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| *September 15, 2006* | |

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**I. NATIONAL NEWS.**

**1. Hotel Industry Goes Cold Turkey on Smoking**

By Rich Thomaselli – *AdAge.com*

September 11, 2006

**Westin’s Bold Experiment Pays Off, Triggers Trend**

NEW YORK (AdAge.com) -- It wasn't easy for Sue Brush to kick the habit. "I had a few sleepless nights," the Westin Hotels senior VP-marketing said of the chain's decision to halt smoking in its 77 North American hotels.



A smoking ban in Westin Hotels actually resulted in a gain in business instead of an expected loss.

**8% of business**

Even though the company's research found that 92% of customers already requested nonsmoking rooms, "we were wondering how big of a risk were we taking," she said. "Who wants to slash 8% of your business? You're talking millions of dollars."

But some seven months after the Starwood Hotels and Resorts brand went cold turkey, it hasn't seen much falloff -- in fact, it gained some business-by the move that's also saved it money on room refurbishment. And now others are following suit. Since Westin's Feb. 1 implementation, 40 individual U.S. hotels have banned smoking in rooms and public areas, while later this month the entire 2,800-property Marriott chain will go smoke-free in the U.S.   
  
**15% of population still smoke**

With cities and states such as New York, Chicago and California banning smoking in bars and restaurants, hotels were seen as a last bastion for lighting up. But now that option appears to be dwindling for the 15% of the U.S. population who still smoke-some 44.5 million people.

In fact, offering a completely smoke-free environment is poised to become the latest differentiator in the competitive hotel industry, according to the J.D. Power & Associates 2006 North America Hotel Guest Satisfaction Index Study released in July. The study found that 79% of hotel guests prefer a smoke-free environment that exceeds the boundaries of their rooms.

"What was once a differentiator is now expected by consumers," said Linda Hirneise, executive director of the travel practice at J.D. Power, noting that "going smoke-free could be a powerful marketing strategy."

**Westin's business gain**

Westin gained business from the move. The American Heart Association recently signed a contract to return to the chain's hotels as a customer after five years.

Moreover, the more than $3 million Westin spent to convert 3,900 smoking rooms into nonsmoking is a drop in the bucket, analysts said, compared to what the company will save each year by not having to deep-clean fabrics or replace rugs or bedding due to the odor and discoloration caused by cigarette smoke.

While the move to stub out smoking in its hotels was trumpeted with a heavy marketing campaign featuring Westin's first Super Bowl commercial and a savvy media blitz from marketing agency SS&K, New York, it's now taking a more subdued approach to remind guests of the policy. Last month, the chain introduced "The Breathing Lights," also dreamed up by the agency.

**'Breathing lights'**

"Breathing Lights" is a projection on a wall or other hotel space that features a blue light that pulses at every 4.4 seconds, the average speed of healthy human breathing. For a period of three months, each "breath" will tick up a counter displayed in the center of the projection, representing the number of fresh, smoke-free breaths taken in the hotel that day. (On average, one person takes 11,520 breaths a day.) Simultaneously, the counter will track the number of days Westin hotels have been smoke-free.

So what's a smoker to do? Though smoking advocates have disputed government claims of the effects of second-hand smoke, there is nothing legally they can do to stop a hotel chain from implementing such a policy. They could, however, book at three other Starwood brands, Sheraton, W and St. Regis, which are not planning to implement the policy.

Starwood has been reluctant to roll out the policy to all its chains in part because it operates a high number of hotels outside the U.S. where fewer have kicked the habit; the World Health Organization estimates there are more than 1.1 billion smokers worldwide.

**Entrepreneur's countermove**

Smokers can take solace in the idea of a German entrepreneur who has proposed Smoker's International Airways, or Smintair for short. The carrier expects to begin service next year with only business and first-class seats.

And they can be comforted by the fact that they aren't the only ones being persecuted for their supposed vice. Some 13 conservative groups have come together to create CleanHotels.com, a website that provides listings of hotels that do not offer pornographic movies on their pay-per-view service. The group has also run several ads in *USA Today* asking authorities to prosecute hotel chains for violating local, state and federal obscenity laws.

<http://adage.com/article?article_id=111763>



**2. Nascar Sponsorships Set Off Liquor Industry Spat**

By William Spain, *MarketWatch*

September 14, 2006

CHICAGO (MarketWatch) -- Pernod Ricard has said it will pull out of an industry-funded responsible-drinking organization in a dispute over the group's support of liquor sponsorships in auto racing.

In a letter sent to the Century Council and obtained by MarketWatch, the France-based spirits maker resigned its membership, although its departure won't be effective until November.

While that could give them time to work out some kind of compromise, the missive from Alain Barbet, the company's U.S. president, put the issue in fairly stark relief:

"We at Pernod Ricard firmly believe that is inappropriate for the distilled spirits industry to engage in sponsorship of motor sports," he wrote. "We also believe strongly that any involvement of the Century Council in these sponsorship activities runs the risk of damaging [its] well-earned credibility . . . and undermining its message of responsibility."

Vaulted into the industry's No. 2 spot by its part in the break-up and sell-off of Allied Domecq last year, Pernod (FR:012069: news, chart, profile) markets an array of wine and spirits brands including Chivas Regal, Wild Turkey, Stolichnaya, Beefeater and Perrier-Jouet. As such, it is a key member -- and major financial supporter -- of the Century Council, which promotes anti-drunk driving and underage drinking programs.

Its opposition to motor sports sponsorships by alcohol brands, according to spokesman Jack Shea, is based upon the activity's "inherently dangerous" nature.

"We very much want to continue to be a member of the Century Council but unless we find some way to bridge the gap on this issue, we would be willing to withdraw," he added.

Ralph Blackman, CEO of the Century Council, stressed that Pernod's departure is not a done deal yet.

"Everybody is talking and everybody is trying to work it out," he said. "When you have an organization that represents eight different companies, this isn't the only issue where everybody doesn't see to eye-to-eye. It's [just] a little thornier than most."

**Racing to catch up**

If the spat seems like a tempest in a pot still, for the players involved it is about big money, image making and the continued move of liquor marketing into new, more-mainstream outlets. The industry, relegated largely to print ads until relatively recently, has burst into electronic media and event sponsorships as it seeks to boost its products and exploit changing tastes, especially by luring consumers away from beer.

While some liquor companies have been involved in racing sponsorships on circuits other than Nascar for years, their participation was typically on a small scale. That changed in late 2004 when Nascar amended its policies to allow liquor-company sponsorships.

A trio of top brands quickly got on board, including Diageo's Crown Royal, Fortune Brands' Jim Beam and Brown Forman's Jack Daniel's Tennessee Whiskey.

The sponsorships have the full support of the industry's trade association.

"We believe it provides spirits companies a useful option for showcasing both their brands and their responsibility messages," said Frank Coleman, a spokesman for the Distilled Spirits Council. "It also further levels the playing field with beer."

Gaining a presence in the fast-growing sport, long a province of beer companies such as Anheuser-Busch, was a big breakthrough for the industry, according to William Chipps, editor of the IEG Sponsorship Report.

"It was a very smart move," he said. "This is a category that was chomping at the bit to get into Nascar." But it isn't cheap.

While none of the three companies involved would detail what they spend on their Nascar efforts, Chipps noted the typical price tag can run as high as $15 million to $20 million a year. And that's before any money is laid out for promotion.

"Sometimes, for every rights-fee dollar, they spend another one [on top] to activate the sponsorship," he said.

The liquor companies that sponsor Nascar insist they spend a lot of time and money on pushing a responsible-drinking message. For instance, when Jack Daniels arrived at its first race it declined to sell any branded merchandise such as t-shirts or model cars to people under 21.

David Stang, the brand's director of national sponsorship, said he noted an almost complete absence of negative feedback as Jack Daniels goes into its second season with Nascar.

"We came into it in the right way and the world didn't come to an end," he said. "The buzz I hear now is all about Toyota." (The Japanese carmaker will be the first foreign auto company to compete in the sport's marquee Nextel Cup and Busch series this year, setting off a fuss among some all-American purists.)

Tom Pirko, president of consultancy Bevmark, said he is "perplexed" by Pernod's decision considering that "auto racing has a long history of alcohol associated with it."

He chalks it up largely to an overabundance of caution: "There is a lot of Hamlet-like dithering within the industry right now. They are marketing so successfully that what they don't want to do is get into trouble."

In the meantime, the sides are still talking but what it comes down for the Century Council, Blackman said, is "our role is to support our members in all of their initiatives."

Pernod's Shea said that his company has no problem with competitors setting their own standards, "what we do object to is member companies using the Century Council in conjunction with an individual branded sponsorship."

He declined to speculate on what "a successful outcome would be" but said that if the company does end up pulling out, it would set aside at least an equal monetary commitment to responsible-drinking programs.

<http://www.marketwatch.com/News/Story/Story.aspx?dist=newsfinder&siteid=google&guid=%7BAD6486DC-2B3B-40DE-B284-924823D958EA%7D&keyword>



**3. Happy Hour for Drinkers' Wages**

September 14, 2006

**New study reveals that those who enjoy a tipple now and then earn 10 to 14 percent more than teetotalers.**

NEW YORK (CNNMoney.com) – If you thought swigging beer or indulging in a glass of chardonnay was putting your career on a fast-track to nowhere, think again.

In fact, a study conducted by two economists and published Thursday by the Reason Foundation and in the latest edition of The Journal of Labor Research, says that drinkers earn 10 to 14 percent more than those who refrain from drinking.

"Instead of earning less money than nondrinkers, drinkers earn more," authors of the study, Bethany Peters and Edward Stringham, wrote. More specifically, the study found that workers who drank in a social setting earned more than those who tipped a glass at home.

The study contends that social capital, which entails everything from a person's charisma to the size of their social network, can be enhanced by drinking.

Those who drink socially, for example, may have an easier time finding a new job if they had made more business contacts, the authors claim, or they might strengthen relationships with co-workers or clients that could ultimately affect their salary.

While earnings for both men and women benefited from drinking, the study discovered a few noteworthy differences between the two groups.

Female drinkers earned 14 percent more than non-drinkers, while males who drank earned 10 percent more than their teetotaler counterparts.

At the same time, men who went to a bar at least once a month earned an additional 7 percent on top of the 10 percent drinking premium. But women who engaged in similar behavior did not experience any effect on their earnings.

The authors said their research came in response to growing efforts to restrict drinking on college campuses, limit alcohol advertising and raise taxes on liquor.

A spokesman for Reason Foundation, a libertarian public policy research organization which was founded in 1968, said the group was not commissioned by any outside parties to conduct the study.

The study could be good news for big makers of beer, wine and liquor, notably Anheuser-Busch (Charts), Molson Coors (Charts) and Fortune Brands (Charts), the parent company of such brands as Jim Beam and Absolut.



**4. Whisky Galore: A TV Channel Just for Scotch**

By William Lyons - *The Scotsman*

September 10, 2006

A HOLLYWOOD film mogul is launching the world's first internet television channel dedicated solely to single malt Scotch whisky.

The brainchild of Australian film producer Rob Draper, Singlemalt.tv, a 24-hour online whisky channel comprising news, features and ongoing series, will go live at the end of this month.

Hosted by industry 'nose' and best-selling author Charlie MacLean, the channel aims to tap into the growing worldwide interest surrounding single malt whisky. It will also be a pioneer in the online television market for specialist interest programming.

Draper, who has worked on some of Hollywood's biggest projects, including the Halloween franchise, says preliminary interest in the channel has exceeded all expectations.

The channel, hosted by Narrowstep, one of the world's leading internet television service providers, will be available to subscribers at a cost of around £20 a year. Draper is hoping to attract significant targeted advertising revenue.

Speaking from Islay, where he is currently filming, Draper said: "Internet television is the future. So far the interest has been phenomenal - we put a place-holder website up on the web and we have already shut down one server in the United States because it can't handle the volume of traffic coming into it."

Draper says that the idea came to him while he was working in Los Angeles. Most of the major television networks in the US are now struggling to attract advertising revenue from an industry that is becoming increasingly more sophisticated.

Draper says that a television channel based on one particular specialist interest or theme can provide a magnet for advertisers. After toying with a number of ideas, including a cycling channel, he opted for Scotch whisky because he knew it had a wide appeal.

He added: "By the end of 2007, all the major networks in the US will have launched high-quality, niche-market internet channels.

"Singlemalt.tv is not an internet site, it is a television channel broadcast through the internet. I have done a lot of work on internet television going back to 1997 and it really is the future of television and the future of internet.

"We are going to do very high-quality programming and my goal is to make it intelligent programming for people who want good entertainment, want to be informed and want to have fun.

"Based on the response we have had so far, I really believe there is a market for it."

The channel has camera crews lined up in Norway, France, Holland, Australia, Singapore and India waiting to film content. The site has had 5,000 users within the first two weeks.

MacLean, author of Scotch Whisky: A Liquid History and chairman of the nosing panel at the Scotch Malt Whisky Society, said the TV channel was "an idea whose time is come".

He said: "Never has there been such global interest in Scotch, particularly Scotch malt whisky. What better medium to inform and entertain about the subject? The whisky industry is blessed with some amazing characters and so we are already finding there is some terrific material."

Earlier this month, Time Out New York magazine launched its own TV channel with a series of more than 200 video reviews and profiles of New York's best restaurants, nightlife, theatre, museums, shopping and spas, children's programmes and other forms of entertainment.



**5. iPods Now Doubling as Alcohol Breathalysers**

**By Dan Ilett**

September 12, 2006

Those with a few pints under their belts on a Friday night can now gauge how much liquor they've consumed by using their iPod.

David Steele Enterprises is selling the iBreath - an alcohol breathalyser, which also has a wireless transmitter to send your tunes on to any FM radio.

To make use of the breathalyser, a user needs to fold out the "blow wand" and exhale into it for five seconds and the iBreath works out your level of alcohol consumption.

It comes in black or white and costs $79.



**II. IOWA NEWS.**

**6. 2 Liquor Licenses May be Yanked**

Emileigh Barnes - *The Daily Iowan*

Posted: 9/11/06

Two Iowa City businesses may have their liquor licenses suspended or permanently revoked after selling booze to minors during a sting operation this past weekend, police reported Sunday.

The Q Bar and the Suburban Amoco on Sept. 8 and 9 allegedly served alcohol to underage buyers working undercover with police officers in an ongoing effort to curb illegal alcohol sales in Iowa City, authorities said.

Both businesses had previous violations for selling to minors, and they now face enhanced penalties, such as alcohol-license suspensions, Iowa City police Sgt. Troy Kelsay said on Sunday.

"I think Iowa City has a large number of [violations] due in part to the university and due in part that Iowa City allows persons under 21 in bars," he said.

Suburban Amoco, 1905 Keokuk St., sold alcohol to minors during a similar operation on July 21 and 22. Q Bar, 211 Iowa Ave., failed compliance checks in August, in April 2005, and in September 2003.

If the Iowa Alcoholic Beverage Division, which handles the businesses' punishment, includes the September 2003 offense, Q Bar could lose its license forever.

"At the very least, it would appear it is looking at a third offense," Kelsay said.

Businesses with two offenses in three years can face a 30-day suspension of its liquor license. Three failures in three years can invoke a 60-day suspension; a fourth in three years is punishable with license revocation.

Q Bar employee Blake Pederson, 22, and Suburban Amoco employee Andrew Stockman, 21, were charged with selling alcohol to a minor. Tyler Schamp, 22, an employee at Buffalo Wild Wings, Old Capitol Town Center, also failed the check.

Charges at Vito's, 118 E. College St., are pending.

The fine for workers serving alcohol to a underage buyers, including court fees and surcharges, is $710. None of the employees could be reached for comment on Sunday.

The penalty is "pretty hefty for someone who is giving up their Thursday, Friday, and Saturday night to serve alcohol," Kelsay said.

The alcohol checks are a good incentive to keep businesses compliant, said Matthew Dolter, who is a manager at Studio 13, one of 25 businesses that passed the check.

"They're good to make sure everyone's following the rules," he said. "I expect that we would pass any one that came through."

The suspensions could commence as soon as this month, depending on the actions of the state Alcoholic Beverage Division.

The Q did not return phone calls. No one at the Suburban Amoco was available for comment.

<http://www.dailyiowan.com/home/index.cfm?event=displayArticlePrinterFriendly&uStory_id=3698ab84-e558-479e-a0c2-57db04ec243e>



**7. Supervisors Mull Tobacco Ban**

By Mark Magoon - *The Daily Iowan*

September 8, 2006

Tobacco has been a smoking-hot issue in Johnson County.

Following the lead of recent UI policies that limit where people can smoke on campus, the Johnson County Board of Supervisors is discussing eliminating smoking from its grounds. Unlike the university measures, which ban smoking on the UI Hospitals and Clinics grounds and within 25 feet of the entrances of other campus buildings, the supervisors are pondering eliminating smokeless tobacco, in addition to smoking, from county property under its jurisdiction.

"The Board of Health thought something needed to be done," said Supervisor Mike Lehman, the board's chairman.

Supervisor Rod Sullivan said, "The policy will essentially eliminate tobacco use on county grounds," adding that the policy would focus solely on use and would not bar citizens from possessing tobacco products either in or around county buildings.

The supervisors discussed the measure on Thursday during their regular meeting. County Attorney J. Patrick White commented on the severity of the tobacco issue, suggesting that the board pursue the policy further.

"My recommendation is that this take the form of a resolution," he said.

Supervisor Pat Harney echoed White's sentiments, adding, "This needs to be rewritten. We need to take more time on it."

Under the proposed policy, those caught using tobacco on the premises of a county building could be charged with trespassing and, in severe circumstances, even placed under arrest.

"It's a little extreme," said Lehman, who was quick to add that a few issues needed to be cleaned up and that the supervisors were hoping to put together a committee to further discuss the proposed measure.

One of the issues in question is the breadth of Johnson County's jurisdiction; in some cases, it's unclear as to how far it reaches. One gray area is the courthouse, where it's uncertain if state employees would be subject to the same tobacco prohibition as county workers.

Another point of contention comes from the jail: Employees are not allowed to leave the premises while on duty, and it's unclear how they would take their smoke breaks.

The tobacco policy was eventually tabled Thursday, while the supervisors mulled other issues. They are expected to bring up the tobacco policy on Sept. 13 at 9 a.m. in the county administration building.

<http://www.dailyiowan.com/home/index.cfm?event=displayArticlePrinterFriendly&uStory_id=b1111f87-85c4-4ebd-8400-3465b6edef0d>



**8. DM Forum Tonight on Bar Hours for Minors**

By Jason Clayworth, Staff Writer – *Des Moines Register*

September 12, 2006

A Des Moines ordinance that forbids people under 21 from hanging in bars and clubs that have liquor licenses after 9 pm will be a topic publicly discussed tonight by the Des Moines Music Commission.

Bar owners and some residents have recently voiced concern over the ordinance, which they say works against the city’s goal to transform downtown into a vibrant area.

Some representatives of the music commission would like the city to allow exceptions for designated music venues.

The forum begins at 6 p.m. It will last about two hours at City Hall, 400 Robert D. Ray Drive.



**9. Fewer WDM Businesses Violate Alcohol Law, Police Say**

By Melissa Walker, Staff Wrtier – *Des Moines Register*

September 12, 2006

Five of the 32 businesses that West Des Moines police checked for alcohol compliance sold alcohol to someone younger than 21.

The businesses that violated the law are:

Happy Joes Pizza, 3751 E.P. True Parkway; Historic Valley Junction Foundation, 217 Fifth St.; Jesse's Embers West, 265 50th St.; King & I Thai Cuisine, 1821 22nd St., Suite 103; and Waterfront Seafood, 2900 University Ave.

Three of the establishments checked the underage person’s identification and continued to provide an alcoholic beverage. The other two did not ask for identification.

The percentage of businesses that sold during this compliance check is the lowest the police department has had during the past four compliance checks.  
  
Police officials said this is because of media attention the checks have received and educational materials the department has provided to the establishments.

In 2006, the police department has conducted checks on 98 of 138 establishments that hold liquor licenses with 30, about 30 percent, serving to minors. Additional checks will be conducted throughout the year.



**10. In the Delivery Trenches**

By Matt Snyders - *The Daily Iowan*

September 13, 2006

As the number of boozers and face-stuffers increases during home football games, so, too, does the demand for beer, cigarettes, ice, greasy food, and "whateva" else tickles tailgaters' fancies.

Whateva . . . We Can Deliva - an Iowa City company that, as its name implies, delivers pretty much anything - is preparing to meet this challenge when Iowa State rolls into town Saturday.

"This is our third football season in business," said company president Edgar McGuire, who opened the business in April 2004 with younger brother Clark McGuire, who is Whateva's vice president. "The first season was really hectic and stressful. We didn't know what to expect. Last year went really well, because we were better prepared. We want to continue that."

Preparation or no preparation, the madness on Melrose can present dangers for drivers.

"It's crazy," Clark McGuire said. "There are some problems. When you drive down Melrose Avenue and they see the sign on the car, they'll yell at you. Some jump on your vehicle or shake it."

He recounted an incident in which a drunken individual entered a delivery car and refused to leave. The driver proceeded to physically remove the unwanted passenger, and a violent scuffle ensued.

"[The driver] got pretty bloodied up," Edgar McGuire said.

The brothers estimate that alcohol products account for 60 to 75 percent of Whateva's deliveries during home games. When taking booze orders, staff ask for date of birth, and upon delivery, photo identification is required, and the information is recorded and verified.

"We're not here to make five dollars delivering to underage kids," Edgar McGuire said.

While the brothers are quick to point out the benefits of alcohol deliveries - reducing drunk driving, for example - they concede that state regulations had called into question the legality of their booze runs in the past.

"The way the city had us doing it in the past was technically bootlegging," Edgar McGuire said. "But we have been working real close with the state to make sure we're doing it the right way."

Iowa law stipulates that establishments with liquor licenses "may hire a private delivery service to act as their agent for the delivery of" alcohol. The Iowa Code does not outline regulations for cases in which a delivery company, such as Whateva, is hired by the citizens to whom they are supplying, rather than the liquor retailer.

Though liquor deliveries, which cost $6, account for a significant portion of their business, the brothers stress they can transport whatever, including a role-playing fireman costume from an adult entertainment store.

The success of Whateva has allowed the McGuire brothers to expand their business into the supply sector, as well.

They opened a liquor store called Bootlegging Barzini's on First Avenue in Coralville in January. McGuire's Market - a grocery store - is slated to open next door to the liquor store Oct. 1.

Whateva . . . We Can Deliva will open at 6 a.m. on Saturday - five hours earlier than usual.

"Pretty much in any home game, we get situated and ready for war," Edgar McGuire said.

<http://www.dailyiowan.com/home/index.cfm?event=displayArticlePrinterFriendly&uStory_id=c344cf9a-fc28-42b3-85d8-d83187c15c9d>



**11. Smokers Vexed by Regulations**

By Terry McCoy - *The Daily Iowan*

September 14, 2006

While officials continue to debate how next to restrict smoking in Iowa City, one contingent of the population may not be represented - the smokers.  
  
In light of recent no-smoking regulations in Iowa City, some smokers said they feel that local policymakers have treated them as second-class citizens.  
  
"I think it is kind of ridiculous; it is public space," UI junior Ashleigh Kenny said. "Outside is not private space; it is public space."

One such no-smoking outdoor area that is temporarily regulated is a 25-foot area outside the entrances of most UI buildings - enforced by a sign with red, bold letters that orders, "No smoking within 25' of doors."

The UI Hospitals and Clinics has already made smoking on its grounds a punishable offense, and the Iowa House Hotel also plans to ban smoking in its rooms starting in November.

Meanwhile, the Johnson County Board of Supervisors is pondering smoking restrictions on all county premises.

However, citing plummeting business during the late-hours, the no-smoking Donnelly's plans to allow cigarettes after 10 p.m., bartender David Basinger said.

One Iowa City smoker said he has grown vexed by the array of recent smoking regulations. Amos Petersen said he was recently puffing a cigarette outside Burge Hall when a dormitory employee ordered him to move at least 25 feet back, interrupting Petersen's conversation with a friend.

"This seems like a political-football play," he said. "I mean, who is for smoking? But this is just over regulation."

Some smokers also contend that the bans may segregate them from the rest - launching a smoker subculture in Iowa City.

When smokers go out, they want to relax by lighting up, said smoker Scott Hoffman, an Iowa City resident. But if smoking areas are restricted, local smokers may be forced to socialize only with other smokers in areas where they can light up.

Smoking regulations do have their limits, said Iowa City City Councilor Connie Champion, who is a smoker.

Though Iowa City prohibited smoking in restaurants in 2002, officials rescinded the ordinance in 2003 after the state Supreme Court ruled that municipalities could not enforce laws stricter than those leveled by the state.

"The Iowa Constitution says that you have to have smoking and non-smoking," Champion said. "I do think that all restaurants should be nonsmoking, and even bars, but we can't do that. It is not possible."

Madison, Wis., has prohibited smoking in all bars and restaurants. Former Madison Mayor Susan Bauman said she is not worried about any smoker backlash.  
  
"Either way, somebody is going to be unhappy," she said. "You just need to look at the broader issue."

<http://www.dailyiowan.com/home/index.cfm?event=displayArticlePrinterFriendly&uStory_id=7ea561b1-ce52-4da8-afc2-25281268982c>



**12. Tobacco Ban Put on Hold**

By Mark Magoon - *The Daily Iowan*

September 14, 2006

Johnson County's proposed tobacco ban has gone up in smoke.

At an informal meeting on Wednesday, three of the five members of the Board of Supervisors decided that the policy needs revamping.

"We're looking to make a compromise with the Board of Health's original proposal," board Chairman Mike Lehman said. "We don't feel that this policy is going to fit."

The resolution would have prohibited the use of all tobacco products inside county buildings and within 50 feet of county properties. Violators could have been subject to possible charges if they disobeyed the policy under the proposal.

Supervisor Terrence Neuzil opposed the Board of Health's proposed tobacco policy, primarily because of its harsh penalties. His top concern was the issue of tobacco use in the county's parking lots, he added.

"Individuals should be allowed to smoke or use tobacco in their own cars without being subject to trespassing or arrest," he said. "I believe they are entitled to that right, if they choose to do so."

Neuzil stressed that the supervisors do want a tobacco policy, but members have yet to come to an agreement on its terms.

The board's new solution is to assign each county building an area for tobacco use. Such designations will be determined by department heads at each site and will be chosen in the best interests of both smokers and non-smokers alike, officials said.

The Johnson County Administration Building at 913 S. Dubuque St. already has such an area. It is marked off with a yellow line and contains two large trash receptacles and a picnic table.

Three of the supervisors - Lehman, Neuzil, and Pat Harney - decided that the proposed tobacco policy was not ready to move foreword. Supervisor Sally Stutsman was absent from the Wednesday meeting and unable to comment, but Supervisor Rod Sullivan was adamant in his push to pass the tobacco ban.

He said he strongly favors prohibiting tobacco use.

"I want to get tobacco as far away from every door, window, and entranceway as possible," he said.

The tobacco issue will undergo further deliberation until next month's key issues meeting.

"We hope to have an answer by then," Lehman said.

<http://www.dailyiowan.com/home/index.cfm?event=displayArticlePrinterFriendly&uStory_id=7ea561b1-ce52-4da8-afc2-25281268982c>



**13. Violations: Punishment for All**

*Chips*

September 14, 2006

)



Luther students returned to campus this year to find a newly- outlined alcohol policy in their mailboxes.

Along with additional violations, many issues have been highlighted in order to improve clarity and keep enforcement of penalties consistent.

In past years, the policy only included sanctions students would receive if found violating any alcohol policies. The new policy lists offenses by definition, what level offense it is and how it will be dealt with.

“Our biggest concerns are the students who drink and become disruptive,” said Greg Lonning, the director of the Nena Amundson Lifetime Wellness Program and of Res. Life.

“We want to reduce the instances of alcohol abuse that become a nuisance to the students and the Luther community,” Lonning said.

The new policy still features three different levels of offenses. Starting this year, these different levels of offenses will be sanctioned depending on whether it is a first, second or third violation. The kind of violation committed will also be taken into consideration.

Possession of an open container of alcohol in any public area of the residence halls is considered a first level offense even if the person is of legal drinking age. If the person is underage, it is considered a level two offense.

Sanctions for that level one offense, for a person of legal drinking age, will include five hours community service and other educational activities.

If the person in possession of the open container is underage, he or she will pay a $50 fine and attend a mandatory two hour alcohol education program at his or her expense.

If the same underage student repeats the same action, they will pay $100 fine, and attend an eight hour alcohol education program. Parents of these students may also be notified regarding their behavior.

Using false identification to consume alcohol, providing alcohol to underage students and disruptive behavior related to alcohol consumption are considered level three offenses.

Punishment for a third level offense, depending on whether it is first, second or third offense, ranges from $200 fine to 20 hours of community service and may lead to dismissal from residence halls.

Bob Felde, associate dean for Student Life, stressed the increased fine system.

“Some Residence Life staff felt that the previous policies were not strong enough to deter students from violating the policy,” said Felde. “This new policy has escalated the fine system and has made it very upfront.”

The new policy also includes sanctions for students who are found to be in “constructive possession” of alcohol.

If an underage student is with a group of students who are 21 and are drinking alcohol, and if any Residence Life staff busts the party for potential violations of any alcohol policies, the underage student could be fined for being in “constructive possession” of alcohol even though he or she is not drinking.  
  
Being in a room full of students who are drinking is one instance where an underage non-drinking student could be considered constructively possessing alcohol.

In this type of situation, the Residence Life staff cannot tell apart who was drinking and who was not.

Farwell hall manager, Brian Meyer (‘07), said that the new policy is not about deciding whether alcohol consumption is right or wrong. It is more about making sure that students act responsibly when they consume alcohol.

“The policy has classified the consequences for policy violations, and thus has made the policy more applicable for the violations with different levels of seriousness,” Meyer said.

He said the increased number of community service hours for violators will hopefully make them more aware of people living with them.

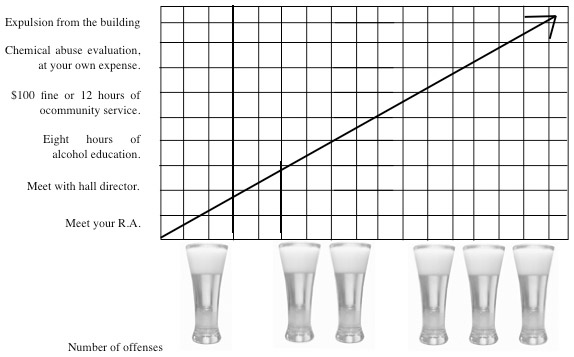
Chris Wuebker (‘08) is critical of the “constructive possession” policy.

“A lot of my friends who I hang out with are of legal drinking age. Now, because of this new policy, I cannot help my buddies to get to their dorm if they get too drunk,” said Wuebker.

“I do not want to end up having to pay fine when I am not drinking, but just hanging out with them,” Wuebker said.

“I wonder if it is going to cause a lot more accidents that could have been prevented by friends.”

***Manoj Aryal***



<http://chips.luther.edu/modules/news/article.php?storyid=4621>



**14. Council Approves Limited Liquor License**

By Rachel Gallegos – *Iowa City Press-Citizen*

September 13, 2006

The North Liberty City Council approved a six-month, non-renewable liquor license for Drinks neighborhood pub at its Tuesday night meeting.

The six-month liquor license was presented to the City Council on Tuesday, after City Administrator Brian James heard about the option at a meeting with residents Tuesday morning.

The council had three options to choose from regarding the Drinks neighborhood pub -- renewing the bar's current liquor license for another year, denying approval or the six-month option. The vote was 4-1 with City Councilor Tom Salm against.

After the six-month liquor license expires, the bar will have to apply for a new liquor license.

The council voted to approve the six-month license with three conditions: that the bar continues to work to reduce the number of calls and complaints to the North Liberty Police Department, that the bar trains all employees about identification and refusing to serve intoxicated people, and that bar officials create a committee with neighbors and city staff to continue to discuss options for solving noise problems.

The City Council, however, removed a suggested fence condition. In a July 31 meeting between city and bar officials, Drinks proposed building a sound barrier fence to block noise from the bar parking lot and from reaching the Juniper Court neighborhood.

Drinks owner Shawn Krantz agreed to pay for $4,000 of the fence, but James estimated it would cost $3,200 to $6,000. Drinks officials recommended a fence that would cost $15,000, a more expensive option because of the fence materialsBecause the bar agreed to pay $4,000, the balance of the fence cost would have had to be covered by the city or another source. Several councilors and residents said they were not in favor of taxpayer dollars going toward a fence for the bar.

Juniper Court residents have complained to the City Council at several meetings about the noise coming from bar patrons in the parking lot, which is across the creek from the court.

"This has been one long, frustrating year," Juniper Court resident Suzanne Mitchell said. "I don't feel that we've come forward."

Mitchell said in the time that the Drinks liquor license has been up for approval things have improved, but her family has been woken up by vulgar language eight times in the past three weeks.

"For now, I think it's a start," Juniper Court resident Lisa Gumpper said after the meeting about the council's decision.

"Drinks bar may be a business to the community, but it is not a community business," she said at the meeting.

Residents gave a petition to the council with about 90 signatures of people who are opposed to Drinks at its current location.

Drinks attorney Richard Webster said the bar is in a commercial zone and has a right to be there.

"I'm sorry for the noise," he said. "Bars make some noise."

Webster said that although Drinks is limited legally in possible enforcement in a public parking lot, the bar has implemented security guards and cameras in the parking lot as well as a glass barrier inside the front doorto help block sound.

Krantz said he had no comment Tuesday night after the meeting and referred reporter's questions to his attorney.

Councilor James Moody said he was a "little leery" about voting for the six-month option because it was presented to the council the day of the meeting and it can be considered as a probation in the state's eyes.

"The state has used them in that way before," Moody said.

<http://www.press-citizen.com/apps/pbcs.dll/article?AID=/20060913/NEWS01/609130314/1079>



**III. OTHER STATE NEWS.**

**15. SLA Probing Serving of Alcohol to Minors (New York)**

Source: *Buffalo News*

September 9, 2006

ALBANY (AP) - The State Liquor Authority is investigating whether alcohol was served to minors at a barbecue held by Eliot Spitzer's campaign for governor for supporters at the state fair last week.

The agency received complaints that alcohol was served to minors at the Aug. 31 event, said authority spokesman Bill Crowley. The authority was also investigating a potential violation of a law prohibiting unlimited alcohol offerings at public events, he told the Syracuse Post-Standard.

Spitzer, the Democratic state attorney general, and his campaign would not be liable for any violations.

Grand Street Sales, which served the alcohol at the event, would be liable, Crowley said. Gary Bobbett, the company's owner, is a longtime Democratic supporter.

"Any suggestion that we were serving alcohol to minors is simply false," said Spitzer campaign spokeswoman Christine Anderson.



**16. Appeals Court Upholds Virginia Alcohol Laws (Virginia)**

By Larry O’Dell - *Associated Press*

September 11, 2006

RICHMOND, Va. -- Laws allowing only Virginia wine to be sold in state-run liquor stores and restricting the amount of booze consumers can bring into the state for their personal consumption are constitutional, a divided federal appeals court ruled Monday.

The 2-1 ruling by the 4th U.S. Circuit Court of Appeals reversed a lower court's ruling that those two provisions of the state's Alcoholic Beverage Control Act unconstitutionally impede interstate commerce.

The lower court also struck down provisions favoring Virginia over other states in the distribution, delivery and shipping of wine and beer. Because the General Assembly amended the law to reflect that ruling, the appeals court dismissed that portion of the state's appeal as moot.

In the majority opinion, Judge Paul V. Niemeyer wrote that a "market participant" exception to the U.S. Constitution's commerce clause allows Virginia's ABC stores to sell only wine produced in the state.

"Virginia's choice of selling only Virginia wine is no more inappropriate than would be its choice to sell only Hershey's brand chocolate bars at a State commissary," Niemeyer wrote in the opinion, which was joined by Judge William B. Traxler Jr.

Niemeyer noted that more than 10,000 private retailers are licensed to sell wine in Virginia, providing plenty of choice for consumers who want to buy an out-of-state variety.

"There is no evidence that consumers face any impediment to purchasing wines of their preference at fair market prices," he wrote.

In a dissenting opinion, visiting U.S. District Judge Joseph R. Goodwin of West Virginia pointed out that ABC stores are Virginia's only one-stop shop for both wine and liquor.

"Virginia has granted itself a monopoly in the market for the joint sale of wine and liquor through its ABC Stores, and uses that monopoly to impermissibly discriminate against out-of-state wines," Goodwin wrote.

Niemeyer disagreed. "These are matters of convenience, not monopoly power," he wrote.

The law allowing consumers to bring no more than one gallon (or four liters) of alcoholic beverages across the border is constitutional because it does not restrict how much a person buys from an out-of-state retailer, the appeals court's majority ruled.

Goodwin wrote that while Virginians theoretically can buy as much alcohol as they want from an out-of-state store, as a practical matter they are limited by the import restriction.

"Having an opportunity to purchase is not the equivalent of having meaningful market access," he wrote. "...Virginia's limitation on the quantity of alcoholic beverages a person may bring into the Commonwealth favors in-state economic interests over out-of-state economic interests."

The lawsuit challenging the ABC Act provisions was brought by five consumers, wineries in Texas, California and Oregon, and a wine and beer retailer in the District of Columbia.



**17. Committee to Study Liquor Distribution (South Carolina)**

*The Associated Press*

September 11, 2006

More than eight months after South Carolina bartenders began pouring liquor from big bottles, legislators will study the state's liquor distribution and delivery system to determine whether the new law needs tweaking.

For 22 years, South Carolina bartenders had no choice but to pour liquor from the 1.7-ounce bottles most often associated with airplanes and hotel minibars. But a vote in 2004 and a law passed in 2005 allows bars and restaurants in the Palmetto State to serve liquor out of big bottles.

A main sticking point in legislators' debate last year was whether wholesale distributors could sell liquor directly to bars. A compromise left wholesalers out of the mix, but legislators pledged to revisit the issue. The law required legislators to form a six-member committee to examine the liquor distribution system and write a report by the start of next year's legislative session.

The committee's appointed members include Sens. Dick Elliott, D-North Myrtle Beach; Jake Knotts, R-West Columbia; and Vincent Sheheen, D-Camden; and Reps. Bill Cotty, R-Columbia; Herb Kirsh, D-Clover; and Skipper Perry, R-Aiken.



**18. Southern Wine & Spirits Challenges Texas Alcohol Regulation (Texas)**

*Dallas Morning News*

September 12, 2006

The nation's largest distributor of wine, alcohol and beer filed a federal lawsuit Monday challenging a state provision that blocks it from entering the Texas market.

Florida-based Southern Wine & Spirits of America Inc. filed suit in U.S. District Court in Austin. It is seeking to permanently block the Texas Alcoholic Beverage Commission from enforcing a provision in the alcoholic beverage code that controls who can receive a wholesaler's permit, or a distributor's or importer's license.

The code requires that the owners of at least 51 percent of a company live in the state for at least one year before a license or permit can be granted.

The owners of Southern, largely members of the Harvey Chaplin family, live in Florida and have no plans to move to Texas, an attorney for the company said.

The suit comes four months after Miami-based Southern said it was in talks that could lead to the acquisition of Addison-based Glazer's Wholesale Drug Co., one of the nation's largest alcohol distributors, with 2005 revenue of $2.8 billion.

Gary Ewell, lead attorney for Southern in the federal suit, said he believes those talks have ended.

A spokesman for Glazer's declined to comment.

Concurrently with the Glazer's talks, Southern established Southern Wine & Spirits of Texas Inc., a wholly owned subsidiary.

Citing the local-ownership provision, the commission rejected the Texas subsidiary's June 27 application for a Texas wholesaler's permit, general distributor's license and importer's license, according to the complaint.

The provision dates to the end of Prohibition, when commissioners thought it important that those associated with alcohol sales be in the community "long enough to be known by their citizens and neighbors," according to the code. The aim was to keep out organized crime.

The commission's general counsel and deputy general counsel were not available for comment.

Southern sees the code as anticompetitive and is hoping to use a ruling in a similar court challenge to press its case.

In 1994, the U.S. 5th Circuit Court of Appeals issued an opinion that parts of the code related to ownership restrictions violate the commerce clause of the Constitution. That ruling came in a case filed by a company seeking a retail alcohol permit.

Mr. Ewell of Vinson & Elkins LLP said Southern is not seeking a retail license but sees the principal as the same. "There are other ways of checking on people," he said. "The local-ownership provision is really a vestige of another era.

"We believe that limiting the availability of these kinds of licenses isn't the best way of achieving" the commission's goal, he said. "And it's not a good enough reason to overcome the constitutional rules that are designed to promote interstate commerce."

Southern is asking the court to permanently enjoin the commission from enforcing the local-ownership rule and to enter a judgment that it is unconstitutional.



**19. Texas Studies Southern Distribution Lawsuit (Texas)**

Source: *just-drinks*

September 13, 2006

The Texas Alcoholic Beverage Commission has begun studying a lawsuit from Southern Wine & Spirits that claims the company is being stopped from entering the state's liquor market.

Southern has filed a suit seeking to block the commission from enforcing a provision in the state's code that controls who wins a permit to sell or distribute alcohol in Texas.

Florida-based Southern is the largest distributor of wine and spirits in the US and is keen to enter the Texas market.

The suit comes just four months after Southern said it was in talks to buy Texas-based Glazer's, one of the leading beverage alcohol distributors in the US.

The Texas state code on winning a license requires that 51% of the company's shareholders live in the state for at least a year before the permit is granted. The owners of Southern live in Florida and are understood to be unwilling to live in Texas.

Lou Bright, the commission's general counsel told just-drinks today (13 September) that the provision dates to the end of Prohibition.

Then, Bright said, commissioners thought it important that those who sold alcohol be based in the state in order to for "judgments to be made on their behavior and capabilities before giving them liquor licenses".

He said: "One of the founding purposes of (the code) was to segregate criminal elements from the alcohol beverage business and we've been very successful at doing that in the last 70 years."

Bright refused to comment on whether he believed the provision was just a vestige of another area and insisted it was the commission's job to enforce laws passed by the Texas state legislature.

He added: "We intend to get a legal resolution of the questions presented by Southern in the most expeditious way possible."

Southern officials and lawyers representing the company could not be reached for comment as just-drinks went to press.



**20. Uncorked. State Wine Industry Responds to Court Ruling (Virginia)**

By Cathy Jett - *The Free Lance-Star*

*September 13, 2006*

**Wineries and wholesalers alike applaud federal court's latest ruling on Virginia ABC laws.**

ANN HEIDIG, president of the Virginia Wineries Association, was thrilled when a federal appeals court ruled yesterday that the state's ABC stores can once again limit their wine sales to Virginia-made products.

Many of the smaller farm wineries across the state suffered a double-whammy last year when a federal judge ruled it was unconstitutional for Virginia wineries to self-distribute and for the state's ABC stores to sell only Virginia wines. Afterward, the state-run liquor stores did not restock their shelves with wine.

"We thought if we could at least keep the ABC stores, that would provide some outlet other than tasting rooms and festivals for some of the wineries that are too small to attract a distributor," said Heidig, who co-founded Lake Anna Winery in Spotsylvania County. "You don't need a distributor to sell to ABC stores."

According to a survey the association conducted last year, the average production size at Virginia's 110 wineries is about 2,500 cases. They need to produce between 3,000 and 5,000 cases in order to attract the attention of most wholesalers and make using them feasible.

Smaller wineries such as James River Cellars in Glen Allen relied on ABC stores instead to make their wines available statewide. Sales there of its Chambourcin, Chardonel and other wines accounted for 20 percent of James River business until last year's ruling against self-distribution went into effect July 1 of this year.

"The loss of that [ABC selling only Virginia wines] was, for us, almost as devastating as the loss of self-distribution," said manager Mitzi Batterson.

She said the winery cut back on the amount of grapes it buys from other vineyards and re-evaluated its plans for growth.

The 4th Circuit Court of Appeals decision, however, means that customers who buy James River Cellars wines at its tasting room or such events as next month's Fredericksburg Wine Festival now will be able to pick up additional bottles later at their local ABC store.

"Virginia's ABC Board is not necessarily going to move or market our wines, but customers will know that if they go in, and can't find it, they can order it," Batterson said. "That's a huge issue for us."

Having Virginia wines in state-run liquor stores again also will help broaden their exposure and introduce customers to more of what the state has to offer, said Dr. Geoffrey Cooper, co-owner of Cooper Vineyards just south of Mineral.

"It will do great things if we can reach out through ABC stores again," he said.

Virginia's ABC Board also is pleased with the new rulings, which include upholding the state's right to control alcohol imports by consumers, said COO W. Curtis Coleburn.

The board will meet early next week to discuss the rulings, and Heidig said the Virginia Wineries Association plans to ask it to make the new requirements for Virginia wineries that want to sell their wines to ABC stores more flexible than the old ones.

"In many cases, our wineries were too small to be eligible to be in ABC stores," she said. "They used to want 40 cases of wine at a time. Some of the smaller wineries might not have 40 cases at a time, or that might be a substantial portion of their inventory."

The lawsuit challenging the ABC Act provisions was brought by five consumers, wineries in Texas, California and Oregon, and a wine and beer retailer in the District of Columbia. Yesterday's appeal was made by the state Attorney General's Office with the Virginia Wine Wholesalers Association as a friend of the court.

Wholesalers are happy with the court's most recent decisions because Virginia's ABC stores should be able to limit their wine sales to Virginia-made products just as a regular retailer might, said Bruce L. Davis, vice president of Freeman Beverage in Fredericksburg.

"It's also good for those small-farm wineries that have been somewhat resistant to changing their business model," he said. "Even though they are allowed to get their own distributorship license, few have done it."

Wholesale distributors such as Freeman also are happy with the ruling that upholds Virginia's right to limit the amount of booze consumers can bring into the state for their private use.

"All that is doing is reaffirming the 21st amendment, which allows the state to control the sale of alcohol in their borders," Davis said. "Otherwise, the state would lose out on tax revenues."

Yesterday's decision did not deal with the lower court's decision to strike down provisions favoring Virginia over other states in the distribution, delivery and shipping of wine and beer. The appeals court dismissed that portion of the state's appeal as moot because the General Assembly had amended the law to reflect that ruling.

The lower court's decision was a blow to small wineries such as Belle Mount Vineyards in Warsaw, which did about a fourth of its business by supplying the nearby Essex Inn and Northern Neck Gourmet Shop with its Workboat Red and Lighthouse Rouge, according to co-owner Catherine Petrie.

"Clearly we're close enough so they can send their people here to buy our wine, but that impacts their business, too," she said.

The Virginia Wineries Association is looking into a number of options to improve market access for its members, and its legislative committee will meet next week to decide on what action to take during next year's General Assembly session.

"We have materials in most of the winery tasting rooms to get lists of consumers that we can mobilize come January," Heidig said. "We're urging people to call their state senators and delegates."



**21. Fourth Circuit Reaffirms Three-Tier System: Controls on Personal Importation Do Not Discriminate Against Out-Of-State Retailers (Virginia)**

*WSWA*

September 12, 2006

**WSWA Applauds Court's Decision & Support of the Regulatory System**

Washington, DC (September 12, 2006)- In the first ruling by a federal appeals court to resolve a legal challenge to state controls on the importation of wine following the Supreme Court's Granholm v. Heald decision of 2005, the Fourth Circuit yesterday reversed a lower court decision and reinstated Virginia's law limiting the personal importation of wine from outside the state.

"WSWA applauds the Fourth Circuit for recognizing the importance of our system of regulations and controls, which ensures public safety, product quality and the proper management and control of alcohol," Interim President & CEO and General Counsel Craig Wolf said.

The plaintiffs in the case argued that since Virginia residents could purchase as much wine as they wanted from in-state retailers, the Virginia personal importation law, which restricted how much wine purchased out-of-state could be brought back across state lines by a consumer, was discriminatory. The district court had agreed with that argument and struck down those import controls. The Fourth Circuit, relying upon the constitutional primacy of the three-tier system-which was reaffirmed in the Granholm case, when the court characterized it as unquestionably legitimate- reversed the lower court's decision.

Additionally, the court noted that Virginia residents were not restricted from buying as much wine as they wanted both in the state and outside the state; they were only limited to how much they could personally bring back. Since the court determined that there was no limitation on how much wine could be imported and sold through the three-tiered system, there was no discrimination in otherwise limiting personal importation.

"Essentially, this case confirms WSWA's interpretation of the Granholm case," Wolf said. "In Granholm, the ruling was limited to laws which make producer-based distinctions only. When a state's laws do not make a distinction between how it handles in-state products versus out-of state products, they should clearly be upheld."

This action comes on the heels of a recommendation made by a Maine magistrate that also supported the regulatory system. In July, Magistrate Judge Margaret J. Kravchuk submitted a recommendation to Maine's U.S. District Court to reject a winery's lawsuit seeking to overturn that state's ban on unaccountable Internet, mail and phone wine sales.



**22. Beer Buzz in Oklahoma (Oklahoma)**

*Convenience Store Decisions*

September 12, 2006

Group pushes for legalizing wine and "strong beer" in convenience stores and supermarkets.

Grocery and convenience stores would be allowed to sell wine and strong beer under an initiative petition touted by **a group calling itself Oklahomans for Modern Laws.**

State law currently limits beer and wine coolers sold in convenience and grocery stores to a maximum of 3.2 percent alcohol by weight. Strong or "full strength" beer and wine can only be sold in liquor stores, and it has to be at room temperature, the Tulsa (Okla.) World reported.

The group wants to circulate a petition to call for a statewide vote on their proposal in 2008. A spokesman for the organization said some 200,000 signatures would be needed to get the issue on the ballot.

Liquor store owners oppose the initiative claiming they could lose as much as 30% of their business to grocery or convenience stores.

Convenience store lobbyists were staying neutral on the idea. "It is like anything else we run into," Vance McSpadden, executive director of the Oklahoma Petroleum Marketers Association and the Oklahoma Association of Convenience Stores, told the newspaper. "Some are for it and some are against it.

"It is just in the beginning stages," he said. "There are a lot of ifs and buts. We are not pushing it. We did not start it or anything else."



**23. Battle Brews Over Wine Sales (Massachusetts)**

September 12, 2006

Move over beer, a battle over wine sales is brewing in the Bay State.

NewsCenter 5's Rhondella Richardson reported Tuesday that if a statewide ballot question passes in November, supermarkets and gas stations could apply for licenses to sell wine. Some package stores said that could put them out of business.

The liquor industry would love to just bag the idea, but Stop & Shop is distributing fliers, and other grocery stores are on informational campaigns to urge voters to vote "yes" on ballot Question 1 in November. It would allow stores that sell food to sell wine.

Right now, only three wine licenses are available to any one retailer. For example, Stop & Shop can only sell wine in Quincy, Hingham and Malden.

"I think it's more convenient," one customer said.

"I don't think they should make alcohol more convenient," another customer said. "I think they should make it less convenient and under stricter control."

Waltham's D & L liquors is across the street from a supermarket.

"It will affect our bottom line -- there's no two ways about it," D & L Liquors owner Peter Dion said.

If Question 1 passes, cities and towns would be granted new liquor licenses based on population. Waltham would be eligible for 16 new licenses.

"There's only three supermarkets, so that leaves 13 licenses that are going to go to either 7-11s, Mobil on the Gos or small convenience stores," Dion said.

Stop & Shop argued that gas stations won't qualify as food stores.

"A bona fide food store has to carry a range of products, including produce, meats," Stop & Shop spokeswoman Vicki Lopez said. Liquor stores boast of their larger wine selections and expertise in vineyards and vetting out underage drinkers.

"He has 17-, 18-year-old cashiers. Their friends come in and they empty out a 12-pack of coke and they put in three bottles of wine and go through the checkout with it," Dion said.

"No system is foolproof, but we put systems in place to prevent those things," Lopez said.

Both sides said they they're just thinking of the customer.



**24. High-Anxiety Grape Season (California)**

By Tim Tesconi – *The Press Democrat*

**Late crops, so-so yields and possibility of farmworker shortage has vintners on edge**

There's high anxiety in Wine Country as the harvest slowly gets under way.

The grape crop is late, yields are down, birds are a terrible problem and there are looming fears there won't be enough laborers to pick the crop.

"The 900-pound gorilla in the room is labor," said Fred Buonanno of Brutocao Vineyards & Cellars in Hopland and chairman of the Mendocino Winegrape and Wine Commission. "In the weeks ahead we will be tested."

Buonanno was among growers and vintners from Mendocino, Sonoma, Lake and Marin counties gathered Tuesday in Santa Rosa to provide a "state of the harvest" for the region's wine grape crop.

The harvest has barely started, with 10 percent of the estimated 420,000-ton crop in Napa, Sonoma, Lake and Mendocino counties tucked into tanks. Marin County has yet to start picking.

The good news amid the vineyard gloom is that there is a large, lush crop of pinot noir grapes. It's a grape varietal pushed to the top of the price charts by the movie "Sideways," which praises pinot as bottled poetry.

It's one of the best pinot noir crops in years, and growers are joyous at the rare, winning combination of high yields and record prices.

The yields of most other grape varietals are average to average-minus, with chardonnay, the leading varietal planted in Sonoma County, in the average-minus category.

The looming farm labor shortage is the biggest worry as the harvest heats up.

Tighter security along the border with Mexico and higher-paying jobs in construction, landscaping and other industries have reduced the farm labor work force throughout California.

Growers said the harvest won't get fast and furious until early October because grapes are maturing about 10 days later than last year.

The harvest will be tightly compressed with white and red grape varietals ripening all at once, straining nerves and tank space in winery cellars.

Vineyard manager Clay Shannon of Lake County said he can't wait until November when the last grapes are brought from the vineyards and the 2006 harvest is history.

"I hate harvest," Shannon said. "People are at their worst - frustrating, demanding and controlling."

During the first three weeks of October, growers said thousands of farmworkers will be needed to pick ripening grapes in the more than 125,000 acres of vineyards in the North Coast counties.

The saving grace is that increasingly sophisticated techniques for growing top quality grapes require a year-round work force. These resident workers will be the core harvest crews in the vineyards.

"I think there is enough labor to go around for people who manage their labor on a year-round basis," grower Steve Hill of Sonoma said.

The wine industry and the rest of California agriculture are pushing hard for a comprehensive overhaul of federal immigration laws.

Growers would like to see a guest-worker program, which would allow foreign workers to accept jobs here and return home when they finish.

"The irrational immigration policy we have now is going to destroy us," Marin County grower Mark Pasternak said Tuesday.

Buonanno of Mendocino County said he is increasing wages and looking at providing more housing in the future to keep a stable crew of vineyard workers.

Government labor figures from previous years show 1,500 extra workers are hired for the grape harvest in Sonoma County. That's a figure that may not be met this year.

Growers predict that if the workers don't come, more grapes will be harvested by machines this year than in the past. The message is clear: The region's $900 million wine grape crop will be harvested somehow, some way.

"We bought a machine. There is a way, and we will get the grapes in," said Rich Schaefers, general manager of the Mendocino Vineyard Co.

The other big worry is that the tardy crop will push the harvest later into the fall, when there's a greater chance of rain.

Growers said grapes will be particularly vulnerable to rot and ruin this year because the clusters are large and tight - prime conditions for mold and rot after heavy rain.

"With the big, tight bunches the potential for disaster is there," Pasternak said.



**25. Lawyer Intends to Challenge New Law on Shipping Wine (Arizona)**

By Howard Fischer - *Capitol Media Services*

Sept. 14, 2006 12:00 AM

Although state legislators re-wrote the law dealing with interstate wine shipping to comply with federal mandates, the new measure that takes effect later this month is going to be challenged in court almost immediately.

Attorney James Tanford said Arizona's new measure may appear to have addressed problems found by the U.S. Supreme Court, but he said the new law isn't any closer to be constitutional than the one it replaces.

The key provision of the law is that it allows any winery, anywhere, that produces fewer than 20,000 gallons a year to ship directly to customers and retailers in Arizona. It takes effect Sept. 21.

"Within a few days thereafter we will file an amended complaint that addresses the new statute," Tanford said. "That will sort of start things over again."

Tanford is a professor at the University of Indiana College of Law and represents some Arizona wine lovers and an out-of-state winery.

Leesa Berens Morrison, director of the state Department of Liquor Licenses and Control, disagrees. She said the new law eliminates any practices that illegally discriminated against out-of-state wineries, which was the thrust of the Supreme Court ruling.

Here's the history: Arizona law for years has revolved around a three-tiered system: Manufacturers sell only to wholesalers; retailers buy only from wholesalers.

A 1982 law designed to help the state's nascent wine industry created an exception. It allowed Arizona wineries producing fewer than 75,000 gallons a year to sell directly to consumers. The small wineries could ship directly to retailers and consumers, cutting out the wholesalers. The idea was that many wholesalers would not bother with the Arizona wines.

That law had to be changed after last year when the U.S. Supreme Court voided similar laws in other states. The high court justices concluded that special privileges granted by legislators to only that state's wineries violated the Commerce Clause of the U.S. Constitution.

But Tanford said reducing the numbers of gallons from 75,000 to 20,000 doesn't change the impact of the law.

"Not by coincidence, every Arizona winery but one produces fewer than 20,000 gallons," Tanford said. And that last winery, he said, apparently didn't care if it kept the direct shipment privilege.

The net result, he said, is nothing changes for virtually every Arizona winery. But it continues to exclude 90 percent of out-of-state wineries.

"It is overtly discriminatory," Tanford said. He said the fact that the law does not, on its face, give special privileges to in-state wineries does not protect it from challenges.

He will ask U.S. District Court Judge Mary Murguia to look beyond the new statute's wording and examine its practical effects. He thinks she will find it unconstitutional.

Such a ruling would not disappoint at least one legislator.

Sen. Barbara Leff, R-Paradise Valley, said she sees no reason to throw roadblocks in the path of Arizonans who want to order wines that are not generally available directly from local retailers.

She said the only reason the law wound up the way it did is because the distributors did not want to lose business.

Some wholesalers even pushed to scrap the exemption entirely. They said direct shipments to consumers make it easier for underage drinkers to get alcohol. And they questioned whether the state would be cheated out of its taxes on alcoholic beverages.

Tanford said there is no legitimate justification to have disparate treatment between small and large wineries.

"If you're concerned about shipments to minors, what difference does the size of the winery make?"' he asked. "If you're concerned about everybody paying their taxes, what difference does the size of the winery make?"

He said about the only thing a limit does is protect the in-state wholesalers, ensuring they have exclusive rights to distribute the "big wine labels." And that, said Tanford, is economic protectionism.

<http://www.azcentral.com/abgnews/articles/0914abg-wineries0914.html>



**26. California Sees Dramatic Increase in Drunk Driving Fatalities (California)**

*PRNewswire*

September 13, 2006

In light of the fact that drunk driving deaths in California jumped by 5.5% in 2005, the American Beverage Institute (ABI) is urging state law enforcement officials to abandon their ineffective roadblock campaigns.

According to the newly released National Highway Traffic Safety Administration (NHTSA) data on 2005 alcohol-related fatalities, there were 76 more people killed in drunk driving fatalities in California last year than in 2004.

"It is time for California to reevaluate how it is addressing its drunk driving problem," said ABI Executive Director John Doyle. "Rather than rely on roadblocks, as California does, the state should invest more of their law enforcement resources in roving police patrols."

According to a landmark NHTSA study, "the number of DWI arrests made by the roving patrol program was nearly three times the average number of DWIs made by the checkpoint programs."

The newly released NHTSA data also reinforce the superiority of roving patrols over roadblocks:

\* The 11 states that do not operate roadblocks experienced a collective drop of 91 fewer alcohol-related fatalities in 2005 compared to 2004;

\* The 39 states (plus the District of Columbia) that operate roadblocks saw a collective increase in alcohol-related deaths; and

\* If non-roadblock states are removed from the equation, there would have been a net increase in nationwide alcohol-related fatalities last year.

"It is incumbent upon the states to use the most effective measures available, and clearly the data show that roving patrols are much more effective than roadblocks at getting drunk drivers off the road," said Doyle.

<http://biz.yahoo.com/prnews/060913/dcw057.html?.v=62>



# 27. Panel to Drop Liquor ID Rule (Maui)

By Melissa Tanji -  *The Maui News*

September 14, 2006

WAILUKU – The Maui County Liquor Commission on Wednesday repealed an unpopular liquor rule that had bars, restaurants and stores asking every customer for an identification card – no matter how old they looked.

The commission voted unanimously to eliminate the eight-year-old law, with Chairman Manuel Moniz Jr. joking it was the first hearing in which “no one testified against us.” He said the rule change will “benefit everyone involved.”

The law will remain on the books until Mayor Alan Arakawa signs the commission’s recommendation. Liquor Control Director Frank Silva did not know how long that would take but said the department will notify licensees when it’s official.

Silva had made the recommendation to amend the county’s liquor rules to eliminate the language that required everyone purchasing alcohol to provide a photo identification.

Liquor control inspectors began to enforce the rule early this year after Silva said he had to remind licensees that the rule said they should be asking for identification from all customers.

The crackdown which resulted in some older customers who didn’t have ID cards being barred from a purchase led to protests to the Liquor Control Department.

In June, Silva reported he had received a lot of calls complaining about the rule.

A handful of people showed up at the commission hearing in the David K. Trask Jr. office building to testify in favor of repealing the law.

“I’m really relieved to hear Mr. Silva’s proposal,” said Warren Woodward of Kula.

While Woodward said he knows the intent was to stop underage drinking, “I don’t see how carding a grandmother accomplishes that.” He said he was carded at a Foodland store when buying nonalcoholic beer.

Nick Nikhilananda of Huelo said he was with a 77-year-old friend at an establishment when his friend was required to produce an ID.

“Because the security was busy carding my 77, 76-year-old friend, someone stole a guitar,” he said.

Businesses and owners also testified in favor of repealing the law, including Bernard Weber, of Brigit & Bernard’s Garden Cafe, who said he didn’t believe that he should be cited for serving alcohol to someone who is 21. Weber said he knows the majority of his customers by name.

After the commission voted to repeal the law, Silva said that the rule had another purpose, which was for a clerk or server to determine if the customer may be intoxicated by how the customer produces the card.

“If it fumbles, they drop it to the ground, it’s a red flag,” Silva said.

“It’s a roundabout way of going at it.”

“For some reason, it wasn’t a bad idea to begin with,” he said.

He added that no licensee has been cited for not carding an 85-year-old customer.

The public outcry about the rule to check the identification of everyone began in February when county liquor inspectors delivered to every liquor licensee a notice reminding them of the rule.

Outside the meeting, Silva said he reminded licensees about the law after a lot of licensees appearing before the liquor adjudication board continued to say they weren’t aware of the law and only checked the identifications of those who looked under 30.

When the rule amendment is approved, the responsibility will remain with the licensees to determine whether their customers are at least 21.

Both state and county liquor laws bar anyone from providing alcohol to a minor, someone who is not at least 21.

Penalties include suspension of a license and fines up to $2,000. In Maui County, the liquor rules include mandatory revocation of license for repeat offenses of serving alcohol to a minor.

<http://www.mauinews.com/story.aspx?id=23269>



**28. Doctors Argue for Booze Tax Hike to Cut Teen Drinking (Minnesota)**

By Jeremy Olson and Rebecca Jungbauer – *Pioneer Press*

September 15, 2006

**State group debates increase**

Teens don't stop drinking because of prevention films or classes, doctors argued Thursday, but they might if they had to pay more for the booze.

"Increasing taxes on alcoholic beverages … will lead to a reduction in the levels and the frequency of drinking and heavy drinking among our youth," said Dr. Carl Burkland at the annual meeting of the Minnesota Medical Association.

A vote today on a 10-cent-per-drink increase to the state's alcohol excise tax would make the issue a priority for the influential doctors' group as it sets its policies and lobbying agenda for next year's legislative session.

The medical association also is considering whether to ask the Legislature to support mandatory health insurance for all residents and to require written exams for elderly drivers — or perhaps all drivers — when they renew their licenses.

Burkland estimated the alcohol tax increase would generate more than $220 million per year for the state, which could then be used to bolster prevention, treatment and detox programs. The alcohol excise taxes on beer, wine and spirits haven't increased in 20 years, he said.

A 10-cent increase would be substantial, considering the present excise tax comes to just over 1 cent for a 12-ounce beer. (The actual tax is charged at the wholesale level, not per drink.) The amount could change in further debate today. Excise tax increases have failed in previous legislative sessions.

"With the leadership of the medical community, we can really make a difference," said Dr. Edward Ehlinger, director of the University of Minnesota's Boynton Health Service.

At the U, binge drinking occurred among nearly half of its students, according to a 2005 survey.

Second-year medical student Peter Stiles said a small increase in liquor costs probably wouldn't deter his friends from their $20 cab ride and $100 alcohol tabs on nights out. He nonetheless supported the idea of the association putting a "medical stamp" on the issue.

One dissenter pointed out that alcohol abuse didn't drop during America's prohibition years and that a tax increase wouldn't reduce the number of addicts either. Dr. Robert Milligan Jr. had a second reason for concern: "I'm already taxed to death."

<http://www.twincities.com/mld/twincities/news/15521884.htm>

