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| *September 1, 2006* | |

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**I. NATIONAL NEWS.**

**1. Heineken Wages Fierce Battle vs. New Rival – Itself**

By Jeremy Mullman – *AdAge*

August 30, 2006

**Brewer’s Amstel Loses Share as Flagship’s Premium Light Gains**

CHICAGO (AdAge.com) -- Heineken's Amstel Light is struggling to maintain relevance within the import-light-beer category it invented, and the culprit may be ... Heineken Premium Light.



Heineken is in a light-beer war with itself as its Amstel is eclipsed by Heineken Premium Light.

**Amstel sales drop**

While this summer's launch of Heineken Premium Light exceeded most industry expectations, sibling brand Amstel has seen its already-flagging sales drop even further, losing its long-held top ranking among imported light beers to Corona Light.

Amstel saw shipments fall 4% last year in a red-hot import market that grew 7% overall, and Amstel's sales are down about 11% this summer.

**Different drinkers?**

Heineken insists Premium Light targets different drinkers than Amstel, and is breaking a branding push to draw clearer lines between the two brands. The campaign, an extension of the "Live Tastefully" effort from Publicis, New York, that launched late last year, will lean on upscale event marketing to re-establish Amstel's luxury credentials.

"They're right to try to freshen it up a bit," said alcohol-industry consultant Arthur Shapiro. "But I don't know if going for a pedestal is the right way to grow volume."

Amstel Light Brand Manager Richard Byrne said the beer's soft sales had more to do with competition from fast-growing wine and spirits than Heineken Light, which he said was focused on getting domestic-light-beer drinkers to trade up.

**Feminine option**

The brewer also positioned Premium Light as a feminine option, as opposed to the more masculine, laid-back image Amstel for years enjoyed with its "Beer Drinker's Light Beer" tagline.

"Amstel Light is very much Caucasian, 35-plus in age and very high-income," Rene Hooft Graafland, Heineken's chief financial officer, told investors in a February conference call.

Amstel plans to deploy its estimated $15 million media budget more strategically to reach those core drinkers. It's tapped Chicago-based All Terrain to produce events around the country at golf courses, art galleries and other high-end venues. In a series of posh restaurant events, which kicked off in Cleveland last weekend, local chefs pair their dishes with Amstel Light.

"They really want to anchor Amstel in premium elements," said All Terrain Chief Marketing Officer Brook Jay. "By taking Amstel up to a new level, we can keep it discernible."

<http://adage.com/article?article_id=111505>



**2. Diageo to Profit as US Drinkers Make Switch to Premium Brands**

By William Lyons – *The Scotsman*

August 27, 2006

DIAGEO chief executive Paul Walsh is expected to say that a resurgent US market, driven by the popularity of Johnnie Walker whisky and Smirnoff vodka, has helped the drinks giant beat sales targets when he delivers full-year results on Thursday.

The world's biggest spirits company - which also has J&B whisky and Guinness in its portfolio - is benefiting from the North American consumer boom and a growing US appetite for luxury brands.

Melissa Earlam, a drinks analyst at UBS, said the US market was looking very encouraging, with the group reporting 22 months of volume sales gains.

She said Diageo had benefited as US consumers switched to premium brand labels. In addition, new product innovations, further operational efficiencies and easier comparatives after last year's hurricanes dented growth, should all provide momentum.

But some analysts have warned that any profits could be hit by the falling dollar, as around a third of Diageo's earnings are generated in the US.

Charles Stanley analyst Jeremy Batstone said: "The shares are vulnerable to dollar weakness of a slowdown in global consumer spending, particularly after a very strong run. However, they also have defensive merit in uncertain times."

Investors will also be looking for signs of growth in emerging markets, particularly South East Asia and South America, and India, where there is speculation that Diageo is looking to enter a joint venture to capitalise on that market.

Diageo India is planning a chain of signature lounges for Johnnie Walker whisky and Smirnoff vodka. The group aims to take on existing bars on lease-and-manage contracts, allowing it to showcase super-premium variants, such as Johnnie Walker Blue Label.

Top-line growth in Europe is also set to recover after a difficult year.

UBS is forecasting full-year pre-exceptional, pre-tax profits will be flat at £2bn, with earnings per share of 51.3p for the year to June. A rise in the total dividend from 29.55p to around 31p a share is also anticipated.

Investors are also hoping Diageo will stick to its promise to return another £1.4bn of cash to shareholders in 2006-07. UBS calculates that Diageo could implement this without stretching its balance sheet.

<http://business.scotsman.com/agriculture.cfm?id=1261962006>



**3. Diageo Moves Smirnoff Advertising Business to JWT**

By Matthew Creamer – *AdAge*

August 30, 2006

**Leaves BBH, Citing Conflict With Brewer InBev**

NEW YORK (AdAge.com) -- In a move that underscores the mounting rivalry between spirits and beer, Diageo has taken the unusual step of shifting global creative duties for its Smirnoff brands from Publicis Groupe's Bartle Bogle Hegarty, citing a conflict with brewer InBev.



Diageo spent $36 million in measured media for its Smirnoff brands last year.

**Consolidation**  
Diageo is consolidating its global Smirnoff business with WPP Group's JWT, the spirits marketer said in a statement. The brands involved in the U.S. include Smirnoff Ice, Ice Triple Black, Twisted V and Raw Tea. JWT already handled global creative duties for the vodka.

Diageo spent $36 million in measured media for the Smirnoff products in the U.S. in 2005, according to TNS Media Intelligence.

**Conflict policy review**

The statement said the change came following a review of its conflict policy. "As a result, BBH and Diageo have agreed that the Smirnoff [ready-to-drink] and [the flavored-malt-beverage] business should be reassigned, allowing BBH to continue a decades-old relationship with a competing beer company and pursue more beer brand assignments."

BBH is on InBev's roster, and handles its Boddington's and Murphy's brands. The agency was recently a finalist in the Beck's review that was won by Ground Zero.

**BBH and other brands**

BBH will continue to handle Diageo's Johnnie Walker and Baileys Orignial Irish Cream.

"JWT has been a great partner and their work has been integral to helping us drive Smirnoff vodka to become the No. 1 premium spirit in the world," James Thompson, president-global marketing, white spirits and ready-to-drink, said in the statement. "The team has a clear understanding of the Smirnoff brand and created the fantastic 'Clearly Smirnoff' global advertising campaign for Smirnoff vodka."

<http://adage.com/article?article_id=111568>



**4. Diageo Profits Rise Despite Guinness Decline in Ireland**

By Caroline Muspratt *– Daily Telegraph*

August 31, 2006

Drinks group Diageo saw profits rise 11pc driven by sales of Smirnoff vodka and Johnnie Walker whisky, but volumes of Guinness beer plunged 8pc in its Irish homeland.

Paul Walsh, chief executive, said: "Diageo's strong full year performance is the result of brand-building marketing campaigns, better sales execution to build superior relationships with our customers and successful new product launches."

He added: "North America continues to deliver industry-beating top-line growth; a more cost effective European business is driving operating profit and margin growth; and the rate of sales growth in International has accelerated following new brand introductions and increased investment."

Diageo said that total group sales rose to £9.7bn in the year to June 30 from £8.97bn last year. Pre-tax profits increased to £2.15bn from £1.93bn the year before.

Sales in Europe were flat, as the ready-to-drink segment continued to decline and the Irish beer market remained "challenging". Sales of Guinness across Europe were flat, while sales of Smirnoff ready-to-drink beverages were down 21pc in the past year.

In Ireland, volumes of Guinness declined 8pc while net sales were down 3pc following price increases introducted in June last year and May this year.

Sales in North America rose 7pc, boosted by advertising campaigns for Guinness and Red Stripe beer. However, the ready to drink sector was struggling with sales of Smirnoff "alcopops" down 5pc last year. An increasing number of consumers are reaching legal drinking age which, along with the trend towards more premium products, is helping to drive growth.

Sales in the International business were 13pc higher last year after Diageo increased its marketing spend on key brands like Johnnie Walker in expanding markets such as China and Mexico. Volumes in Nigeria grew 20pc after Harp lager was relaunched and Guinness showed good growth.

Foreign exchange movements reduced operating profits by £25m, and at current rates are expected to reduce profits by £75m next year.

Diageo said it expects operating profits to grow at least 7pc on an organic basis this year while net sales growth is expected to be in line with last year's.

The shares fell 24 to 935p in early trading.



**5. Drinks Giants Target Absolut as Swedish Voters Ponder State Sell-Off**

By Abigail Townsend - *The Independent*

August 27, 2006

**Leading party in September election puts the privatisation of Vin & Sprit back on to the political agenda**

The multi-billion dollar sale of Vin & Sprit (V&S), the owner of trendy Swedish vodka Absolut, is once again on the cards.

V&S is owned by the Swedish government, which has always been steadfast in its refusal to sell. But the country is holding elections next month and the opposition leader has confirmed that, should his party come to power, it would privatise some state-owned assets.

The Swedish authorities own a swathe of companies and is the country's biggest single owner of businesses. But Fredrik Reinfeldt, the head of the Alliance for Sweden party, was recently reported as saying: "We believe that the state has another role to play: to provide regulations and legislation, and not be an actor in the marketplace itself."

His comments have therefore raised hopes that, should the popular Alliance for Sweden be successful in its bid for power, V&S will be one of the assets sold off.

The biggest brand owned by V&S is Absolut. The vodka is extremely popular globally and has become the world's third-largest premium spirits brand in just 10 years. Although V&S has only the one global brand, a number of leading drinks companies would still be keen to get their hands on the business.

"It's one brand, but Absolut is the largest premium vodka brand in the world," said a drinks analyst at a leading investment bank. "It sells 5 million or so cases in the US and it would be seen as being attractive to a lot of players out there."

The business, should it be sold, is likely to be floated. That way, the Swedish government could retain a stake. But most believe it would be snapped up soon after its market debut.

"It would be picked up quickly," said the analyst. "However it goes, you just know the brand will be sold soon after, and the usual list of candidates will be involved."

The analyst said that average earnings before interest and tax at V&S were around $200m (£106m). When it comes to valuing the business, many believe it could be sold on a multiple of the mid- to high teens, making it worth around $3bn to $4bn. Premium brands such as this are in high demand: two years ago, for instance, the family-owned Bacardi splashed out $2bn for Grey Goose, the leading premium vodka in the US.

Those likely to be interested include Pernod-Ricard, the French drinks group that acquired Allied Domecq for £7bn last year, and Diageo. Although the British drinks giant owns Smirnoff, analysts feel that it could still be a potential bidder as long as it offloaded some of its lesser brands.

However, there is still a long way to go before a sale. The Alliance in Sweden party has been leading the polls in recent weeks, but it still needs to win the elections on 17 September. It would then need to include V&S in its pledge to sell state-owned assets.

There have also been many false starts before, with the industry regularly hearing rumours that the current Social Democrat government, which has been in power for 12 years, was considering selling the business. To date, however, the Swedish authorities have always dismissed such speculation.

Founded in 1917, Stockholm-based V&S has operations in 10 countries, employing around 2,500 employees and selling in 125 markets. Group sales in 2005 came in at SK9.8bn (£717m). Until 1995, the business was solely focused on the Swedish market but then decided to start exporting Absolut. Now only a sixth of V&S's sales are made in Sweden.



**6. Brown-Forman to Buy Mexican Tequila Brands**

By Vanessa O’Connell and Dennis K. Berman – *Wall Street Journal*

August 28, 2006; Page A8

Brown-Forman Corp. is expected to announce a deal to buy the business of Tequila Herradura SA, which makes two of Mexico's leading tequila brands, for about $875 million, according to people familiar with the deal.

The deal gives Brown-Forman, which owns Jack Daniels Tennessee whiskey, Southern Comfort whiskey and Finlandia vodka, greater access to one of the fastest-growing categories of liquor in the U.S.

Herradura, which is owned by the Roma family of Guadalajara, Mexico, owns two leading Mexican tequilas, Herradura and el Jimador. Brown-Forman, of Louisville, Ky., is paying a substantial price for the assets and operations of Herradura given that Herradura has minimal distribution in the U.S. and remains virtually unknown here. People familiar with the Herradura sales process said in April that the company could attract $650 million to $750 million from buyers.

Demand for tequila by Americans has been particularly strong in recent years. In 2005, tequila sales volume rose 7.8% to about 9.1 million nine-liter cases, according to Impact Databank, which tracks alcohol sales. The deal enables Brown-Forman to avoid the considerable risk involved with building a brand from scratch.

A spokesman for Brown-Forman said last night he couldn't immediately comment. Representatives at Herradura in Mexico said Roma family members couldn't be reached.

Brown-Forman currently markets Don Eduardo tequila in the U.S., though that brand has significantly lagged behind its rivals. Diageo PLC's Jose Cuervo is the U.S. market-share leader, with about 43% of the total, says Impact Databank. Fortune Brands Inc. owns Sauza, which has about 15% of the market. No. 3 Montezuma from Constellation Brands Inc. has about 7% of the market.

Having built up deep distribution networks and marketing arms, the world's largest spirits players are eager to push new products. There is little added cost in expanding the types of cases put on a delivery truck, but the margins on a bottle of high-end tequila or vodka are quite large, at an estimated 70% to 80%, according to liquor-industry consultants.

Bidding for Herradura was intense. According to people familiar with the matter, other interested acquirers included Bacardi Ltd., the Bermuda-based rum giant, Paris-based Pernod Ricard SA and Constellation Brands, of Fairport, N.Y.

Herradura is a 136-year-old company with a colonial-style ranch headquarters on the outskirts of the central city of Guadalajara in the country's tequila region, where the drink's main ingredient, agave, is grown. Thanks in part to Herradura's focus on premium tequilas, made entirely from the agave plant instead of blended with other alcohol, the brand has been at the forefront of tequila's decades-long transformation from working-class drink to posh spirit.



**7. Brown-Forman Puts Hartmann Luggage Line up for Sale**

*The Courier-Journal*

Brown-Forman Corp. is looking to sell its Hartmann luggage business, the last of its non-alcohol subsidiaries.

"It's certainly possible that Hartmann could benefit from investors who are exclusively focused on the success of that business, or perhaps from those who can find ways of integrating" Hartmann into an existing business, Brown-Forman CEO Paul Varga said in a statement released Wednesday.

Brown-Forman sold the Lenox line of stemware and china in 2005.



**8. Tsingtao Brewery Company**

*Wall Street Journal*

August 29, 2006, pB2

**Net Profit Increases 23% on Strong Sales in China**

Tsingtao Brewery Co., one of China’s largest beer makers by revenue, said first-half net profit rose 23% as surging sales in the mainland market helped to offset competition. The Hong Kong- and China-listed brewer said net climbed to 212.7 million yuan ($26.7 million), from 173.6 million yuan a year earlier. Tsingtao – in which U. S. beer maker Anheuser-Busch Cos. Owns 27% is relying on growth of its flagship brand to help lift prices and margins. China’s beer market is the world’s largest by volume and is growing at an annual rate of 7% to 10% as incomes rise, attracting a flood of investment from global companies such as SAB-Miller PLC, Heineken NV and Carlsberg AS and driving up valuations despite narrow profit margins. Tsingtao’s first-half revenue rose 16% to 5.77 billion yuan.



**9. U.S. Alcoholic Drinks Lost Potency in Second Half of 20th Century**

*Newswise*

August 27th

Instead of a shot of father's whiskey and glass of port after dinner, Americans are choosing Cosmopolitans, coconut rum and light beers as their drinks of choice, and the result has been a decline in the average alcohol content of the beer, wine and liquor sold in the United States over the past half-century.

Newswise - Instead of a shot of father's whiskey and glass of port after dinner, Americans are choosing Cosmopolitans, coconut rum and light beers as their drinks of choice, and the result has been a decline in the average alcohol content of the beer, wine and liquor sold in the United States over the past half-century.

The average alcohol content of liquor dropped five percentage points between the early 1950s and 1997. The percentage of alcohol in both wine and beer also fell between the early 1950s and early 1990s before rebounding slightly, although not to the level of 1950s drinks.

New estimates suggest 1950s beer contained more alcohol, and wine and liquor in the 1980s and 1990s contained less alcohol, than has been suggested previously in government studies, say William Kerr, Ph.D. and colleagues at the Alcohol Research Group.

These estimates suggest there may have been "roughly similar levels of alcohol intake during the 1950s and 1990s," Kerr and colleagues say.

The study appears in the September issue of Alcoholism: Clinical and Experimental Research.

The average alcohol content of wine sold in the United States fell from 16.75 percent in 1950 to 10.49 percent in 1991 before rebounding slightly to 11.45 in 2002. The alcohol content in beer followed a similar pattern, falling from 5.02 percent in 1950 to 4.58 percent in 1993 and rising again to 4.65 percent in 2002, the researchers found.

Compared to government figures, "our estimates indicate that consumption of alcohol from beer was somewhat higher for every year and that consumption of alcohol from wine and spirits was lower in most years," Kerr says.

The average alcohol content of liquor varied significantly from year to year and state to state, due in part to changes in the popularity of specific types of liquor.

In 2002, for example, the District of Columbia had the highest average alcohol content of liquor sold, at 38.3 percent. Ohio had the lowest average alcohol content, at 34.8 percent. In both states, the 2002 alcohol levels were about 4 percent to 5 percent lower than 1950 levels.

If alcohol consumption were evenly distributed across all Americans ages 15 and older, each person would have consumed an average of 2.175 gallons of pure alcohol in 2002, the researchers calculate. Among likely drinkers in this age group, this number is equivalent to 600 drinks a year.

The new estimates of percent alcohol concentration in the drinks sold in the United States will help researchers pinpoint the exact relationships between alcohol consumed and alcohol-related death and disease, and may offer new insights into controlling alcohol-related problems such as drunk driving.

But the study also offers a glimpse at shifting preferences of American drinkers during the last half of the 20th century. The decline in percent alcohol content "reflects a variety of factors that greatly transformed each of the alcoholic beverage markets over this period," Kerr said.

In 1950, for example, 80 percent of liquor sold could be categorized as "whiskey." Vodka, gin, rum, tequila and premixed cocktails - often in flavored versions that have lower percentage alcohol content - have steadily encroached on whiskey's popularity since then, the researchers say.

In 2002, beer was the most popular drink, making up nearly 60 percent of the total alcohol consumed.

Laurie Lieber, M.P.H., of the Marin Institute, a group that describes itself as an alcohol industry watchdog, said beer's popularity may be due in part to "consumer and cultural misperception that beer is the 'beverage of moderation,' a vestige of post-Prohibition policymaking that may make consumers less worried about consuming six beers than they would be about drinking six vodka tonics."

Beer is taxed at a much lower rate than liquor, Lieber said. "So the relative concentration of alcohol in the beverage being consumed may be a less important variable in consumer choices than the relative price of the overall buzz - especially to price-sensitive younger drinkers."

The study was supported by the National Institute on Alcohol Abuse and Alcoholism.

<http://www.newswise.com/articles/view/522813/?sc=rsmn>



# 10. Wine Sales Thrive as Old Barriers Start to Fall

By Vanessa O’Connell – *The Wall Street Journal*

August 25, 2006

The business of wine is breaking free of one of the world's most archaic and tangled retail systems. The result: a rise in sales, and an explosion of new ways to buy wine.

One of wine's new winners is Gary Vaynerchuk, a 30-year-old Belarus immigrant who recently dipped his nose into a glass, inhaled deeply, and stared into a videocamera. "Bell pepper, green pepper, red pepper," he declared. "This smells like a salad."

That observation helped ring up sales of 194 cases of 2003 Noblaie Chinon Rouge, an obscure French red, at $14 a bottle, by the Wine Library in Springfield, N.J. It used to be a small store in a New York City suburb. Today, with a busy Web site, it's one of the highest-grossing independently owned wine and liquor retailers in the nation, with about $45 million in annual revenue. Web sales -- launched in 1997 and buoyed by Mr. Vaynerchuk's folksy online reviews -- grew by about $10 million in the past two years alone.

The market is in upheaval because its many barriers are starting to crumble. Recently, a Seattle federal court struck down state rules forcing retailers to buy through wholesalers at pre-established prices. Several states are lifting rules that prevent consumers from buying wine directly from out-of-state producers and retailers.

At the same time, giant players like Costco Wholesale Corp. -- today the biggest wine seller in the country -- are pressing for reforms that would largely eliminate the industry's powerful middlemen.

The changing landscape is helping wine move into new mainstream markets. At 7-Eleven Stores Inc., shoppers can buy Chardonnays and Pinot Noirs. Roughly 500 Target Corp. stores carry wine, compared to 280 last year. Growth in U.S. dollar sales of wine is outpacing that of beer and liquor, according to research firm ACNielsen. Americans spent $7 billion on table wine at food, drug and liquor stores over the past year, 9 percent more than they spent the previous year.

For decades, wine and liquor marketers have been restrained by the 21st Amendment, which ended Prohibition in 1933 and granted the states broad power to control sales of alcoholic beverages. Fearful that a single player might dominate alcohol sales as gangsters had in the 1920s, the states set up a three-tier marketing system.

By law, producers could sell alcohol only to state-licensed wholesalers. Wholesalers then sold products to state-licensed stores, who ultimately made sales to consumers. Until recently, the three-tier system -- with its patchwork of state regulations -- made online sales nearly impossible. Some states, such as Missouri, even had laws in place setting a minimum wholesale price for wine and liquor sold in the state. Elsewhere, wholesalers often had to adhere to mandated minimum markups of 10 percent or more, or were required to sell each wine to all retailers in a state at the same price.

Retailers grew dependent on wholesalers -- some larger than the companies whose products they sell. Miami-based Southern Wine & Spirits of America Inc. is the market leader, with roughly $7 billion in annual revenue, according to the research firm Impact. The world's biggest wine company, Constellation Brands Inc., by comparison, has roughly $3.2 billion in annual wine sales.

Wholesalers only carry certain brands in a particular market, so stores must often go to dozens of them just to get the products they want. Since no one wholesaler does business in every state, national chains might have to deal with more than 450 different wholesale suppliers.

The snarl of rules explains why no retailer has emerged to carve out a nationwide franchise in wine, as Starbucks did with coffee, Victoria's Secret with lingerie or Home Depot with hardware.

Over the past several years, a spate of mergers in the wine business sparked similar consolidation among wholesalers, anxious to maintain their bargaining power. Giant companies like Southern, whose operations straddle several states, fought state-mandated controls on wholesale prices and some other restrictions.

The first major challenge to the old system came in the late 1990s, from small wineries in Virginia, Northern California and elsewhere. Eager to ship wine to customers in other states, the wineries began mounting legal campaigns against laws barring interstate wine sales in Indiana, Texas, Michigan, New York and North Carolina.

Their efforts culminated in a major victory last year, when the Supreme Court ruled that states must allow wine shipments to consumers from wineries both in and out of state -- or ban such sales altogether. While the court sanctioned interstate sales, it left it up to each state to permit them or not. The ruling didn't address beer and liquor producers, which are fewer in number than wineries and whose products are more broadly distributed in retail stores across the U.S.

Today, 34 states let consumers order direct from out-of-state wineries. In 1997, only 17 states allowed such shipments, thanks to lobbying in the 1980s and 1990s in those states by wineries in California and elsewhere.

Big retailers such as Costco, Target and Wal-Mart Stores Inc. are now pushing for change too, eyeing a lucrative new way to expand their sales. Wal-Mart found that at its new, upscale store in Plano, Texas -- where the median household income is nearly twice the national average -- its 144-square-foot wine section generates more sales per square foot than dairy products.

Costco mounted a federal court challenge to the three-tier system in Washington state's U.S. district court. In April, it emerged victorious when Judge Marsha Pechman issued a sweeping ruling, calling state wine and liquor regulations "plainly anticompetitive" and in violation of antitrust laws.

Judge Pechman not only struck down state pricing controls but also, earlier in the case, she prompted lawmakers to address the direct-sales issue. The state enacted new legislation allowing out-of-state wineries and brewers to ship their products directly to Washington retailers.

If the court's rulings ultimately are upheld on appeal and applied broadly, they could drive wine prices down and streamline the sales process. Warehouse clubs and other wine discounters could benefit the most because they compete ferociously on price. Costco already has a following from consumers looking for deals on fine wines, especially from France.

Washington's alcohol control board and wholesalers have filed separate appeals. Wholesalers say they play an important role in checking the power of big retailers and helping smaller stores compete.

Costco is "trying to change the system so they can apply direct pressure on suppliers without wholesalers being involved," says Craig Wolf, general counsel for Wine and Spirits Wholesalers of America. "The regulations challenged by Costco -- such as uniform pricing and no volume discounts to stores -- were intended to prevent big retailers from having advantages over the mom and pops, who lack the resources to keep up."

John Sullivan, associate general counsel for Costco, says its suit is about "bringing competition to the distribution of beer and wine, so that the distribution is subject to the same competition as every other facet of business." He says Costco is not trying to do away with wholesalers, but argues "there's no reason that wholesalers should have a special protection from competition just because of the things that happened 70 years ago."

In the months since the ruling, Costco has begun trying to get out-of-state wine and beer suppliers to sell to it directly, without much success. "We are doing our best," Mr. Sullivan says. "The current system has some inertia and there's great resistance" from wholesalers.

"Everybody wants to see how this plays out," says Mike Martin, a spokesman for Constellation Brands, which has refused to sell wine to Costco directly.

Last year's Supreme Court decision regarding interstate trade applied to wineries, not retailers. But store-owners argue they also should be covered. Some wine stores, wanting to directly ship bottles to consumers nationwide, have begun mounting their own legal challenges to state restrictions.

Earlier this year, for instance, California-based Wine Country Gift Baskets.com, K&L Wine Merchants and Beverages & More joined with a few Florida stores in an alliance to change the rules. The group hired Northern California wineries' legal counsel -- including a former U.S. Solicitor General, Kenneth W. Starr of Kirkland & Ellis -- to help them challenge bans on out-of-state retail orders in states such as Texas. In May, Texas alcohol regulators agreed to suspend enforcement of its ban.

Amid the gradual erosion of rigid rules, other marketers are rushing into the business of selling wine. Often they use nontraditional sales tactics, from flashy floor displays to unusual packaging -- to lure consumers. The players include startups such WineStyles Inc., a fast-growing national franchise of 64 stores which popped up in 17 states in the past two years. It focuses largely in states with less-restrictive wine retailing laws, such as Florida, Texas, Illinois, California and Minnesota.

As retailers gain clout, more sellers are similarly threatening the role of wholesalers by selling their own private-label brands. Generally priced at $20 and under, these store brands are at least twice as profitable to retailers as other wine. Most retailers don't disclose that a particular wine is their private label; shoppers generally can't tell the difference, and don't seem to care.

At Cost Plus Inc.'s World Market, a home-textiles chain that is also one the largest wine sellers in the country, markets its own brands -- such as Atacama Chilean merlot, and Timbuktu Big Block Red, a South Australian blend -- just as if they were any other wine.

Wine shoppers are romping through a new world of choices. Ruthann Stambaugh of Deltona, Fla., says she recently started experimenting with Cabernets from around the world, some of which she purchased from Wal-Mart's Sam's Club, where prices on some brands are $2 a bottle cheaper than at her local wine merchants.

Mr. Vaynerchuk, the director of operations at the Wine Library, started the store's Web site nearly a decade ago, but originally he used it only as a tool to take orders for pick-up. Some states allowed shipping from his store but he didn't bother untangling the forbidding rules.

Over the years, he started keeping track of states that allowed direct delivery. He pounces with each new opportunity. In May, when he learned that Texas had begun allowing shipments from out-of-state retailers, Mr. Vaynerchuk quickly removed the state from his site's "restricted list." Within days, he had sent out email notices to the hundreds of Texans who had previously sent his store email inquiries.

His video tastings appear online almost every day, and they sell wine. Even a $60 old-growth Tuscan red he described as redolent of "stinky socks" saw its sales rise by 5 percent.

<http://www.post-gazette.com/pg/06237/716366-28.stm>



**11. Foster's Shares Surge on InBev, SABMiller Bid Report**

By Robert Fenner - *Bloomberg*

August 29, 2006

Shares of Foster's Group Ltd., Australia's biggest beer and wine maker, rose the most in 16 years after the Sydney Morning Herald reported InBev NV and SABMiller Plc may be considering takeover bids.

The 9.2 percent rally increased the market value of Foster's to A$12 billion ($9 billion), the highest since May. Chief Executive Officer Trevor O'Hoy, who today reported higher-than- expected earnings for the Melbourne-based brewer, declined to confirm or deny the report.

Buying Foster's would give the companies 55 percent of the Australian beer market through brands such as Victoria Bitter and Crown Lager. Foster's is also the world's second-biggest winemaker, with vineyards in California, Australia and France producing Beringer, Lindemans and Penfolds.

``There is a scrambling for stock after the report,'' said Paul Trainor, who manages the equivalent of $150 million at Direct Portfolio Services Ltd. in Sydney, including Foster's shares. ``Nobody wants to be caught short if there is a bid.''

Foster's shares rose 50 cents to A$5.95 at the 4:10 p.m. close of trading in Sydney, erasing all of this year's decline.

A takeover would probably result in the sale of Foster's wine division, whose earnings have suffered from a glut of grapes, the newspaper reported, without saying where it got this information.

The wine unit ranks behind only Fairport, New York-based Constellation Brands Inc., by revenue.

**`Strategic Value'**

Nigel Fairbrass, a spokesman for London-based SABMiller, declined to comment. Marianne Amssoms, spokeswoman for Leuven, Belgium-based InBev, also declined to confirm or deny the report.

``People are prepared to pay big money for companies that have strategic value,'' O'Hoy said on a conference call. ``We are the No.1 premium wine company in the world today. We have an unassailable position in multi-beverage Australia.''

The A$5.8 billion of wine acquisitions Foster's made since 2000 has held back its shares, which have posted one annual increase since 2001. Wine represents about 55 percent of sales, compared to less than 10 percent at rival Lion Nathan Ltd.

Before today, Foster's shares had gained 24 percent since agreeing to buy Beringer Wine Estates Holdings Inc. in 2000. Shares of Lion Nathan, Australia's second-ranked brewer, more than doubled in the same time.

**Global Takeovers**

Global takeovers of breweries, winemakers and liquor producers rose 57 percent last year to $40.4 billion, according to data compiled by Bloomberg.

Foster's A$3.2 billion acquisition of Southcorp Ltd. last year was the fourth largest, trailing Pernod-Ricard SA's purchase of Allied Domecq Plc. Goldman Sachs JBWere and Credit Suisse Group advised Foster's in the Southcorp bid.

Both SABMiller, the world's second-largest brewer, and InBev, Europe's biggest, already do business with Foster's. SABMiller distributes the Foster's beer brand in North America. Foster's has an agreement to brew and sell InBev's Stella Artois brand in Australia.

London-based SABMiller this month formed an Australian distribution joint venture with Coca-Cola Amatil Ltd., the nation' biggest soft drink maker, for brands including Pilsner Urquell, Miller Genuine Draft and Peroni Nastro Azzurro.

Gerard Rijk, an analyst at ING Wholesale Banking in Amsterdam, was skeptical of a takeover emerging.

``I don't believe it,'' he said ``It's too much wine for brewers to buy into.''

Foster's has sold A$1 billion of overseas breweries and brands this year to focus on its more profitable domestic beer and international wine units.

**Selling Assets**

O'Hoy sold the Foster's brand in Europe and Russia to Scottish & Newcastle Plc in May for 309 million pounds ($583 million). Since June, Foster's has agreed to sell its Chinese brewing assets to Suntory Ltd. and the Vietnam business to Asia Pacific Breweries Ltd. SABMiller is buying its Indian beer unit.

Earlier today, Foster's reported earnings rose 22 percent in the second-half on gains at its beer unit and the acquisition of Southcorp, which gave it brands including Rosemount and Penfolds.

Operating earnings rose to A$289.8 million in the six months ended June 30 from A$238.3 million a year earlier. The profit was calculated by subtracting first-half profit before items from Foster's annual result of A$623.1 million.

The second-half result beat the A$277.1 million average estimate of nine analysts surveyed by Thomson Financial.

**`Very Good Result'**

``They've had a very good result, we quite like the businesses they've assembled and what they are doing,'' said Ross Barker, who helps manage the equivalent of $3.3 billion at Australian Foundation Investment Co. in Melbourne, including Foster's stock. ``They are still bedding down the Southcorp acquisition and getting that wine business humming.''

Including one-time items such as gains from selling the Foster's brand in Europe, net income for the half rose six-fold to A$875 million.

O'Hoy expects earnings growth in the current year to accelerate with wider profit margins as the benefits of a beer production efficiency program and integration of Southcorp rise.

He is increasing profitability at his beer unit and revamping the Rosemount brand, whose sales fell 23 percent in the past year, to limit the impact of record Californian and Australian grape crops on wine prices.

O'Hoy plans to buy back about 1.8 percent of Foster's shares after cutting net debt 17 percent to A$3.5 billion during the year. The A$200 million buyback will be done on the market.

O'Hoy, who gets about 60 percent of earnings from brewing, is integrating his wine, beer and spirit sales forces into a single team, selling all the company's labels.



**12. Guinness: Drinking Decline Owner Could Face Calls to Sell as Irish Sales Plummet: Dark Days for Guinness**

By: Owen Bowcott and Simon Bowers -*The Guardian -* United Kingdom

August 29, 2006

The drinks company behind Guinness is expected to reveal this week that the tally of pints of "the black stuff" drunk in Ireland has fallen by more than a quarter over the past eight years.

The persistent decline, believed to have steepened this year, is expected to resurrect calls for Diageo to put its beer business up for sale. Some investors believe the company should focus on its core spirit and wine brands such as Smirnoff vodka, Blossom Hill wine, Captain Morgan rum and Johnnie Walker whisky.

Guinness's local troubles in Ireland are expected to get lost among strong performances elsewhere in the group when Diageo reports full-year results on Thursday. Analysts expect the world's biggest drinks firm to make pre-tax profits of more than pounds 2bn, with good figures from Latin America, Russia and Asia.

Worldwide, the amount of Guinness sold is actually expected to rise, as Diageo introduces the stout in bottles and cans to more markets, most recently Russia. It remains one of the group's eight "global priority brands". But the decline in its homeland is seen by many as undermining the brand itself.

Ireland is the shop window where Diageo promotes Guinness to visitors from around the world. It also trades off its Irish roots overseas - not least in the US. Diageo's Storehouse visitor centre in the Guinness brewery, on the banks of the Liffey in Dublin, is said to be Ireland's most popular tourist attraction. Tales about the role of the river waters in creating the Guinness flavour have passed into folklore and hordes of tourists seeking the essence of Irish culture pursue a traditional pilgrimage to the place. It is an obligatory stop on open-top bus tours.

Beguiled by the historical pageant of brand promotion, visitors are mostly oblivious to the rapid domestic decline in sales of Ireland's most famous liquid export. Bars are closing and a new generation is buying lager, cider and wine, and taking it home to drink.

Guinness's response has been to raise prices to defend its profits, and to search out new customers by pumping out fresh variants, while continuing to exploit nostalgia for the traditional draught. Critics suspect it has succeeded only in confusing loyal drinkers' tastebuds.

This month, Irish bars are serving Guinness "Toucan", a brew which boasts "triple hops" for a smoother taste. Some describe it as sweeter and less bitter. Other pubs still offer Guinness Extra Cold, a pint that was designed to boost consumption during hot summers when sales usually fall back.

Meanwhile few opportunities are missed to trade on the stout's glorious past. On the wall outside the Guinness Storehouse, the public facade of the St James Gate brewery, there are reproductions of classic posters reminding visitors how it was once marketed as nutritious, wholesome and pleasurable.

Guinness for Strength was the uplifting caption in one famous campaign drawn by the artist John Gilroy in the 1930s, depicting a man balancing a steel girder above his head. My Goodness, My Guinness was another above a picture of a zookeeper failing to entice a bear down from a post: the animal dismisses the offer of a bun as it cradles a bottle.

Inside the Storehouse visitors find a bewildering array of Guinness merchandise. There are Guinness-emblazoned T-shirts, jackets, footballs, rugby balls, golf balls, clocks, socks, oven gloves, pants (in pink and white), playing cards, cufflinks and fridge magnets. There are Guinness slippers (in black and cream fake fur) and Toucan-shaped salt and pepper sets. The piped music is invariably an Irish jig. "Ten million glasses of Guinness are enjoyed every day worldwide," the walls proclaim.

But in the bars of Dublin there is rather less euphoria. "It's not selling as well as it used to years ago," says the barman at the Auld Dubliner in Temple Bar, a street buzzing with tourists and young Dubliners. "People say it's an old man's drink. Sales of Murphy's [a rival stout from Cork] are up. I remember 10 years ago, 70% of our draught sales were Guinness. Now it's about 50%. It's euros 4.50 a pint here, but lager is euros 5. So it's not the price."

One veteran lunchtime customer, Jimmy Foley, says he has been drinking Guinness since he was 14. "It used to stick to the counter years ago," he says. "It's thinned down a bit. You get a good pint here, but in some pubs it's muck. It's so variable. I keep asking publicans why that is."

Across the street at the Quays Bar, the owner, John McSweeney, says Guinness is still his best seller, but adds: "The population has changed so much. Pubs in the suburbs have been badly affected by the smoking ban. There may be more people coming to live here but there are fewer going out drinking.



**13. Alcohol Firms' Advertising to Youth, Exceeds Limit, CDC Study Says**

*Associated Press*

August 31, 2006

ATLANTA -- About half of the alcohol advertising on radio is aired during youth-oriented programs, according to a new study that suggests beer and liquor companies aren't abiding by a self-imposed constraint on advertising to teens.

The report was released Thursday by the Centers for Disease Control and Prevention. It is the first to assess alcohol radio advertising since 2003, when the alcohol industry vowed to no longer run ads on radio programs in which 30% or more of the audience is under 21.

"Kids in the United States are exposed to a heck of a lot of alcohol advertising, and it impacts what they drink and how much they drink," said Tim Naimi, a CDC epidemiologist who worked on the study with researchers from Georgetown University's Center on Alcohol Marketing and Youth.

Industry officials criticized the report. They noted the figures were collected in the summer 2004, less than a year after the industry's code was instituted, and said that some long-standing advertising contracts hadn't yet expired. "Brewers work to comply with the code every day," Jeff Becker, president of the Beer Institute, said in a statement.

The researchers monitored radio advertising in 104 markets, focusing on the 25 brands of alcoholic beverages with heaviest radio spending. They used Arbitron Ratings information to check the demographics of the audiences listening to various programs.

About 15% of the U.S. population is in the 12-to-20 age bracket, but the percentage varies from market to market. A radio program was considered to be "youth-oriented" if the youth audience was larger than the percentage of youth in that market's population. The researchers counted 67,404 beer, wine and liquor spots and said 32,800 of them -- or 49% -- were aired on youth-oriented programs.

Alternative rock and hip-hop were among the program formats that had the largest percentage of alcohol advertising. Alternative rock stations accounted for about one-quarter of youth exposure to alcohol ads in the sample, said David Jernigan, executive director of the Georgetown Center.

Researchers also looked at advertising on programs with audiences in which more than 30% were in the 12-to-20 age bracket. The 30% threshold was studied because in 2003 the Beer Institute and Distilled Spirits Council joined the Wine Institute in adopting a 30% threshold for radio advertising placement.

The researchers found that 14% of the alcohol advertising in the 104 markets was on programs exceeding the 30% threshold. Among major markets, the percentages were highest in Washington (38%), Detroit (26%), and Seattle and Dallas (both 20%).

Some brands violated the standard more than others. Among beers, Colt 45 Malt Liquor topped the list, with 87% of its ads on programs exceeding the 30% threshold. Nearly 1,100 Colt 45 Malt Liquor spots were run during such programs. Colt 45 is made by the Pabst Brewing Co. A Pabst marketing official didn't immediately return a call for comment Thursday.

Bud Light placed a much smaller proportion of its ads on such programs, 12%. But Bud Light advertises so heavily that there was a greater number of times -- 2,415 -- that a Bud Light ad aired on a program with a disproportionate number of youthful listeners.

Youth exposure to alcohol advertising is associated with increased youth drinking, public health officials say. Among the studies they cite is an article by University of Connecticut researcher Leslie Snyder and others, published in January in the Archives of Pediatrics & Adolescent Medicine. The study looked at 24 communities, and found drinking rates were higher among youths ages 15 to 20 who lived in markets with more alcohol advertising than in youths who lived with less advertising.

The alcohol industry and some scientists have challenged such findings, saying a clear cause-effect relationship has not been established. The primary influence on teens' decisions to drink illegally is their parents, not advertising, Mr. Becker said.

Mr. Becker noted that 86% of the radio placements met the threshold, even though the data was collected soon after the self-imposed ban. "This underscores the effectiveness of self-regulation and our members' ongoing commitment to responsible advertising," Mr. Becker said.

The industry announced its code in September 2003 and the study's data collection didn't begin until nine months later. Nine months is generally considered sufficient time to adjust advertising agreements, and some brands apparently were able to comply, Mr. Jernigan said.

"That suggests the level of attention to this maybe wasn't what it should have been," he said. A Federal Trade Commission report scheduled to come out in the next year is expected to show a higher level of compliance, Beer Institute officials said.

<http://www.courier-journal.com/apps/pbcs.dll/article?AID=/20060901/BUSINESS/609010371/1003>



**II. IOWA NEWS.**

**14. Youths' Bar Curfew Strikes Harsh Note**

By Kyle Munson, Music Critic – *Des Moines Register*

September 1, 2006

### bildeClubs and patrons raise concerns about access

At 5 p.m. in downtown Des Moines, one crowd flees: Adult workers pour out of office buildings, scurry down the streets. Their cars lurch toward the construction-plagued freeway to a soundtrack of impatient horns.

But another crowd flocks against the traffic to the corner of East Sixth Street and Grand Avenue in the East Village - young concertgoers who line up outside the House of Bricks in the glaring sunshine, eager to slip inside and indulge in the blare of a few of their favorite rock bands.

Why so early?

The law in Des Moines — a major topic of debate in recent weeks — forbids the under-21 crowd from hanging out in bars and clubs with a liquor license after 9 p.m. Des Moines vice and narcotics police officers visited as many as 15 bars over two nights last month to enforce the code.

Hundreds of teenagers attend all-ages concerts in Des Moines every week and House of Bricks owner J.C. Wilson said that some of his all-ages shows had been operating with more flexibility. If youths were still hanging out purchasing T-shirts and chatting with band members a little past 9, it wasn't a big issue.

Not so in the wake of the crackdown.

"Now, it's 'Don't mess with it,' " Wilson said. "Vice is serious."

Sgt. Robin Sprafka, one of the vice officers who conducted the checks, said that of the bars visited in one two-day period, three - House of Bricks, Vaudeville Mews and Rocks - had minors inside after 9 p.m.

One patron each was issued a citation at the House of Bricks and Rocks. The Mews was given a warning.

"Most people wouldn't want their kids to be around a lot of that activity," Sprafka said. "After 9 o'clock, people are there to party and imbibe."

Des Moines' city code does allow venues "whose primary business purpose is not the sale of alcoholic beverages" to qualify for an exception to the 9 p.m. all-ages ordinance as long as more than 50 percent of their gross sales are from non-alcoholic sources. But "cover charges, entertainment fees, drink mixes or nonalcoholic beverages" don't count toward alternate sales.

In other words, a bar that wants to operate primarily as a live music venue needs to sell a significant number of advance tickets off site — or perhaps also get into the food business.

Only 11 locations in Des Moines currently have an exception to the 9 p.m. ordinance, according to city records. The only live music club on the list is Java Joe's Coffeehouse, whose coffee and food sales account for the vast majority of its business; it also stocks a few varieties of bottled beer.

**Reaction from teens**

Restricting young music fans' access to club shows is a concern for bands in a variety of genres — from metal to hardcore to Christian rock — because it hits their core demographic.

"Most of our crowd is under 21," guitarist Jeff Cunningham of Spoken, an Arkansas quintet, said at the House of Bricks.

Jade Johannesen knows the scene well. She grew up in Des Moines and started attending the Mews' all-ages shows a few years ago as part of the young fan base that migrated to Fourth Street from makeshift venues such as the Fallout Shelter (near the Iowa State Fairgrounds) and the Des Moines Botanical Center. She even met her boyfriend when his band performed at the Mews.

"It was a big part of my life, I know it was a big part of a lot of people's lives," said Johannesen, 20.

"You go there and see two, three, four great bands and buy CDs and feel fulfilled at the end of the night."

Langen Goldstien of Des Moines, 17, was lined up recently outside the House of Bricks with her fellow fans waiting to enter. "Oh my gosh," she said of the 9 p.m. ordinance. "Teenagers already have a driving curfew. I come here a lot and nothing's ever happened."

Other fans, meanwhile, say that early concerts conflict with after-school sports and other extracurricular activities.

"My brother couldn't come to this show because he has football practice," said Cole Rogers of Waukee, 17.

But not every young fan is opposed to concert curfews.

Tony Taylor, a 17-year-old who trekked from Davenport for the Spoken concert at the House of Bricks, appreciated the extra postshow drive time.

"It's a trip to get here ... and I do have class in the morning," he said. "And I still haven't done my homework."

Added 16-year-old Randy Sweeney of Urbandale: "On a school night, they're good early."

### bilde1Mixed perspectives

Club owners and concert promoters argue that the 9 p.m. ordinance makes it more difficult for them to clear a modest profit and produce all-ages concerts in the first place.

Sam Summers built his First Fleet Concerts promotion business by catering to a younger crowd — bringing bands such as Fall Out Boy to nightclubs around the metro before they cropped up on MTV. He proposes that minors be allowed to remain until at least 11 p.m. as a reasonable compromise.

"Some of these bigger shows require a lot of setup," Summers said. "We're talking about the bands getting to the venue to set up at about noon. And by the time your headliner goes on, it's still completely light outside."

The simplified economics of the situation, according to concert promoters and others in the music industry: Underage crowds tend to benefit bands, because they spend their cash on concert T-shirts and other merchandise. Older fans tend to spend more on drinks, which benefits the nightclub. Many clubs want the flexibility to stage both an all-ages show and a 21-and-over show on the same night rather than have to choose one or the other; letting the all-ages show run later than 9 p.m., they say, makes that more feasible.

Amadeo Rossi, owner/managing partner of the Mews, said he operated for nearly four years believing the exception certificate he initially secured remained current as part of his annually renewed liquor license. Not so — and the Mews' entertainment calendar has evolved from a focus on live theater to live music. Bar sales have become "the contributing income to the place," Rossi said.

"The minors help us pay the guarantees (for the bands), and create a good atmosphere," Rossi said. "Kids have gained from the experiences of enjoying a lot of those shows."

### In other Iowa cities

Of course, Des Moines is just the central piece of the puzzle in the metro's nightclub concert scene.

Urbandale, for instance, doesn't directly address the issue of minors in bars in its city code, apart from penalties for underage drinking.

But just because all-ages shows have the green light, it doesn't make them common.

John Koester, owner of Urbandale live music spot Keyster's, avoids all-ages shows. "It's not as lucrative," he said. "We're here to sell beer, that's our main mission."

The scant all-ages concerts he has booked within the last two years have required extra staff and precautions.

"We wristband those who are of age so we don't have issues," he said. "You're constantly, constantly ID-ing everybody, whether they have a wristband on or not."

Cities across Iowa handle all-ages shows differently. Iowa City's code bans the under-19 crowd from bars after 10 p.m., with criteria for an exception certificate that must be approved by police.

In Des Moines, the Mews will try to qualify for a new exception, and Rossi sees a lot at stake for his live music business.

"The impact will be on the quality of shows we can do," he said. "A number of the shows we've done, like Of Montreal, Cursive, Envy Corps, have a huge younger following. We can only do such shows before 9 p.m. now, which is not agreeable to many of these acts ... which are selling out theaters in other cities. They will just skip the Mews, skip Des Moines, and the young fans will have another reason to leave. That may sound dramatic, but music is a lifeline to a lot of young and old alike."

<http://desmoinesregister.com/apps/pbcs.dll/article?AID=/20060901/NEWS08/609010383/1001/NEWS&lead=1>



**15. Fired Driver was Drunk on the Job, School Says**

By Tom Alex, Staff Writer *– Des Moines Register*

September 1, 2006

### Dallas Center-Grimes athletes were aboard the bus at the time

An intoxicated school bus driver for Dallas Center-Grimes allegedly ran a stop sign and almost hit another vehicle Tuesday night while driving the high school girls' volleyball team from a tournament in Waukee, according to reports from parents and school officials.

When the driver blew through the stop sign, coach Angie Reed told him to pull over and stop the bus, school officials said. The bus pulled into the parking lot of St. Boniface Catholic Church, a couple of blocks away from Waukee High School.

She got her team off the bus, then called school administrators and told them she suspected the bus driver was intoxicated. School officials called police.  
  
Waukee police charged the driver, Michael Louis Rolow, 49, of Grimes, with intoxication Tuesday night. Police records show Rolow's blood- alcohol level was more than twice the legal limit. A bottle of Hawkeye Vodka was found on the bus under the driver's seat.

Police said Rolow was not driving when they arrived on the scene, so a drunken driving charge was not filed.

Rolow was chief of the Windsor Heights Police Department before retiring in December 2002 after 23 years of service.

Grimes schools Superintendent Gary Sinclair said he was limited in what he could say about a personnel matter, but said Rolow would no longer be driving for the school district

"It's both sad and alarming. First and most important is student safety," Sinclair said. "We have a great group of bus drivers, and it would be unfortunate if this tarnishes the reputations of bus drivers."

Sinclair said there were no problems traveling to the volleyball tournament earlier on Tuesday. Rolow did not seem impaired at that time.

They suspect he was drinking while the girls were playing volleyball.

Rolow also was cited for having an open container. He could not be reached Thursday.

"The coach's response to this was great," said Sinclair. "Within the first block or so, she recognized the driver was impaired and she told the driver to pull over."

About a dozen students were on the bus.

"This could have been very, very serious. I understand they almost hit another vehicle head-on," said Steve Schlafke, father of Dallas Center-Grimes volleyball player Kasey Schlafke.

"I'm thankful to the head coach who did an outstanding job," he said. "And I'm grateful to the school administrators for their quick reaction to this. You hear about these kinds of things, but they don't mean much to you because they don't affect you. When they do affect you, it's shocking. Obviously it's not what you expect. When we put kids on a bus, we feel safe doing so.

"The kids were really shook up," he added.

Wayne Reisetter, the Dallas County attorney, likely will be reviewing the case. "Beyond that, I can't comment at this time," he said. None of the paperwork had reached his desk by Thursday morning.

A check of Iowa courts online showed Rolow has no prior misdemeanor or felony record.

<http://desmoinesregister.com/apps/pbcs.dll/article?AID=/20060901/NEWS01/609010384/1001/NEWS>



# 16. Ban Sought on Kinnick 'Cheers!'

By Erin Jordan – *Des Moines Register* – Iowa City Bureau  
September 1, 2006



**But no-alcohol rule in suites appears unlikely to fly**

Iowa City, Ia. — An anti-binge-drinking group's request that alcohol consumption be barred in luxury suites at the University of Iowa's Kinnick Stadium may fall on deaf ears, leaseholders said.

The Stepping Up Project, a U of I group that fights binge and underage drinking on campus, will send letters today to the companies and individuals who lease suites at Kinnick, asking them to prohibit beer and wine consumption in the skyboxes, said Jim Clayton, co-chairman of the group's executive committee.

"We object to the cultural message that is being sent that the only way to have fun is by having a beer in your hand," Clayton said.

But the leaseholders, who paid an average of more than $57,000 for each of 46 suites, expect to be able to drink a brew while watching the Hawkeyes, said U of I athletic director Gary Barta.

"When someone purchases a suite at that price, it's with an expectation that they can serve beer or wine," Barta said Thursday.

Randy Ward, who shares a 36-seat, $105,000-a-year suite with 11 friends, agrees. "I'm probably going to have a beer or two during the game," said Ward, who owns Randy's Carpet in Coralville.

Suites include tickets, a refrigerator and a television. Food and drink are sold separately - and neither is inexpensive. A 12-ounce glass of Bud Light costs $3.50, and an 187-mL glass of merlot is $4.25. Hard alcohol is not allowed, and last call will begin with seven minutes remaining in the third quarter, according to the Kinnick Catering book.

Leaseholders who choose to go dry will be following the U of I president, athletic department and foundation, whose Kinnick suites will not contain beer or wine. Alcohol is also barred in the stands.

Binge and underage drinking has long been an issue at the U of I, where nearly 70 percent of undergraduates surveyed in 2004 said they binge drank in the previous 30 days. The U of I recently ranked ninth on the Princeton Review's list of the Top 10 party schools in the nation.

Brenda Heinz understands Stepping Up's request for suite leaseholders to ban booze.

"Underage drinking is a huge problem in Iowa City," said the promotions manager for Iowa Veterinary Supply Co. of Iowa Falls.

Heinz said she told her son, a U of I student, that he couldn't come up to the company's 12-seat, $45,000-a-year luxury suite, where alcohol will be served Saturday. "It's not because we feel like we have to drink to have a good time, but it's one of the privileges we've earned as adults," Heinz said.

<http://desmoinesregister.com/apps/pbcs.dll/article?AID=/20060901/NEWS02/609010369/1001/NEWS>



**17. Tastes Just Like Vodka**

By Amy Lorentzen – *Associated Press*

August 28, 2006

AMES, Iowa -- Now that ethanol has become common in gas tanks, two Iowa State University professors are working to get it into martini glasses.

The professors are researching how to easily, and cheaply, turn fuel ethanol into food-grade alcohol for beverages, pharmaceuticals and personal care products.

"We will be taking relatively abundant and cheap fuel ethanol and, for a very small amount [of money], adding a lot of value to it," said Jacek Koziel, an assistant professor of agricultural and biosystems engineering.

He said the research is focused on perfecting technologies that purify fuel ethanol, a grain alcohol most often made from corn and used as a gasoline additive. Like beverage alcohol, fuel ethanol is yeast-fermented and then distilled. However, it has many more impurities that must be removed, Mr. Koziel said.

"We are trying to fine-tune, so to speak, the process of alcohol purification," he said.

Why find another use for ethanol at a time when demand for the fuel has skyrocketed?

Because although the demand for fuel ethanol could wane if the automotive industry embraces other technology, "the demand for liquor and mouthwashes and cough syrups will always be there," said Hans van Leeuwen, a civil, construction and environmental engineering professor who is working with Mr. Koziel on the project.

"We're really just looking at a process improvement here that will save a lot of money," said Mr. van Leeuwen, who also serves as vice president of Cedar Rapids-based MellO3z, a company that has created a process for purifying alcoholic beverages.

Monte Shaw, a spokesman for the Iowa Renewable Fuels Association, said the future of food-grade alcohol produced from fuel ethanol depends on its profitability. Right now, ethanol used in gasoline blends is in demand, but as more plants are built and production climbs, producers could take advantage of extra capacity and turn food-grade ethanol into a premium business, he said.

"So today that interest probably isn't as high, but we've got a lot of production coming on line," Mr. Shaw said Thursday as he drove to a groundbreaking of an ethanol plant in St. Ansgar, Iowa. "It's not unreasonable to assume some time in the future that something like this might be very attractive."

Preliminary work on the effort began last year, and the 1½-year project -- which uses ozone gas and a carbon-filtration process -- recently began. Funding comes from a $79,900 grant from the state's Grow Iowa Values Fund, with matching dollars and materials from industry sponsors and specialists.

Iowa, the nation's top corn grower, has become a leader in the ethanol industry, with 25 plants producing about 1.6 billion gallons this year and eight plants under construction or expansion, according to the Iowa Renewable Fuels Association.

The key to the effort is price.

Mr. van Leeuwen said the multiple distillations needed to make food-grade alcohol raise production costs by about 50 cents per gallon more than it costs to make ethanol. The system the Iowa State team is working on aims to put purifying costs at less than a penny per gallon, he said, adding that retrofitting the purification process would cost little for ethanol plants.

"It's the type of thing that will pay for itself over and over within a year," Mr. van Leeuwen said.

Mr. Koziel said there are many potential applications for the product.

"It's not just necessarily the consumer of liquor-type alcohol" who benefits, he said. "It could be used for all sorts of other consumer products ... everywhere where food-grade alcohol could be put to use."

But for those who like their liquor, Mr. van Leeuwen said the food-grade ethanol "tastes just like vodka," although the 190-proof product must be diluted. He said he has hosted one tasting panel with positive results, and he plans another after further research.

The Iowa State scientists are using two purification technologies for their system. The first part involves bubbling ozone gas through the fuel ethanol to remove impurities and to form new compounds, which are then filtered through granular-activated carbon to absorb remaining impurities.

A patent for the process is pending.

Mr. van Leeuwen said he has used the process to treat wastewater with success, and he expects fine results for food-grade alcohol.

"I have little doubt that it will work," he said.



**18. IRGC Sets Hearing on Harrah's Violation**

By Phil Rooney, Staff Writer – *Council Bluffs Daily Nonpareil*

August 30, 2006

A concerned parent's phone call is expected to mean a $10,000 fine against Harrah's Council Bluffs Casino and Hotel for an underage gaming violation.

The Iowa Racing and Gaming Commission board is expected to approve the fine at Thursday's meeting in Johnson.

According to Julie Hamilton of the Iowa Division of Criminal Investigation, warrants have been issued for 18-year-old Kyle Blohn of Omaha for entering a casino while underage and for possession of an alcoholic beverage under the legal age, both city ordinances.

"The young man was able to gain entrance to the casino and left the casino," Hamilton said.

She said Blohn then told his mother what he'd done, and she contacted the casino. Harrah's then informed the DCI, and an investigation was started.

Blohn has not been served with the misdemeanor warrant, Hamilton said. Bond on the charges is $650, Hamilton said.

IRGC Administrator Jack Ketterer said Blohn apparently got by a distracted security guard and was on the floor for an extended period of time and was served "a beer or two" on July 16. The surveillance coverage did not show that he gambled, but the teenager was served two alcoholic beverages.

Ketterer said a three-step threshold has been established before violations come to the commission for hearings.

The individual committing the violation must get on the casino floor unchallenged, the person has to be on the floor for at least 30 minutes and they must either gamble or consume alcohol.

"If all three of those things occur, it's indicative that maybe there isn't the awareness of underaged gaming they should have," Ketterer said.

Without those three conditions present the violation usually is handled at a lower level, Ketterer said. The use of a fake ID by the individual generally spares the casino the larger fine. If the violator is quickly spotted, the commission also recognizes the casino's high level of awareness in having all of its employees looking for violations.

"You can pretty much recreate what happened through surveillance," Ketterer said. "There really isn't a dispute as far as the facts are concerned."

All that leaves is for the penalty to be assessed; and by the time the issue reaches the commission, a stipulated agreement has been reached between the IRGC and the casino in which they have agreed to the facts and settled on the fine, which in this case is expected to be $10,000.

The violation occurred during a month when Harrah's reported 196,450 guests. The casino hosted 2.2 million visitors during the previous fiscal year.

Harrah's spokeswoman Christie Scott said underage violations are unusual, and it's the first violation since she came to the casino in January 2005.

She said Harrah's uses a driver's license scanner to make sure it's from the appropriate state, anyone under 30 is carded, a picture is taken of the license and if there are any questions the person is asked a series of questions.

The guard who allowed Blohn in didn't follow appropriate procedure and has been disciplined, Scott said.

According to The Daily Nonpareil archives, it was the first violation at a Harrah's property in the city since July 5, 2004, when an underage man hit a slot machine jackpot at the old Bluffs Run Casino.

<http://www.zwire.com/site/news.cfm?newsid=17129128&BRD=2703&PAG=461&dept_id=555106&rfi=6>



**19. IA Patrol Looking for Drunk Drivers This Weekend**

Staff Reports – *Des Moines Register*  
September 1, 2006

The Iowa State Patrol, along with law enforcement agencies across the country, will be cracking down on drunken driving over the Labor Day weekend.  
  
Drunk driving is one of America's deadliest crimes. In 2004, nearly 13,000 people were killed in highway crashes involving an impaired driver or motorcycle operator with a blood alcohol concentration of .08 or higher.

The picture for motorcycle operators is particularly bleak. Forty-one percent of the 1,672 motorcycle operators who died in a single-vehicle crashes in 2004 had BAC levels of .08 or higher.

The Iowa State Patrol has been looking agressively for drunken drivers since Aug. 18. The campaign continues through Monday.

"Make no mistake. Our message is simple. No matter what you drive - a passenger car, pickup, sport utility vehicle or motorcycle - if we catch you driving impaired, we will arrest you. No exceptions. No excuses," said Commissioner of Public Safety Kevin W. Techau.

"We will be out in force working in partnership with law enforcement agencies across the state to get more drunk drivers off the road. We want everyone to play it safe and always designate a sober driver or find a different way home if they have been out drinking," said Col. Robert O. Garrison, chief of the Iowa State Patrol.

In Iowa, 2004 and 2005 represented the lowest drunk and drugged driving related fatality years on record with 78 and 88 deaths respectively. Despite this improvement, impaired driving remains the number 2 killer on Iowa's streets and highways, second only to the non-use of safety belts.

This year's effort is supported by $11 million in paid national and state advertising to help put everyone on notice that if they are caught driving impaired, they will be arrested.

<http://desmoinesregister.com/apps/pbcs.dll/article?AID=/20060901/NEWS/60901006/1001/NEWS>



**III. OTHER STATE NEWS.**

**20. Liquor Wholesalers to Pay Fines, Reform Unfair Ways (New York)**

**By Carolyn Thompson -** *The Associated Press*

August 30, 2006

BUFFALO, N.Y. (AP) - The state's eight largest wine and liquor wholesalers will pay $1.6 million and adopt a series of reforms to resolve Attorney General Eliot Spitzer's investigation of illegal marketing practices in the industry, according to an agreement announced Wednesday.

The deal is meant to stop wholesalers from favoring select retailers with gifts and discounts not available to thousands of smaller stores, bars and restaurants.

Spitzer said consumers may see lower prices with a return to fair competition.

"Today, as a result of this agreement, these illegal schemes have been halted and a level playing field restored throughout the industry," said Spitzer, who announced the agreement in Buffalo, where many of the practices were chronicled in The Buffalo News.

The investigation by Spitzer's office and the State Liquor Authority revealed an array of practices intended to circumvent the state's Alcohol Beverage Control Law, including payments of cash, gift cards, trips and golf clubs to favored retail clients. One wholesaler spent more than $400,000 on gift cards, Spitzer's office said.

To avoid regulatory scrutiny, the wholesalers issued sham credits that hid illegal discounts and set up relative-run advertising companies to pick up the tab for retailer print and electronic ads, authorities said. Payments were linked to agreements by the retailer to buy a specified amount of product from the wholesaler.

"There was massive discrimination that was both unfair and improper," said Spitzer. Investigators estimated that benefits to favored customers exceeded $50 million from 2003 to 2005.

Steve Glamuzina, who owns Georgetown Square Wine & Liquor in Buffalo, said the practices were widely known but when he complained, he found his store window broken and his credit denied by wholesalers.

The State Liquor Authority, which regulates the industry, "had some very, very strange interpretations of the rules," said Glamuzina, who is president of the Empire Liquor Store Association. He estimated more than 1,000 liquor stores had closed in the state since the 1990s because of the unfair competition.

SLA Chairman Daniel Boyle, who took over the agency in February, said the SLA's 29 investigators were stretched thin and had neglected certain duties. "Believe me, we will not let that happen again," he said.

Following the revelations, the authority's former chairman, Edward Kelly, resigned.

The $1.6 million in fines and costs represent the largest ever imposed by the agency.

Among the most significant of the agreement's provisions, wholesalers must now post all prices to retailers on company Web sites, ending "blind pricing" which allowed them to offer deep discounts to some customers and not others. Wholesalers also may no longer refuse to sell hard-to-get brands to smaller stores by artificially labeling them as "limited availability" products.

"The agreement will serve as a simple, straightforward rule book for wholesalers and retailers," Boyle said.

Violators could lose their licenses.

"We think this will drive prices down because competition ultimately drives prices down," Spitzer said.

The wholesalers who entered into the settlement are: Charmer Industries, Inc. of Astoria; Service Universal Distributors, Inc. of Albany; Eber Bros. Wine and Liquor Corp. of Rochester and Eber-NDC; LLC Peerless Importers Inc. of Brooklyn; Colony Liquor and Wine Distributors of Kingston; and Southern Wine & Spirits of Upstate New York, Inc. and Southern Wine and Spirits of New York, based in Syosset.

Eber Bros. declined a request for comment and no one was available to comment at Service Universal Wednesday, a receptionist said. Telephone and e-mail messages left with the other wholesalers were not immediately returned.

Spitzer indicated the investigation would continue with a focus on the retailers who benefited from the arrangement.

<http://www.newsday.com/news/local/wire/newyork/ny-bc-ny--spitzer-liquor0830aug30,0,2889530.story?coll=ny-region-apnewyork>



**21. Councilors Express Concern about Grain Alcohol in State Liquor Stores (New Hampshire)**

*Boston Globe*

August 24, 2006

CONCORD, N.H. --Members of New Hampshire's Executive Council are unhappy that grain alcohol can be bought the state liquor stores.

The council tried to ban grain alcohol a decade ago to keep people from mixing it into stiff drinks, making it available for only those who need it for industrial or medical use.

"It's poison," said Councilor Peter Spaulding, who said Wednesday that a liquor-store clerk offered to sell him a bottle this week. "It shouldn't have anything to do with the liquor stores."

Tony Maiola, chairman of the state Liquor Commission, had recalled that the commission had settled the matter 10 years ago by removing grain alcohol from the shelves, but continuing to sell it from the back rooms of liquor stores.

He said he sent a letter to store managers advising them to limit grain-alcohol sales to dentists, doctors and others who need it for professional use. "They're only supposed to sell it to doctors and hospitals and stuff. They're not supposed to sell it to you if you go in," Maiola said.

Maiola said the stores have no formal policy for differentiating between potential consumers, but "I hope they would ask for some identification."

Other states have banned or controlled the sale of grain alcohol in recent years.



**22. Liquor-License Notification Rules Will Change Soon (Oregon)**

*Statesman Journal*

August 29, 2006

Starting in October, restaurants, markets and bars with suspended liquor licenses will have to tell the public about their license status.

Under a rule adopted by the Oregon Liquor Control Commission, signs will have to be posted at entrances notifying customers, alcohol distributors, police officers and others that the business is not selling alcohol.

The signs also must say when alcohol sales will resume.

During a license suspension, retailers may operate their business provided there is no sale, delivery, service, consumption, removal or receipt of alcoholic beverages.

<http://159.54.226.83/apps/pbcs.dll/article?AID=/20060829/BUSINESS/608290334/1040>



**23. New Program Launched in Madison to Help Prevent Underage Access to Alcohol  (Wisconsin)**

*Miller Brewing Company*

August 21, 2006

MILWAUKEE – Miller Brewing Company today kicked off the expansion of its Respect 21 Responsible Retailing Program in Madison at an event for area retailers, law enforcement and community leaders. The launch marks the second location for the program, which has delivered measurable results in preventing underage access to alcohol.

“The most effective way to keep alcohol out of the hands of minors is a team approach that combines the efforts of retailers, brewers, distributors, law enforcement, parents and community partners,” said Kristin Kaplan Wolfe, Miller’s corporate responsibility initiatives director.  “The unique challenges of this campus community, along with the strong interest and support demonstrated by the university, retailers, elected officials and other community leaders in partnering to address this issue, made Madison an ideal location for this program.”

The Respect 21 Responsible Retailing Program was designed to enhance and improve existing retailer practices, behavior and attitudes to prevent underage access to alcohol in a voluntary, non-punitive manner.  Developed by Brandeis University and the National Responsible Retailing Forum, in partnership with Miller, the program educates retailers on best practices to prevent selling alcohol to minors and uses the retail environment to encourage legal-age consumers not to provide alcohol to anyone under 21.

“The City of Madison is continually looking for more effective ways to address alcohol-related problems throughout our community, including those associated with underage consumption of alcohol,” said Madison Mayor Dave Cieslewicz.  “Through participation in the Respect 21 Responsible Retailing Program and its action-based research, we look forward to achieving positive, long-term results.”

The Respect 21 Responsible Retailing Program pilot was launched last fall in Waukesha, Wis.  Pre- and post-test inspections conducted with participating retailers demonstrated improvement in both asking for and inspecting IDs.

“One of the primary goals of the Respect 21 Responsible Retailing Program is to obtain scientifically-evaluated data that demonstrates awareness and behavior changes with retailers,” said Dr. Brad Krevor, senior researcher of the Heller Management School at Brandeis University.  “Through pre- and post-tests of the pilot in Waukesha, we saw an improvement in the percentage of time clerks asked for an ID from 74 percent to 87 percent, and ID inspections rose from 69 percent to 86 percent.”

Retailers participating in the Respect 21 Responsible Retailing Program will receive tools and assistance through point-of-sale materials, confidential legal-age mystery shopper inspections and training materials designed to prevent alcohol sales to minors in convenience, liquor and grocery stores, as well as bars.



# 24. Undercover at Bars and Liquor Stores, ‘Cops in Shops’ Is Back (Maryland)

By Jaime Ciavarra - *The Gazette*

August 23, 2006

Underage drinkers and those inclined to have one too many are targets in Gaithersburg.

Beginning again this month, the workers behind the counters in the city’s liquor shops and bars may be undercover cops waiting to bust young buyers or help business owners say ‘‘no” to drunken customers.

A second phase of the city’s Cops in Shops program was launched Aug. 9 to highlight alcohol regulations that keep drinkers, and nondrinkers, safe.

A partnership between the city, the county and area business owners, Cops in Shops is a nationally touted project that has produced noticeable results.

It was first launched in Gaithersburg as a three-month effort in 2004.

During that time police arrested seven people driving while intoxicated and cited four people for underage alcohol possession, three for fake IDs and 12 for open containers, according to a 2004 report.

This time, partners hope to tackle even more complex problems.

While the program has traditionally focused on detecting underage buyers, police and workers with the county Department of Liquor Control are now expanding it to target habitual drinkers.

When program coordinators sit down with the business owners who have volunteered to participate, they will teach them how to detect and send away customers who are noticeably drunk.

Officers may also pose as employees stocking shelves or serving cocktails, adding an extra layer of support.

‘‘It’s about being there and helping them say ‘no,’” said Kathie Durbin, a liquor control outreach manager who recently addressed the City Council. ‘‘We’re taking it to another level of support.”

The issue is timely in Gaithersburg, especially around the Route 355 and Olde Towne areas, where residents have complained that some men get drunk and wander through their neighborhoods, leaving trash and bottles on their lawns.

City officials asked several businesses this spring to curb early morning alcohol sales, a time when the officials said many habitual drinkers are apt to get their booze. But shop owners said such restrictions hurt overall business.

Since then, some residents have continued to complain, and leaders have grappled with resolving the issue.

To increase policing and overall community efforts, Cops in Shops is a natural fit, said Cindy Hines, the city’s Olde Towne coordinator.

‘‘When the weather is nicer, we do see an increase in calls,” Hines said. ‘‘This is aimed at not just dealing with the issue, but also providing the resources to deal with it. Public intoxication is an ongoing problem.”

When all business owners are equipped to handle underage buyers and habitual drunks, the problems are likely to dwindle, Hines added.

There are 157 Gaithersburg area businesses that have liquor licenses, according to the Department of Liquor Control.

Hines could not say how many owners will ultimately volunteer to participate in the second phase of Cops in Shops. Right now 14 have signed on, she said.

Outreach coordinators are scheduled to meet with business owners to enlist participation, and police will stop in the shops for support, through October.

The program, designed by The Century Council, an alcohol education nonprofit, costs about $11,500 to run. Gaithersburg pays about $8,500 and the county has contributed $3,300, Hines said.

<http://www.gazette.net/stories/082306/germnew185353_31951.shtml>



# 25. DUI ‘Conspiracy’ Charge (California)

By Stephanie Francis Ward *-  ABA Journal*

August 25, 2006

Arguing conspiracy and negligence, a California lawyer wants to include the wife and brother of an alleged drunken driver as defendants in a wrongful-death case. Despite the driver’s prior DUI arrests, the action maintains, the defendants provided the driver with alcohol, a truck and auto insurance.

California law shields those who serve adults alcohol from civil liability, and lawyers there say this Sonoma County District Court case is unique. The case is in the pleading stage, and a state judge has allowed it to proceed on discovery. The defense intends to file a motion for summary judgment.

If the judge views the plaintiffs’ argument as a way to circumvent California law, says Southwestern Law School torts professor Alan L. Calnan, the case may not go much further. Alternatively, Calnan says, he wouldn’t be surprised if the lawsuit, filed in March, survives summary judgment.

"I think a judge might be intrigued enough with both the theories that are being alleged and the facts that are asserted in the complaint to allow the case to at least go through discovery," Calnan says. "They’ll have to prove that [the defendants] knew or should have known that the driver was a danger, was irresponsible for his penchant for drinking, and putting a car in the hands of someone like that would be very dangerous."

The action stems from the 2005 death of Kathryn Lynn Black, a cyclist who was hit by a pickup driven by Joseph Lynchard, 74. The complaint alleges Lynchard’s blood-alcohol content level was .24 at the time of the accident, three times the legal limit.

The accident occurred at approximately 1 p.m. Shortly before the accident, Lynchard had been drinking at Eddie’s, a bar owned by his brother, Clair "Eddie" Lynchard, according to the complaint. Clair Lynchard had purchased the truck, the complaint says, and later transferred it to his brother’s name.

Also named as a defendant is Judith Lynchard, Joseph’s wife, who allegedly paid for his auto insurance. Additionally, the complaint asserts that in 2002, after one of her husband’s previous DUI arrests, Judith Lynchard transferred all real property they held jointly as a couple to her sole ownership. Hugh Black v. Joseph Lynchard, No. SCV 236858.

"He has six prior DUIs, and some involved collisions," says Patrick W. Emery, a Santa Rosa plaintiffs lawyer who represents Black’s husband and daughter. "Our allegation is that [the defendants], other than furnishing the alcohol, did many things that put him on the roadway with full knowledge that he was likely to commit injury."

Joseph Lynchard is also named as a defendant. Separately, he’s charged with second-degree murder for Black’s death.

Mark R. Mittelman, a Walnut Creek lawyer who represents Clair Lynchard and Anita Crosby, a co-owner of Eddie’s, predicts the case will not survive summary judgment. California law is clear that there’s no liability for serving intoxicated adults, Mittelman notes, and Joseph had a valid driver’s license.

"It’s impossible to control the conduct of adults," Mittelman says.

Patrick A. Long, president-elect of the Defense Research Institute, a national lawyers group, agrees.

"If this case is allowed to move forward, it would really change the current California law with regard to people who provide alcohol to others," says Long, who practices in Santa Ana. "Over the years the argument has been, ‘should you charge someone with trying to determine when someone has had too much to drink?’ The legislature has said no."

The plaintiffs see otherwise. In a motion opposing a demurrer filed on Judith Lynchard’s behalf, Emery argues she conspired to enable her husband to continue drinking although he is a chronic alcoholic.

"Not only was it reasonably foreseeable that defendant Joseph Lynchard would kill someone with his vehicle while driving drunk, defendant Judith Lynchard foresaw an accident, which is why she protected their assets from defendant Joseph Lynchard’s future liability," Emery wrote.

Initially, Emery says, he only intended to name Joseph Lynchard as a defendant. He decided to name the others "once I found out how this guy had come to be on the roadway in spite of six prior convictions. These people arranged for him to be on the roadways."

"I think this case would have a lot of appeal in front of a jury," he adds. "The issue is if California law recognizes a claim of this type."

A somewhat similar case was successful in Vermont, says Robert L. Rabin, a torts professor at Stanford Law School. In that case, the Supreme Court of Vermont upheld a judgment against a woman who helped her great-nephew buy a car. He did not have a license and injured someone with the vehicle. Vince v. Wilson, 561 A.2d 103 (1989).

The Lynchard case is similar, but the fact pattern of the brother allegedly furnishing the alcohol and providing the truck adds a unique twist, Rabin says. He says the case could get to trial, and a jury might be sympathetic to the plaintiffs.

"It’s not a frivolous argument on the part of the plaintiff," he adds. "It’s a little bit of a stretch, but the question is whether it’s a stretch to the point where it seems far-out."

<http://www.abanet.org/journal/ereport/au25dui.html>



# 26. Councilors Express Concern about Grain Alcohol in State Liquor Stores (New Hampshire)

*The Associated Press*

August 24, 2006

CONCORD, N.H. -- Members of New Hampshire's Executive Council are unhappy that grain alcohol can be bought the state liquor stores.

The council tried to ban grain alcohol a decade ago to keep people from mixing it into stiff drinks, making it available for only those who need it for industrial or medical use.

"It's poison," said Councilor Peter Spaulding, who said Wednesday that a liquor-store clerk offered to sell him a bottle this week. "It shouldn't have anything to do with the liquor stores."

Tony Maiola, chairman of the state Liquor Commission, had recalled that the commission had settled the matter 10 years ago by removing grain alcohol from the shelves, but continuing to sell it from the back rooms of liquor stores.

He said he sent a letter to store managers advising them to limit grain-alcohol sales to dentists, doctors and others who need it for professional use. "They're only supposed to sell it to doctors and hospitals and stuff. They're not supposed to sell it to you if you go in," Maiola said.

Maiola said the stores have no formal policy for differentiating between potential consumers, but "I hope they would ask for some identification."

Other states have banned or controlled the sale of grain alcohol in recent years.

<http://www.boston.com/news/local/new_hampshire/articles/2006/08/24/councilors_express_concern_about_grain_alcohol_in_state_liquor_stores/>



**27. Governor Vetoes Zinfandel Historic Wine Designation (California)**

By Kerry Benefield – *The Press Democrat*

Gov. Arnold Schwarzenegger might be a cabernet man.

On Monday, the governor exercised his veto power and rejected a bill that would have designated zinfandel as California's official historic wine.

In his veto message, Schwarzengger called SB1253 "inappropriate" and called it a shame to recognize only one of California's varietals for its historic significance.

"... To name only one of the many varietals produced in California as the historic wine fails to recognize the many world-class varietals produced in the state," he wrote.

Sen. Carole Migden, D-San Francisco, authored the bill and originally called for zinfandel to be declared the official state wine, but that idea was scuttled after supporters of other varietals cried foul.

The flap inspired editorials, letters to the editor and plenty of water cooler talk among oenophiles throughout the state.

The revised bill, which was purely symbolic, was passed 21-12 by the Senate in May after two tries, with no votes to spare. The Assembly this month passed the bill 45-20.

"We are a bit crushed by the veto," Migden said. "Although the governor will find no sour grapes here, we will press on next session."

Sonoma County has about 5,200 acres of zinfandel , roughly one-12th of the region's 65,000 acres of vineyards, according to the Sonoma County Grape Growers Association.

Although the wine ranks behind chardonnay and cabernet, zinfandel wines are among the oldest in the state.

European wine drinkers and buyers are keen to taste California's zinfandel because it is one of a kind, said Nick Frey, executive director of the growers association. Because of that allure, he said Migden's bill wasn't inappropriate.

"It is unique to California and you can put some stake in that," he said. "If they (Europeans) are ordering a California wine, it would be zinfandel. It has a reputation and it's a unique reputation to California."

Assemblyman Joe Nation, D-San Rafael, who had abstained in this month's Assembly vote, said, "I don't think there is a roll for us in designating a historic wine in California given the different varietals here."

Frey noted although the bill didn't become law, any chatter about California varietals is positive.

"I thought that was a fairly good thing," he said. "But evidently somebody got to the governor and convinced him that cab was more important."



# 28. State Likely to Toughen Seattle Alcohol Sales (Washington)

*Seattle-Post Intelligencer*

August 30, 2006

The state is expected today to prohibit stores in much of Seattle from selling 28 brands of low-cost, high-alcohol-content beer, wine and malt liquor.

The City Council and Mayor Greg Nickels asked the state Liquor Control Board to ban sale of those drinks because many believe they are connected to problems with public drunkenness.

The proposal would extend an existing prohibition in Pioneer Square to downtown, Belltown, Lower Queen Anne, Capitol Hill, the Central Area, the University District and the International District.

If the three-member liquor board approves the plan, grocery and convenience stores would not be allowed to sell wines such as Thunderbird and drinks such as Colt 45 Ice, Miller High Life Ice and Pabst Ice.

<http://seattlepi.nwsource.com/local/283086_alcohol30.html>



# 29. OLCC Might Allow Training Classes for Liquor Servers to Be Taught Online (Oregon)

By Michael Rose - *StatesmanJournal.com*

August 30, 2006

The Oregon Liquor Control Commission might move some alcohol-server training out of the classroom and into cyberspace.

After denying three industry petitions to allow online server training, commissioners recently ordered staff members to begin drafting rules to allow for the possibility of online training for the entry-level course.

Renewal server training already is offered online.

There has been lively debate about the issue.

Classroom instructors advocate their "hands-on" style of training. Meanwhile, online providers say computer programs are more consistent, accessible and appealing to younger servers.

Each year, the OLCC requires more than 25,000 alcohol servers to take a four-hour server-education class that covers liquor laws, safe serving techniques, ID checking, signs of customer intoxication and related subjects.

Proposed rules for online training are expected to be ready for the commission's Sept. 18 meeting.

<http://www.statesmanjournal.com/apps/pbcs.dll/article?AID=/20060830/BUSINESS/608300319/1040>



# 30. Industry, Government Officials Weigh In (Wyoming)

By Karla Pomeroy - *Laramie Boomerang*

August 30, 2006

Liquor industry personnel and educational and judicial officials weighed in on the Wyoming response to the National Academy of Sciences report on reducing underage drinking.

The Governor’s Substance Abuse and Violent Crime Advisory Board met Monday and Tuesday in Cheyenne to discuss items, that included a follow-up on the NAS report. Following comments, the board met to review the recommendations in Wyoming’s response to the report and decide if any changes were warranted.

Mike Moser, executive director of the Wyoming State Liquor Division, said he supports a vast majority of the report and supports the direction the report is trying to go in reducing underage drinking in Wyoming.

However, he said he had some concerns with a few of the recommendations in Wyoming’s response. One of his biggest concerns was the recommendation regarding alcohol advertising. The NAS report included the recommendation that alcohol companies, advertising companies and commercial media should refrain from marketing practices that have substantial underage appeal.

Wyoming’s recommendations included establishing guidelines for alcohol sponsorship and alcohol advertising for state-sponsored or state-funded events, especially in venues that include a large number of young people. Another recommendation is to support and encourage local communities to review policies regarding alcohol sponsorship at events that include a large number of young people.

Ryan Archibald, who is entering college this fall, also spoke to the group and agreed with the recommendations, noting that he and other youth he has spoken to are sick “mentally of all the advertising that’s bombarding us.” He said the state needs to look at where advertising is allowed, noting that youth see liquor ads when they gas up at gas stations, and said he doesn’t think it’s appropriate to have beer distributed at youth events like the county fair.

Educator Gerry Moss also expressed concern about advertising, noting that there is a tremendous amount of advertising for beer during NFL games.

Moser said there is no clear causal link between advertising and underage drinking.

He was also concerned about the recommendation and opinion that Wyoming needs tougher laws or a review of current laws. He said there is a misconception that Wyoming is behind other states in addressing underage drinking statutorily. He said Wyoming is “way ahead” of other states, including the fact that minors are not allowed in liquor establishments.

Moser is also not a fan of mandatory serving training for those working in liquor establishments. He said volunteer training is more effective because the people want to be there and are more apt to retain what they are taught going in with a more positive attitude.

“We want retailers to do the right thing, and I think they will over time,” Moser said.

He said what Wyoming could look at tougher laws for the ones that are actually breaking the laws, the youth that are actually doing the drinking, rather than those that are selling or providing the place for drinking to occur.

“We need to deal with the cause, not just the effect,” Moser said. “If we only target underage drinking, we’re missing the point. The first time a kid wants to get drunk, we’ve lost.”

The NAS report and the Wyoming response, uses the theme “collective responsibility” and Moser said he agrees with that assessment, noting that parents and others need to be involved in solving the problem.

Moss also agreed with the collective responsibility idea, noting, “A school cannot teach what a community will not support.”

Moser was also concerned about a recommendation to increase taxes on alcohol. “Taxes are for revenue, not for modifying behavior,” he said, adding that tripling the state’s tax on beer would amount to less than 25 cents per case.

The issue, he said, is not to try and keep them from buying alcohol, but trying to keep them from wanting that first drink.

Craig Lewis of Cheyenne Beverages, agreed with Moser, noting “underage drinking is not an easily problem to deal with.” He said for the most part, the state is dealing with adults, persons age 18 to 20, and it’s tough to regulate their behavior at that age.

He said the liquor industry is working to make sure advertising is not directed toward youth, noting there has been advertising encouraging responsible drinking and avoiding drinking and driving. He said he also does not support an increase in the tax on alcohol.

“If you take the price higher, you are going to change their buying habits,” he said, noting that if beer gets too expensive, youth will turn to wine and whiskey.

Archibald agreed that efforts to reduce underage drinking need to continue beyond the high school level. He said currently, it appears that they stop at the college level.

Regarding enforcement and punishment, Cheyenne Juvenile Court Judge Ron Jeffries said the judicial system needs flexibility to find what’s important to the youth. He said the consequences need to impact directly what the kids need and want.

He said the lower courts, if given the right tools, have a tremendous advantage in combating the problem. He said at that stage they have an opportunity for intervention.

<http://www.laramieboomerang.com/news/more.asp?StoryID=105520>



**31. Sale of Strong Alcohol Banned in Certain Seattle Neighborhoods (Washington)**

By Angela Galloway, Reporter – *P-I*

The state today banned stores in numerous Seattle neighborhoods from selling more than two dozen brands of cheap, strong beers, wines and malt liquor drinks.

Seattle politicians had asked the Liquor Control Board for the prohibition on beverages favored by some alcoholic homeless people in hopes it would curtail problems with public drunkenness.

The three-member board unanimously approved the rules against selling drinks such as Thunderbird wine and Colt 45 Ice in stores downtown, Belltown, Lower Queen Anne, Capitol Hill, the Central Area, the University District and the International District. The new rules take effect Nov. 1.

Some grocery and convenience shop owners complain the move threatens their livelihood. But the board agreed with Mayor Greg Nickels and the City Council that the restriction was needed for the greater good. Also, numerous business owners who voluntarily eliminated inexpensive drinks said their bottom lines improved after chronic drunks stopped hanging out outside their doors, board members said.

"The overwhelming testimony that was given was in support of the city's request for the proposed (alcohol impact areas,)" said Merritt Long, chairman of the board. "This was a community effort in tandem with the city that had been almost two years in the making."

"This was not a silver bullet it's part of an overall strategy that the city is implementing as relates to (ending chronic homelessness)," Long said.



**32. Fla. Police Seek Stores, Bars Selling Liquor to Teens (Florida)**

*Insurance Journal*

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There's one in every town — a convenience store where IDs aren't necessary, or a low-lit bar whose servers never bother to ask.

http://www.insurancejournal.com/phpadsnew/adlog.php?bannerid=491&clientid=274&zoneid=13&source=&block=0&capping=0&cb=489e95c5f8e29cb58e4f9fc1b7a0b85bIn Jacksonville, Florida officials say, that bar was Rockets, where Stephanie Walls and her friends were drinking last April 4, the night their car slammed into a tree. Walls died and the 19-year-old driver was charged with vehicular manslaughter after registering a blood alcohol limit of .07.

In the past, that's where the investigation would end. But now, under a new Florida initiative to track and punish those who sell alcohol to minors, the bar's owners and three employees were arrested and charged with distributing to underage drinkers.

Along with Illinois and California, Florida is one of a few states trying to enforce long-standing laws on liquor sales to minors that had been largely been ignored.

"We saw that it was a critical gap in the enforcement process,'' said Meg Shannon, spokeswoman for the Florida's Department of Business and Professional Regulation, which launched the program in June.

In most states, sworn law enforcement agents, under the umbrella of alcoholic beverage bureaus, are supposed to launch investigations the same way detectives would hunt down a killer. Once they find the source of the alcohol, they can file criminal or administrative charges, which can include fines or loss of liquor licenses.

But in the past, when minors were involved in fatal accidents, the source of that alcohol was not always traced back and the business or individual was rarely held responsible, Shannon said.

It took a grieving California mother, Lynn Goodwin, to change that, launching a program in her state that ultimately bred initiatives in Florida, Illinois, Arizona and Hawaii.

Highway patrol troopers had no answers when Goodwin asked where the alcohol came from when her daughter Casey was killed by an 18-year-old drunk driver in 2003.

"Everybody was sort of confused by that just because it wasn't the standard,'' said Goodwin, of Exeter. "I assumed there was a mechanism in place but that local law enforcement wasn't using it or wasn't aware of it, when in fact there wasn't a mechanism.''

By 2004, California's attorney general had formed a special task force, and Goodwin was helping the Department of Alcoholic Beverage Control contact nearly 500 state law enforcement agencies to promote the program.

Since then, TRACE\_ Target Responsibility for Alcohol Connected Emergencies \_ has made 28 arrests and launched 135 investigations into 90 deaths, said Judy Matty, a district administrator for ABC.

A majority of incidents involve car accidents, but agents also investigate alcohol-related assaults, rapes and overdoses.

"We've always done these investigations. The difference was, we didn't always hear about (alcohol-related deaths),'' Matty said. "And if we didn't hear about it, we couldn't do anything.''

California Highway Patrol spokesman Tom Marshall said the agency welcomes the partnership.

"It's one thing to investigate the crash and issue the citation or make the arrests, but when it involves kids and alcohol you want to also find out where they got the alcohol and that takes a different investigation,'' Marshall said. "In that regard ABC is able to provide tremendous resources to help us.''

In Illinois, officers can call a 24-hour hot line to deploy an investigator in alcohol-related deaths. The state's Department of Transportation gave them $100,000 to start the program, launched in August. California is still operating on a $836,000 grant from the Office of Traffic Safety.

"The primary goal is not to arrest people, but to reduce the amount of alcohol that ends up in the hands of those who are underage,'' said Ted Penesis, Industry Education Manager for the Illinois Liquor Commission.

Of course, the alcohol doesn't always come from bars and liquor stores, and authorities are also using public awareness campaigns to caution parents who think it's safer to host parties in their own homes.

Florida has made five arrests in Jacksonville, with cases pending in Tampa and Tallahassee, said Alcoholic Beverages and Tobacco Division Director Steven Hougland.

Still in its early stages, Hougland's program hasn't received extra funding or hired any extra staff, and he has no idea how many cases they might handle. But the program is long overdue, he said.

"We just felt that it was very important that (alcohol suppliers) be held accountable,'' Hougland said.

In Florida, alcohol is the most abused drug among underage kids, according to a 2005 survey from the Office of Drug Control. More than 56 percent of students reported lifetime use and 30 percent said they drank in the past 30 days.

"We acknowledge that the child used some bad judgment, but we're also willing to acknowledge that adults are contributing to that risky behavior and that's also harming our children,'' Goodwin said. "In a lot of cases of underage alcohol sales, it's merely for profit and that's not OK when a life is lost.''

Rockets bar in Jacksonville "is an open and notorious location'' for underage drinking, the state determined, and it could lose its liquor license. The owners and employees arrested in Stephanie Wall's death bonded out of jail the same night they were arrested. They also face administrative charges.

Rockets' owners did not return phone calls seeking comment.

Megan Thompson often hung out with Walls at Rockets. Most of the people who went there were 19 or 20, said Thompson, 21, who waitressed with Walls at a local barbecue pit. Still haunted by Walls' death, she cried as she described the sweet, funny girl who befriended her when she was new in town.

Rockets should be held accountable, Thompson said.

"If they had followed the law my friend could still be here,'' she said.

<http://www.insurancejournal.com/news/southeast/2006/08/29/71784.htm>

