular feature in this publication – issues of local interest to cities, towns and counties. Our newsletter is now being mailed to local licensing bureaus throughout the state. We welcome you to our readership and hope you will let us know of any topics you would like to see addressed in future issues.

Update on flavored malt beverages and energy drinks.

In the previous edition of the newsletter we showcased the Utah County Division of Substance Abuse's presentation to the ABC commission on energy drinks that contain alcohol. Richard Nance and Pat Bird showed that the labels on these products make it extremely difficult for consumers to know that they are alcoholic beverages.

The commission was impressed with Utah County's presentation and has decided to submit a bill in the next session of the Legislature that will address:

- the need for better labeling of energy drinks and other flavored malt beverages to inform consumers that they contain alcohol;
- the need for retail stores to display such products separately and distinctly from non-alcoholic beverages; and
- the need for retailers to post signs warning consumers that many malt beverages including some energy drinks contain alcohol.

The commission's proposed bill will also address reclassifying as "liquor" any flavored malt beverage products that contain distilled spirits. Any products that are reclassified as "liquor" will have to be sold in the state's liquor stores and package agencies.

Update on the Eliminate Alcohol Sales to Youth (E.A.S.Y.) Program.

During the last meeting of the Utah Business Licensing Association, a question was raised about the administrative penalties that local governments assess

against stores and store employees under the E.A.S.Y. program and whether these penalties are mandatory or discretionary.

The E.A.S.Y. program as outlined in Utah Code Section 32A-10-103 allows for state reimbursement to local law enforcement agencies for all costs associated with conducting compliance checks using underage buyers. In instances where a store clerk sells beer to a minor, the statute provides specific administrative penalties that local governments "shall" impose in any adjudicative proceeding brought against the clerk and the store. These penalties are mandatory, but are only applicable in cases involving the actual sale of beer to a minor. These penalties are listed in Subsections (5) and (6) of the above statute. .

There are other violations that can occur under the E.A.S.Y. program that carry entirely different penalties. For example, store clerks that sell beer and those that supervise the sale of beer must complete an alcohol training and education seminar and obtain a training certificate under Utah Code Section 62A-15-401. If the store allows an untrained employee to sell or supervise the sale of beer, the local authority "may" immediately suspend the store's license until the employee receives the required training.

Also, employees who sell or supervise the sale of beer must wear a unique identification badge bearing the employee's first or last name, initials, or unique identification letters or numbers. This allows law enforcement officials to immediately identify an employee who sells beer to a minor. The store is also required to maintain a record of who has been assigned each badge including the employee's full name, address, and driver license number or similar identification number. This record must be available for immediate inspection. A local authority "may" impose a fine of up to \$250 against a store that does not comply with this requirement.

In summary, local governments have some discretion with respect to imposing the penalties for the training and identification badge violations. However, the penalties for actually selling to a minor are mandatory and set by statute.♦



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