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

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|  | e - NEWS |
| *July 2, 2004* | |

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**1. Studio 13 Says it Did Not Exploit Loophole in Code**

By Jim Butts *- The Daily Iowan*

June 28, 2004

IOWA CITY, IA -- The owner of Studio 13 on Sunday rejected accusations by a state official that his bar exploited a "loophole" in the Iowa Code - which is set to be changed on July 1 - to avoid serving a 60-day liquor-licensee suspension

A Studio 13 employee, 13 S. Linn St., plead no contest to a charge stemming from an Oct. 24, 2003, incident in which alcohol was sold to a minor, the bar's first criminal conviction but third administrative violation.

On June 25, Dean Keegan, representing Studio 13, sought punishment under criminal law, rather than administrative law, to duck a stiffer consequence.

Under the current code, if a bar is suspected of serving alcohol to a minor, the bar is given a violation. If the violation is upheld by the Iowa Alcohol and Beverage Division, the bar's liquor license can be revoked - 30 days for the second violation and an additional 60 days for a third violation.

Criminal law stipulates that the first conviction results in a 14-day suspension.

But on June 25, Keegan and officials from the Iowa Attorney General's Office agreed on a 30-day suspension that will start Aug. 1. Thus, the bar avoided what could have been a 60-day suspension for its third violation

"It's a loophole in the law," said Lynn Walding, the head administrator of the state alcohol agency. "If I had my way, it would be doing a 90-day violation, but the language in the code said conviction."

Terry Fincher, an owner of Studio 13, denied any wrongdoing and instead charged the alcohol agency of having a faulty "standard of guilt," because the department has the authority to find a bar in breach of administrative law, regardless of whether it has a criminal conviction.

"[Walding] is the judge and jury, and he's trying to penalize us for two violations, one we were found not guilty of and the other the city attorney dropped the charges," Fincher said. "If you get a speeding ticket and you're found not guilty, you don't still have to pay the fine."

Walding said those cases involved the criminal prosecution of an employee and the alcohol agency works under "a different burden of proof."

"A violation means administratively we found it didn't comply with the law," he said.

For his part, Walding was apologetic to other bars, such as the Airliner, 22 S. Clinton St., which is serving a 90-day suspension for three violations.

"The only thing I can say is it's not fair, but it's the law," he said.

He said he takes solace in the fact that the law will change to eliminate the "loophole" on July 1.

"It doesn't make any sense, and that's why its being changed," Walding said.



**2. Cutting Through an Alcohol Haze**

By DI Editorial Board – *The* *Daily Iowan*

[June 29, 2004](http://www.dailyiowan.com/main.cfm/include/displayIssueArticles/issue_date/20040629.html)

IOWA CITY, IA -- The upcoming 30-day suspension of Studio 13's liquor license has arrived amid a whirlwind of bar closings in and around downtown Iowa City. The suspension has also sparked a controversy over the jurisdiction of administrative and criminal law in punishing bars for selling alcohol to minors. By pursuing criminal rather than administrative punishment for the incident, Studio 13 avoided a 60-day suspension for a third violation - as prescribed in administrative cases - and received a 30-day penalty instead. Many other local bars, however, have faced the 60-day standard for the same act and are upset at this loophole. This case demonstrates the need for consistency in regulatory enforcement.

Under Iowa law, the Iowa Alcoholic Beverages Division is delegated the responsibility of controlling and regulating alcohol and tobacco in accordance with state and federal laws. The agency has the power to grant and revoke liquor licenses, because selling intoxicating beverages is not a right. A justifiable reason is required to suspend or revoke a license, but the guarantees of due process are not granted for liquor violations. Lynn Walding, the agency's head administrator, said, "[A] violation means administratively we found it didn't comply with the law."

However, Iowa law also has specific punishments when a bar is found guilty of a crime. Because of protections from double jeopardy (being tried or punished for the same crime twice), these specific punishments override those established by the alcohol agency. The first two violations that Studio 13 received did not lead to criminal convictions. It was found not guilty of the first, and the charges were dropped in the second, though they are still considered violations. Therefore, upon receiving its third violation, the standard of criminal law was applied so that it was able to escape a 60-day suspension.

Underage drinking is an ever-present issue in Iowa City, and the alcohol agency is right to take these actions - it is illegal to sell alcohol to people under the age of 21. The number of bars serving license suspensions is high, and bars and the police must work together to keep alcohol out of the hands of minors. However, be it an issue of alcohol violations or terrorist acts, the principle of due process is essential to our country. It is not right to punish defendants for crimes they were acquitted of. It is also not right to apply different standards for the same crime as a function of what legal route is taken.



**3. Bordeaux Slashes Wine Sales as Crisis Deepens**

By Adam Lechmere

June 20, 2004

The Bordeaux authorities have announced they are slashing the amount of wine the region can sell in an effort to stem the deepening crisis in French wine.

In an unprecedented move the Bordeaux trade body the CIVB will limit sales to 50 hectolitres per hectare. This will reduce the amount of the 2004 vintage sold by up to a third.

Any wine remaining will be stored pending its sale as bulk wine, or until the CIVB decides conditions have improved.

France is in the middle of its greatest crisis since the 1970s - some say since the phylloxera disaster of the 1860s. The price of wine has collapsed in the last three years to almost half what it was. In the mid-1990s barrels of standard AC Bordeaux red were fetching around €1500. A 900-litre barrel now fetches around €760.

In the past 12 months exports have fallen by 9%. Thousands of the region’s producers are in financial difficulty, with threatened bankruptcies reported on a regular basis. The picture is repeated to a lesser extent across the great wine regions of France.

'The collapse in price of some Bordeaux AOCs has reached an unacceptable level that threatens the viability of our vineyards and the unity of the industry,' CIVB president Jean-Louis Trocard said. 'The situation cannot continue. Everyone has to act accordingly.'

The CIVB also proposes the uprooting of hundreds of hectares of vineyards that are disused or the subject of inheritance squabbles.

The reasons for the crisis are well-documented: falling domestic consumption, France’s paralysis in the face of cheap, reliable, easy-drinking, well-marketed, understandably-labelled Australian wine. Generic Bordeaux is also dogged by accusations of falling quality.

Although they have agreed to be bound by the sales ceiling, the crisis does not affect classed-growth Bordeaux chateaux, which seldom have difficulty selling their wine. This year the five first growths have priced their 2003 vintage at double that of the 2002.

Producers affected are the main rump of generic Bordeaux and Bordeaux Superieur. With the price of wine plummeting below the level at which it is economic even to pick the grapes, many are resigned.

One producer in Entre-Deux-Mers said, ‘I’m not making a centime. If things carry on like this I’ll just stop. I can’t even repay my loans.’



Bar Owners Warm up to Banning Minors

By Erin Jordan – *Register Iowa City Bureau*   
June 28, 2004

**An ordinance banishing people younger than 21 from Iowa City taverns is gaining a following.**

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IOWA CITY, IA. - Support is growing among Iowa City bar owners for an ordinance banning minors from drinking establishments.

Iowa City bar owners have long opposed prohibiting minors from their establishments. That sentiment is changing as some of the college town's most popular night spots - known among students for cheap beer and bouncers with bad eyesight - face uncertain futures because of stricter enforcement of violations for serving alcohol to minors, owners say.

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|  | |  | | --- | | **Czar pushes training programs** | | Iowa's alcohol czar wants to use fines from liquor license violations to train bartenders on how to avoid serving minors alcohol.  Iowa collected $107,000 in fines from July 1, 2003, to June 1 from bars, restaurants and convenience stores that broke the law, most often by serving alcohol to minors, said Lynn Walding, administrator for the Iowa Alcoholic Beverages Division.   Currently, money collected from the fines goes into the state's general fund. Walding said he would like to see it pay for Training for Intervention Procedures (TIPS) seminars that teach servers how to prevent alcohol sales to minors and people who are intoxicated.   The division provided a free TIPS course for 685 people in Iowa City in August. Since then, officials in Sioux City, Waverly, Ames and Cedar Falls have asked for a similar workshop, Walding said.  Businesses that send staff to the programs get one "free" violation that doesn't count against their liquor license, Walding said.  Iowa law states the penalty for the first violation is $500. The second violation is a $1,500 fine and 30-day suspension. The third violation is $1,500 and 60 days, and the fourth means revocation of the liquor license. | |

Owners of two downtown Iowa City bars, the Union Bar and the Airliner, are for sale after the Iowa Alcoholic Beverages Division suspended their liquor licenses for the summer for selling alcohol to minors. Fitzpatrick's, a brew pub just south of downtown, closed in May after losing its liquor license for 90 days.  
  
More than 20 other Iowa City bars have violations for serving minors. Some owners and managers say admitting 19- and 20-year-olds isn't worth the risk of having their liquor licenses yanked.

"If they close you down for 90 days, that's pretty much a death blow," said Don Stalkfleet, who owns the Sports Column and Joe's Place, two downtown bars. "I would rather just go 21 and let the chips fall where they may.”

Some young people say minors shouldn't be banned from bars.

"If they want to fix it, they need to stop selling to minors," said Melissa Watt, a University of Iowa student from Marion. "I'm only 20, but I like to go into a bar to play pool and smoke."

An ordinance implemented last fall prohibiting people under 19 from entering bars after 10 p.m. has not kept alcohol out of minors' hands, city leaders said

"The 19 ordinance has not worked," said Jim Clayton, co-coordinator of the U of I's Stepping Up Project, which seeks to curb alcohol abuse. "We've seen our bars trying to do a better job. What we have not seen is any effort on the part of the students to modify their behavior."

Ten other Midwestern college towns, including Ames, ban minors from bars, according to data compiled by the Iowa Alcoholic Beverages Division.

The Iowa City City Council in the past decade has seesawed on an ordinance that would ban minors from bars. The council will review the 19-only ordinance this fall and probably will decide whether it's time to prohibit minors from bars.

"I'm sure it will be part of the discussion," council member Ross Wilburn said. "More and more I'm hearing bar owners talking about that."

Whether a 21-only ordinance comes up for a vote will depend on police assessment of the 19-and-up ordinance and opinions of the Alcohol and Bar Committee, a group of bar owners, city and U of I officials, students and citizens, said Mayor Ernie Lehman.

"The committee is leaning in the direction of 21," said Clayton, a committee member.

Bar owners in past years have railed against a 21-only ordinance. It would mean losing the cover charges 19- and 20-year-olds pay to enter the bars. It might also leave some of the largest bars without enough customers to survive, bar owners and city officials said.

But closures and suspensions also threaten bar owners. This summer's penalties are a result of increased enforcement in recent years and the city's decision to turn over prosecution of liquor license violations to the state, Lehman said.

Jon Wilson, general manager of the Airliner, said he's considering allowing only those 21 and older in his bar. The 60-year-old landmark is prohibited from serving alcohol during its 90-day suspension but is still open as a restaurant.

"Up until this time, we had allowed 19-year-olds in," Wilson said. "That creates a bind because once they are in the door, it's hard to keep them from getting alcohol from their friends."

Fake identification cards are prevalent in Iowa City as are strategies like the bathroom hand-off, in which a legal drinker buys two beers and passes one off to a younger friend, bar owners and others said.

"You can't stop underage kids from drinking," said Charlie Dobberstein, a 21-year-old graphic design student at the U of I. "That's why people come to school, so they can get away from their parents and go downtown

Stalkfleet said his change of heart is a business decision. The frequency of police patrols and sting operations makes it impossible to avoid violations, he said. The Sports Column had one violation for serving a minor in May 2003.

Leah Cohen, owner of Bo-James restaurant and bar, began banning minors two years ago.

"My business booms today," Cohen said. "It's up 22 percent since January. This summer, I didn't even know the students were out of town."

Some of Iowa City's newest bar owners are catering to an older clientele. The Siren, an Art Deco-styled bar with live jazz, opened in the spring.

"I thought, 'Where would I want to go downtown?' " Siren owner Jacqueline Krain said. "I don't have a place I feel comfortable in as a 30-year-old."

Krain, a 1996 U of I graduate, opened a no-smoking, 21-and-over club with comfy leather chairs instead of a dance floor. "It has the connotation of keeping away a younger crowd," she said.

Not everyone supports the trend toward banning minors from bars.

Bo-James's Cohen said she still thinks bars should be open to 19- and 20-year-olds.

"One concern I have is putting the kids in houses. What we saw with VEISHEA is an example of what can go wrong at house parties," she said, referring to the Iowa State University celebration that morphed into riots this spring.

Blair Westover, a 23-year-old U of I graduate who starts law school in the fall, said a 21-only ordinance won't keep minors from sneaking into bars. "It will ruin the existing 21 bars. I won't be able to avoid freshmen."

