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|  | e - NEWS |
| *November 10, 2006* | |

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**[I. NATIONAL NEWS.](#I)**

**1. Miami Beach Exec Says Controversy Sells 42 Below Vodka**

By Christina Hoag

James Dale is a man with a mission: Create controversy. And he's got a pretty good track record.

The brawny Kiwi is the mind behind the macho marketing in the United States of 42 Below, an ultra-premium vodka from his native New Zealand that Bacardi offered to buy Thursday for $91 million cash.

42 Below has become the tipple of the über-trendy, thanks to push-theenvelope ads and stunts that raise hackles -- and get oh-so-valuable press in the process.

Take the video on the company's website, which struck a New York bar owner as anti-gay and sparked a boycott of 42 Below. Dale's obscenity-laden response landed him the jackpot of publicity -- a blurb on Page Six of The New York Post.

Or the raucous, 42-Below-fueled party on a Broadway storefront display window that got so lewd the cops -- and the TV cameras -- were out on the sidewalk.

And there was the poster that provoked protest from the Colombian Consulate: ``Purer than the driven snow, even if you drove it yourself from Colombia.''

That one, with its slang reference to cocaine, sparked an uncharacteristic apology from Dale.

''I thought their complaint was fair enough,'' says the 35-year-old, 42 Below's chief marketing and importing bloke for the United States for the past three years.

But Dale, who lives in Miami Beach and flits up to New York for a few days every week, remains uncontrite about the rest of it. After all, it's working.

Bacardi, the world's largest private spirits company, has tendered an offer to buy 42 Below's parent company for 77 cents a share, a 35 percent premium. The offer is backed by the company's major shareholders. Bacardi plans to invest heavily in the vodka to expand its distribution, particularly in the Asia-Pacific region.

''That quirky irreverence from New Zealand is one thing that has made it stand out,'' said Bacardi spokeswoman Pat Neal. ``They've been quite successful in a relatively short period of time.''

Although 42 Below has yet to turn a profit, its growth has been exuberant. Last fiscal year, which ended in March, revenue zoomed to about $11.5 million -- up 39 percent from 2005. Losses narrowed 37 percent to about $2.1 million. And case sales were up 58 percent over 2005, according to the company's annual report.

**GEOGRAPHIC LINK**

Named for New Zealand's location 42 degrees below the equator, the vodka was concocted seven years ago in the Wellington garage of company founder Geoff Ross. Since then, industry awards and eccentric antics with a healthy dose of political incorrectness -- such as a ''Win a Russian Bride'' contest -- have helped fashion it into a hipper-than-thou vodka in 25 countries.

42 Below aims at the ''tastemaker'' market -- the young and trendy. But in the ultra-competitive U.S. scene, Dale's had to ramp it up a couple notches, especially since he doesn't have a big advertising budget. He dubs his approach ''spider-monkey marketing'' -- nimble, cheeky moves -- as opposed to guerrilla (gorilla) marketing.

''I saw I wasn't going to get any cut-through without organic marketing,'' says Dale, who heads his own company, Panache International. ``I don't believe traditional advertising is that effective any more. Only big businesses can afford it.''

**MARKETING STUNTS**

One of his gimmicks: a ''Snow Patrol,'' in which a 42 Below-jacketed crew shoveled snow off the stoops of New York's top night clubs and gave shots of vodka to shivering bouncers.

Cops were called and Dale got busted for drinking in the street. He was disappointed when charges were later dropped. ''I was inviting the media to court,'' he says.

He started ''Gotcha Mate'' viral videos, a sort of salacious Candid Camera. One involved a woman recriminating a surprised stranger in a bar for leaving her. ''You told me you loved me,'' she says, before yanking up her top.

The stunt Dale ranks as his most successful was the run-in with the New York bar owner who found a video so offensive he refused to carry the vodka.

Dale was delighted. He let loose in a profanity-strewn e-mail addressed to ''f---face . . . if you are suggesting that we are anti-gay, then speak to my f------ hand you fool,'' it started.

Dale soon heard from the New York City Department of Consumer Affairs, to which he adopted a more apologetic tone.

''We have always consulted, supported and had fun with all communities on a global scale and have not and will never single out a community in an effort to offend,'' he wrote.

The spat made the New York Post's famed gossip column. The next day, the phone rang off the hook. ''Everyone started placing orders,'' Dale says.

Dale continued his vitriolic tone in a website ''I'm James Dale, so f--- you,'' a mock advice column. ``I decided to make the brand about me, as a person, without being egotistical about it.''

Public relations expert Richard Weiner says that faced with a cluttered vodka shelf, Dale's on the right track.

''I'm amenable to controversial promotion. It's very, very clever,'' says the author of *The Skinny about Best Boys and Other Media Lingo*. ``And public relations is a very cost-effective tool. Other vodkas spent enormous amounts of money on ads.''

Dale, who possesses a low-key manner but is clearly no pushover, says the rude-boy style is all in jest. But it's also part of his strategy to pitch 42 Below as a ''discovery brand.'' That's to say, convince consumers they're stumbling on to the edgiest, newest thing before everyone else.

Nevertheless, controversy is a risky marketing tool because it can unleash a backlash against the brand.

''You do walk a very careful line there,'' said Steve Hall, publisher of adrants.com, an advertising critique website. ``But 42 Below vodka has just straddled that line perfectly.''

**NO FORMAL TRAINING**

Dale has no formal marketing training. Born in India to British parents, he grew up since the age of 2 in Auckland. He started working at 15 as a bar back and since then has served and sold booze. ''I don't read a lot,'' he admits. ``I get told a lot.''

His latest marketing project is *Clubland*, a documentary series for Internet viewing that takes a behind-the-scenes look at South Beach's competitive nightclub panorama.

Dale, who's partially financing the work as an executive producer, works 42 Below into camera shots, appears wearing a 42 Below T-shirt and drops the name 42 Below into voice-over narration. It's all part of his gospel of stealth branding in pursuit of hipness.

''You can't force cool,'' he says.

<http://www.miami.com/mld/miamiherald/15916055.htm>



**2. Priciest Champagne Set to Sparkle**

Source: *BBC*

November 7, 2006

French drinks group Pernod Ricard has announced plans to launch the world's most expensive bottle of champagne.

To be sold under the Perrier Jouet Belle Epoque name, it will retail in wine shops for 1,000 euros ($1,276; £670) for a standard-sized bottle.

Deep-pocketed wine lovers can already spend more than £500 a bottle on such champagnes as Louis Roederer Crystal Rose and Krug Clos de Mesnil.

It is not yet known when or where Pernod will launch the new champagne.

"We won't do many cases and won't be offering it in France," said Pernod chairman Patrick Ricard.

Exclusivity drive

Pernod, which is also launching a new brandy costing £130 a bottle, is bringing out the new super-expensive products as a means to take its brands upmarket.

"It is a fact that consumers all over the world want to identify with brands that represent themselves and this has to be brands with quality which are exclusive," said managing director Pierre Pringuet.

"It's the same for fashion, cars... and spirits."

Existing Perrier Jouet Belle Epoque wines are well-known for being some of the most competitively priced so-called prestige champagnes.

They are also renowned for having flowers painted onto the bottles.



**3. Hangovers Hit Older People Harder**

By Fiona Macrae - *Daily Mail*

November 5, 2006

It is something that many of us have long suspected - hangovers really do get worse as you get older. Scientists have shown that teenagers have a greater resistance to alcohol.

Not only are they less clumsy and sleepy on the night itself, they do not suffer as much the next day.

It is thought that the adolescent brain, which develops rapidly during the teenage years, copes better with the intoxicating effects of alcohol.

It is not all good news, however, as youngsters may be lulled into a false sense of security, leading them to do untold damage to their health.

Study author Professor Elena Varlinskaya said: 'This ability of adolescents to rapidly counteract some unpleasant alcohol effects may allow them to have more drinks per occasion.

'This pattern of binge drinking, being unsafe in general, might be extremely dangerous for adolescents, given that their brain is especially vulnerable to alcohol damage.'

The U.S. psychologist studied the effects of alcohol on rats with the equivalent age to human teenagers and adults.

The rats - chosen because their brain development mimics that of humans - were dosed with alcohol and their movements monitored.

The dose given was equivalent, weight for weight, to a man or woman drinking three or four alcoholic drinks in quick succession.

Five minutes after being injected with alcohol, both age groups were more inhibited.

They were less playful, less active and groomed themselves and their fellow creatures less. Thirty minutes later, there was a noticeable difference between the groups.

While the adult rats were still sluggish, the younger animals were almost as frisky as rats that had not been given any alcohol at all, the journal Alcoholism: Clinical And Experimental Research reports.

Other studies have shown that teenage rats suffer less from clumsiness and sleepiness after being given alcohol and rarely suffer the symptoms of a hangover. Professor Varlinskaya, of Binghamton University in New York, said: 'We found greater tolerance in adolescent than adult animals at alcohol levels comparable to binge drinking.

'The findings support the notion that the adolescent brain functions quite differently than the adult brain, particularly in response to alcohol.'

But this tolerance does have its drawbacks. It is thought the hangover is nature's way of ensuring we do not damage our bodies by drinking to excess, leaving those who are hangover-free at greater danger of harming their health.

Prof Varlinskaya said: 'Unpleasant physical symptoms associated with alcohol intoxication and hangover, which make adults stop drinking, are not experienced to the same degree by adolescents.

'A lack of overt signs of intoxication may mask the more potentially harmful effects of alcohol on learning and memory.'



**4. Pernod Pleads the Fifth in U.S. Havana Club Dispute**

*Reuters*

November 7, 2006

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PARIS, Nov 7 (Reuters) - Pernod Ricard (PERP.PA: [Quote](http://stocks.us.reuters.com/stocks/overview.asp?symbol=PERP.PA&WTmodLoc=InvArt-C1-ArticlePage1), [Profile](http://stocks.us.reuters.com/stocks/fullDescription.asp?symbol=PERP.PA&WTmodLoc=InvArt-C1-ArticlePage1), [Research](http://stocks.us.reuters.com/stocks/analystResearch.asp?symbol=PERP.PA&WTmodLoc=InvArt-C1-ArticlePage1)), the world's second largest wines and spirits group, said on Tuesday United States constitutional rights may have been infringed in its dispute over U.S. rights to the Havana Club Cuban rum brand.

A United States government agency denied in July an application for a license to renew the brand's registration in the U.S., opening the way for competitor Bacardi Limited to launch a rival "Havana Club" made in Puerto Rico.

"We will make use of the fifth amendment (of the U.S. constitution)," Pernod Ricard Chairman Patrick Ricard told the company's annual shareholders meeting, saying Pernod's marketing partner had launched a legal challenge to the decision.

The fifth amendment says no person should be deprived of property without due process of law.

Pernod is already taking legal action against Bacardi through the district court of Delaware, alleging the use of the "Havana Club" trademark is misleading and should be stopped.

Pernod, through its Havana Club Holding SA joint venture with Cuban government agency Cubaexport, last year sold 2.4 million cases of Havana in 80 countries outside the U.S., 13 percent more than in its 2004/05 financial year.

Bacardi is also contesting ownership of the brand in Canada and Spain, according to Pernod's annual report.

<http://today.reuters.com/news/articleinvesting.aspx?view=CN&storyID=2006-11-07T162955Z_01_L07427997_RTRIDST_0_FOOD-HAVANACLUB.XML&rpc=66&type=qcna>



**5. Vodka's Battle of the Bottles**

Source: *London Sunday Times*

Novemeber 5, 2006

HERE'S a row that could put most boozy brawls in the shade.

A billionaire, a couple of international drinks companies and two brands of vodka are locked in a ferocious legal battle in America - over whether a vodka is truly Russian or not.

It all began when Pernod Ricard, the French drinks giant, spent a fortune promoting Stolichnaya to the Americans as the authentic Russian vodka.

Then a rival drinks company, Russian Standard - led by billionaire Rustam Tariko - launched Imperia, with plans to invest $100m in America over the next five years.

The punches began flying with an advertising campaign for Imperia that claimed it was the only truly Russian vodka sold in America.

Better still, Imperia launched a lawsuit against Pernod, and its subsidiary Allied Domecq, suggesting that Stolichnaya isn't what it says it is - authentically Russian.

Pernod has decided to fight fire with fire and demanded that the National Advertising Division, the body that settles advertising disputes, intervene to get the Imperia advertising changed.

I'm told that Pernod has also dismissed the Russian Standard lawsuit as nothing but a stunt to "create noise" in order to boost sales in America.

The case continues.



**6. Ketel One Makes Splash With Ice**

***Sports Business Journal***

**November 6, 2006; Page 6**

The buzz inside the World Golf Hall of Fame following the induction of the class of 2006 last week wasn't so much on the inductees, but on the booze flowing within the Hall.

Ketel One Vodka, in the first year of a five-year deal as an official partner of the PGA Tour and supporter of the World Golf Hall of Fame induction weekend, erected its Ketel One martini ice bar inside the venue as part of the annual postinduction gala. The all-ice structure consists of anywhere from one to four ice luges and an ice garnish tray that usually takes Iceculture, a Toronto-based ice design and manufacturing company, three days to construct. The ice bar was shipped to St. Augustine, Fla., five days before the gala in a truck packed with dry ice and was stored in a refrigerated truck upon arrival.

"In many cases, the (Hall of Fame's) guests have traveled from around the globe to make it here, so we feel compelled to 'wow' them as best we can while they're here," said Jack Peters, senior vice president and COO for the World Golf Hall of Fame. "This year we knew it would be important to integrate Ketel One's product into the induction ceremony gala appropriately. When they presented the Ketel One martini ice bar concept to us and sent pictures, we knew immediately it would provide a fun and unique experience for our guests. Our instincts were correct . it has been the most talked about aspect of the induction ceremony gala."

Ketel One's deal with the PGA Tour includes being the preferred vodka of the tour's 23-course Tournament Players Club network. The PGA Tour deal is the only official relationship Ketel One has with a sports property. It does have the Ketel One Club in the United Center.



**7. Boston Beer on Target**

By *TSC Staff*

11/7/2006 4:23 PM EST

Boston Beer (SAM - commentary - Cramer's Take - Rating) beat third-quarter targets but said it expects margins to slip for the year.

The Boston-based brewer made $5.9 million, or 41 cents a share, for the quarter ended Sept. 30, up from the year-ago $4.2 million, or 29 cents a share. Revenue rose to $76 million from $73 million a year earlier.

Analysts surveyed by Thomson Financial were looking for a 33-cent profit on sales of $74 million.

Boston Beer guided to full-year earnings of $1.16 to $1.26 a share, in line with the $1.21 Wall Street estimate, but said gross margin would drop 2 percentage points from a year ago.

The company also said it continues to consider its options for expanding capacity in the light of Miller's decision to drop it as a brewery customer.

"We have revised upward our capacity needs in New England based on healthy Craft category growth, our own growth trends, and higher freight costs, and are now exploring production capacity in excess of 1.0 million barrels of Samuel Adams brand products and Twisted Tea," Boston Beer said. "After further considering our estimated capacity needs, along with more detailed site construction estimates, it now appears that construction of the facility and all equipment costs could be between $130 million and $170 million.

"In addition, the land acquisition costs, other site specific costs and other startup costs could be between $25 million and $40 million. The cost of the project will ultimately depend on the final specifications, including, but not limited to, initial capacity and capabilities, expansion potential and site specific costs. We are evaluating this potential investment in brewery ownership along with other supply strategies to determine which investments are appropriate for the Company, given the growth of the Craft beer category and known and unknown risks in supply-chain alternatives."

Shares fell $1.55 to $35.22 ahead of the report.



**[II. IOWA NEWS.](#II)**

**8. Templeton Gives Rye a New Shot**

By Mike Kilen, Staff Writer – *Des Moines Register*   
November 7, 2006

### From a priest's grave, the secret of a town's whiskey flows anew after more than 70 years.

  
**Templeton, Ia. —** How we ended up in a cemetery at midday unscrewing the bolts of a long-dead priest's monument should really not be told.  
  
But much of the story about Templeton rye whiskey was never intended to be told.

It only happened after a shot or two loosened a few tongues.

The man doing the dirty work in the cemetery comes by his mischief honestly. He's the son of a bootlegger.

Meryl Kerkhoff, 77, had already performed what may be considered a civic duty by supplying the recipe for Templeton Rye to Scott Bush.

RODNEY WHITE/REGISTER PHOTOS Bush is a sharp young businessman who knows the market value of a good, old-fashioned story and a smooth whiskey.

Inside a monument belonging to a long-dead Catholic

priest at the Sacred Heart Cemetery in Templeton, He and Kerkhoff and a few others put their heads together (along with rye, sugar and yeast) and are now cooking whiskey, legally, in this tiny

Meryl Kerkhoff hopes to uncover a clue into the

tight-lipped town’s tale of hiding bootleg whiskey hamlet in west-central Iowa, once known far and wide for its Prohibition-era bootlegging.

cooked during prohibition more than 70 years ago.

As we speak, Templeton Rye is being bottled in a spanking new, wooden-barrel-filled distillery. Last week, the first shipments began to appear in retail stores for $31.99 a bottle.

The citizens who bottle the whiskey were recruited via an advertisement in the Catholic Church bulletin.A couple of blocks from the church is the cemetery, where the bolts off the monument are easily falling into Kerkhoff's big, leathery hand.

"Ain't the first time they've been off," he said.

With those words we will see that the Templeton Rye story is not all fabrication - proof being the measure of this legendary whiskey.  
  
Bush, 31, was busy studying at the MIT Sloan School of Management near Boston in 2002 when a entrepreneurial fire was lit, born of his heritage.  
  
His great-grandfather cooked rye whiskey. Whenever the family gathered for holidays, a jug was produced and the stories flowed.  
  
Thus began two years of research.

He started with George Washington, who reportedly made rye whiskey long before the Canadian whiskeys watered down the culture.

Meryl Kerchief, Scott Bush, Ken Behrens and Keith “Canadian whiskey is Folgers. Rye whiskey is Starbucks,” Bush said. “This is taking us back to the time when men were men and character

Kerkhoff, from left, sample the product at the Templeton was supreme.”

Rye Distillery. The whiskey became famous during

bootlegging days and recently returned to production. The “character” of Templeton Rye dipped into illegality when Prohibition became the law of the land in 1920.

But times were hard. There were farms to save. The economy was tough.

Many of the residents - Kerkhoff swears it was close to 90 percent - became skilled in the fine art of cooking whiskey that earned more than $5 a gallon.

"When life dealt Templeton lemons," wrote resident Lisa Irlbeck in an essay, "the people of Templeton made Templeton Rye."

They were darn good at it. So good that as many as three trucks a day filled with rye whiskey were dispatched to Des Moines, Denver and Chicago. Al Capone was said to be a satisfied customer.  
  
It was known far and wide as "the good stuff."

Federal agents didn't think so, however, and they often descended upon the town. Locals say that various tricks were employed to elude the authorities.

Hilda Steffes remembers one used by her father, Frank Fisher. The family of nine children lived on a farm, and her dad, when he wasn't calling on her to watch for strange cars coming down the gravel road, was digging holes.

Bootlegging farmers would often dig a post hole deeper than necessary to accommodate three or four gallons of whiskey, which fostered easy extraction and became a pickup point.

The "revenuers" looked for fresh dirt, however, so Fisher placed wooden planks over the top of his hole, covered it with dirt and placed a swing set on top. Ground under a swing set is naturally disturbed and not likely to be suspicious.

Alas, old dad's luck eventually ran out. He ended up in jail for a month and quit the business, as did many others, until Prohibition was repealed in 1933.

But for years afterward, and up to today, people around Templeton made a hobby of cooking whiskey.

They just never admitted it.

**The whiskey goes legit**

Bush decided a colorful history was as important to good whiskey as the finish.

So he started calling around for recipes. People hung up on him.

Even after all these years, shame and silence still surrounded the whiskey-making in Templeton.

Kerkhoff remembers his first call from Bush. He said about four words and hung up.

"Folks caught wind of it, and people were all up in arms. People here thought Templeton Rye belonged to the community," said Mayor Ken Behrens.

"It was a personal issue to a lot of people."

Bush didn't give up. The Wall Lake native made an effort to know people.

Finally, he negotiated with Kerkhoff and his son, Keith, both of nearby Manning, and asked them to become partners.

Businessman Ted Bauer was added because he held the trademark, the fourth to have it over the years, although he could never use it.

"There are huge, powerful people in this business," Bush said. "It's hard to get into."

Finally, Meryl Kerkhoff supplied a recipe, and the boys started cooking.

Here's the kicker: They even talked Templeton's development group into constructing a $75,000 building for Templeton Rye to rent.

The first batch of 5,000 cases has now been aged for four years.

It starts in an uber still, a huge 300-gallon copper barrel where the clear liquid trickles through the methodical process - grain cooking, adding yeast, firing it to steaming hot and, finally, condensation.  
  
After the single-malt liquor is aged in a single white oak barrel, a fine amber is produced.

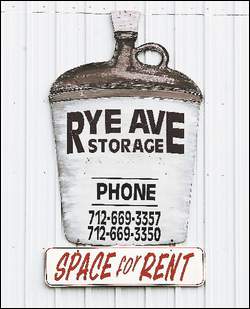
One day last month, the group gathered and filled up some shot glasses for a toast to the quirks of history.

One of the biggest raids in Templeton came after The Des Moines Register ran a photograph of whiskey barrels tied to Christmas lights in 1931.

Five years later, a Register story described agents who smashed three stills a day, writing that "after a visit to Templeton I can say that I know of no reason why anyone would be compelled to leave here either thirsty or empty-handed, providing he has the money to make the purchase."

After all this, the boys offered a toast to the Register, and the rye swirled down their throats, rich in character, warming, even historic.

And now it is available in any fine Iowa business that sells booze.

**One more story**

There was still the matter of the cemetery.

Apparently, another way to beat the feds was hidden in a well-known spot in the Sacred Heart Catholic Cemetery - in a certain monument, 12 feet high and hollow.

After twisting the bolts, the plate bearing the name of a late priest came off handily. After all, said the modern rye makers, the German Catholics weren't too excited about demonizing whiskey.

Sure enough, this hollow monument could hold quite a stash. On the bottom was a glass beer bottle.

Perhaps a new generation had come to this spot, filled with nostalgia for a monument to the underground whiskey trail that saved a few farms and was known to create a hopping good barn dance or two.

<http://www.dmregister.com/apps/pbcs.dll/article?AID=/20061107/LIFE/611070357&lead=1>



**9. Keg Registration Goes Into Effect Friday**

By Nick Hytrek, Staff Reporter – *Sioux City Journal*

November 3, 2006

IA - The black-and-white sticker looks like a bar code found on any other product.

Except most bar codes don't come with a message that says "Do not remove under penalty of law."

Beginning Friday, any keg of beer bought in Woodbury County will have one of those stickers affixed to it. A new keg registration ordinance makes it a crime to return the keg with the sticker missing or damaged.

"Some kids are excited. They've had kegs stolen at a party. Now we'll be able to track it if (thieves) try to return it," said Laddy Peck, manager of Hy-Vee Wine & Spirits, 3301 Gordon Drive.

But the Woodbury County Board of Supervisors had more in mind than protecting a buyer's deposit refund when passing the ordinance in August. The reason behind the new law is to try to cut down on underage drinking that is common at keg parties.

Damaging or removing a keg sticker would be a violation punishable by a $500 fine and up to 30 days in jail.

"I've told people, if it's not on there (when the keg is returned), there is no refund coming and we have to report it," Peck said.

Supporters say the ordinance will save lives once buyers decide having a keg party isn't worth the risk of being prosecuted for procuring alcohol for minors.

"We think it can have a very positive impact in the college age," said Carolyn Goodwin, a West High School counselor and Sioux City Mayor's Youth Commission adviser.

Keg registration supporters aren't worried that underage drinkers will instead turn to hard liquor or drink beer by the case.

"That's not the kind of feedback we're getting from other states (with keg registration laws)," Goodwin said.

Nationwide, 27 states, including Nebraska, South Dakota and Minnesota, have keg registration laws.

Frustrated with unsuccessful efforts lobbying the Iowa Legislature to pass a similar law, supporters have turned their attention to individual counties while keeping the heat on state lawmakers. Woodbury County joins 17 other Iowa counties and four cities with keg registration ordinances.

"It's a statement by (local) government that this is a concern," Goodwin said. "We wish our state legislators would get on board."

At Hy-Vee, Peck pulls out a blue three-ring binder containing the keg buyer's log. The added paperwork won't be an inconvenience for liquor store employees, he said, and likely won't be much of one for customers already accustomed to the time it takes to buy a keg, pay the deposit and rent a tub and pump.

"If it slows us down a minute, that'll be about it," Peck said.

<http://www.siouxcityjournal.com/articles/2006/11/02/news/top/8bc387012cbb8cb48625721a00125864.txt>



**10. Business Fined for Selling to Minor**

*Des Moines Register*

November 9, 2006

A West Des Moines business will pay a $500 fine for selling alcohol to someone under the legal age.

El Rey Burriots, 1714 Grand Ave., on Dec. 15, 2005, sold alcohol to someone younger than 21. It was the first violation for the business. The business appealed the fine in July, and the state’s Alcoholic Beverages Division found the business to have violated the liquor law.



**11. Police Say Alcohol May Have Been Involved in Eyebrow Shaving Stunt**

*Associated Press*

November 8, 2006

(11/08/06 - CEDAR RAPIDS, IA) - A makeover and a trim led to assault charges against a teenager. Dallas R. Esparza, 16, of Cedar Rapids, is accused of shaving off the eyebrows of Shawn Weaver while he was unconscious, police said.

Esparza also is accused of shaving off some of Weaver's hair and taking his tennis shoes, which were valued at less than $200.

Alcohol may have been involved, police said.

Esparza was charged with assault and fifth-degree theft. A hearing is scheduled for Dec. 5 in Linn County juvenile court.

<http://abclocal.go.com/ktrk/story?section=bizarre&id=4743374>



**[III. OTHER STATE NEWS.](#III)**

# 12. Missouri Upholds Alcohol Liability Law (Missouri)

By David A. Lieb - *Associated Press*

November 8, 2006

JEFFERSON CITY, Mo. - The Missouri Supreme Court upheld a law Tuesday that allows alcohol liability lawsuits against bars and restaurants but blocks suits against convenience and grocery stores rejecting a claim that the distinction was unconstitutional.

A suburban St. Louis mother sought to sue the convenience store that sold her 20-year-old son a 12-pack of beer the night before his fatal 2004 car accident. But a trial judge dismissed the lawsuit, and the Supreme Court agreed that she had no grounds to sue under Missouri law.

That law allows liability suits only against those who sell liquor by the drink for consumption on site \_ and even then, only when certain criteria are met.

An attorney for Elois Snodgras, whose son Terry Keown died in the accident, claimed the law's distinction violated the Missouri Constitution's guarantees of equal protection and open access to the courts.

During arguments Oct. 3, St. Louis attorney James Parrot claimed it was "irrational and arbitrary" to allow relatives of a minor sold alcohol by a bar or restaurant to sue but not relatives of a minor who bought alcohol from a convenience or grocery store. In either case, selling the minor alcohol is illegal, he said.

But the Supreme Court's unanimous decision said there are several rational reasons for barring lawsuits against stores that sell packaged liquor to be consumed elsewhere.

First, bartenders have a better opportunity to judge whether customers on-site are underage or intoxicated. Second, sellers of packaged alcohol have no control over their customers once they leave the store, the court said. Finally, lawsuits are not the only means of achieving an objective, the judges said, noting that state law already makes it a misdemeanor to supply alcohol to a minor or for a minor to try to buy it.

"Although reasonable people may disagree about the efficacy of the regulations adopted by the Legislature, such disagreement does not establish an equal protection violation," Judge Richard Teitelman wrote for the court.

The court also rejected an argument that the law violated a constitutional provision declaring "that the courts of justice shall be open to every person, and certain remedy afforded for every injury to person, property or character."

The Supreme Court said the law did not impose a barrier to the courts but rather defined the scope under which a lawsuit could be filed.

The 2002 Missouri law generally prohibits liability lawsuits against businesses when intoxicated people later injure or kill someone. But the law makes exceptions for lawsuits against on-site, liquor-by-the-drink businesses "when it is proven by clear and convincing evidence that the seller knew or should have known" that the alcohol was served to someone younger than 21 or to a "visibly intoxicated person."

The law was rewritten in response to a 2000 Supreme Court decision that struck down Missouri's previous alcohol liability law dating to 1985. That law allowed lawsuits only if there was a criminal conviction of serving a minor or intoxicated person. The Supreme Court ruled that unconstitutionally limited people's access to the courts, because the ability to file a civil lawsuit was contingent upon a prosecutor's actions.

<http://news.moneycentral.msn.com/provider/providerarticle.asp?feed=AP&Date=20061107&ID=6176684>



http://www.news-leader.com/graphics/pixelclear.gif

**13. Underage Bar Ban Arrives With Much Confusion (Missouri)**

By Amos Bridges – News-Leader

November 9, 2006

**Those affected by the law still aren't sure how it will change things.**

Springfield voters showed clear support Tuesday for a DWI Task Force proposal banning minors from bars and nightclubs, but the immediate effects of the new law remain unclear.

City officials, police and bar owners on Wednesday were still sorting out the implications of the ordinance, which generally bans anyone younger than 21 from entering establishments where alcohol makes up 60 percent or more of gross sales, unless accompanied by a parent or court-appointed guardian.

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| http://www.news-leader.com/graphics/trans.gif |

Aggressive enforcement is unlikely in the short term and impossible until Monday night, when the Springfield City Council next meets.

Although the DWI Task Force's ordinance included language stating that it would be in effect upon passage, City Attorney Dan Wichmer said it is trumped by city charter, which requires that new ordinances passed by voters first be certified by the county clerk, then reviewed and accepted by the council. Even then, relatively few establishments are likely to be affected.

An earlier ordinance passed by the Springfield City Council in July similarly restricted minors from entering bars with 60 percent or more in alcohol sales, but allowed 18- to 20-year-olds to patronize bars that received an Underage Patron Permit.

Of 235 establishments in Springfield with licenses to sell alcohol by the drink, just nine applied for the permits, which are no longer valid under the new law.

Of those nine establishments, four — Traffic, Rincon Latino, Remmingtons Downtown and Nathan P. Murphy's — are in downtown Springfield. Cowboys 2000, Dennis' Place, Latin Vibe, Ray's Lounge and Papa Bear's Bar round out the list.

Rusty Worley, director of the Urban Districts Alliance and facilitator for the Hospitality Resource Panel, said he had advised the downtown bars to contact the city for guidance.

"There's enough questions that I think it's going to be a little while before everyone knows how to proceed," he said. "I just encouraged those four to visit with the city finance department about what steps they should pursue to make sure they're in compliance."

When contacted Wednesday, Nathan P. Murphy's manager Wanda Plumb said she was not sure how that business — which has been one of the most common hosts for young bands and their underage fans — would be affected.

Sherrie Mason, the general manager at Dennis' Place, said she expected little change there.

"We've always been a 21-and-over bar, so about the only kids that would be in here would be kids coming to pick up their parents," she said, explaining why the bar applied for an Underage Patron Permit. "We'd have groups come in with an underage person to be designated driver or something, (but) we didn't want to be baby-sitting."

She did express frustration about the frequent changes to the law in recent months.

"It's to the point where you think you're up to date and they could change it tomorrow," she said.

Springfield Police Chief Lynn Rowe said he understands the confusion and said that officers will be focused on education, rather than enforcement, in their initial contacts with businesses affected by the new law.

"I think it would be fair to communicate with the alcohol outlets to make sure that they know what the law says (and) give them the official word so they're not blindsided by that," Rowe said. "We'll try to help them get into it without getting anyone in trouble right off the bat."

A few bars and nightclubs, such as Midnight Rodeo and Martha's Vineyard, stopped admitting anyone under 21 in August, when the earlier ordinance passed by City Council took effect. Others, such as the Outland Ballroom downtown, organized non-alcoholic events early in the evening for minors, then opened up their bars once the minors had left.

Citing alcohol sales of less than 60 percent, nearly 60 establishments with licenses to serve alcohol by the drink had claimed exemption to the earlier law, however, and will likely continue to do so under the new ordinance.

Many are traditional restaurants such as Red Lobster, Olive Garden and Rib Crib that have minimal alcohol sales.

Others, such as Galloway Station, Ebbet's Field, Buffalo Wild Wings, Fox & Hound, Icon Nightclub or Jordan Creek, have a more significant bar presence, but fall below the 60 percent threshold because of food sales, cover charges and other income.

Even before the election, DWI Task Force members had identified the issue of cover charges counting toward non- alcohol sales as a potential loophole in the law.

The law cannot be amended for at least six months, however — and then only by a unanimous vote by City Council — because it was passed by voters after a petition initiative.

Wichmer, the city attorney, said he and his staff will be meeting with members of the DWI Task Force in the coming months to try to craft a fix.

"They recognize, like we do, that the 60 percent issue causes a problem," he said. "Our goal is to work with the task force to make it a workable law, but for the next six months there are going to be some issues."

It remains to be seen if the cooperative spirit will translate to bar owners, who helped craft the earlier ordinance but were rebuffed in their efforts to reach a compromise with the DWI Task Force.

"We've made a lot of progress in the last year, and I'd hate to see it lose that momentum because of this vote," said Worley, who worked with the HRP to engage downtown bar owners in the creation of the earlier ordinance. "I hope we can maintain that cooperative spirit. We don't need to be playing accounting games but rather looking at the root problem of underage drinking."

<http://www.news-leader.com/apps/pbcs.dll/article?AID=/20061109/NEWS06/611090407/1007/NEWS01>



**14. Alcoholics Finding Way Around Ban - Some Switching to Other Brands of Cheap Booze (Washington)**

By Kery Murakami – *P-I*

November 2, 2006

On Wednesday, the first day of Seattle's expanded ban on 29 brands of cheap booze favored by the homeless, Bill, 55, nursed a 24-ounce bottle of Icehouse at Victor Steinbrueck Park by Pike Place Market.

Once the homeless man polished it off, he headed into the market, pulling a suitcase with two heavy wool blankets on top.

A man named Totem remained at the park. He had said a day earlier that he would spend the first day under the expanded alcohol ban checking into rehab.

Today, he was drinking -- sharing a 40-ounce bottle of Brown Bear beer inside a brown paper bag and a fifth of whiskey with two friends. One sipped happily from an iced tea bottle. "This is good iced tea," she said. The other lay on the grass giggling.

After restricting the sale of cheap alcohol in Pioneer Square in 2003, Mayor Greg Nickels and City Council members petitioned the Washington State Liquor Control Board to expand the area where certain types of alcohol are banned.

The liquor board approved the expansion, and beginning Wednesday, brands such as Thunderbird, Richard's Wild Irish Rose and Night Train Express, were banned in downtown, Belltown, lower Queen Anne, Capitol Hill, the Central Area, the University District and the International District, as well as in Pioneer Square. Those were the brands that turned up most often when the city analyzed litter found in the neighborhoods where they received the most complaints.

Whether the ban truly will cut down on incidents of public drunkenness, as activists in the included neighborhoods hope, won't be known for some time.

Nickels aide Jordan Royer said the city plans to examine whether banning the products in some parts of the city will simply push related problems to another part. He said the expanded ban was in response to complaints about drunken people weaving, yelling and sometimes urinating, in public.

But on the streets of downtown and Capitol Hill, people who acknowledged they were homeless and drunk seemed to find ways to make do.

Icehouse and Brown Bear aren't banned, and so, Bill said, when he woke up in the doorway of a downtown restaurant, he headed for a grocery store he would not name or locate.

"Usually I drink Steel Reserve," he said. "But they were out." More likely the lager, which is on the banned list, was pulled from the refrigerator. So instead, he bought Icehouse, which has less alcohol content than Steel Reserve but more than many others.

A ban on 29 brands of cheap alcohol was expanded throughout downtown Seattle and other parts of the city Wednesday, but the restrictions didn't stop public drinking at Victor Steinbrueck Park.

Outside the Dutch Shisler Sobering Center, which provides social services as well as a place for people drunk on the streets to dry out, a man who'd give only his street name -- Caveman -- said he'd been sober a month and a half. But, he said, "People are going to realize it's cheaper to get whiskey at the state-run (liquor) store. People are going to be drinking harder, and they're going to be getting drunker. It's easier, too, because you can just put it in your soda can."

Liquor board spokeswoman Susan Reams said the six state-run liquor stores in downtown Seattle hadn't shown a greater increase in sales since Pioneer Square's restrictions went into place three years ago.

At a Halloween party Tuesday at the sobering center, John Whiteplume said, "I'm going to get on the bus and just get my (Steel Reserve) in Ballard." From his wallet, he took out a bus pass he said a homeless shelter downtown had given him.

Outside the sobering center, Leander Yahtin said he'd been sober for 13 months. He said he moved to Seattle from Yakima. "Every day I'd see what alcohol does to urban Natives and Alaskans. ... It was the availability of cheap liquor and alcohol that kept them in that state."

He said alcoholics might find other ways to get liquor. "But the fact that they passed the ban gives at least the small possibility that people might make a change."

Wednesday, Suk Kang, owner of Benson's Grocery on East Pike Street and Minor Avenue on Capitol Hill, said liquor companies could just change the names of the products to get around the ban.

Nearby at the Pine Food Grocery on East Pine Street and Boylston Avenue, owner Pio Hong objected to the ban. He voluntarily stopped selling single cans and bottles of alcohol about two years ago, and business hadn't gone down. He thought other stores might suffer, but "before, there were always street bums outside. ... Now they're not there, and more people from the neighborhood come in."



**15. Miami Gardens Rejects Liquor License for Wal-Mart (Florida)**

By Helen Berggren *- Miami Herald*

Wal-Mart lost its bid -- at least temporarily -- for permission to open a liquor store in its proposed SAM's Club slated for Miami Gardens.

At a zoning meeting Wednesday, the City Council dismissed with prejudice the retailer's application for a variance to allow for a package store in the members-only club that will be built next to the new Wal-Mart Superstore at 17650 NW Second Ave. The action means Wal-Mart will have to wait at least 18 months before it can reapply.

The club would be in close proximity to three churches, a Jewish school and a day care, and the liquor proposal drew some criticism in advance of the meeting.

The council's vote was welcomed by the Rev. Newton Fairweather, whose North Dade Community Church, 700 NW 175th St., is west of the proposed club.

''The community won and, if the community won, everybody wins,'' Fairweather said. ``Even Wal-Mart wins.''

A Wal-Mart spokesman said the retailer was reconsidering whether to build a SAM's club in the city.

''We are reevaluating that site to decide whether or not we are going to put a SAM'S Club in there,'' said Eric Brewer, Wal-Mart's senior manager for public affairs. ``We are going to be redrawing the map [for SAM'S locations] in South Florida.''



## 16. Casino, Tobacco, Alcohol Stocks Beat Market (Texas)

By Will Deener - *The Dallas Morning News*

November 5, 2006

The Dallas-based Vice Fund has left political correctness to others and boldly gone where other mutual funds fear to tread — Sin City.

The four-year-old Vice Fund invests in casino stocks and in companies that make liquor, tobacco and bombs.

Given people's proclivities to drink, smoke, gamble and blow each other up, no matter the economic climate, it should come as no surprise the Vice Fund has been a consistent top performer.

It has beaten the Standard & Poor's 500 index in each of the past three years and is on track to repeat this year.

The Vice Fund holds Morningstar's highest five-star rating and over the past year ranks 22nd out of the 174 mutual funds that invest in midsize growth and value stocks.

"We have a history of outperforming the market," said Charles Norton, co-portfolio manager of the Vice Fund and principal at GNI Capital. "You soon realize that there is true investment merit in these sectors."

Merit indeed. Cigarette maker Altria Group, the fund's largest holding, is up about 33 percent over the past 18 months.

Another holding, London-based Diageo, which makes and distributes wine and spirits — including Johnnie Walker Scotch and Smirnoff vodka — is up about 32 percent for the same period.

In the gaming sector, one of Norton's favorites is Las Vegas Sands, which has doubled.

He says these sectors should perform even better — relative to the overall market — if the economy slows. as most financial experts predict. That's because people will smoke, drink and probably gamble during a recession.

The defense sector is essentially tied to the U.S. military budget and moves independently of U.S. economic cycles. But given the current geopolitical turmoil in the Middle East, no one is projecting big budget cuts in defense.

"Based on historical precedent, right now is the most opportune time to be invested in this fund," Norton said. "The reason is we are at an inflection point in the economy. We are already seeing signs of softening in the economy."

Not everyone shares this enthusiasm for the fund.

Hugh Johnson, chairman of Johnson Illington Advisors in Albany, N.Y., said although it's true sin sectors have outperformed the broader market in recent years, there's no assurance that will continue.

"The Vice Fund clearly has hit it right recently, where all four of those sectors are doing well at the same time," he said. "The odds are against that working all the time."

Further, Mark Luschini, head of asset management at Parker Hunter, a Pittsburgh money-management firm, said these four sectors are by no means all of the defensive plays.

Health-care stocks, utility stocks and other consumer staples, such as soft-drink companies and household products, should hold up reasonably well if the economy slows.

"The Vice Fund seems to be pretty narrowly focused," Luschini said. "I would be a little shy of being that tightly focused. You are leaving out a lot of prominent industry sectors."

Norton said, however, there are hundreds of companies to choose from in those four sectors, so "it's pretty broad-based."

Further, he said there are more nuanced strategies in vice investing than just playing on human weaknesses.

First, there are high barriers of entry into the sectors. For example, a limited number of gaming licenses are issued, and "you are not seeing any new tobacco companies that are starting up," Norton said.

Second, companies in these sectors are highly profitable, with excellent cash flow and solid management.

Third, many of these vice stocks, especially the distillers and tobacco manufacturers, have substantial overseas operations. Some Asian countries are opening up to U.S. gaming companies.

Las Vegas Sands is becoming "the most prominent player in the Asian gaming market, which is extremely fast-growing," Norton said. "There is even talk that Japan is going to allow casinos there for the first time."

Tobacco companies have faced litigation for years, but analysts say the legal risks are subsiding.

Tobacco companies have won three major legal victories over the past year, including the Florida Supreme Court upholding a decision to negate a $145 billion judgment. This was one of the last class-action cases involving the industry.

And finally, alcohol, tobacco, gaming and defense industries have been around for hundreds of years.

Fads come and go, but people will probably always engage in those activities, he said.

"In the case of the alcohol and tobacco industries, those products are never made obsolete by new technology," Norton said.

The Vice Fund, which has about $53 million in assets, is the only mutual fund tracked by Lipper that focuses solely on sin stocks.

The fund has the option of investing 20 percent of its assets in sectors other than those related to vice, but currently it doesn't. The minimum investment is $4,000.

Obviously, some investors have moral objections to investing in these kinds of industries. There are so-called socially conscious mutual funds that won't buy any sin stocks.

Norton said although he is respectful of their objections to these sectors, all of the activities are legal.

"It is sometimes misunderstood that we are advocates of smoking and drinking," he said. "The fact is we are not making any social commentary on that at all. They are products being sold, and it is our job to analyze the fundamentals."

Many mutual funds own shares in tobacco, gaming, alcohol and defense companies, Norton said.

"We just happen to focus on these sectors because we believe they offer true investment merit," he said.

<http://seattletimes.nwsource.com/html/businesstechnology/2003347629_vicefund05.html>



**17. Massachusetts Voters Reject Ballot Initiative on Wine in Grocery Stores (Massachusetts)**

Source: *USA Today*

November 8, 2006

BOSTON (AP) - Massachusetts wine drinkers will not be able to pick up their favorite bottle of red or white while shopping for food after voters rejected a ballot initiative that would have allowed sales in grocery stores.

The battle over wine sales, known as Question 1, was the most expensive ballot question campaign in state history, with opposing sides combining to spend more than $11.5 million..

Question 1 opponents, primarily a well-financed coalition of independent liquor store owners and beer distributors, staged a furious come-from-behind victory to block the supermarkets from moving in on their territory. With 99% of precincts reporting, 56% of voters opposed the measure while 44 supported it.

Polls taken two weeks before the election showed Question 1 favored by a two-to-one margin among those surveyed. The opponents blitzed TV and radio airwaves with ads portraying the proposal as a public safety issue. They claimed teenagers would be more likely to obtain alcohol because convenience stores also could apply for wine licenses if the question were approved.

"All we did was tell (voters) there was more to this than convenience," said Question 1 opponents spokesman Doug Bailey. "There is a social cost and a public safety cost. The only way to find out what that cost is was to approve the question. And the voters determined that was too much of a gamble."

Dominic Campochiaro, 68, agreed.

"That's going to give some young kids an opportunity to go in there and buy (wine). I'm not in favor of that," said Campochiaro, a lifelong resident of Boston's North End.

Supporters of Question 1 also were well-financed and employed ads to emphasize consumer convenience and remind voters that most other states already allow such sales.

Chris Flynn, president of the Massachusetts Food Association, said voters "were misled by a negative, scare campaign" by his opponents' emphasis on the fact that the initiative would allow convenience stores, gas stations and mini-marts - not just supermarkets - to apply for wine licenses.



**18. Distilling the Shift in the Wine Vote (Massachusetts)**

By Bruce Mohl -*Boston Globe*

November 9, 2006

**Officer's message may have turned tide**

The tough talk of Somerville Police Chief Robert Bradley may have turned the tide against Question 1.

One day after a poll showed voters were prepared to overwhelmingly approve the ballot question, which would allow more food stores to sell wine, Bradley got the chance to play a starring role in the campaign that defeated it by 56 percent to 44 percent.

The turnaround in the most expensive ballot question in state history began Oct. 28, when strategists for the liquor industry tested their ads and the ads of the supermarket industry on two focus groups of undecided voters. They discovered the voters were skeptical of both multimillion-dollar ad campaigns.

At the end of both sessions, the strategists showed a snippet of tape filmed earlier that day of Bradley talking from the gut about his concerns about Question 1. The reaction from the voters was instantaneous.

"They said put him on the air. They understood what he was saying and said he was believable," said Joseph T. Baerlein, president of Rasky Baerlein Strategic Communications, which ran the Vote No campaign. "Chief Bradley cut through the clutter."

**Chief Robert Bradley of Somerville appeared in an ad**

**Opposing Question 1. His message might have defeated**

**the wine sales question.**

Baerlein's group filmed Bradley in uniform in his office the next day, edited the comments until early the next morning, and then rushed the 30-second commercial onto the air that night.

The commercial was powerful because Bradley didn't mince words or qualify his statements. In fact, he seemed almost angry. He warned voters that Question 1 would dramatically increase the number of liquor licenses in Somerville.

"It's not just about wine in supermarkets," he said.

"It's about convenience stores. It's about gas station minimarts being able to sell alcohol. That's what we're talking about here. Don't be fooled by Question 1."

Over the next eight days, the Bradley ad was seen an estimated 11 to 15 times by the women voters the campaign was targeting. Men, especially men under 40, were firmly in support of allowing more food stores to sell wine, Baerlein said.

Polls have indicated that the commercial had a dramatic impact.

A Globe-CBS4 poll on Oct. 27 showed Question 1 passing by 19 percentage points, but that lead quickly evaporated as the ad shifted the political debate away from shopping convenience, where the supermarkets had an advantage, and cast Question 1 as a radical change in state liquor laws that could have ominous implications for public safety, drunk driving, and underage drinking.

Bradley's ad helped derail Question 1 almost everywhere except his hometown, which approved the measure by a 53-to-47 margin.

Bradley did not return telephone calls yesterday.

Christopher Flynn -- president of the Massachusetts Food Association, which represents the state's supermarket industry -- said a police officer in uniform at his desk talking frankly to voters sent a powerful message, so powerful that Flynn's group filed a complaint against Bradley with the State Ethics Commission.

"In the end, the message scared people," Flynn said. "They didn't run a campaign against wine at grocery stores. They ran a campaign against alcohol at convenience stores, gas stations, and minimarts."

Supermarket officials said they wanted to craft the proposed law to exclude convenience stores, gas stations, and minimarts, but concluded that they couldn't because ballot questions have to apply equally to all communities.

"We may have made a strategic mistake there," Flynn said.

Flynn said his group had convinced Mothers Against Drunk Driving, the Massachusetts Municipal Association, and several chiefs of police associations to remain neutral, but neutrality didn't translate into public support.

By contrast, liquor stores solicited the support of more than 40 police chiefs, dozens of officials, the top two officials at the Alcoholic Beverage Control Commission, and Ron Bersani, who sought tougher drunk-driving legislation after his granddaughter, Melanie, was killed by a drunk driver.

With Bradley and Bersani hammering away at Question 1 in radio and television ads in the closing days of the campaign, the supermarkets had no one to counter with.

Kim Hinden, the former registrar of motor vehicles, appeared in supermarket ads.

Perceptions of Hinden's objectivity, however, were undermined by her role as a paid spokeswoman for the group.

At a press conference in Newton the day before the election, the supermarkets trotted out Michele Gillen of Needham as a mother of two who was concerned about ads being run by the liquor industry.

What Hinden, Gillen, and other campaign officials who were at the press conference did not disclose was that Gillen was Hinden's sister.

"I didn't want her to do it," Hinden said yesterday. "She felt very strongly about it."

The supermarkets also did not have the personal connection with voters that the package-store owners did.

These package-store owners were out in force at the polls on Election Day, reminding neighbors that their business was on the line.

"I saw a no vote as a vote for the little guy," said Emily Saffer, a Brookline voter.

<http://www.boston.com/news/local/politics/candidates/articles/2006/11/09/distilling_the_shift_in_the_wine_vote/>



19. Some See Fresno's DUI Crackdown as a Model (California)

By Larry Copeland - *USA TODAY*

November 6, 2006

FRESNO, Calif. — It's a Saturday night in Fresno, which means another "bar sting" at another nightclub. This one is at Crossroads, a red-and-white themed bar on North Cedar Street popular with bikers. As closing time nears, undercover police stake out the parking lot and look for departing customers who appear to be drunk.

One officer observes a man walking unsteadily as he leaves the bar. When he gets in his SUV and starts to drive off, other officers swoop down on him. The officers find a loaded Glock handgun in the center console. The man's friend, who owns the SUV, walks over to show the police his concealed weapons permit. But he's been drinking, too, and the permit is void if he's intoxicated.

They arrest him, too.

Fresno may be the toughest city in the nation on drunken drivers. An intoxicated motorist is more likely to run into a police checkpoint in this city of 461,000 than anywhere else in the USA, according to Fresno police. Police sneak into the driveways of convicted drunken drivers to plant Global Positioning System tracking devices on their cars and search their homes for evidence they've been drinking.

Fresno's hard-as-nails approach to drunken driving comes at a time when some police, prosecutors, probation officials and traffic safety advocates are calling for stepped-up efforts to reduce the death toll from drunken driving. After declining steadily for nearly 20 years, the number of people killed each year in alcohol-related crashes leveled off — at 16,000 to 17,000 — in the mid-1990s and hasn't dropped significantly since.

Most people who drive drunk don't get caught. Only about 1 in 50 alcohol-impaired drivers is actually arrested, says Susan Ferguson, senior vice president for research at the Insurance Institute for Highway Safety, a non-profit research organization supported by auto insurance companies. "What it amounts to is an awful lot of people who are driving impaired in this country who have no fear of being arrested," Ferguson says.

Many of those who do get arrested don't stop driving drunk. About a third of all drivers arrested for drunken driving are repeat offenders, according to Mothers Against Drunk Driving. The group says 50% to 75% of drivers whose licenses are suspended or revoked for DUI continue to drive without a license.

Those numbers are unacceptable to some fed-up police, probation officers and prosecutors, who are using increasingly aggressive tactics to reduce drunken driving:

•In Nassau County, N.Y., on Long Island, District Attorney Kathleen Rice won a rare murder conviction last month in a drunken-driving case. Insurance salesman Martin Heidgen, 25, was convicted of second-degree murder in the July 2005 deaths of Katie Flynn, 7, and Stanley Rabinowitz, 59, who was driving the limousine that Heidgen struck head-on. Heidgen had been driving the wrong way on Meadowbrook Parkway. Katie and her family were being driven home from a wedding. Heidgen, who faces a maximum prison sentence of 25 years to life, will be sentenced later this month. His attorney says he will appeal.

"We would hope that this verdict sends a message that if you drink and drive and kill someone, you will be prosecuted for murder," Rice said after the conviction. She no longer allows plea deals in drunken-driving cases and plans to use a state grant to buy high-tech alcohol-detecting ankle bracelets for convicted drunken drivers who are required to stay sober as part of their probation.

•The Riverside County Probation Department in California this year began tracking up to 130 repeat offenders with a 2-½ ounce tracking device armed with GPS technology. The device, which can be worn as a bracelet or anklet, alerts authorities in less than one minute when a convicted DUI offender enters a bar, says Michael DeGasperin, director of the department. Many of the felony DUI offenders in the cities of Temecula, Murrieta and Perris already wear a similar device, a Secure Continuous Remote Alcohol Monitor (SCRAM) ankle bracelet that measures the alcohol in a person's system by collecting minute sweat samples.

"Both are good deterrents in trying to out-fox the fox," DeGasperin says. "We want it to be a little intrusive and Big Brother-ish to get them to raise the white flag and come to us to seek help before they're involved in another accident."

•More than 30 states have enacted additional penalties for so-called "high-risk" drunken drivers, those with a blood-alcohol content of .15% to .20%. The legal limit in all 50 states is .08%. Twenty-eight states assign prosecutors to focus on drunken driving. Five states — Maine, North Carolina, Utah, Virginia and Wisconsin — have lowered the maximum blood-alcohol content for repeat offenders to varying limits below .08%.

**Changing the culture**

No place has gone as far as Fresno. Its crackdown on drunken driving and other traffic violations began when Jerry Dyer, who has been on the police force since 1979, became chief in 2001 and realized that more people in his city were being killed in automobile collisions than in homicides.

"Back in 2002, we had 43 murders in our city but we had 52 people die in fatal collisions," he says. "We know the individuals killed in homicides are generally associated with a certain lifestyle or they're in domestic situations. But the individuals being killed in traffic collisions are people like you and me, minding their own business, when somebody drunk runs a red light and kills them.

"I vowed at that time to change the driving culture in Fresno."

He hired 92 new officers, boosted revenue from traffic fines by $5 million a year and cut drunken-driving deaths. Fresno also began warning those convicted of DUIs that, while they were on probation, GPS devices might be attached to their cars.

In September, MADD gave Fresno police its "Outstanding Law Enforcement Agency" award. "I wish other departments throughout the nation would take the initiative to do what Fresno is doing," says Glynn Birch, MADD's national president. "For the past 10 years, the numbers (of drunken-driving fatalities) have plateaued. We need to re-energize the nation."

Last year the International Association of Chiefs of Police recognized the department for having the best impaired-driving program in the nation. Fresno police officers attend law enforcement seminars where they tell other cops what they're doing here.

The Fresno experiment might be difficult for some police departments to duplicate at a time when cops around the country are being stretched thin by federally-mandated homeland security duties, increases in violent crime and, in some rural and small-town areas, the first-time appearance of gangs.

But research has shown that police departments that strictly enforce traffic laws make an impact on other crime, says John Grant, manager of the division of state and provincial police at the IACP.

"In some agencies, it's not viewed as fighting real crime," he says. "It's not the glamorous thing. But one thing that virtually all criminals have in common is use of an automobile, whether it's in the planning, the perpetrating or the escape from their crime. And very often, they don't pay attention to traffic laws."

A few miles from the bar sting operation, Fresno police are working yet another DUI checkpoint. This one, at Ventura and R Streets, is marked by a large sign telling drivers: "Check Point Ahead. DUI and License." A line of orange cones funnels drivers into two single lanes, where police officers check every third motorist's driver's license and look for signs of intoxication: slurred speech, bloodshot eyes, the smell of alcohol. Many drivers already have their windows down and licenses held up for inspection as they approach the brightly lit checkpoint.

"The word's out in this town," says Detective Mark Van Wyhe, who coordinates the police department's Repeat DUI Offender Program. "They know we're out here."

**Dozens of checkpoints**

They should. The city ran 94 DUI checkpoints last year, more than any other city in the nation. The checkpoints, at different times and places, are set up on weekends.

Fresno's bar stings generated controversy when police started them last spring. "There were lots of threats, but no legal action," says Capt. Andrew Hall, commander of the police department's Traffic Bureau.

Initially, plainclothes police staked out the inside of bars, watched customers consume too much alcohol, then alerted fellow officers outside, who arrested the drunks as they drove off. To defuse the controversy, the officers were moved to the parking lots of the targeted clubs, Dyer says.

Police also run "courtroom stings," monitoring courtrooms where drivers cited for traffic violations are appearing. In many instances, judges suspend the motorists' licenses. The police officers follow them to their cars and arrest them if they drive off. They also conduct "probation and parole sweeps," searching the homes of convicted drunken drivers for evidence they've been drinking. In some instances, police arrest probationers because other family members have beer cans or liquor bottles in the home.

"We're seeing a real change of attitude," Hall says. "People who are planning on going out drinking are now planning alternative rides home. That's one of the exciting things about what we're doing, is the number of designated drivers we're seeing."

**Enforcement or snooping?**

When Fresno police launched the bar stings in March, it touched off a public outcry in the press and on talk radio. Fresno Bee columnist Bill McEwen questioned the wisdom of allowing a person who is obviously drunk to drive even a short distance. He said the bar sting "smacks of Big Brother."

Dyer says he modified the sting operations primarily because of concerns about potential police liability. While the stings were temporarily halted, a 35-year-old mother was killed by a driver who'd allegedly gotten drunk at one of the bars where police had conducted a sting. "We reinstated the program the following day," he says. "As a result of the death, the bar operation was widely accepted. The vast majority of restaurant owners and bar owners are supportive" of the modified approach.

McEwen lauded the changes.

But Carrie Fagan-Davis, owner of Fagan's Irish Pub downtown, says she opposes the bar stings whether officers are inside the clubs or in the parking lot.

"It's not the American way to spy on people," says Fagan-Davis, 54. "The police should watch the streets for drunken drivers but don't watch the bars. It's the responsibility of the bar owners to monitor what they serve patrons. Anybody who's in a business of this type needs to be responsible. The last thing I would want is to have it on my conscience that an extra $4 drink caused somebody harm. I look at that as a blood dollar. I don't want it."

Fagan-Davis says her business is about 70% food and 30% alcohol. She says that for St. Patrick's Day this year she made sure patrons had arranged for designated drivers, encouraged them to use hotels and educated her employees on spotting someone who's had too much to drink. She says officials from the state Department of Alcoholic Beverage Control were impressed by her actions.

Bob Pierce, 49, has owned the Crossroads bar, where police set up a parking lot sting operation earlier this month, for six months. He says he is working to improve the bar's image. "We want to clean it up, bring in more older customers," he says.

Pierce says the stings "definitely hurt our business. I'd like to see a better way to do it. I'd like to see a business owners association figure out a better way."

Rogers Smith, a political science professor and civil liberties expert at the University of Pennsylvania School of Law, says the bar stings and surreptitious placing of GPS devices "are aggressive police tactics. They go right up against the boundary of what the police can permissibly do, but they don't cross it. There is nothing that constitutes a violation of a constitutional right or civil liberty."

On sneaking into a driveway to place a GPS tracking device, Smith says the issue is "whether an action to monitor you — whether it's wiretaps, filming, or whatever — invades a reasonable expectation of privacy. For most of us, to have a GPS device put on our car would violate a reasonable expectation of privacy. But you're talking about people who were given warning as a condition of their probation that they were susceptible to this."

The police here are cautious about claiming outright success, but they clearly believe that their aggressive tactics are working. There hasn't been an alcohol-related traffic death since May, says Hall of the Traffic Bureau. There were eight such deaths this year before the bar stings began, he says.

"We were on track to exceed the 2005 fatalities," Hall says. "That's when we decided we had to do more."

<http://www.usatoday.com/news/nation/2006-11-05-fresno-dui-model_x.htm>



# 20. Pearl River Voters Say No to Liquor Sales (Mississippi)

*Associated Press*

November 8, 2006

PICAYUNE, Miss. - Residents of Pearl River County on Tuesday voted to remain dry, upholding a century-old law that bans the sale of hard liquor.

The county remains one of the state's 26 dry counties, meaning the government does not allow the sale of alcohol in some form.

"This is definitely a victory for families. Definitely a victory for families," said Steep Hollow Baptist Pastor Shannon Marshall. "And definitely a victory for teenagers."

The liquor referendum, if passed, would have lifted the county just north of the Louisiana state line out of its 1890 law banning spirits.

More than 54 percent - 7,279 - voted to stay dry while only 45 percent - 6,132 - voted to remove the ban, according to election results.

<http://www.sunherald.com/mld/sunherald/15958368.htm>



# 21. Agents Destroy Still; MS ABC To Use NABCA Grant To Warn Citizens About Dangers of Moonshine (Mississippi)

By Joseph McCain - *The Winston County Journal*

November 8, 2006

ABC agents tramped a well-traveled trail behind a house on Jimmy Dale Edwards Road to discover and destroy a large moonshine operation last Wednesday.

The agents seized and destroyed several items relating to the manufacture of the illegal whiskey after obtaining and implementing a search warrant.

The four-month investigation by Agent Don Smith into the illegal whiskey-making operation resulted in the seizure of a large still, 750 pounds of sugar, 19 gallons of moonshine, a 2000 Chevrolet truck, two electric hand pumps and a 2005 Honda ATV.

All the seized items were used in the 16 barrel operation which with the 250-gallon stainless steel cooker was capable of producing around 100 gallons of moonshine a week.

Agents examining the scene surmised that the four-wheeler was used to transport the illegal whiskey from the distillery to sheds near the home were the whiskey was labeled. The electric hand pumps allowed the person to pump directly from the barrels into the moonshine jugs placed on the back of the four wheeler.

The still was destroyed by agents after evidence was collected. The case will be presented to the Winston County District Attorney's office for further action and possible grand jury charges against Jimmy Dale Edwards, 65, for possession of a distillery..

Since July 1, 2006, state ABC agents have destroyed two illegal distillery operations. In the state's prior fiscal year that ended June 30, ABC agents destroyed a total of 12 stills. "Moonshine investigations are a big part of what we do," said Mark Hicks, Chief of Enforcement for the state ABC. "This type of investigation can consumer hundreds of man hours before an arrest is made. It's hard work."

Chief Hicks also announced plans to get the word out about the dangers of drinking moonshine. A grant from the National Alcohol Beverage Control Association (NABCA) allowed the Mississippi ABC to print posters about the dangers of drinking moonshine. "You will soon see these posters at courthouses and public buildings, and hopefully it will prompt citizens to report violations," said Hicks.

<http://www.winstoncountyjournal.com/articles/2006/11/08/news/news03.txt>



# 22. Voters in Southwestern Michigan City End Century-Old Alcohol Ban (Michigan)

*Associated Press*  
November 8, 2006

ZEELAND, Mich.- Voters in Zeeland have decided to be dry no more.

The small southwestern Michigan city with a conservative Dutch heritage has ended a century-old ban on alcohol sales.

The ballot measure is intended to attract more visitors to the city's quaint but struggling downtown.

It will be at least a year before the city council can issue the first liquor licenses to restaurants or grocery stores.

In the meantime, opponents plan to ask for a recount. The effort passed by just 40 votes last night. Voters rejected a similar proposal in 1989.

<http://www.contracostatimes.com/mld/cctimes/news/politics/15963909.htm>