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| *www.IowaABD.com* | *Lynn M. Walding, Administrator* |

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|  | e - NEWS |
| *December 23, 2005* | |

*As this is the last ABD e-News for 2005, I want to wish you the best of the holiday season. The electronic newsletter will resume again in 2006 after the holidays.*

*The New Year is certain to be the harbinger of new challenges and opportunities. By tracking all that’s new in the beverage alcohol industry, however, we’ll be better prepared for all the changes to come in 2006.*

*Happy Holidays!*

*Lynn*

1. [Costco Wins Rulings Over State's Beer, Wine Laws](#One)

2. [Judge’s Decision Will Trigger Wine-Distribution Changes](#OneAdd)

3. [Adapting To Life In The US Can Increase Alcohol Consumption Among Latinas](#Two)

4. [Smoking Foes Try to Stop Parents From Lighting up at Home](#Three)

5. [R.J. Reynolds to Discontinue Promotion](#Four)

6. [Woman Gets 5 Years for Drunken Driving](#Five)

7. [A Company's Threat: Quit Smoking or Leave](#Six)

8. [Big Tobacco Outspends Stop-Smoking Programs 28 to 1](#Seven)

9. [Alcohol Banned for Jets vs. Pats](#Eight)

10. [Anheuser-Busch: Cheap Beer](#Nine)

11. [A Sweet Secret: Americans Don't Drink and Drive the Way They Used To](#Ten)

12. [The US Off-Premises Beer Market Grew by 39% from 2000 to 2005 and is Now Worth $8.5 Billion](#Eleven)

13. [US: Wine Institute Hails EU-US Wine Accord](#Thirteen)

**1. Costco Wins Rulings Over State's Beer, Wine Laws**

By Kristen Millares Bolt & Dan Richman, reporters – *Seattle Post-Intelligencer*

December 22, 2005

**Distribution setup violates Sherman Act, judge says**

SEATTLE, WA -- The way beer and wine is sold in Washington is going to change -- though it isn't known how just yet -- after a federal judge said in two separate rulings Wednesday that Washington's system for distributing beer and wine violates the Constitution and the Sherman Act.

Costco Wholesale Corp. won a battle against the Washington State Liquor Control Board, when U.S. District Judge Marsha Pechman ruled Washington's three-tier system for distributing beer and wine breaks federal antitrust law.

Among other things, Pechman said, Washington state law improperly requires that producers and distributors of beer and wine mark up prices at least 10 percent above cost.

In a separate ruling on Costco's case, Pechman agreed with the Issaquah-based discount retailer's claim that the state law that allows in-state beer and wine producers to ship directly to retailers but prohibits out-of-state producers from doing so, violates the U.S. Constitution's Commerce Clause.

While neither of the rulings will immediately change the way beer and wine is sold in the state, Pechman's decisions set in motion a chain of events that both Costco and the Liquor Control Board think could lower beer and wine prices for consumers in Washington -- pending a March trial and the Legislature's upcoming January session.

In her ruling, Pechman stayed her judgment that the Constitution requires in-state and out-of-state producers to have equal distribution rights in order to give the Legislature time to act. She gave lawmakers until April 14 to either allow all producers of wine and beer -- whether in state or out -- to distribute their own products to retailers, or to prohibit any of them from doing so.

"Clearly, we have our work cut out for us," said Sen. Margarita Prentice, the Seattle Democrat who is chairwoman of the budget-writing Senate Ways and Means Committee. "One of the reasons that our liquor laws are a mess is that we've never been able to come to grips with it."

Prentice also said that a lack of public outcry over the state's laws has made her "resist making big changes, because the only ones interested in it are the ones who were going to make a profit," an apparent reference to the Issaquah-based retailer that brought the suit, and to the state's distribution industry that sided with the state.

Pechman also took no immediate action on the apparent illegality of Washington's beer and wine regulations, leaving additional arguments about their constitutionality to trial.

Pechman ruled "that Costco has demonstrated that Washington's posting, holding, minimum markup, delivered pricing, uniform pricing, ban on volume discounts, and ban on credit sale requirements are irreconcilably in conflict with federal antitrust law."

But she explained that "even if the challenged restraints are irreconcilably in conflict with the Sherman Act ... and not subject to antitrust immunity, they may nonetheless be shielded by the 21st Amendment to the United States Constitution."

That means that the state can argue in March that Washington's beer and wine distribution system is defensible under the 21st Amendment, which repealed Prohibition but granted states the right to control alcohol importation.

Assistant Attorney General David Hankins, who was arguing the case on behalf of the Liquor Control Board, said that Washington law protects its citizens from the danger of alcoholism and other abuse by keeping prices higher than the market would dictate.

"Clearly, our main argument is that our system does work," Hankins said. "The core concern is: Does the system control consumption?"

Hankins plans to argue in the March trial that Washington's system works "because you don't have prices so low that you have, in a comparative sense, a society like Russia, where they talk about how much people are drinking vodka."

But John Sullivan, the associate general counsel for Costco Wholesale Corp., argued that consumers are harmed under the current system, with fewer options.

"We hope to offer relief to the consumers through better value and more choices in purchasing beer and wine," Sullivan said. "That relief would expand the competitive options of Washington wineries and breweries as they become extensive drivers of the Washington state economy."

The Liquor Control Board's co-defendant, the Washington Beer & Wine Wholesalers Association, has said that removing the mandatory 10 percent markup for both producers and distributors would limit choice for both consumers and producers by running small wineries, breweries and distributors out of business.

But if the system is to be changed, both the Liquor Control Board and the wholesalers association advocate forbidding both in-state and out-of-state producers from shipping directly to retailers.

That could send some small wineries out of business, though, said Tim Hightower, president of the Washington Wine Institute. That lobbying group for state wineries has calculated that the vast majority of the Washington's 385 wineries produce less than 2,000 cases a year -- too small, they say, to catch the attention of a member of the distribution system.

Bob Betz, of the Betz Family Winery in Redmond, is among those fretting over Wednesday's ruling.

"As a producer here in Washington that self-distributes, we would really want to persevere in being able to sell directly to retailers and restaurants," he said. "It's really part of our lifeblood and the reason we can survive."

Betz's operation produces about 30,000 bottles of red wine a year, mostly to customers on a mailing list or to local buyers. It pays more for supplies and equipment than larger growers, so it can't afford to cut prices to make room for a distributor's additional markup, he said.

"That (being required to go through a distributor) would put our business model under a lot of stress," he said. Self-distribution "is the one slight advantage a small producer can have."

As worried as small Washington producers are, some larger ones are unfazed.

"If everyone had to use distributors, that wouldn't affect our business at all," said Kirk Kauhane, head of sales and marketing for Washington Wine and Beverage Co., a large producer.

His company relies exclusively on distributors to put into the hands of restaurants and retailers the 600,000 bottles of wine it produces annually bearing the Hoodsport, Silver Lake and Glen Fiona labels.

And if in-state and out-of-state producers could all self-distribute, that wouldn't matter much either, he said.

As for the distributors, they stand mostly to gain business if the Legislature eliminates all self-distribution, but would lose some if all producers gain the right to self-distribution. One small distributor specializing in higher-end wines wasn't sure how the situation would affect his business.

"It could be very threatening, though I am not sure how it would all play out," said Michael Waissman, owner of C + G Wines, a Portland-based distribution company with a Seattle office and warehouse. "Because of the expensive costs of shipping wines, and billing terms, I don't know if it would be cost-effective for the producers to be paying ground freight or UPS ... it's hundreds of times more expensive than using trucking companies or water freight through us."

<http://seattlepi.nwsource.com/business/253042_costco22.html>



**2. Judge’s Decision Will Trigger Wine-Distribution Changes**

By Kristen Millares Bolt – *Seattle Post-Intelligencer*

December 23, 2005

It seems a cut-and-dried decision: Either the Legislature can allow both in-state and out-of-state beer and wine producers to ship directly to Washington retailers, or forbid any suppliers from doing so.

That was the choice presented by U.S. District Judge Marsha Pechman's ruling on Wednesday.

The end result, however, may not be so clearcut.

Pechman's ruling sided with Costco Wholesale Corp. in its case against the Washington State Liquor Control Board. Costco argued that Washington violates the U.S. Constitution's Commerce Clause by unfairly discriminating against out-of-state producers. They cannot ship directly to in-state retailers, though in-state producers can.

The Issaquah-based wholesale club wants to negotiate directly with out-of-state suppliers, rather than buying from a distributor charging the state-mandated 10 percent mark-up.

**Pechman gave the Legislature, which convenes Jan. 9, until April 14 to make its choice. But if lawmakers are unable to reach a consensus by then, she will impose her own judicial remedy: "to withdraw the self-distribution from in-state producers, rather than extending the privilege to out-of-state producers."**

That sent shock waves through Washington's small wineries. The vast majority of Washington's 385 wineries produce fewer than 2,000 cases per year -- too little, they say, to be able to afford the distributor's cut or even get a distribution deal.

Pechman's remedy was taken directly from arguments made by the state liquor board and its co-defendant, the Washington Beer & Wine Wholesalers Association, which represents about 50 distributors in the state.

They argued that allowing out-of-state suppliers to ship directly to in-state retailers would create an undue burden on the regulatory system. But on Thursday, both parties hinted that their legislative strategy would not be as harsh as their litigation strategy.

"Request legislation will go forward, but that won't be done without the full participation of all the stakeholders involved in the case," said Bob Burdick, a Liquor Control Board spokesman. "It is very much a collaborative issue, for both parties to the suit and other members of the regulated community."

However, he said there is no public forum set up for beer and wine producers, distributors and retailers to air their views, so it is up to them to contact the state liquor board or their appropriate association to give their input.

On Wednesday, executive director Phil Wayt of the Washington Beer & Wine Wholesalers Association said the group supports the judge's position.

But a day later, the association said that remedy might be appropriate for the judge's constraints, but "her authority does not include crafting the kind of compromise that reflects the interests of the state, the wineries and the public that the Legislature can and undoubtedly will create."

Washington's wine industry has grown dramatically in the past 20 years. Second in the nation to California, its economic impact in the state is estimated at $3 billion by the Washington Wine Commission.

Keeping small wineries from self-distributing could send them out of business and cripple the industry's growth, said Tim Hightower, the president of the Washington Wine Institute, a lobbying group for the state's wineries.

"If no one else runs a bill, we will run a bill with the basic provision being to open up sales to out-of-state wineries, so that we can preserve the right of Washington state wineries to sell directly to retailers," Hightower said, adding that his group would meet with the control board and the wholesalers before doing so.

John Sullivan, Costco's associate general counsel, said the company would advocate opening up all direct shipment, though the busy retail holiday season has kept any discussions from occurring yet.

"Certainly, we have an interest in what we set out to do: to level the playing field on direct shipment to retailers," said John Sullivan, Costco's associate general counsel. "We have every intention in seeing the judge's decisions end up at that point."



# 3. Adapting To Life In The US Can Increase Alcohol Consumption Among Latinas

*Medical News Today*

December 19, 2005

As Hispanic or Latino immigrants - that is, individuals of Spanish-speaking origin - adapt to life in the United States, exposure to more favorable drinking norms and significant social stressors may provoke increased alcohol consumption. Acculturation may especially take its toll on women in this group, called "Latinas." A study in the December issue of Alcoholism: Clinical & Experimental Research uses sophisticated data analysis to confirm that Latina women who are highly acculturated to American society tend to drink more than those who are not so highly acculturated.

"It has often been supposed that the process of acculturation is stressful for immigrants, and that immigrants may increase their alcohol consumption in an attempt to cope with acculturative stress," said Sarah E. Zemore, associate scientist at the Alcohol Research Group and sole author of the study. "However, this theory has not yet received good empirical support. Investigators have also suggested that immigrants to the U.S. may be exposed to drinking norms that differ from those of their culture of origin. That is, immigrants may find that Americans tend to have opinions and habits with regard to alcohol that differ from those they are accustomed to and, as a result, their own opinions and habits may change in the process of adaptation."

In an effort to examine these theories more closely, Zemore revisited data from the 1995 National Alcohol Survey, utilizing linear and logistic regressions to examine the associations between acculturation and drinking outcomes among 1,586 Latino adults (825 women, 761 men) living in the U.S. She also explored drinking norms and one form of psychological distress, depressive symptoms, as potential mediators of the association between acculturation and alcohol use. Scale analyses were used to examine the dimensional structure of the study's acculturation scale.

"The study found that Latina women who are highly acculturated to American society - that is, women who tend to speak English more than Spanish, associate heavily with Anglos, and feel comfortable in relationships with Anglos - tend to drink more than those who are not so highly acculturated," said Zemore. "Specifically, these women are more likely to drink, and tend to drink more if they do drink."

Conversely, acculturation was unrelated to drinking practices among Latino men. "The differences between drinking norms in Latino men's cultures of origins and drinking norms in the U.S. seem to be rather subtle," explained Zemore. "Although there may be some differences between Anglos and Latinos in their drinking patterns, broadly speaking, drinking among Latino men is not discouraged as it is among Latina women. Hence, Latino men may show only minor changes, if any, in drinking attitudes and practices with increasing acculturation to the U.S."

Zemore said that her analysis also helps to clarify why acculturation is associated with drinking practices among Latina women.

"The study found evidence that Latina women's beliefs about how much women should drink are associated with both level of acculturation and volume consumed, and that acculturation seems to influence volume consumed by way of influencing women's beliefs about drinking," she said. "It is an intuitive and widely supported finding that people respond to what other people do, that is, to descriptive social norms, and to what other people think one should do, that is, to prescriptive social norms. People tend to wear what others wear, voice opinions that they think others can agree with, and so on. Likewise, these findings suggest that immigrants, in the process of adapting to a new culture, will typically respond to the new norms surrounding alcohol by changing their attitudes and behaviors to match."

Zemore noted that her results may differ from previous studies because of her new methods. "My analyses for this study have addressed many of the methodological flaws of prior research, and contribute substantially to clarifying the relationship between acculturation and drinking outcomes among Latinos in the U.S.," she said. "The findings also highlight drinking norms as one explanatory mechanism underlying the association between acculturation and alcohol consumption among Latina women. Furthermore, we now see that Latina women can indeed be at risk for alcohol problems, and that this risk may increase with exposure to Anglo culture. Results suggest that the risk will be greater in communities with pro-drinking norms, which means that the surrounding social environment is an important target for interventions aiming to reduce consumption."

Zemore added that her findings have implications for other immigrant groups in the U.S. "who may also change their drinking habits in the process of acculturation to match the norms prevalent in the U.S.," she said. "This change may be substantial for some, such as those coming from cultures with very different norms, and more minor for others. The degree of change may also depend on their level of exposure to Anglo culture and various individual- and community-level factors," she said.

Alcoholism: Clinical & Experimental Research (ACER) is the official journal of the Research Society on Alcoholism and the International Society for Biomedical Research on Alcoholism. The ACER study, "Re-examining whether and why acculturation relates to drinking outcomes in a rigorous, national survey of Latinos," was funded by the National Institute on Alcohol Abuse and Alcoholism.

<http://www.medicalnewstoday.com/medicalnews.php?newsid=34989>



**4. Smoking Foes Try to Stop Parents From Lighting up at Home**

By Tarron Lively – *The Washington Times*

December 16, 2005

Anti-smoking activists who are driving cigarettes from public places across the country are now targeting private homes -- especially those with children.

Their efforts so far have contributed to regulations in three states -- Maine, Oklahoma and Vermont -- forbidding foster parents from smoking around children. Parental smoking also has become a critical point in some child-custody cases, including ones in Virginia and Maryland.

In a highly publicized Virginia case, a judge barred Caroline County resident Tamara Silvius from smoking around her children as a condition for child visitation.

Mrs. Silvius, a waitress at a truck stop in Doswell, Va., calls herself "highly disappointed" with the court's ruling.

"I'm an adult. Who is anybody to tell me I can't smoke or drink?" she said in an interview yesterday.

An appeals court upheld the ruling, but not before one judge raised questions about the extent to which a court should become involved in parental rights and whether certain behavior is harmful or simply not in a child's best interest.

Mrs. Silvius says she complied with the decision by altering her smoking habits.

"My children know not to come around when I'm on the front porch with my morning coffee, tending to my cows or out in my garden, because I'm having a cigarette," she said.

Still, she thinks this was not a matter for the courts because it was not proven that she posed a risk to her children's health.

"If a child suffers from asthma or some sort of problem, the courts shouldn't even have to be told to [step in]," Mrs. Silvius said. "That should be the parent's better judgment. But my kids aren't sick. If there's no health issue, it isn't the court's place to say someone can't do something that's perfectly legal, just because the other spouse doesn't want them to."

The smoking-at-home issue also sparked debate about whether such rulings will lead courts to become involved in such matters as parents' making poor TV programming choices for their children.

The nonprofit group Action on Smoking and Health is among the most outspoken on stopping parents from smoking around children.

"Children are the most vulnerable and the most defenseless victims of tobacco smoke," Executive Director John F. Banzhaf III said. "They should be entitled to the same protection as adults."

Mr. Banzhaf, also a professor of public interest law at George Washington University, said most complaints are made by nonsmoking ex-spouses, although some are filed by neighbors, relatives and physicians.

Maryland's Department of Human Resources, which provides adoption services, considers smoking a factor in deciding who will receive a child, but guidelines do not specifically address the issue.

"It's discussed and presented and looked at by caseworkers," said Judith Eveland, a program manager for the agency.

However, Miss Eveland said the agency would welcome regulations on restricting smoking in the homes of foster children.

"We certainly would be supportive [given] all the health issues associated with smoking," she said.

Adele L. Abrams, an attorney in Prince George's County specializing in child custody, divorce and family law, said smoking has been a factor in several custody disputes in recent years.

"Restraints might be put on visitation if one parent insists upon smoking or bringing in a girlfriend or boyfriend who smokes," said Ms. Abrams, whose practice serves the District and Anne Arundel, Baltimore, Howard and Montgomery counties.

She said children have a "more protective status" and that laws should protect children from secondhand smoke just as they are protected from parents and guardians who drink excessively or use drugs.

"Frankly, if it was a factor before the divorce, it's going to be a factor after the divorce," she said, "particularly if the child has asthma or some other respiratory disease."

Mindy Good, spokeswoman for the D.C. Child and Family Services Agency, said foster parents are not prohibited from smoking, but prospective ones are screened to fit a child's best interests.

"People who smoke are not barred from becoming foster parents," she said. "However, we are careful about children who have certain medical conditions. We would not, for example, place a child who has asthma in the home of a smoking foster parent. We are careful about those issues."



# 5. R.J. Reynolds to Discontinue Promotion

By Kristen Wyatt - *The Associated Press*

December 19, 2005

ANNAPOLIS, Md. - A cigarette promotion that used coasters encouraging heavy drinking has been discontinued after three states appealed to the tobacco company to stop it.

R.J. Reynolds Tobacco Co. said in a letter Wednesday that it would stop a promotion for Camel cigarettes in which over-21 customers were sent coasters on their birthdays. The coasters included drink recipes and phrases such as "Layer It On, Go 'Til Daybreak."

The attorneys general of California, Maryland and New York filed a complaint with the company last month, calling the coaster promotion irresponsible. They cited research showing that people are more likely to smoke when drinking, and that smokers who regularly drink are almost twice as likely to suffer genetic mutations associated with lung cancer than those who do not.

In a two-sentence letter to Maryland Attorney General J. Joseph Curran Wednesday, a lawyer for RJR said the coaster mailings would stop.

"Upon careful consideration, the beverage coaster program has been terminated," RJR lawyer James H. Beckett wrote.

R.J. Reynolds, a subsidiary of Reynolds American Inc., is the nation's second-largest tobacco company, based in Winston-Salem, N.C.

A spokeswoman for RJR, Maura Payne, said the promotions were started in early 2005 and were scheduled to end in April. She didn't say how many coasters were sent.

"While we don't agree with their characterization of the program, we ultimately decided after reviewing it that it wasn't worth continuing to disagree over," Payne said.

"We're pleased they're doing the right thing" by stopping the promotion, Curran said. "Excessive drinking as recommended by these coasters - particularly with these slogans - it just sends the wrongest possible message when those of us in law enforcement are doing everything we can to discourage excessive drinking."

Curran's complaint came after a Maryland college student received a box from R.J. Reynolds on his 22nd birthday containing six coasters, each featuring a recipe for a different mixed drink. A coaster with the recipe for a drink called "Blue in the Face" included the message, "If You Turn Green, You're Doing It Wrong," the letter said. A recipe for a drink called "After Dark" included the message, "Layer It On, Go 'Til Daybreak."

The student's parents passed on the promotion to state authorities.

"This promotion constituted irresponsible corporate conduct and took a cavalier attitude toward the public health dangers posed by irresponsible drinking," said Tom Dresslar, spokesman for California Attorney General Bill Lockyer.

RJR's letter said no more promotional coasters would be sent.

The Distilled Spirits Council, which had complained about the campaign, said in a statement Wednesday, "This promotion was just plain wrong. Including our company brands without authorization was outrageous."

<http://www.myrtlebeachonline.com/mld/myrtlebeachonline/business/13408808.htm>



**6. Woman Gets 5 Years for Drunken Driving**

*Quad City Times – By The Associated Press*

December 20, 2005

TIPTON, Iowa (AP) — A woman who ran over and killed her grandson will serve up to five years in prison after being convicted on a separate drunken driving charge.

Shirley Kness, 60, of Oxford Junction, was sentenced Friday in Cedar County District Court and was ordered to an alcohol treatment center in Davenport. Her driver’s license was revoked for six years, and she was fined $2,500.

If Kness follows rules, she could complete the program within four months and avoid prison, officials said.

The courtroom has become a familiar place for Kness, who was arrested April 17 after backing her vehicle over her grandson, Zachary Ryan, 6, in Ely. She failed a breath test given by sheriff’s deputies at the scene, but was never charged with vehicular homicide because prosecutors didn’t have court-admissible proof she was intoxicated at the time. Instead, she was charged with driving under suspension.

Kness was charged twice more since Zachary’s death with alcohol-related crimes. She also has at least three previous drunken driving convictions and is awaiting sentencing for an identity theft charge in Linn County, stemming from an accusation that she used her ex-husband’s Social Security number to register her car.

Even if Friday’s sentence is unrelated to the boy’s death, Kness’ daughter said she is relieved her mother is getting some punishment.

“I think that’s pretty fair for just the drunken driving thing,” said Cassie Riha, 25, of Marion, who is Zachary’s mother. “She still has other cases. For now, this is a good start.”

<http://www.qctimes.net/articles/2005/12/18/news/local/doc43a4e6c6d470d609679442.txt>



**7. A Company's Threat: Quit Smoking or Leave**

By Ilan Brat, *The Wall Street Journal*

December 20, 2005

Scotts Miracle-Gro Co. is taking its campaign to stamp out smoking among its workers to an unusual length: It's threatening to fire smokers beginning next fall.

The threat represents the latest attempt by an employer to try to reduce health-care costs by targeting smokers. In January, four employees at Weyco Inc., a small medical-benefits administrator in Okemos, Mich., lost their jobs after they refused to be tested for tobacco use. Scotts, which has 5,300 U.S. workers, is one of the largest companies to have put an outright ban on smoking even off the job.

With medical expenses rising, corporations are increasingly focusing on the employees who they believe account for the majority of health-care costs. Some companies have tried to lower the number of smokers in their work force by offering employees money and counseling help to quit smoking. In April, Humana Inc., a Louisville, Ky., health insurer, asked its employees if they had used tobacco in the previous 12 months. Those who said they hadn't got a $5 bonus in their paychecks each pay period. General Mills Inc. imposes a $20 a month surcharge on the health benefits of smokers.

Weyco, the medical-benefits administrator, announced a tobacco-free policy in Sept. 2003. It used a device similar to a breathalyzer to test for tobacco use. In January 2005, four of its 190 employees chose not to take the test and were forced to leave.

Scotts offers to pay for smoking-cessation programs and products. But the October ultimatum "is way over the top by today's standards," said Helen Darling, president of the National Business Group on Health, a coalition of major corporations. "Most employers are still in the mode of 'You've got to have positive incentives.' "

Firing workers who won't stop smoking is illegal in the 30 states that have laws protecting smokers, according to the National Workrights Institute, a not-for-profit organization that focuses on human rights in the workplace. But elsewhere, unless workers fall in one of a few protected classifications defined by state and federal laws, employers have more leeway.

Some lawyers said Scotts could be vulnerable to disability challenges if it fires people who smoke. "Once you start regulating outside conduct, the question is where do you stop?" says Marvin Gittler, an employment-law specialist and managing partner with Asher, Gittler, Greenfield &amp; D'Alba Ltd. in Chicago.

Smokers who are "really trying" to quit, even after the deadline, won't have to worry, allows Jim Hagedorn, Scotts' chief executive. "If you work with us, and we know you're working with us, I don't think you're going to end up getting fired."

Still, Scotts stresses that it expects employees to make a good-faith effort to improve their health. Scotts estimates that about 30 percent of its workers smoke.

Next October, the Marysville, Ohio, company said it will begin randomly testing about 20 percent of its work force nationwide where it is legal to do so. (Ohio is among the states that don't have specific smoker-protection laws.) The company says it hasn't worked out the details of how to test employees. Workers found to be still smoking or using other tobacco products habitually could be fired, Scotts says, as long as they work in states where such termination is legal. In states that do have smoker-protection laws, employees who are on the company's medical plan could see their health-care premiums become "substantially higher," though details aren't final yet, the company adds.

The tobacco initiative is part of a broad wellness program that includes a $5 million fitness gym and health clinic opened last month near the company's headquarters. Employees on the company's medical plan will have free access in the clinic to a physician, nurse practitioners, diet and fitness experts and a pharmacy with generic drugs.

In return, every year employees will face a strict requirement: Take a health assessment through a program affiliated with medical-information Web site WebMD Health Corp. -- or pay $40 extra a month in health-care costs. The health assessment starts with a form to be filled out online. Then, a "health coach" contacts the employee and arranges a treatment regimen for any health issues. The employee must follow through with the recommendations or pay higher premiums, though the exact amount hasn't been worked out yet.

The wellness program is administered by Whole Health Management Inc., a Cleveland company. Whole Health Management also works with Continental Airlines, Sprint Nextel and Nissan, among others.

Scotts' Mr. Hagedorn said he has "gotten pretty religious" about his employees' health recently. Last year, the company abolished smoking from its corporate campus, and the company cafeteria has cut down on fried food, instead offering up baked salmon and other fish. Vending machines dispense more "granola stuff," he said. By company mandate, employees who leave work during the work day for the gym won't be penalized.

Mr. Hagedorn, 50 years old, once smoked two packs of cigarettes a day but quit 20 years ago after his mother died of lung cancer. He said he understands how difficult it is to quit smoking but also how important it is. "Are we going to stand by and watch our people get sick? The answer is no," he said. "Success here is not firing anybody."

Linda Sutkin, a 31-year employee of the lawn and gardening-products company who works in customer service, won't have that worry. After a company-sponsored smoking-cessation program and Zyban, a medication to help quit, the 50-year-old smoked her last cigarette in January 2004. She misses the camaraderie of smoking with friends on breaks but is glad she quit.

Other smokers at headquarters are concerned about the company's October deadline, she says. "The consensus is like, is this the end or is it going to lead to something else?" she says. "Are they going to watch what we eat?"

**Carrots and Sticks**

Ways employers are trying to get their workers to quit smoking

http://www.post-gazette.com/pg/images/newsimages/dot.gifBonuses for not smoking

http://www.post-gazette.com/pg/images/newsimages/dot.gifA $20 a month surcharge on the health benefits for smokers

http://www.post-gazette.com/pg/images/newsimages/dot.gifFree smoking-cessation products

http://www.post-gazette.com/pg/images/newsimages/dot.gifFree counseling

http://www.post-gazette.com/pg/images/newsimages/dot.gifFiring employees who test positive for tobacco use

<http://www.post-gazette.com/pg/05354/625349.stm>



**8. Big Tobacco Outspends Stop-Smoking Programs 28 to 1**   
By Bill Wilson *– Family News In Focus*

December 20, 2005

**Study finds states don't spend tobacco settlement money on reducing smoking**

Matt Myers, of the Campaign for Tobacco Free Kids, says states have collected money to help people stop smoking, but the funds are going to other things—many totally unrelated to tobacco.

“States are using these funds for every short-term politically popular purpose they can find—from short-term filling of state budget shortfalls, even funding things like golf carts.”

Some states try to counter the massive marketing campaigns of Big Tobacco but Cass Wheeler of the American Heart Association says there are a few that aren’t doing anything.

“And there are five states and the District of Columbia that are in the Hall of Shame. They’re not providing any significant funding for tobacco prevention. That’s Michigan, Missouri, New Hampshire, South Carolina and Tennessee. Shame on them.”

Myers believes voters are the only ones who can hold states accountable and force money into anti-tobacco programs.

“Last year, two states, Colorado and Montana increased funding for tobacco prevention through ballot initiatives. Our hope is that our report will better inform citizens so that they can demand that the states live up to their promise”

The Campaign for Tobacco Free Kids advanced another comparison of tobacco spending vs programs to stop tobacco use:  
Big Tobacco spends more on marketing in one day than 47 states and the District of Columbia spend in an entire year to prevent tobacco consumption.

<http://www.family.org/cforum/fnif/news/a0038979.cfm>



**9. Alcohol Banned for Jets vs. Pats**

*Seattle Times*

December 21, 2005

HEMPSTEAD, N.Y. — The New Jersey Sports and Exposition Authority wants to nip any problems with rowdy fans in the bud, so to speak, so it has decided to ban all sales of alcohol at Giants Stadium when the New York Jets play the New England Patriots on Monday night.

"It's just being prudent," said Bernard Spigner, the director of communications and external affairs for the NJSEA. "It's a holiday Monday, [near] the end of the season, and a night game. ... This is a unique set of circumstances for this game."

The game is also obviously going to be televised nationally and marks the end of "Monday Night Football" on ABC. And there was a history of problems to consider, including several fans being arrested, two fans being stabbed outside a men's bathroom and a state trooper being injured in a beer-related incident with a fan at the Sunday night game the Jets played against the New Orleans Saints on Nov. 27.

There was also one tragic occurrence that led to Aramark, the vendor for beer at the stadium, and the Giants getting hit for $135 million in damages from a jury early this year. It stemmed from an intoxicated fan leaving after a Giants game and crashing into a car, leaving a 7-year-old girl paralyzed.

So the NJSEA went to the Jets with the idea for the first alcohol ban at the stadium since a game in 2001.

<http://seattletimes.nwsource.com/html/seahawks/2002695301_nfl21.html>



**10. Anheuser-Busch: Cheap Beer**

*Source: Kiplinger.com*

December 22, 2005

The maker of the King of Beers has won the attention of some value hunters, including managers at Longleaf Partners.

Anheuser-Busch (BUD), the nation's dominant beer company, has had a year full of worries. The company has been hurt by a resurgent Miller brand and even more so by Americans drifting away from beer and toward wine and spirits.

Although the company is trying to reignite U.S. sales and get its profits back on track, Wall Street isn't betting on a big comeback anytime soon. And Busch's shares are slumping in the meantime. The share price has declined 11% for the year and is off 16% since July 2004.

But the beaten-down stock has won the attention of managers at Longleaf Partners, a mutual fund company. Founder and co-manager O. Mason Hawkins and his colleagues are finding bargains among "the type of companies we love to own but rarely have the opportunity to buy -- high-quality businesses with dominant market shares and entrenched brand names." Busch is one of Longleaf's new holdings.

The majority of brokerage analysts don't recommend buying the stock right now, but some stock analysts, including Value Line's Kenneth Nugent, remain confident in the company's long-term story and suggest patient investors take a look.

Matthew Reilly, an analyst at Morningstar, notes that Busch's big competitive advantages have "stacked the deck heavily in the company's favor." He likes its unrivaled distribution power as well as its impressive brands, which include Budweiser, Bud Light and Michelob, among others. And he points out that Busch controls nearly 50% of the U.S. beer market.

The shares appear priced to buy according to Reilly's analysis -- although he cautions that the company will likely struggle into 2006, "with significant improvement not occurring at all until 2007."

The company is also growing sales abroad, particularly in China.

At $44, shares sell for 17 times the 2006 consensus earnings estimate of $2.54 per share. The stock yields 2.4%.



**11. A Sweet Secret: Americans Don't Drink and Drive the Way They Used To**

By Frank Greve - *Knight Ridder Newspapers*

December 22, 2005

WASHINGTON - When handcarts of holiday booze roll out of Ace Beverage, a major capital party supplier, the typical load is far different than a generation ago.

There's no Scotch "unless it's for an older group," said owner Steve Siegel, and no bourbon "unless they're Southerners."

Vodka aside, there's little hard liquor nowadays, but lots of bottled water. The shifts all reflect what Siegel, 56, said is a huge social change: "Nobody thinks it's cool any longer to go to an office party and get drunk."

And as Ace's clients go, so goes the nation. Government figures show alcohol consumption is down about 20 percent nationwide since the early `80s, reflecting both tougher laws and tamer tastes. The decline also reflects an aging population that's drinking less.

The clearest dividend is a 36 percent drop in traffic fatalities involving alcohol since 1982. For Americans under 30, the declines are even greater. The drops add up to more than 312,000 U.S. lives saved since 1982, according to an analysis that will appear in the Journal of Safety Research in January.

"It's a tremendous reduction, on a par with the effect of seatbelts," said James Fell, the study's author, who recently retired from the National Highway Traffic Safety Administration. He's now with the Maryland branch of the Pacific Institute for Research and Evaluation, a consulting firm that researches driver behavior.

Some researchers go further than Fell, linking America's relative sobriety to declines in U.S. homicides, rapes, other violent crimes and non-traffic injuries. And several studies assert that when alcohol consumption falls, sexually transmitted diseases such as gonorrhea decline, too. These trends tend to be murky because they're harder to measure than drinking and driving.

Abuse researchers caution, however, that once-steep declines in U.S. drinking have flattened in the past five years. And binge drinking is up among high school and college-age students as well as adults in their 20s.

Nonetheless, the reported drop in alcohol-related traffic fatalities has been greatest since 1982 for this same age group: the16-to-29-year-olds that parents - and often peers - worry the most about.

"Their alcohol consumption levels haven't dropped much, but their drunk driving has," said James Lange, a psychologist at San Diego State University who specializes in young driver behavior. Whether by designating drivers or staying out of cars, "they separate consumption from driving a lot more than teens and young adults used to," Lange said.

Among current teens especially, "drinking and driving is a real taboo," he added. "It's more ingrained in them because it started before they were born."

By contrast, Lange said, "For the older crowd, who may have driven drunk and survived, a prohibition against drinking and driving requires a conversion."

Abstinence from alcohol is growing, too, among younger Americans, according to the latest annual national study of high school teens released Dec. 19. Asked whether they had consumed alcohol in the previous year, 68.6 percent of high school seniors said yes. That compares to 70.6 percent in 2004 and 84.8 percent in 1975.

The bottom line is that alcohol-related traffic fatalities since 1982 are down 56 percent among 16-to-20-year-olds, according to NHTSA figures. Among those ages 21 to 29, they're down 47 percent. Other age groups show smaller declines in the alcohol-related traffic death toll, which dropped from 26,172 in 1982 to 16,684 in 2004. U.S. traffic deaths unrelated to drinking rose about 30 percent in the same period.

Much of the credit goes to Mothers Against Drunk Driving, Remove Intoxicated Drivers and other alcohol awareness groups that for years pressed lawmakers to recognize the price of drunken driving and toughen laws.

Among the most effective measures were:

- Higher alcohol taxes, especially on beer, the beverage of choice for binge drinkers, male binge drinkers, and male binge drinkers who drink and drive. Beer accounts for 68 percent of binge drinks, according to a Centers for Disease Control and Prevention survey reported Dec. 13 at the American Public Health Association's convention in Philadelphia.

- Raising the minimum legal drinking age to 21. It's cut accidents among drivers ages 18 to 20 by about 16 percent, according to a CDC review of research on how well preventive measures work.

- Stricter limits on alcohol tolerance for inexperienced drivers. Such laws limit blood alcohol content for drivers under age 21 to 0.00, or, in some states, 0.02. The figure measures the percentage of ethanol in the bloodstream. Zero-tolerance laws cut fatal crashes involving alcohol by between 10 to 20 percent, the CDC estimates.

- Sobriety checkpoints. They cut fatal crashes by 22 percent with random breath tests; 23 percent when police select the drivers tested, according to the CDC.

Airbags, improved rollover protection, and other enhanced vehicle safety measures also helped to reduce traffic fatalities.

The National Institute on Alcohol Abuse and Alcoholism, a government agency, tracks U.S. drinking in terms of pure ethanol to neutralize differences in alcohol content among beer, wine and distilled spirits. Between 1982 and 2003, according to the institute, overall consumption fell from 2.72 gallons of ethanol per person annually to 2.22 gallons. That represented declines for beer of 12 percent, wine of 1 percent and distilled spirits of 34 percent.

Tiziana Mohorovic, a market trends researcher with the Adams Beverage Group of Norwalk, Conn., which tracks consumption for the alcoholic beverage industry, didn't dispute the government's report of long-term declines in sales. She noted, however, that consumption of wine and distilled spirits have risen slightly since 2000. Beer, the most popular alcoholic drink, has been flat.

Historically, beer's been the main U.S. source of imbibed alcohol since the 1890s, according to the alcohol abuse institute. Before that, distilled spirits ruled. The all-time U.S. high for hard liquor occurred during the Civil War when annual consumption of distilled spirits on the Union side topped 2.16 gallons per person. The current level for distilled spirits is .67 of a gallon a year, according to the alcohol abuse institute, which includes in its figures everyone 14 and older.

Siegel, whose wine trade picked up as his spirits trade faded, doesn't mind the shift. He said he's especially grateful for one thing:

"Twenty years ago, people would sometimes stagger in off the street and you'd have to decide whether you'd sell to them.

"That just doesn't happen any more."

For an in-depth report on a generation of changes in U.S. drinking-and-driving behavior, read a study from the National Institute on Alcohol Abuse and Alcoholism at this Web address: <http://pubs.niaaa.nih.gov/publications/arh27-1/63-78.htm>

The Century Council, which is funded by America's distillers, stresses law enforcement approaches to drinking-driving problems. It's at [www.centurycouncil.org](outbind://20/www.centurycouncil.org).

The Centers for Disease Control and Prevention's analysis of how well various drunk driving interventions work is at [www.thecommunityguide.org](outbind://20/www.thecommunityguide.org). Click on Motor Vehicle Occupant Injury, then scroll down to Reducing Alcohol-Impaired Driving.



**12. The US Off-Premises Beer Market Grew by 39% from 2000 to 2005 and is Now Worth $8.5 Billion**

***Business Wire***

**December 22, 2005**

DUBLIN, Ireland--(BUSINESS WIRE)--Dec. 22, 2005--Research and Markets (<http://www.researchandmarkets.com/reports/c29958>) has announced the addition of Imported Beer in the United States to their offering.

The off-premises market for imported beer in the U.S. in 2005 is estimated at $8.5 billion. The market grew 39% between 2000 and 2005 at current prices, outperforming domestic beer sales. It also bettered the market's fastest growing sub-segment, light/low calorie beer (see Domestic Beer, September 2005). At current prices, imports grew 39% during the review period, compared to 16% for the entire domestic market and 27% for domestic light/low calorie beer. Growth was driven by consumer's interest in premium alcoholic beverage products and their willingness to "trade-up" from domestics to imports.

The imported beer market faces increasing competition from domestic light beer, wine, and spirits. Although imported beer products have continued to sell well, beer sales in general have declined or slowed. As wine and spirits gain in popularity, consumption of beer is declining on a per capita basis. The future success of the industry will depend on its ability to maintain imported beer's positioning as an "affordable luxury," and win back consumers who now favor wine or spirits. Manufacturers will need to integrate more premium light beers into their portfolios without cannibalizing sales of regular premium imports. Based on our research, overall growth in the category between 2005 and 2010 will be moderate -- forecast to increase 29% at constant prices from 2005 to 2010.



**13. US: Wine Institute Hails EU-US Wine Accord**

*Source: just-drinks.com editorial team*

December 23, 2005

The California Wine Institute has welcomed the official approval of the EU-US wine trade agreement agreed initially in September, hailing it as a “positive step forward in expanding the global wine market and meeting evolving consumer tastes and needs”.

The Institute said the agreement has benefits for both sides. US wine exporters will be able to continue to export wines to the EU which have been produced using certain winemaking practices common in the US but not allowed in Europe. In the past, permission to import these wines had to be renewed on a regular basis.

Meanwhile, the US will continue to accept certain EU winemaking practices, the Institute said, adding that the agreement benefited the EU by enhancing protection of European names and safeguarding the EU's biggest market, the US.

The California Wine Institute, which represents some 886 California wineries, refuted the suggestion that US winemaking practices now being allowed - such as the use of oak chips and water dilution - compromise product quality, saying that they just did not conform to established practice in Europe.

“US wineries produce high quality wines which meet a broad distribution of consumer tastes and price preferences using practices approved and used throughout the wine world,” said Joseph Rollo, international director of the California Wine Institute.

The Institute added that winemaking practices around the world differed on the basis of climate, tradition and the need to produce wines for a dynamic and discerning consumer market. Most of the winemaking practices covered by this agreement are already permitted for wines imported into Europe from countries such as Australia, Canada, Chile and South Africa that have trade agreements with Europe, the Institute said, and have been used by US winemakers for wines sold to the EU under the previous renewal procedure.

<http://www.just-drinks.com/news_detail.asp?art=29593&dm=yes>

