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| *January 28, 2005* |

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**1. A New Vintage Business**

By Jerry Perkins, Farm Editor – *Des Moines Register*
January 23, 2005

### A cooperative in south-central Iowa plans to open a winery, a sign of resurgence in the agricultural niche.

### Vineyard

Chilled vines: Gary Beeler has 2 acres of La Crosse white grapes in his vineyard southwest of Truro. He also has half an acre of varieties of table grapes.

Gary Fandel/The Register

OSCEOLA, IA -- A new farmer-owned cooperative has been formed in Iowa, but it's unlike any other co-op this state has seen.

Two Rivers Grape and Wine Cooperative is ready to open a new winery, hoping to catch on as a roadside attraction along Interstate Highway 35.

The co-op will be the first farmer-owned cooperative making wine and growing grapes in Iowa, said Mike White, who works half-time as a crop specialist and half-time as a viticulture specialist for Iowa State University Extension.

The new winery is one of about a dozen planning to open soon in Iowa. It is more evidence, say Iowa wine boosters, that the state is undergoing a rebirth of an industry that was all but wiped out by Prohibition, the 1940 Armistice Day blizzard and the use of 2,4-D herbicide following World War II.

"The wine industry is growing so fast, I'm having trouble keeping up," said White. "It is going to happen in Iowa."

Marketing studies done for other states show that economic returns from wine-making can be considerable, White said.

A 2003 study of Missouri's wine industry showed that state's 47 wineries had a significant effect in stimulating rural economies, White said.

Iowa now has about 30 wineries that sold about 76,000 gallons of wine in 2003, the most recent year for which statistics are available. More than half of Iowa-produced wines are made in the Amana Colonies.

Two Rivers is one of two wineries planning to open this year. The other is Tassel Ridge Winery near Leighton, which Oskaloosa businessman Bob Wersen plans to open in November.

Two Rivers Grape and Wine Cooperative raised $780,000 by selling 130 shares at $6,000 each to 84 members. Share sales closed Jan. 15.

Most of the shares were sold to Iowa grape-growers, but a few were bought by out-of-state residents, said Gary Beeler of East Peru, who is chairman of the co-op's board of directors.

Beeler, 45, is an independent crop consultant and farmer who was attracted to grape growing when he heard that Iowa wineries wanted more locally produced grapes.

"I was looking for an alternative crop," said Beeler, who farms 200 acres of row crops and has a 100-head cow herd with his father, Larry.

Beeler made what he calls "an experimental planting" of 100 grape vines in 2000 and now has 1,500 vines on 21/2 acres on his farm.

"There's a lot of work involved in planting the vines, building the trellises, training them to grow along the trellises," Beeler said. "It's fairly labor-intensive."

It takes a minimum of three years for the grape vines to produce fruit and five years for the vines to reach their full potential, he said

"This year, I'm planning on my first big crop," he said.

That will be just in time for Two Rivers Grape and Wine Cooperative, which plans to bottle its first wine this fall. The winery's production capacity will be about 20,000 gallons a year, Beeler said.

Iowa State University Extension estimates that it takes $3,000 to $5,000 to establish an acre of grape vines. Returns could be an estimated $22,500 to $45,000 an acre, Beeler estimated.

"That is dependent on the tons of grapes produced per acre, quality of wine produced and the price per bottle," Beeler said.

Prospective members of the co-op first met in October 2001. Co-op members wanted to grow grapes and sell them to wineries, rather than making wine themselves. But after they visited Northern Vineyards, a cooperative winery in Stillwater, Minn., they changed their minds.

"We easily saw that, to make the most money, we needed a winery," Beeler said. "The money is in the wine, not the grapes."

With the help of Stacy Gibbs, executive director of the Clarke County Development Corp., the cooperative obtained $250,000 from the Iowa Department of Economic Development's value-added agriculture products and processes financial assistance program. The aid was in the form of a $100,000 forgivable loan and $150,000 in an interest-free loan. The group also received $250,000 from the U.S. Department of Agriculture's Rural Development agency.

Gibbs said the development corporation gave the co-op $60,000 for job creation and capital, and Southern Iowa Gaming, the owner of Lakeside Casino and Resort, gave the co-op about 8 acres of land on the east side of the Clay Street exit off Interstate Highway 35, across the highway from the casino.

"The winery will really add to tourism in Clarke County and south-central Iowa," Gibbs said. "Tourists can visit the casino, the winery and gift shop, and then go downtown and see our antique stores."

A traffic count shows that 15,000 cars a day pass by the Clay Street exit on the interstate and another 3,200 cars use U.S. Highway 34, just south of the exit, said White, the Extension specialist. "A lot of the co-op's customers will be zipping by on the interstate," he said.

Beeler said cashing in on interstate travelers is key for the co-op's winery.

"One thing we thought we could do as a cooperative rather than as individuals would be to create a winery that is a destination for people to come taste and learn about wine," he said. "We want it to be a tourist destination."

Wersen, who is building his Tassel Ridge Winery now, does not view the Two Rivers co-op or other central Iowa wineries as competitors.

"Our competition is really wine coming in from other states, Europe, Australia and South America," Wersen said.

Iowans drink less wine per capita than any other state, he said. "Our job is to increase that wine consumption," Wersen said.

Dr. William Brown, a Des Moines dentist and one of Iowa's wine pioneers, said more research is needed to find grape varieties that will produce well in Iowa.

"We're not trying to be France or Australia," said Brown, who owns Timberhill Winery near Leon. "We want to have a regional identity for world-class wines - wines that are identified with the Midwest."

Beeler said finding an Iowa wine identity and building the state's wine-making production will be good for all wineries in the state.

"What we have learned from Napa Valley in California is that the more wineries you have in an area, the better," he said. "You can create your own wine trail, see the sights of rural Iowa and taste wine. We think we can complement each other."

**2. Cell-phone Drink Specials Don't Help City's Booze Problem**

By DI Editorial Board – *Daily Iowan*

[January 27, 2005](http://www.dailyiowan.com/main.cfm/include/displayIssueArticles/issue_date/20050127.html)

Technology has truly revolutionized our society, not least in the world of communications. A hundred years ago, it was touch-and-go whether a telephone would even allow you to talk to someone and be understood. Now, you can carry your phone around in your pocket and use it to play video games, send e-mail, take pictures, manage your stock portfolio, and yes, talk to people. So we suppose it was inevitable that you would be able to use the phone to help get drunk, too.

While we are impressed by the creativity of the two UI students who provide the service whereby cell-phone owners can find the latest drink specials through the magic of wireless Internet, we wonder if they might have been better advised to stick with the cab and delivery numbers that the service also provides.

Certainly, drink specials were not exactly a secret before; the students credit UILife.com, which offers detailed breakdowns of drink specials (as part of a considerable array of information for the student wishing to get drunk) to anyone who can spare two minutes at a computer to find them. And, of course, the bars advertise their specials themselves in The Daily Iowan. This would raise the question of why anyone would need to have the specials available on her or his cell phone in the first place, if our fast-paced society needed any reason besides, "It's easier." To that we simply say, "Open the newspaper for five seconds."

For the nighttime revelers who find themselves downtown with a cell phone but no computer or newspaper, having a selection of drink specials at their fingertips should provide an excellent way for them to maximize their drunkenness while minimizing effort and expense. But this, of course, is the problem: For years now, city councilors have been pushing for an ordinance keeping those under 21 out of bars altogether, citing problems with underage and binge drinking as their reason.

The city's patience may be running out. In 2003, it nearly approved a 21-only ordinance and agreed to a 19-only compromise with the promise of revisiting the issue after a year. This fall, it agreed to put off the issue again, but not permanently. With the clock ticking down and an Alcohol Advisory Board searching for alternative ways of reducing excess, there could be better times to introduce a new way to encourage getting drunk on the cheap.

In fairness, Leah Cohen, the owner of Bo-James, 118 E. Washington St., and co-chairwoman of the Alcohol Advisory Board, told the DI that she was at least conflicted about the idea. (Nonetheless, a day-by-day breakdown of Bo-James' drink specials has found its way onto UILife.com.) Indeed, with no safeguard to prevent underage students - and those of any age who are prone to overindulge - from this new easy access, it hardly seems helpful in reducing excess.

It seems like every week there's news about alcohol. If the City Council can't be convinced that you can successfully reduce underage drinking without going 21, then the city will eventually go 21 - or at least the issue will keep coming up, and we'll have to keep writing about it. We maintain our diehard stance against a 21-only ordinance, but ideas like these appear to be pushing that possibility more toward reality.

**3. UN Targets Alcohol Abuse**

*TVNZ*

January 21, 2005

The World Health Organization (WHO) agreed on Thursday to launch a study into ways to counter alcohol abuse in what could be the opening shot of an international campaign against excessive drinking.

Its executive board backed a resolution brought by the European Union and others calling on the head of the United Nations health agency to carry out the probe and recommend steps to combat the world's mounting drink problem, WHO officials said.

The move followed approval by the board of a WHO report drawing attention to the huge health and social costs of alcohol abuse, which killed 1.8 million people worldwide in 2000, the last year for which figures were available.

Although overall consumption appeared to be falling in some industrialised states, more people were "drinking to excess" and alcohol use by young people was rising around the world.

"Public health problems associated with alcohol consumption have reached alarming proportions, and alcohol has become one of the most important risks to health globally," the report said.

Alcohol almost rivalled smoking in terms of the overall health burden it placed on societies, which includes such things as days lost from work.

The WHO is already spearheading a drive against smoking, with its 192 member states backing an international treaty calling for restrictions on advertising amongst other measures.

It has also launched a campaign against obesity, which is blamed for a rising death toll from diabetes and heart disease, particularly in developing countries.

The resolution, which called for talks with the drinks industry on measures to limit alcohol abuse, set a two-year deadline for the study to be finished.



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| http://www.indystar.com/images/pics2/image-211463-1817.jpg |
| Some observers say the rivalry between Anheuser-Busch, maker of Bud Light, and Miller Brewing Co. has resulted in ads that border on unsportsmanlike conduct. -- James A. Finley / Associated Press |

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**4. Television Beer Ads Take the Offensive**

By Jim Suhr - *Associated Press*

January 23, 2005

The marketing battle between the world's two biggest beermakers is getting increasingly nasty.

Miller Brewing Co. started the fight with television spots showing a referee penalizing drinkers of Anheuser-Busch Cos.' Budweiser and Bud Light. Calling their choice of suds "unbeermanlike" conduct, the ref replaces the beer with Miller Lite or Miller Genuine Draft.

Anheuser-Busch fired back with commercials suggesting Miller's referees actually were stealing the Bud Light for themselves.

Although the commercials amused many consumers, some observers say they lack sportsmanship and maybe good sense. Even television networks are pulling some spots and refusing to introduce others.

Critics say the ad campaigns present several problems: Some of the Miller commercials make unsubstantiated claims about its rival's products, while the Bud spots include unlawful acts.

"To some degree, it has become unusually personal," said Hoag Levins, editor and executive producer of Advertising Age magazine's Web site, AdAge.com. "Some of the advertising is really petty."

And, he and others say, risky -- in that Anheuser-Busch's public counteroffensives against Miller may legitimize the rival that has an 18 percent share of the U.S. beer market, versus Anheuser-Busch's dominant 50 percent.

"When you mention the competitor you're trying to crush, are you inadvertently burning the competitor's brand in the consumer's mind?" Levins asks. "There's a great deal of debate about how smart that is."

According to some reports, ABC and ESPN rejected three proposed Anheuser-Busch spots spoofing the Miller ones.

**Mum's the word**

ABC called the matter confidential, saying it never discloses dealings with clients. ESPN also was silent.

Anheuser-Busch, the No. 1 brewer, issued a statement saying only that its "ad campaigns are performing well in the marketplace and none have been pulled off the air by any networks."

"We have no plans to pull the spots," said Francine Katz, an Anheuser-Busch

spokeswoman who credits them with improved sales of Bud Light and Michelob Ultra.

"I can tell you that people tell us our ads are hysterical and they love them," she said. "We look to entertain consumers. We don't worry about what competitors like or don't like about our commercials."

Anheuser-Busch will have the edge during the Super Bowl on Feb. 6, because its purchase of ten 30-second commercials gives the company what's known as category exclusivity, shutting out other brewers. With a 30-second spot going for an average $2.4 million, that puts Anheuser-Busch's tab for the game at an estimated $24 million.

But Miller is taking the battle further. The No. 2 brewer has launched its latest television spot featuring a referee, with the plug showing an official using instant replay and declaring: "Upon further review, the call still stands. Miller Lite still has more taste and half the carbs of Bud Light."

In going against a rival with nearly three times the domestic market share, "it is very beneficial for us to ask consumers to compare Miller's beers versus Anheuser-Busch's beers," said Miller spokesman Pete Marino.

Last month, CBS, ABC and NBC pulled three Miller ads after Anheuser-Busch complained that nine Miller ads that aired since the summer were misleading and unsubstantiated. One was considered unduly "disparaging"; the other two were yanked because they insinuated an unsubstantiated claim that consumers preferred Miller over Bud.

**Watchdog complains**

Meanwhile, in complaints to federal regulators and the Beer Institute trade group, consumer watchdog Center for Science in the Public Interest argued the Anheuser-Busch commercials of beer-pilfering refs bolting from police depict lawlessness.

The center said that "though done in a jocular manner, the ads clearly run afoul" of the institute's voluntary codes barring ads that "portray or imply illegal behavior of any kind."

Anheuser-Busch defended the commercials as "clearly meant to be a spoof of the spots currently being run by our competitor."

Some analysts submit that in an industry where brewers should get kudos for funny innovation in television spots, it may be time for Anheuser-Busch and Miller to stop chucking bottles at each other.

"I hope cooler heads will prevail," said Juli Niemann, an analyst with RT Jones Capital Equities in St. Louis.

In beer circles, where brand loyalty among consumers is intense, a brewer "using an enormous amount of money to fight over an incremental share is amazing," Niemann says.

"Is that the most effective use of advertising dollars? My answer is no," she says.

In other ads, Anheuser-Busch has labeled Miller Lite the "Queen of Carbs." With its "President of Beer" TV ad campaign, Miller mocked Budweiser's self-proclaimed status as the "King of Beers." In response, Anheuser-Busch revived animated lizards Frankie and Louie to ridicule Miller.

Some observers like the new ads, including Brandweek magazine's Mike Beirne.

"Miller has done a pretty decent job so far saying there's an alternative" to Anheuser-Busch, said Beirne, a Chicago-based reporter who covers the brewing industry. "It works for Miller because they're the scrappy player taking on the king of the hill. The king, when it answers, has to be funnier and cleverer, and I'm not sure they've done that yet."

**5. OP-ED:  Getting Real About Teen Drinking**

 By Stephen Wallace - *Boston Globe*

January 15, 2005

AT THE CENTER of the great debate that characterizes America's ambivalence toward youth and alcohol lies a profound lack of awareness of the costs of underage drinking and the physical, social, and emotional toll it can take on those who engage in this illegal and thus inherently irresponsible behavior.

In a recent report, the National Research Council and Institute of Medicine of the National Academies note $53 billion a year in losses from traffic deaths, violent crime, and other destructive behavior related to underage drinking. And that doesn't account for the falling grades and failing relationships that often go hand in hand with teens and booze.

Getting real on underage drinking means getting the facts.

 Alcohol use by teens affects still-developing cognitive abilities and impairs memory and learning.

 Teens who drink are more likely to commit or be the victim of violence (including sexual assault) and to experience depression and suicidal thoughts.

 Alcohol-related automobile crashes kill thousands of teens each year and injure millions more.

It's also a fact that young people use alcohol more frequently and more heavily than all other drugs combined. Teens Today research from SADD and Liberty Mutual Group reveals that drinking increases significantly between the sixth and seventh grades, that the average age for teens to start drinking is 13 years old, and that by 12th grade more than three in four teens are drinking.

Unfortunately, many young people fall prey to the "myth of invincibility," believing that there are no real or lasting effects of alcohol use. They're wrong.

In turn, many of their parents subscribe to the "myth of inevitability," convinced that drinking is a rite of passage and that there's not much they can do to influence their child's choices (according to Teens Today, more than half of parents believe that "drinking is part of growing up" and teens "will drink no matter what"). They're wrong, too.

 More than a third of middle and high school students say they have not consumed alcohol.

 Parents who talk with their teens about underage drinking, set expectations, and enforce consequences are significantly less likely to have children who drink. (This influence holds true for other teen behaviors as well, such as drug use and early sexual activity.)

 A majority of young people say they want parental guidance in making decisions about personal behavior, including alcohol use.

There are some who hold that "teaching" teens to drink at home will keep them safe. And there are others who advocate for lowering the drinking age, citing as rationale examples "responsible" drinking by teens in European countries with fewer alcohol restrictions.

Here's the truth.

 The younger a child is when he starts to drink, the higher the chances he will have alcohol-related problems later in life.

 It is estimated that more than 20,000 lives have been saved by minimum drinking age laws since 1975, due to a decrease in automobile crashes.

 About half of Europe's countries have intoxication rates among young people that are higher than such rates in the United States. Agreeing to disagree about this important issue obscures an alarming indifference about youth and alcohol. But it does nothing to keep teens safe and alive. Not until our society speaks with one, clear, unambiguous voice about the perils of underage drinking, as the National Academies suggest, will we successfully shatter the myths of invincibility and inevitability that propel it.

Our highways and hospitals are lined with young people who made poor, even fatal, choices about alcohol. Still many more suffer silently, unable to meet their own life goals or to realize the promise their friends, parents, and other caring adults see in them. Sadly, that is what's real about underage drinking.

**6. Jury's Punitive Judgment vs. Aramark Brings DUI Fatality Award to $135.5 Million**

HACKENSACK, N.J. (Jan. 21) - The jury in a civil trial here awarded 7-year-old Antonia Verni and her mother Fazila Verni $75 million in punitive damages, after earlier awarding $60.5 millon in compensatory damages, in a case that found Aramark partially liable for a 1999 auto accident that left the young girl paralyzed.

Earlier the jury found Aramark and Daniel Lanzaro, the driver who caused the crash, equally liable. However, Aramark was the sole entity held responsible for the punitive damages. Deborah Albert, spokeswoman for Aramark, said company executives "are disappointed by the size of the award and we intend to appeal."

**7. Flavored Beer Goes Against the Grain**

By Gregory Cancelada - *St. Louis Post-Dispatch*

January 23, 2005

ST LOUIS, MO -- Anheuser-Busch Cos. rolls out the caffeinated and flavored Be nationwide Monday after offering the beer in select markets for the last three months.

Responding to the demands of young drinkers for variety, the St. Louis brewer hopes that the beer will attract 21- to 27-year-olds, the alcohol industry's core demographic. But analysts are skeptical that the new

drink will improve the brewer's competitiveness versus distilled spirits, which are drawing away more and more young adults.

In the brewing process, Be is infused with caffeine; guarana, a paste derived from a Brazilian fruit; and ginseng. The aromas of blackberry, raspberry and cherry mixed with the traditional scent of hops give the beer a slightly sweet and tart taste.

Starting last fall, A-B introduced the product slowly in slim 10-ounce cans, focusing on large metropolitan areas. It has been available in St. Louis since November.

Given the initial success, the brewer decided to move up the national launch, said Dawn Roepke, brand manager of new-product development at A-B's domestic brewing subsidiary.

"Consumers are very interested in this," she said. "It's producing excitement in the beer category. It's a great tasting drink, and it fits into contemporary adult lifestyles."

In the early sales, Anheuser-Busch found that bartenders and drinkers would pour Be over ice, an act that delighted the brewer.

"When you have it in a glass over ice, that does put us right against the mixed drink," Roepke said.

Though the product has generated a buzz in bars, Brian Sudano, a senior vice president of Beverage Marketing Corp., a research firm in New York, remains skeptical about how successfully the drink can compete against spirits.

People seem satisfied mixing spirits with energy drinks that have some or all the ingredients found in A-B's new beer, he said. It's not clear why they'd switch. "I think it will be a hard sell."

A-B thinks the drink sells itself when sampled. "Once you get the product into the hands of the consumer, they get it," Roepke said.

Because of the unique ingredients and flavors, the product will be advertised as "beer with something extra."

For the nationwide launch, A-B's advertising will simply focus on the product, highlighting its key ingredients and packaging, Roepke said. After the launch, she said, the brewer hopes to start a campaign "that creates personality around the brand."

Unlike other national launches, the brewer will avoid radio and television ads, focusing on print, outdoor and Internet. This low-key approach is important to attract the brand's target audience.

"The interesting thing about (this age group) is they don't like to be told what to do, and they like to find things out on their own," Roepke said.

The print ads were developed by the Spark Agency of St. Louis. A-B is working with other agencies to develop different parts of the marketing campaign. It declined to identify these firms.

Meanwhile, the brewer will roll out Be in a 10-ounce bottle Feb. 28, aimed at high-end clubs and bars.

Instead of a conventional label, the bottle will sport a shrink-sleeve, which is plastic that fits around the bottle and takes the shape when the bottle is heated during the packaging process.

This beer will be the first A-B brand to use the new packaging, Roepke said. "You have an innovative liquid, and now this bottle is super-innovative."

It's not the first time that A-B has perplexed industry observers. Some were skeptical about Michelob Ultra when the brewer started testing the low-carbohydrate beer in 2002. It became the hottest product in the beer market.

Adding new products is critical to Anheuser-Busch's future as more 21- to 27-year-olds crave the wide variety of flavors and colors available in mixed drinks.

Last year, A-B's beer shipments to U.S. wholesalers increased 0.4 percent. In contrast, distilled-spirit sales volume grew 3.1 percent, according to an estimate by the Distilled Spirits Council of the United States.

The brewer has tried to stay competitive against spirits through its Bacardi Silver family of flavored malt beverages. But overall consumer demand for flavored malt beverages has softened in recent years.



# 8. Bacardi Lightens Up Rum Offerings

By Elaine Walker - *Miami Herald*

January 26, 2005

**Bacardi hopes to appeal to health-conscious consumers with its new light spirit. Island Breeze offers half the calories of traditional spirits, wine or beer.**

Calorie-counting consumers can find light alternatives for everything from ice cream and cookies to bread and beer. But until now, one category has been missing from the diet world: alcoholic spirits.

Bacardi USA is about to change that. The Miami-based company today will announce the launch of Island Breeze, which offers half the calories of traditional spirits, wine or beer. Billed as the ''original lite spirit,'' Island Breeze comes in key lime, wild berry and coconut flavors.

''Consumers today want to live life to the fullest, but they're also concerned about being healthier,'' said Alfredo ''Freddy'' Piedra, chairman of global new product development for Bacardi.

Island Breeze, developed in the firm's Jacksonville laboratory, contains Bacardi rum infused with natural fruit flavors. The secret ingredient? Sucralose, the calorie-free sugar substitute known by the brand name Splenda.

Island Breeze isn't just lighter in calories -- a 1.5 ounce serving has 48 calories, compared to 96 in the same size serving of vodka, rum, gin or whiskey -- it's also lighter in alcohol. Island Breeze is 18 percent alcohol by volume, compared to between 35 percent and 40 percent for most spirits. The alcohol content is slightly higher than wine, which runs between 10 percent and 12 percent.

**DIET TRENDS**

With the rising obesity of Americans making news, consumer products firms have introduced a rash of products in stores and restaurants aiming to offer lower-calorie or lower-carbohydrate alternatives to traditionally fattening foods.

Bacardi hopes to capitalize on that trend, following on the success of light beer and diet soda.

Four out of the five top-selling beers are light beers, and light beers represent nearly 48 percent of the beer market, according to Adams Beer Handbook for 2004. Diet soft drinks rank as four of the top 10 selling soft drinks and continue to take market share away from regular sodas, reports Beverage Marketing Corp.

''This is a huge opportunity that currently isn't being met,'' Piedra said. ``This has the potential to create a whole new market in the alcoholic beverage industry.''

**A CHALLENGE**

Industry experts say Bacardi faces a challenge to ensure Island Breeze doesn't suffer the same fate as the most recent attempt to create a new category: the introduction of flavored malt beverages like Smirnoff Ice and Bacardi Silver. The category took off with a bang but has since fizzled.

''Trying to create a new category is a rocky road,'' said Tom Pirko of industry consultant Bevmark. ``It's really hard to get consumers to buy into these propositions. Very few products succeed long-term in a way that really changes the nature of the business.''

Island Breeze will be available in liquor stores, bars and restaurants throughout the U.S. starting in April or May. Suggested retail price is $13.99 for a standard 750-milliliter bottle, which is comparable to Bacardi's other flavored rums.

**ADVERTISING**

Bacardi plans to promote the product heavily in national television and print advertising, as well as sampling programs in stores and bars. Bacardi also has created recipes for lower-calorie alternatives to popular drinks like a cosmopolitan, margarita or piña colada by using mixers like low-carb cranberry and orange juice, sugar-free lemonade and diet sodas.

A skinny piña colada can have 68 or 78 calories depending on whether it is a frozen version, compared to 376 calories for the traditional version.

Sheah Rarback, a dietitian with the University of Miami School of Medicine, bemoans the flurry of low-calorie foods and beverages as overkill.

''We keep manipulating products to make them lower calorie and yet everyone keeps getting fatter because they're distracted by the products and don't focus on a healthier lifestyle,'' Rarback said. ``If you have a weight problem you shouldn't be drinking that many drinks anyhow.''

**9. Lawsuits Take Aim at Ads for Alcohol**

By Myron Levin, Staff Writer -- *Los Angeles Times*

January 27, 2005

**Plaintiffs claim provocative campaigns are being waged to appeal to underage drinkers. Firms deny targeting teens.**

Casey Goodwin knew all too well the dangers of drinking and driving.

For years, her mother, Lynne, had run programs to fight teen alcohol use in the Tulare County schools. At her high school in the Central Valley town of Exeter, Casey had been involved in student campaigns against underage drinking.

On March 13, 2003, as 20-year-old Casey was headed home from college in San Luis Obispo to celebrate her mom's birthday, a plastered 18-year-old doing 90 miles an hour plowed into her Honda Civic. She died a short time later.

The driver was sentenced to 10 years in prison for vehicular manslaughter.

Then Lynne Goodwin and her husband, Reed, turned their anger on the alcohol industry. They signed on as lead plaintiffs in a class-action suit accusing Anheuser-Busch Cos. and Miller Brewing Co. of aggressively marketing to kids.

Lynne said she didn't care whose booze Casey's killer had been drinking. She didn't hold the beer makers directly responsible but said they were logical proxies for an industry that she believed goaded kids to drink.

Filed last February in Los Angeles County Superior Court, the Goodwin case is one of five pending class actions that assail the marketing practices of the beverage industry. The others have been filed over the last 14 months in Ohio, Colorado, North Carolina and Washington.

The cases have drawn comparisons to the legal assault on cigarette makers, which have also been accused of marketing to kids.

Beverage makers deny targeting teens and say the claims are groundless.

The suits accuse them of unleashing a flood of provocative, even raunchy, ads to exploit the raging hormones of adolescents. They say teens are disproportionately exposed to such ads through magazines and TV shows with large youth audiences.

For example, a Bacardi ad cited in some of the suits depicts a young woman in a halter top pouring a shot onto her belly while a man licks the rum out of her navel. "Vegetarian by day. Bacardi by night," the tagline says.

The suits also take aim at the industry's heavy promotion of flavored malt beverages, called "malternatives" by the industry and "alcopops" by critics. Plaintiffs say these sweet-tasting beverages with brand names such as Smirnoff Ice, Skyy Blue and Mike's Hard Lemonade, are "gateway" drinks designed to lure teens who are put off by the taste of alcohol.

The suits seek court-ordered limits on beverage promotion, such as restricting ads on TV shows and publications with large youth audiences. They also seek damages for parents or kids who paid for alcohol illegally consumed by minors.

Although Anheuser-Busch and Miller are sole targets of the Goodwin suit, most of the industry's biggest names are defendants in one or more of the other cases. Among them are Coors Brewing Co., Heineken USA Inc., Labatt Brewing Co., Samuel Adams Brewing Co., Bacardi USA Inc. and Diageo, marketer of Smirnoff Vodka, Jose Cuervo Tequila, Captain Morgan Rum and Guinness beer.

The companies insist that they do not encourage illegal drinking and that they are trying to reach adult consumers. They say they adhere to a voluntary code that restricts their ads to media in which at least 70% of the audience is 21 or older.

Beverage companies also say they have spent tens of millions of dollars in recent years to promote responsible drinking, train retailers to spot fake IDs and educate parents on ways to combat drinking.

The suits, they contend, are an attempt to muzzle legitimate commercial speech. And they say paying damages to people who illegally purchased or consumed alcohol is the wrong way to fight underage drinking.

"These cases seek to reward underage drinkers, or their parents, for breaking the law," said Edward M. Crane, a lawyer for Anheuser-Busch. "That would send an undesirable message to teens — namely that underage drinking is OK and might even be profitable."

Whatever the role of advertising, underage drinking contributes significantly to beverage makers' bottom lines. A U.S. government report in 2002 estimated that 12-to-20-year-olds accounted for 11.4% of alcohol consumed. A study in the Journal of the American Medical Assn. put the number higher, estimating that underage drinking in 1999 was responsible for 19.7%, or $22.5 billion, of total U.S. alcohol sales of $116.2 billion.

The suits come at a time of growing worry over problems linked to underage drinking — including teen pregnancy, sexual assault and other crimes, traffic deaths and low academic performance. Some research suggests that the earlier kids start drinking, the more likely they are to be alcoholics as adults.

Although the industry has acknowledged the problem, its outreach programs are "public relations baloney to keep legislators and litigators off their backs," said George Hacker, director of the alcohol policies project at the Center for Science in the Public Interest, a Washington-based consumer advocacy group.

He hailed the lawsuits as "the beginnings of a new weapon … to confront the marketing of the alcoholic beverage industry."

This approach has parallels to the legal campaign waged against the cigarette makers. Indeed, the alcohol suits have enlisted some veterans of the tobacco wars. The lawyer who filed the Goodwin class-action suit, Steve W. Berman of Seattle, represented several attorneys general in their anti-tobacco cases.

The suits also have drawn heavily on research by the Center for Alcohol Marketing and Youth at Georgetown University, headed by Jim O'Hara. In the Clinton administration, O'Hara was associate commissioner and chief spokesman for David A. Kessler, the Food and Drug Administration commissioner who sought to regulate the tobacco industry.

The alcohol side has heavyweight corporate defender Dan Webb of Winston & Strawn, currently lead trial counsel for Philip Morris in the Justice Department's fraud and racketeering case against the tobacco industry. Top tobacco law firms Shook, Hardy & Bacon and Jones Day also are defending beverage industry clients.

And in an effort to head off state lawsuits, the companies have enlisted the aid of former state attorneys general, including some who once tormented the cigarette makers. Although no state suits against the liquor industry appear imminent, at least four former attorneys general are now consulting with beer and spirits companies. They are critiquing the companies' programs to curb underage drinking and touting their efforts to current attorneys general, who have created a task force to examine the problem of youth access to alcohol.

Heading the list is former Mississippi Atty. Gen. Mike Moore, who has been retained by Anheuser-Busch. Moore became an instant hero of the anti-smoking movement when he filed the first state suit against cigarette makers in 1994. He then wheedled and harassed fellow attorneys general until dozens more jumped in, turning an improbable crusade into a juggernaut. In a settlement reached in 1998, tobacco companies pledged to pay the states $246 billion and to refrain from directly or indirectly targeting kids — the same issue now facing the alcohol industry.

Moore said that he was comfortable in his new role and that Anheuser-Busch was adamantly opposed to underage drinking.

Another top soldier of the tobacco wars, former Arizona Atty. Gen. Grant Woods, is advising Diageo, the global beverage giant. Former New York Atty. Gen. Robert Abrams has been retained by Anheuser-Busch and former Nevada Atty. Gen. Frankie Sue Del Papa was hired by Brown-Forman Corp. of Louisville, Ky., marketer of Jack Daniel's Tennessee Whiskey and Korbel sparkling wine.

"Clearly, it's ironic," said Georgetown University's O'Hara. "I just hope they remember the lessons that they learned in tobacco about what it really takes to protect" kids.

As with tobacco, success for plaintiffs isn't likely to come quickly, if ever, analysts say.

Cigarette makers flicked away decades of lawsuits and weren't seriously threatened until the 1990s, when the states entered the fray.

And recent decisions by the U.S. Supreme Court affirming protections for commercial speech may be a boon to the alcohol industry.

Moreover, California Atty. Gen. Bill Lockyer said, "compelling evidence that the tobacco companies hid evidence of consumer harm" was key to turning the tide. Similar evidence may not exist in the alcohol cases.

"My best guess is it's not going to evolve into a tobacco-like, multibillion-dollar outcome," Lockyer said.

Even some fans of the lawsuits are guarded about the plaintiffs' chances.

"The courts may well say that the advertising is constitutionally protected unless you can show that there was intent to get kids to drink," said James F. Mosher of the Pacific Institute for Research and Evaluation, a think tank in Felton, Calif., concerned with science and health issues. "Without having evidence of fraud, moving forward on the alcohol side is going to be very hard."

If proof exists of targeting kids, it will typically emerge in pretrial discovery, when lawsuit opponents are required to share relevant reports, memos and other documents.

"It wouldn't be at all surprising if some of these big firms have some incredibly damaging documents in their files," showing that they were aware that their ads could be appealing to kids, said Stephen McG. Bundy, a professor at Boalt Hall school of law at UC Berkeley.

But there's no guarantee the cases will survive dismissal motions and reach the discovery phase.

One part of the Goodwin case has already been thrown out. The suit had alleged that the beer companies violated California's Unfair Competition Law, which until recently allowed people such as the Goodwins to act as private attorneys general on behalf of the general public in seeking to halt deceptive practices. But Californians on Nov. 2 passed Proposition 64, which restricts such filings to law enforcement agencies and citizens who can show actual losses of money or property as a result of the alleged wrongdoing.

The multimillion-dollar pro-Proposition 64 campaign included $325,000 from the Goodwin defendants and their affiliates. Anheuser-Busch and Miller put up $100,000 and $25,000, respectively, according to campaign reports filed with the state. An additional $200,000 came from Philip Morris, a unit of Altria Group Inc., which holds a big stake in the parent of Miller.

In December, Los Angeles County Superior Court Judge Peter D. Lichtman dismissed the unfair-competition claim, ruling that the beer makers' alleged misconduct had not caused financial loss to the Goodwins or two other named plaintiffs.

Lichtman is scheduled today to hear arguments on whether to dismiss the remaining claims.

Win or lose, Lynne Goodwin said she expected the case to encourage greater scrutiny of marketing practices.

"Hopefully, the alcohol industry is paying attention," she said. "This movement is larger than they realize."

