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

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|  | e - NEWS |
| *August 6, 2004* | |

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**1. Mixed Bag in 19-Ordinance Effects**

By Jim Butts *- The Daily Iowan*

[July 30, 2004](http://www.dailyiowan.com/main.cfm/include/displayIssueArticles/issue_date/20040730.html)

Almost one year after Iowa City's bar-entrance age was raised to 19, the City Council is still undecided on whether to go 21.

Meanwhile, alcohol sales in the county are up 10.67 percent, alcohol incidents in the residence halls are up 32.7 percent, and city arrests involving alcohol show mixed results.

On Aug. 1, 2003, the council enacted the 19-ordinance, raising the legal minimum age to be in a bar after 10 p.m. from 18 to 19. The measure, along with an additional list of recommendations to help curb underage drinking, was a compromise proposed by student leaders in order to avoid raising the entrance age to 21.

The council is set to review the 19-ordinance in September to decide whether changes, including boosting the age to 21, need to be made.

Only Councilors Ross Wilburn and Mike O'Donnell have publicly taken a stance on the subject - Wilburn supports going to 21, while O'Donnell prefers to stick with 19.

Four other councilors have remained neutral, saying they will wait for public discussion and a final report from the city before making any decisions on what entrance age is appropriate. Councilor Regenia Bailey could not be reached for comment Thursday.

Almost parallel to the change last August, liquor sales have jumped 10.67 percent from approximately $7.5 million to $8.3 million in Johnson County during fiscal 2004, according to the Iowa Alcohol and Beverages Division. For comparison, state liquor sales went up around 1 percent during the same period.

"It ranks as the largest sales increase in the state," said Lynn Walding, the administrator of the division.

The number of incidents involving alcohol in the UI residence halls also increased from 718 in the 2002-03 school year to 953 in the 2003-04 school year.

"I don't know if the 19-ordinance changed residence halls too much, to be honest with you," said Kate Fitzgerald, the assistant director of residence life. She feels that residence-hall staff members are now better trained to aggressively handle alcohol-related problems, so better enforcement could explain the rise, she said.

UI police Capt. Larry Langley said the department has likely seen an increase in alcohol-related charges since the ordinance passed.

"Just looking at the reports that come across my desk on a daily basis, we've probably seen an increase in alcohol-related cases, but I don't know if that can be directly linked to the 19-ordinance," he said. Other factors, such as more enforcement and a decrease in the legal blood-alcohol limit, might also be responsible for the rise, he said.

Comparing alcohol-related arrests made by Iowa City police since the 19-ordinance took effect shows both increases in the number of operating-while-intoxicated, public-intoxication, and disorderly conduct charges, but a decrease in the number of possession-of-alcohol-under-the-legal-age violations.

Iowa City police Sgt. Troy Kelsay said the arrest record was generally inconclusive, except for a notable decrease in the number of disorderly house charges, a ticket usually given to house parties. In the past, many feared raising the entrance age to bars would increase the amount of parties outside downtown.

"My personal interpretation is there's been either fewer parties, smaller parties, or fewer complaints," Kelsay said.



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**2. Diageo Presents Golden Bar Awards - and Seinfeld - to Spirits, Wine and Beer Distributors**

Source: *Diageo*  
July 29, 2004

CHICAGO, July 29 /PRNewswire-FirstCall/ -- Spirits, beer and wine distributors from across the country walked down the red carpet and received the equivalent of the Academy Awards from Diageo, the world's leading premium drinks company, for outstanding performance in the marketplace as well as for the roles they play in their local communities.

The inaugural "Diageo Golden Bar Awards," which included a surprise performance by comic superstar Jerry Seinfeld, carried all the grandeur and celebrity of a Hollywood evening. More than 20 distributors received a 24K gold award which weighs 8 pounds, stands more than a foot tall and was produced by R.S. Owens -- the same company that created the Oscar®, given by the Academy of Motion Picture Arts and Sciences.

Ivan Menezes, Diageo North America President and CEO, told distributors, "You are truly an invaluable part of our business. Without your extraordinary accomplishments in bringing all of our brands to market -- whether from Diageo Guinness USA, Diageo Chateau & Estate Wines, or Diageo North America Spirits -- we quite literally would have no business."

Menezes credited distributors for Diageo's meteoric rise as the market-leading spirits, beer and wine company. "Our distributors are the ones in the bars, restaurants, shops and stores in every market, every day, building great businesses with our retail customers and delivering tremendous volume and sales growth," Menezes said.

"Just as the Oscars represent excellence in cinematic achievement, our twenty Golden Bar winners are the very best -- their outstanding performance matches the passion they bring to the business," he added.

The following lists the categories and winners for 2004 Golden Bar Awards.

Distributor of the Year -- Wine & Spirits: Pacific Wine & Spirits, CA

Distributor of the Year -- Beer: Harbor Distributing, CA

Spirits Excellence Award -- Smirnoff: Colony Liquor & Wine Distributors, NY

Spirits Excellence Award -- Jose Cuervo: Major Brands, MO

Spirits Excellence Award -- Captain Morgan: Pacific Wine & Spirits, CA

Spirits Excellence Award -- Crown Royal: National Wine & Spirits, IN

Spirits Excellence Award -- Baileys: Glazer's of Iowa, IA

Spirits Excellence Award -- Johnnie Walker: Coastal Wine & Spirits, FL

Spirits Excellence Award -- Tanqueray: Alliance Beverage, AZ

Wines Excellence Award -- Beaulieu Vineyard: Pacific Wine & Spirits, CA

Wines Excellence Award -- Sterling Vineyards: Southern Wine & Spirits, FL

On-Premise Excellence Award -- Spirits: Reliable Churchill, MD

On-Premise Excellence Award -- Wine: Alliance Beverage, AZ

Best New Launch Award -- Spirits: Glazer's of Texas, TX

Best New Launch Award -- Wine: Pacific Wines & Spirits, CA

Beer Excellence Award -- Guinness: Lee Distributors, SC

Beer Excellence Award -- Smirnoff ICE: Gate City Beverage, CA

On-Premise Excellence Award -- Beer: Beechwood Distributors, WI

Best New Launch Award -- Beer: JJ Taylor Distributors, FL

Corporate Citizenship Excellence Award -- The United Group, MA



**3. Court: Ban on Alcohol Ads in College Newspapers Unconstitutional**

Source: *Cnn.com*

August 5, 2004

PHILADELPHIA (AP) -- A Pennsylvania law banning paid advertisements for alcohol in college newspapers is unconstitutional, a federal appeals court ruled Thursday.

A three-judge panel of the 3rd U.S. Circuit Court of Appeals said the 1996 law, which was intended to combat underage drinking, placed an unfair financial burden on student-run publications and hindered their right to free speech while doing little to achieve its goal.

The law was challenged by The Pitt News, a student-run paper at the University of Pittsburgh.

In a 17-page opinion, Judge Samuel Alito said the state faces a heavy burden anytime it tries to restrict speech, but had offered only "speculation" and "conjecture" to support its contention that the ad ban would slacken the demand for alcohol by underage Pitt students.

"Even if Pitt students do not see alcoholic beverage ads in The Pitt News, they will still be exposed to a torrent of beer ads on television and the radio, and they will still see alcoholic beverage ads in other publications, including the other free weekly Pittsburgh papers that are displayed on campus together with The Pitt News," he wrote.

The law's crafters had tried to avoid a free speech challenge through a technicality: Instead of barring student publications from promoting alcohol, the state made it illegal for them to be paid for doing so.

Alito rejected that strategy.

"If government were free to suppress disfavored speech by preventing potential speakers from being paid, there would not be much left of the First Amendment," he wrote.

The ruling could be a financial boon for other college newspapers, many of which eschew school funding so that they may retain their editorial independence, and are reliant on advertising revenue to survive.

In its lawsuit, The Pitt News said it lost $17,000 in ad sales after the state stepped up enforcement of the ban in 1999. Some bars and restaurants near the campus stopped advertising entirely, rather than alter their ads to remove any reference to alcohol.

The paper's lawsuit was supported by the Pittsburgh chapter of the American Civil Liberties Union, The Student Press Law Center, the Pennsylvania Newspaper Association and the Reporters Committee for Freedom of the Press.

Pennsylvania ACLU Litigation Director Witold Walczak called the court's decision "gratifying" Thursday because of his group's previously unsuccessful challenges to the law.

"This is the tenth time we've asked a court to rule on this issue and this is the first time they've agreed," he said.

Pitt News business manager, Pittsburgh senior Bethany Litzinger, praised the court's ruling and said the advertising ban was well-intentioned, but misguided.

"We did understand the concerns of the legislators. They felt the ads promoted underage drinking. But 70 percent of our readers are over 21," Litzinger said.

After a federal judge initially upheld the law, the newspaper had defiantly begun a feature called "Drink Specials," in which it published beer and mixed-drink prices at local bars free of charge.

A spokesman for the Pennsylvania attorney general's office declined to comment on the opinion, and said the state had not yet decided whether to appeal.



**4. Bush Administration Silent on Internet Wine Sales**

Source*: McClatchy Newspapers*

August 02, 2004

WASHINGTON - The Bush administration is keeping quiet in a fight over Internet wine sales, in a move that steers clear of potential political pitfalls while leaving the Supreme Court to find its own way.

Plenty of other people are weighing in on the high-profile Internet wine sales case. These legal kibitzers range from conservative activists who decry alcohol proliferation to several dozen state attorneys general eager for Supreme Court guidance.

But with an initial Supreme Court deadline having passed, the Bush administration seems content, so far, to stay on the sidelines.

"One can only speculate," the Rev. Richard Cizik, vice president of the National Association of Evangelicals, said Monday, "but if you're looking at the parties to this controversy, business and evangelicals, then the last thing you want is to pit one against another. Better to punt."

Thursday was the initial deadline for amicus - also called friend-of-the-court - briefs to be filed in two consolidated Internet wine sales cases. The cases challenge New York, Michigan and other states that require alcohol be sold through a network of wholesalers and retailers rather than directly to customers.

The Lodi, Calif.-based Lucas Winery is at the center of one of the lawsuits, which have pulled well-placed Republican attorneys in opposite directions. Former independent counsel Kenneth Starr, for instance, now represents California wineries that have high hopes for Internet sales, while President Bush's close ally Miguel Estrada represents the wholesalers who want to retain the current system.

The Bush administration had indicated to both sides that if it were to file an amicus brief it would likely do so by the initial July 29 deadline, an attorney involved in the dispute said Monday. The solicitor general missed that deadline, but others made it.

The Michigan Beer and Wine Wholesalers Association, for instance, filed an amicus brief warning of the dangers of unfettered Internet alcohol sales.

"This case is not about 'fine and rare wines,'" the wholesalers argued. "The thousands of cheap wines available today from around the nation with greater appeal to most teenagers and alcohol abusers are constitutionally indistinguishable from rare vintages."

The Michigan Association of Secondary School Principals likewise weighed in supporting the state's direct shipping bans, as did the National Association of Evangelicals.

Cizik, a longtime activist in the fight for tougher alcohol controls, said underage drinking "would only be aggravated by the Internet."

Bush administration officials, too, were debating getting involved in the case. Thursday's initial amicus deadline passed, however, without a solicitor general's brief being filed.

Justice Department spokesman Charles Miller declined to comment on the case Monday.

Wine Institute President Bobby Koch, whose organization supports lifting state bans on Internet wine sales, suggested the administration's silence may not matter much for the final disposition of the case.

"What would be significant is if they took a position against free trade," Koch said Monday.

There's still another chance for amicus briefs to be filed, as the final deadline arrives Sept. 23. At that time, wine industry allies are likely to file their own briefs. Theoretically, the Bush administration could weigh in then.

Sometimes called the 10th justice, for the institutional influence the office carries with the Supreme Court, the solicitor general represents the government and also offers guidance on cases that don't directly involved the government.

"The solicitor general frequently files amicus briefs on the merits in cases involving issues of public importance," the solicitor general's official web page notes.

Earlier this summer, for instance, Acting Solicitor General Paul Clement weighed in on a case involving the deportation of a refugee back to his native Somalia, following his arrest for assault in the United States. In that case, the Bush administration argues deportation should proceed even though Somalia lacks an organized central government.

During the Supreme Court's previous term that began last October, the solicitor general's office filed amicus briefs in 33 cases, a significant share of the 80-some cases that were decided during the 2003 term.



**5. How Can the Alcohol Industry Avoid the Fate Big Tobacco Suffered?**

By Bob Barr*, FindLaw* Columnist

Source: CNN

August 3, 2004

Never underestimate the imagination or the perseverance of the trial lawyer establishment when it comes to scoping out new targets for its favorite revenue-enhancing toy -- class-action lawsuits.

Less than a decade ago, the trial bar's class-action efforts garnered multibillion-dollar settlements from the tobacco industry. Not content with that, however, the trial bar is now teaming up with a new generation of ex-government bureaucrats, liberal doctors, and other do-gooders, to prepare a new set of class actions.

Their goal, once again, is to bring a perfectly lawful industry to its knees (and to make a pretty penny for themselves as part of the bargain). This time, it's the alcoholic beverage industry that is the trial lawyers' target.

But is there a way the alcohol companies can avoid the tobacco companies' fate? In this column, I will explore that question.

Many observers are pooh-poohing the notion that the trial lawyers will succeed in their latest quest. But they should beware -- for history may well repeat itself.

I recall many such optimists expressing overblown confidence in the mid-1980s, when the litigation against the tobacco industry was moving into high gear. They said then that the trial lawyers would "never succeed." How wrong they were.

The early reaction to the tobacco lawsuits was that they would fail for a simple reason: Smoking is a voluntary action. So if people choose to smoke, why should the manufacturer of the lawful product they chose to ingest be held liable for the subsequent, and well-known injury that would result?

The logic of this argument was unassailable. But it ultimately fell before the trial lawyers' class action onslaught. Why? The alcohol industry must understand the answer before it, too, is crippled by class action suits.

**The tobacco industry's Achilles' heel: Claims of Marketing to Young Adults**

The answer is that the trial lawyers succeeded because they recognized the weak spot in the tobacco industry's defenses. The logic of its arguments was strong. But the industry's marketing also happened to include a tangential target -- young adults -- that was distasteful to many Americans.

Recognizing this vulnerability, the trial lawyer bar began to claim that children were a primary target of tobacco industry advertising. In fact, that wasn't true. But the public was convinced -- and Joe Camel was made out to be the advertising equivalent of Adolph Hitler

The result was that public opinion began to shift perceptibly in favor of the trial lawyer bar, and away from the logic of the tobacco industry's primary defense (voluntary adult decision-making). And the rest, as they say, is history. At this point, the tobacco industry is even cooperating in efforts to encourage children not to smoke. But it's too little, too late.

Having learned from their slow start in the anti-tobacco campaign, this time the trial lawyers are now cutting right to the chase. They are carefully laying the groundwork for an assault on the alcohol industry by claiming -- of course -- that its advertising is targeting the children.

Suits based on this claim already are pending in several states, including Ohio, California, Nevada, North Carolina, Colorado and the District of Columbia.

They allege the alcohol industry is using very subtle and "sophisticated" advertising to target underage drinkers, and thereby encourage teens to drink alcohol.

The alcohol industry must be wiser, in response to these suits, than the tobacco industry was when facing similar allegations. If it is not, it may well meet the tobacco industry's fate.

As in their earlier tobacco litigation, the trial lawyers have brought in a powerful ally -- physicians. Of course, not all physicians are on their side -- but, enough of them are, to give the impression that they speak for this most respected of professions.

Additional allies for the trial lawyers come from academia -- in particular, a "watchdog" consumer group formed at Georgetown University, called the Center on Alcohol Marketing and Youth, or "CAMY." They also have been recruited from the army of former federal bureaucrats that hang around academia like remoras on sharks.

This pinstripe army is being assembled by the trial lawyers in an attempt to convince the American public that alcoholic beverage manufacturers are engaged in an evil mission to turn the country's teens into alcohol-dependent adults.

One of the most prominent among the academic types assisting the effort is none other than former Food and Drug Administration (FDA) Commissioner, Dr. David A. Kessler. Kessler is one of the nation's preeminent advocates of using the power of the federal government to force citizens to behave a certain way -- so it's no surprise he has joined the anti-alcohol-industry forces. All that is surprising is that so far, he hasn't actually called for a return to Prohibition.

In the late 1990's, Dr. Kessler led the effort to have the agency he headed, the FDA, declare cigarettes to be "nicotine delivery devices" and therefore subject to its regulation. But in 2000, in the case of FDA v. Brown & Williamson, the U.S. Supreme Court made clear that Dr. Kessler's bid at tobacco regulation far exceeded the FDA's reach, as Congress had defined it. Put another way, Dr. Kessler was trying to exercise power his agency -- which, after all, was supposed to regulate food and drugs, not cigarettes -- simply didn't have.

Nonetheless, despite the Court's clear rebuke, Dr. Kessler's zeal to regulate private citizens' voluntary behavior apparently has not waned.

**First Amendment defenses**

These warriors against all things evil, including alcohol, are now engaged in a massive effort to regulate and limit alcohol advertising. One target of the lawsuits they have started is magazines containing alcohol advertising that they say appeal to young males (specifically, those under 21 years of age).

In fact, it's plain that the same advertising which appeals to young males -- beautiful young women dressed in alluring outfits -- necessarily appeals to older men as well. (Indeed, because sex sells, and beauty sells, it's hard to think of a field of advertising that does not employ beautiful young women -- including cosmetic companies that themselves market to young women.) But that fact either doesn't occur to these crusaders, or is simply ignored by them.

Laudably, the alcohol companies, clearly mindful of the fate of their tobacco brethren, are not caving in; the economic stakes are too high. They have raised strong and appealing First Amendment defenses. They are also seeking to have the cases removed from state to federal courts -- where the rules are somewhat less favorable to class-action plaintiffs.

Still, in an environment in which class actions are simple to bring, and can coerce settlements even when the underlying suit is meritless, even these defenses may not be enough. This promises to be a long-term legal battle of epic proportions. What the alcohol industry should not do is follow in the tobacco companies' footsteps and presume they will win because they happen to be right -- for that is the path to ruin.



**6. Bacardi to Maintain Strength of Grey Good Brand – Chairman**

By: Roger Cheng - *Dow Jones Newswires*

August 5, 2004

NEW YORK -(Dow Jones)- Bacardi Ltd. plans to "maintain" recently acquired Grey Goose vodka's growth rate as it folds the brand into its business, said Chairman Ruben Rodriguez.

"This brand has been extremely successful since it was created," Rodriguez told Dow Jones Newswires. "What we have to do is maintain its growth rate."

Grey Goose's main market is in the U.S., but Bacardi hopes eventually to use its international presence to take the brand overseas, Rodriguez said.

Terms of the deal weren't disclosed, but is believed to be worth more than $2 billion. The acquisition fills a gaping hole in Bacardi's product portfolio, which lacked a vodka brand. Vodka represents the largest segment in the spirits market, and superpremium vodkas such as Grey Goose make up the fastest growing part of the vodka business.

“This is our first major entry into the vodka category,” he said. “It was essential for us to make big splash with the number one brand in the superpremium (segment).”

While vodka is the largest segment of the spirits business, it's also among the most crowded.

"Competition has never scared us," Rodriguez said. "I think we have an absolute leader in Grey Goose."

With the gap in its product offerings filled, many believe the next step would be to take the company public. But Rodriguez said the company doesn't have any plans to launch an initial public offering unless it "creates additional shareholder value and when it's in the best interest of the company."

The current acquisition, which Bacardi funded through bank debt, won't impede any future acquisitions, since the company can easily tap the equity market at any time, Rodriguez said.

In February, shareholders voted to give authority to the board to issue a second class of shares. A public offering would still require a two-thirds majority vote by the board.

