

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

|  |  |
| --- | --- |
| abdblue.jpg - 2723 Bytes |  e - NEWS |
| *October 22, 2004* |

1. [Alcohol Official: Imminent Danger Brought About License Suspension](#First)

2. [Cup Series Might Allow Hard-Liquor Sponsors](#Second)

3. [FOCUS: Diageo Sees U.S. Growth In Flavored Alcohol Drinks](#Third)

4. [Council Backs Off 21-Only](#Fourth)

5. [Constellation Steps Up Consolidation](#Fifth)

6. [$234 Million Tax Cut For Big Alcohol](#Sixth)

|  |
| --- |
| **1. Alcohol Official: Imminent Danger Brought About License Suspension**By Tom McMahon, staff writer – *Daily Nonpariel*October 16, 2004CARTER LAKE - State Alcoholic Beverages Division Administrator Lynn Walding said the South Beach Night Club's liquor license was suspended because its operation posed an imminent danger to public safety. |

Walding said the decision to pull the license was based on evidence of shootings presented to his office by the city of Carter Lake.

The City Council denied the night spot's liquor license renewal in April, citing the public safety concerns. South Beach is appealing that action and was allowed to remain open pending the appeal.

In the meantime, the state suspended the license, which Walding said is allowed under Iowa law if a danger exists. He said the burden of proof is now on South Beach to show its continued operation will not pose a risk to the public.

Carter Lake police reported five shootings from May through September. The shootings were reportedly in the club or in the parking lot or streets around the club, involving patrons who had been there.

South Beach owner Bob Weiderwalt is appealing the suspension. A hearing is scheduled for Oct. 25, he said.

Weiderwalt alleges the city submitted incorrect information to Walding's office. He alleged the city's action was racially motivated, a charge strenuously denied by Joe Thornton, Carter Lake city attorney.

South Beach was open on Fridays and Saturdays until 3 or 4 a.m., which is when the shootings occurred. There were no deaths, but several injuries resulted.

**2. Cup Series Might Allow Hard-Liquor Sponsors**

By *Knight Ridder*

October 18, 2004

**Major teams primed to sign with companies**

NASCAR is set to rescind its ban on hard-liquor sponsorships beginning next season, sources confirmed Friday.

The move could bring an influx of sponsorship money. Several Nextel Cup teams -- Roush Racing and Richard Childress Racing among them -- are primed to sign deals with hard-liquor companies, including Diageo and Jack Daniels.

"We are currently evaluating the policy we have in place regarding liquor sponsors, but no official decision has been made at this time in regard to any changes," NASCAR spokesman Mike Zizzo said Friday.

NASCAR has allowed beer companies to sponsor cars and its Busch series has been sponsored by Anheuser-Busch since 1982.

In recent years, NASCAR also has allowed hard liquor companies to advertise malt beverage products. Smirnoff vodka is not allowed, but Smirnoff Ice is allowed as an associate sponsor on Matt Kenseth's No. 17 Ford.

Several other racing series allow hard liquor advertising. Crown Royal began sponsoring the International Race of Champions series this season.

NASCAR will likely provide several guidelines overseeing the marketing of the hard liquor sponsorships, but is not expected to alter its 18-year-old minimum age requirement for its three national series -- Trucks, Busch and Cup.

**3. FOCUS: Diageo Sees U.S. Growth In Flavored Alcohol Drinks**

*Dow Jones Newswires*

October 18, 2004

LONDON -- U.K. drinks giant Diageo PLC (DEO) is reaping the benefits of the popularity of sugary flavored alcoholic drinks in the U.S. and - unlike in Europe where the market is in decline - it sees plenty of room for more growth.

The drinks, otherwise known as flavored malt beverages, or FMBs, are selling like hot-cakes in supermarkets and convenience stores across the U.S.

Described by the company as a "beer alternative brewed using a malt base", Diageo's Smirnoff Ice and Smirnoff Twist - its two most popular FMBs- are produced by stripping the taste, color and some alcohol from a malt drink, and then adding flavorings, including those from distilled spirits.

Although they have the same alcohol content as the European versions - around 5% - they contain far less spitits, and taste much sweeter.

Brewing the drinks with a malt base gives them the status of beer rather than spirits - which, in the U.S., means they can be advertized on television and radio, and sold in supermarkets and grocery stores, unlike spirit-based drinks which can only be sold in liquor stores. Beer drinks also have a lower tax rate.

Diageo is committed to the FMB sector, as it gives the company access to a wider market and builds brand recognition.

Tom Rose, Vice President of Trade Marketing at Diageo, told Dow Jones Newswires that Smirnoff has a 52% share of the FMB business in the U.S., up by around 13% from last year thanks to the introduction of orange, apple and raspberry-flavored Smirnoff Twisted V.

He said the company has a "big commitment" to the market, and will continue to grow through innovation and new product offerings. Three years ago, Diageo didn't have an FMB innovation department, but there are now 60 staff, Rose said.

He's confident Diageo's position in the FMB market will "continue to get stronger." The company has a major advantage over competitors in its extensive network of distributors - a key link in the U.S., where brewers aren't allowed to sell alcohol directly to stores.

Market For Ready-Mixed Drinks May Be Fading

However, according to a recent report by research organization Euromonitor, the market for such drinks - also known as flavored alcoholic beverages, or FABs - is on the wane.

An extract from the report reads: "Industry analysts are already beginning to hail the beginning of the end for FABs, as key markets such as the U.K., U.S., Sweden and Brazil reach market maturity and register declines. This is being compounded by a growing trend towards increasing levels of taxation on spirits and spirits-based drinks to try and stem the burgeoning problems of underage and binge drinking across the globe."

And U.S. authorities are starting to turn their attention to FMBs.

In August this year, Attorneys Generals from 28 different states demanded the federal government crack down on FMBs, and said there should be uniform tax rates and labelling codes across the U.S. They said the line between distilled spirits and beer had been blurred with FMBs, and called for clarification.

Diageo is currently challenging through the law courts a move by the U.S. state of Oregon to effectively ban the sale of most FMBs in over 3,500 grocery and convenience stores. The Oregon Liquor Control Commission has ruled that suppliers must reformulate the base alcohol makeup of their FMBs - a move thatwould lead to much higher prices.

Diageo Executive Vice President, Guy L. Smith said, "This action is no different than a tax increase on consumers and is an unnecessary manipulation of the marketplace by a government agency".

Some Diageo Competitors Abandoning Market

While Diageo remains confident in the U.S. market, many of its competitors disagree.

U.K.-based Allied Domecq (AED) pulled out of the FMB market in the U.S. in March this year, due to disappointing sales of its ready-to-drink brands Stolichnaya Citrona and Sauza Diablo, which it jointly produced and distributed with SABMiller PLC's (SAB.JO) Miller.

A SABMiller spokesperson told Dow Jones Newswires the FMB market carries a high marketing and advertizing cost, as the products need to be constantly reinvented to maintain appeal.

Euromonitor concurred. In its report, it said aggressive marketing campaigns are "necessary to ensure a high profile for an essentially fashion-led sector of the alcoholic drinks market."

U.S. brewer Brown-Forman also recently dropped its Jack Daniel's Original Hard Cola FMB after two years on the market. Originally, it was manufactured through a partnership with Miller Brewing Co. and Miller wanted to exit. Since Brown-Forman took over distribution from Miller in April, the number of beer distributors carrying the brand dropped to 35 from 140, leading Brown-Forman to conclude it wasn't worth the investment to continue.

However, Brown-Forman spokesman Phil Lynch said the company has other FMBs, such as its Country Cocktails range and Black Jack Cola, and it's interested in growing the market. It sees FMBs as a way to build up the Jack Daniels brand, pointing out that Black Jack Cola is a popular drink at pool parties, concerts and other outdoors events.

In Europe, the market for premixed drinks - known as ready-to-drink, or RTDs in the region - has been hit by higher taxation.

David Liston, senior global analyst at Barclays Private Clients, said European governments have "taxed RTDs out of existence," but he doesn't think the same will happen in the U.S.

When the U.K. increased the tax rate on premixed drinks in 2002, fewer bottles were sold. Norway and Switzerland have both raised taxes on ready-to-drink cocktails this year, and Germany imposed a tax in a bid to curb underage drinking.

Liston reckons there'll be steady growth in U.S. sales, although the curve will flatten out slightly.

In the year to end-June, Diageo said its ready-to-drink brands had global organic volume growth of 7%, boosted by the launch of Smirnoff Twisted V in the U.S. In North America, Smirnoff ready-to-drink volumes rose 15%, in comparison to the U.K. where volume sales of Smirnoff Ice, a popular RTD product, fell 13% and net sales dropped 17%.

**4. Council Backs Off 21-Only**

By [Vanessa Miller](http://www.press-citizen.com/apps/pbcs.dll/personalia?ID=221) - *Iowa City Press-Citizen*

October 19, 2004

IOWA CITY, IA -- While local business owners say there will be many changes in Iowa City's alcohol-serving establishments this year, one of those changes will not be the bar entry age.

Patrons older than 19 will continue to be permitted in some bars after a slim City Council majority agreed Monday night, during their informal meeting, to temporarily shelve discussions of a law that would ban those younger than 21 from entering bars after 10 p.m. in favor a proposed Iowa City Alcohol Board.

"I'm supportive of this committee ... I'm impressed," said Councilor Connie Champion, who had said in previous discussions that she would support increasing the bar entry age if a convincing proposal was not presented. "I want to support this group. I hope they will get their act together, and I hope they will come back with positive things."

A group of establishment owners opposed to upping the bar entry age proposed the new alcohol board earlier this month. According to its mission statement, the group will "provide proactive, effective, community-based leadership for the prevention of excessive and underage drinking in downtown Iowa City establishments and the community."

Three of the other six council members concurred with Champion, including councilors Mike O'Donnell, Bob Elliott and Regenia Bailey. Councilors Ross Wilburn, Dee Vanderhoef and Mayor Ernie Lehman said that by upping the bar entry age to 21, Iowa City would be taking a step in supporting the Police Department's efforts to enforce the state's drinking age and the work of local substance abuse and service agencies.

"We've got groups that have been doing education, intervention ... and they are asking for a policy that is congruent with their efforts," Wilburn said.

"The stats show the availability of alcohol is the biggest problem going for underage drinking," Vanderhoef told Leah Cohen, owner of Bo-James Restaurant, 118 E. Washington St., who helped develop the board proposal and present the plan to councilors during Monday's meeting. "Your mission is to address over consumption of alcohol and underage consumption. If we can take away the access, we would be taking a huge step forward."

Lehman said councilors have heard support for the 21-only law from a number of organizations and entities including the Johnson County Department of Public Health, the city's police force, the Mid-Eastern Council on Chemical Abuse and UI Student Health Services.

"This is the only issue on the council ... where there is so much evidence that we don't look at," Lehman said.

"I do think this group will be successful," Champion said near the end of council's discussion.

"They have been so far, haven't they?" Lehman said.

As proposed, the Alcohol Advisory Board will be an 11-member group of community leaders, local developers, owners of 21-only bars and owners of bars that allow those 19 and older to enter. While every seat on the board has not yet been filled, Cohen said members include herself, Brian Flynn, owner of Joe's Place, 115 Iowa Ave., UI Student Government Vice President Jason Shore, local developer Marc Moen, Sheraton Hotel manager Chuck Goldberg, Jim Bell, owner of the Deadwood, 6 S. Dubuque St., and Mike Porter, owner of One-Eyed Jake's, 18-20 S. Clinton St., and the Summit Restaurant and Bar, 10 S. Clinton St.

Board objectives include: enacting and overseeing self-policing in establishments; cooperating and supporting compliance checks by the Police Department and the alcohol board; promoting the uniform use of "19 to socialize, 21 to drink" in advertisements; limiting the type, number and location of advertisements that contribute to excessive and underage drinking; providing monitors to help reduce dangerous and illegal drinking; increasing education and training opportunities for bar employees; using a wristband and stamping system to identify patron ages; and sending letters reporting unlawful activity to the police that act as a citizen complaint.

"I'm very supportive of this group," Bailey said, adding that if underage drinking dwindles in the downtown area, more residents will be encouraged to partake in evening outings.

"It is in everyone's best interest that this works and excessive consumption and underage consumption just stops."

The council considered raising the bar entry age last year, but bar owners and UI students convinced a council majority to enact the 19-only law Aug. 1, 2003, instead. At that time, bar owners vowed to provide extra training, bar monitors and a uniform wristband system in conjunction with the 19-only ordinance.

Some councilors asked why those techniques did not work last year, while others thought progress was made.

"I believe the problem is better than it was last year," O'Donnell said. "So I'm willing to give this a chance."

The board will communicate with the council periodically and have an official progress report in May. Councilors said that if the group does not follow through on its commitments, councilors will take action.

"I will personally go into bars and see if those monitors are there," Champion said.

Councilors will continue discussing alcohol issues and look at other possible alcohol regulations including laws against specials and a keg registration ordinance.

**5. Constellation Steps Up Consolidation**

By William Spain *- CBS.MarketWatch*

October 19, 2004

**Play for Mondavi Just the Latest in Alcohol Mergers**

CHICAGO (CBS.MW) - The latest move in a consolidating industry -- Constellation Brands' attempt to gobble up Robert Mondavi - could further convince the rest of the alcohol business that it is better to marry than to get burned.

It is also yet another coming-out party for Constellation (STZ: news, chart, profile) which in a few short years has gone from a bottom-feeding supplier to the brown-bag set to one of the sector's biggest and most-respected operators.

Early Tuesday, Constellation launched the hostile bid, offering to buy the troubled winemaker for cash in a deal valued at $1.3 billion including assumption of debt. Terms of the cash portion of the deal call for a 37 percent premium for Mondavi's Class A shares based on their Oct. 11 closing price: $53 a share to Class A stockholders and $61.75 for Class B.

Investors put their bets on a quick consummation. In late afternoon trading, shares of Mondavi (MOND: news, chart, profile) soared 31 percent to $52.21, while Constellation was down 7.9 percent at $36.36.

"I have no doubt that Constellation will end up with Mondavi," said Tom Pirko, president of consultancy Bevmark. "They have a plan - they really understand how to move forward and put the right combination together."

And that, he added, is an area in which Mondavi has failed miserably.

"Somebody needs to buy the thing and put it back into gear," Pirko said. "The place is so riven that it is [like] a Shakespearean tragicomedy -- a great squandering of assets. You wonder how they hung together for so long."

Members of the founding Mondavi family are famous for their feuding, and the company was on the verge of being broken up anyway. It announced last month that it would split in two, focus on its lower-priced brands and look to sell its luxury arm, which sells some of its wines at upwards of $100 a bottle.

If Constellation prevails, it will cement its position as the world's largest wine company, more than balancing a portfolio of spirits and imported beers that includes Corona and Black Velvet. In January 2003, it announced a deal to acquire Australian vintner BL Hardy for $1.4 billion that put Constellation past Gallo and into the top spot. Earlier this year, it announced a joint venture with Domaines Barons de Rothschild (Lafite), a 46% owner of Chalone Wine Group, and the Huneeus Family to form of a luxury wine company.

That's a long trip for the former Canandaigua Wine Co., which made its name with low-rent tipples like Wild Irish Rose and Fleischmann's.

And it doesn't want to let go of Mondavi's high-end, at least not right away. In a letter to Mondavi Chairman Ted Hall, Constellation Chief Executive Richard Sands wrote, "We urge you to refrain from disposing of any assets or otherwise pursuing a restructuring plan that would adversely affect the premium we can make available to your shareholders."

Other public companies with large wine subsidiaries include Brown-Forman (BF.A: news, chart, profile) (BF.B: news, chart, profile), Fortune Brands (FO: news, chart, profile) and UST (UST: news, chart, profile) in the U.S.; Allied Domecq (AED: news, chart, profile) and Diageo (DEO: news, chart, profile) of the U.K.; France's Pernod Ricard (FR:012069: news, chart, profile); and Fosters (AU:FGL: news, chart, profile) and Southcorp (AU:SRP: news, chart, profile) in Australia. Private players include Gallo and Bacardi.

In a note to investors, Prudential's Jeffery Kanter wrote that the offer for Mondavi seems reasonable.

"We think this is a fair price and continues our belief that the alcoholic beverage space is in the midst of massive consolidation," he said. Constellation wants "the whole thing (and wants it now) seeing holes in its own portfolio in $8 to $15 per bottle price points and in the super-luxury brands."

Legg Mason's Mark Swartzberg put the likelihood of a transaction similar to that proposed by Constellation at 60 percent to 70 percent.

"Assuming away integration risk, which would likely be manageable, a consummated transaction would make Constellation an even stronger market participant due largely to the incremental scale and product breadth represented by an acquisition of Mondavi," Swartsberg wrote Tuesday.

And it will likely be one more catalyst for other transactions, Bevmark's Pirko said.

"Every time something like this happens, another person buys a Park Place, all their competitors get hungrier, a little more jealous and willing to spend a little extra money," he noted. "You need to have consolidation to take on Diageo," the runaway leader in the global alcohol sector.

His bet for the next big merger is Allied and Bacardi, the latter of which forked over about $2 billion for Grey Goose vodka in June.

"One of them is going to buy the other, or maybe Brown-Forman is involved" he predicted.

**6. $234 Million Tax Cut For Big Alcohol**

*BigAlcohol.com*

October 16, 2004

WASHINGTON — For years, the National Assn. of Convenience Stores has lobbied Congress to repeal a century-old federal tax on manufacturers and retailers of alcoholic beverages. It has always come up short — until now.

A massive business tax overhaul bill sent to President Bush this week would suspend the long-debated alcohol tax, underscoring important political truths in Washington: Persistence pays off, particularly if you hitch your cause to the right bill — in this case a year-end, must-pass measure.

"I think the sun, moon and stars aligned," said Rep. Dave Camp (R-Mich.), who has pushed for the tax's repeal.

The corporate tax bill was originally drawn up to repeal an export tax break that the World Trade Organization had declared illegal. To make that tax measure as attractive as possible, authors encouraged lawmakers to attach their pet tax breaks to the bill.

That gave lawmakers a free ride for long-sought tax breaks benefiting a host of interests, such as fishing-tackle-box manufacturers, bow-and-arrow makers and the horse racing industry.

Rep. Robert T. Matsui (D-Sacramento), who has pushed for the alcohol tax's repeal for several years, said it too benefited from the "feeding frenzy."

Keith Ashdown, who monitors Congress for the watchdog group Taxpayers for Common Sense, said the tax's suspension showed how business groups "point their lobby weapons at dozens of legislative targets and pray that at some point that they will hit something."

Business groups have been shooting at the tax on manufacturers and retailers of alcoholic beverages since at least 1986, when the tax was increased to help lower the federal budget deficit. The tax is $250 per location on retailers of alcoholic beverages, $500 per location on wholesalers and $1,000 per location on manufacturers.

Proponents of the tax's repeal came close but failed year after year.

"It's taken so long," said Allison Shulman, director of government affairs for the National Assn. of Convenience Stores, which represents establishments as big as 7-Elevens and as small as mom-and-pop stores.

For example, repeal was tucked into a military-tax relief measure last year but stripped out after a controversy erupted over the tax breaks for special interests. This year it was part of a highway bill that ironically included measures to crack down on drunk driving. But the highway bill has stalled because of a dispute over its cost.

Finally, with time running out in the congressional session, proponents of the tax's repeal were able to attach at least a three-year suspension to the bill to end the illegal export tax break.

The tax brings in an estimated $78 million a year, so a three-year suspension would cost the U.S. Treasury $234 million. Shulman acknowledged that the suspension's relatively low cost added to its appeal. "It doesn't have such a large budgetary impact that those folks who are budget hawks would stand up and scream," she said.

The National Assn. of Convenience Stores was joined in lobbying for the repeal by the National Beer Wholesalers Assn., the Wine Institute and, perhaps most important, the Congressional Wine Caucus, a bipartisan group of lawmakers from every state. They enjoyed the support of the influential House majority leader, Tom DeLay (R-Texas).

Opponents of the tax argued that repeal would benefit small businesses — from small wineries to neighborhood taverns — and fit in with the overall bill's goal of promoting economic growth. They said the tax, which dates to the Civil War, is unfair, because a chain of five neighborhood food stores, for example, paid more than a large distillery.

Proponents of repeal said they were pleased at least to get their foot in the door.

"While we would love for it to be a full repeal," Shulman said, "we'll take the three-year suspension."

