

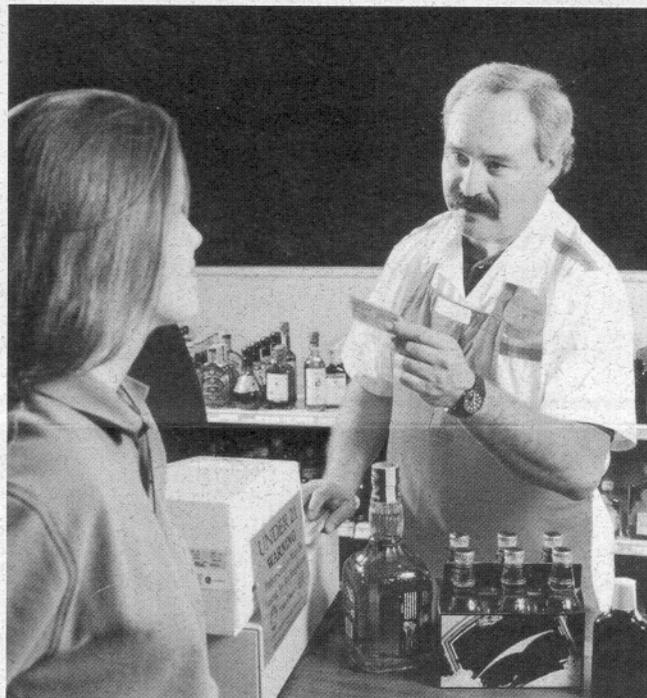
Cops in Shops, Minor Stings, Project SAVE...

THEY'RE AMONG THE BEST!

Three initiatives launched by the TABC to target underage drinking have received national recognition. Project SAVE, Cops in Shops and Minor Stings are among 23 programs in the nation that have been designated for "Best Practices" recognition by a national blue ribbon committee.

Following a two year study of state and local retail oriented underage drinking prevention programs sponsored by the National Alcoholic Beverage Control Association (NABCA) and the U.S. Department of Transportation's National Highway Traffic Safety Administration (NHTSA), the committee selected successful initiatives that are featured in a "Best Practices Handbook for Alcoholic Beverage Control Agencies" which was

unveiled at a National Conference on "Retail-Oriented Underage Drinking Prevention" in Wash-



COP OR CLERK: DON'T RISK IT!

ington, D.C. in August.

"Obviously, everyone associated with the TABC is very pleased that we have been designated as a "Best Practices" agency. We are extremely proud that the recognition comes from groups who have been actively involved at a national level in efforts to curb alcohol related traffic accidents as well as target illegal underage drinking," says TABC Chief of Enforcement Greg Hamilton. He adds that the

agency has always "sought a balanced approach to the underage drinking problem, one that holds both minors

and alcoholic beverage retailers accountable for their actions, while emphasizing prevention, cooperation, and voluntary compliance."

The three programs selected by the committee are truly representative of the agency's efforts to address the problems associated with illegal underage drinking and alcohol related traffic accidents in Texas.

Project SAVE (Stop Alcohol Violations Early) is an education initiative with specific programs for various

age groups of school children, parent and civic groups, alcoholic beverage retailers, and criminal justice professionals. "Project SAVE represents the agency's commitment to prevention education and is based on the belief that prevention education must be long-term and holistic if it is to be successful," notes Hamilton. The goal is to prevent underage alcohol use and the tragedies that accompany it. This requires the commitment and joint efforts of the entire community: students, parents, alcoholic beverage retailers, law enforcement agencies, local officials, and other interested citizens.

Cops In Shops and its sister program, COPS (Cooperative On-Premises Stings), are ventures conducted in cooperation with alcoholic beverages retailers and are funded by federal traffic safety (NHTSA) grants allocated by the Texas Department of Transportation. During these operations, TABC agents, with permission and assistance of a participating retailer, pose as employees or customers of the establishment and apprehend underage buyers

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The Best!

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as they attempt to purchase alcoholic beverages. "From a retailer's point of view, such operations send a clear 'don't try it here' message to underage buyers. Participating in Cops in Shops or COPS allows retailers

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to perform a public service and, at the same time, to reduce their exposure to potential liability from illegal sales," notes Administrator Doyne Bailey.

The third TABC initiative to be recognized is the Minor Sting Program which represents a more traditional approach to liquor law enforcement. In a minor sting, retailer compliance is tested by underage volunteers, who, under the close supervision of TABC agents, attempt to buy alcoholic beverages. Illegal sales to these minors result in criminal sanctions for the seller or server and administrative sanctions for the license holder. Sale refusals, on the other hand, result in letters of commendation for retailers and their employees. The TABC uses minor stings to gauge the level of retailer compliance in localities across the state at various points in time and, through repeated stings in localities, as a means of increasing the degree of retailer compliance over time. ♦



PSA Lands Top Award

The National Association of Government Communicators has selected "Hopscotch," a 30-second public service announcement targeting underage drinking and driving, as the top entry in the Public Service Announcement Category of the Gold Screen Competition. Produced for the agency by Three Step Productions, "Hopscotch" has received extensive airing throughout Texas as have the two other "spots" produced by Three Steps, "The Wedding" and "Lean On Me."

"The use of the media to create greater public awareness of the issues associated with illegal underage drinking and driving has been instrumental in the development of all our initiatives in this area," says Sergeant Mickey Whitley, Cops in Shops coordinator.

Administrator's Corner

We were extremely pleased to find out that three of our programs have been recognized by the National Alcoholic Beverage Control Association and the United States Department of Transportation's National Highway Traffic Safety Administration. Looking back over the past few years, these programs truly reflect our commitment to target illegal underage drinking in Texas.

Whether it be through our Cops In Shops initiative which we have been able to implement with the invaluable assistance of the Texas Department of Transportation and The Century Council, or our minor sting operations which have utilized countless volunteer hours involving young Texans who are equally committed to this issue, the

end result has been an increased awareness by many of the many issues associated with illegal underage drinking. Our Project SAVE initiative has been well received by schools throughout our state and we are truly excited about the potential benefits of this school-based alcohol education endeavor.

But any measure of success for any or all of these programs must include the recognition that none of these efforts would be successful without the participation and cooperation of a whole lot of people. Many times our agents have been called on to take on new or additional duties which are added to their already existing list of "things to do." And they have responded with the degree of professionalism and dedication necessary to insure success in our efforts.

Of equal importance has been the response from members of the alcoholic beverage industry who have allowed our agents to pose as clerks or customers during Cops in Shops sessions and have seen the benefit of working together to address this issue. Retailers who have allowed their employees to participate in our forums and learn more about our work have also demonstrated an added interest in working with us on targeting underage alcohol consumption.

Whether it be through Cops in Shops, Minor Stings or Project SAVE, we remain convinced that the problems associated with underage drinking in our state warrant a concerted effort on behalf of our agency and we are determined to address this issue aggressively. ♦

Doyne Bailey

It's "Zero Tolerance" Time in Texas!

Zero. Zilch. Nada. Nothing. A new era is dawning in Texas for minors who drink and drive. It's called "zero tolerance" and it's the law of the land effective September 1, 1997.

The zero tolerance bill (SB 35) was authored by Senator Royce West and the Senate Committee on Juvenile Driving While Intoxicated Laws. Coincidentally, the National Highway Traffic Safety Administration (NHTSA) reported that Texas led the nation in the number and percentage of fatalities that involved alcohol in 1996. Alcohol was involved in more than 53 percent of traffic fatalities in Texas last year, according to NHTSA. The national average was 41 percent.

What exactly does the passage of this bill mean for Texas? It strengthens the consequences to a minor for underage drinking. It is now illegal for a minor to drive while having any *detectable* amount of alcohol in the minor's system.

The consequences on the first offense of the zero tolerance law:

- ◆ Class C misdemeanor, punishable by a fine up to \$500
- ◆ Attendance at an alcohol awareness class
- ◆ 20 to 40 hours of mandatory

community service

- ◆ **60 days driver's license suspension.** The minor would not be eligible for an occupational license for the first 30 days.

A second offense increases the consequences to:

- ◆ Class C misdemeanor, punishable by a fine up to \$500
- ◆ Attendance at an alcohol awareness class at the judge's discretion
- ◆ 40 to 60 hours of mandatory community service

- ◆ **120 days driver's license suspension.** The minor would not be eligible for an occupational license for the first 90 days.

A third offense is not eligible for deferred adjudication. The minor's driver's license is suspended for 180 days and an occupational license may not be obtained for the entire suspension period. If the minor is 17 years of age or older, the fine increases from \$500 to \$2,000, confinement in jail for up to 180 days, or both.

SB 35 also strengthened other minor related laws and added **automatic driver's license suspension to the penalties.** Minors who purchase, attempt to purchase, possess, or

consume alcoholic beverages, as well as minors who are publicly intoxicated or misrepresenting their age to obtain alcoholic beverages, face the following consequences:

- ◆ Class C misdemeanor, punishable by a fine up to \$500
- ◆ Alcohol awareness class
- ◆ 8 to 40 hours of community service
- ◆ 30 to 180 days loss or denial of driver's license

If a minor is 17 years of age or older and the violation is the third offense, the offense is punishable by a fine of \$250 to \$2,000, confinement in jail for up to 180 days or both, as well as automatic driver's license suspension.

Adults and minors who give alcohol to a minor or buy the alcohol for the minors also face a stiffer penalty. The punishment for making alcoholic beverages available to a minor has been increased from a class C misdemeanor to a class B misdemeanor, punishable by a fine up to \$2,000, confinement in jail for up to 180 days, or both. Sale to a minor is a class A misdemeanor, punishable by a fine up to \$4,000, confinement up to a year in jail, or both.

The zero tolerance measure spearheaded by Senator West should go a long way in curbing illegal underage drinking in Texas and safeguarding the lives of countless young Texans! ◆

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Of Hearings, Signs, and Day Cares:

New Laws Bring Changes for Retailers



As reported in the last issue, the 75th Legislature had a significant impact on the TABC and the Alcoholic Beverage Code. More than 25 bills were passed and signed into law which amend the Code. Though they are too numerous to list in detail, the measures which may affect the daily operation of a retail location are summarized below. If you'd like additional clarification or explanation on any of these bills, please contact your local TABC office.

HB 325

The commissioner's court of a county or the governing board of a city may enact regulations prohibiting the sale of alcoholic beverages by a retailer whose place of business is within 300 feet of a day care center or child care facility. This provision would apply to the holders of wine and beer retailer's permits, mixed beverage permits, private club registration permits, beer retail dealer's on-premise licenses and brewpub licenses who do not hold food and beverage certificates. However, the provision would not apply to a location in a multi-story building as long as the retail location and day care are not on the same floor or if the day care and retailer were in separate buildings and the day care is at least on the second floor.

HB 1203

A permittee or licensee may alter the form of the business entity without filing an original application as long as the ownership is exactly the same. For instance, a person who holds a license may change the entity to a corporation and operate under the same license if the sole stockholder is the same individual. This change is required to be reported to the TABC on prescribed forms 10 days prior to the conversion and may only be converted to a newly created business entity. The fee is \$100.00 per location.

HB 1899

Provides the public with a reasonable opportunity to speak at a hearing related to the issuance, suspension or cancellation of a permit or license.

HB 2745

A hearing required for the issuance, suspension or cancellation of a license or permit may be conducted in the county where the premises is located, the nearest permanent offices of the State Office of Administrative Hearings or at any location agreed to by both parties.

HB 2909

Indicates specific sign requirements in relation to weapons on the premises. Additional information will be required on renewal and original applications concerning the gross receipts of the business. The TABC will advise you on the proper sign to post with your permit or license.

HB 3436

REQUIRES ALL PERMITTEES AND LICENSEES TO PROMPTLY REPORT TO THE TABC A BREACH OF THE PEACE OCCURRING ON THE PREMISES.

SB 337

Indicates the administrator of the TABC shall determine whether a licensee or permittee may have an opportunity pay a civil penalty rather than serve a suspension for the following violations: sale of alcoholic beverages to an intoxicated person, breach of peace under control of the permittee/licensee, sale of alcoholic beverages to a minor, or furnishing alcohol to a minor. The TABC will adopt rules addressing when a suspension may be imposed.

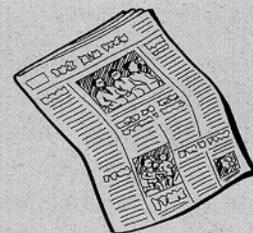
SB 484

Allows, in addition to signs previously authorized, licensees and permittees whose trade name or corporate name includes one or more of the words regulated in signs (i.e., liquor, beer, wine or ale) to also have one sign designating the trade or corporate name of the retailer.

SB 1831

Relaxes the restroom requirements for on-premise locations if the premises is in a business complex with multiple tenants and the restroom facilities are available in the building. ♦

**It's
Last
Call**



"Last Call for High-Risk Bar Promotions That Target College Students: A Community Action Guide" is a new publication designed to help college administrators, law enforcement and government officials "reduce the incidence of late-night noise, vandalism, drunken brawls, assaults, property damage and drinking and driving associated with heavy drinking." Published by the nonprofit Center for Science in the Public Interest (CSPI), the guide is available for \$10.00 by writing to CSPI-Alcohol Policies, 1875 Connecticut Avenue, NW, Suite 300, Washington, D.C. 20009-5728.

September's here and school bells are ringing throughout Texas. In addition to kicking off another school year, September also marks the beginning of the newly completed Project SAVE (Stop Alcohol Violations Early) for Texas schools. Already, teachers, counselors and principals have been actively involved in reviewing the program and scheduling classroom sessions. Scenes such as this with Austin Agent Kirk Dalchau speaking to some eager students soon will be common throughout our state. The new curriculum is in its final testing stage and preliminary data from the test strongly suggests that Project SAVE is effective in increasing students' knowledge and changing their attitudes about the risks of underage drinking. Agency employees who revised the program were recognized for their outstanding work in a presentation at the commission meeting recently. The agency will soon begin work on a formalized educational program for retailers and law enforcement. Contact your local TABC office for information on scheduling a presentation in your area. ♦



Seeking Input: Marketing Practices Rules Await Revision

During their August meeting, TABC Commissioners voted to publish proposed amendments to the agency's Marketing Practices rules found at 16 T.A.C. §§ 45.109, 45.110, 45.113, 45.117, 45.118 and 45.119. The proposed revisions appeared in the August 19, 1997, edition of the Texas Register. These rules govern the permissible relationship between the manufacturing and wholesale tiers on one hand and the retail tier

on the other. The proposed rules address such issues as box and shelf resets, signs, point of sale materials and entertainment of retail representatives.

"The object of the proposed revisions is to gain clarity, simplicity and consistency in the agency's rules," says Administrator Doyne Bailey. The proposals are an outgrowth of a series of meetings between agency staff and industry representatives exploring current practices in the market place and reasonable regulatory responses.

Staff will continue to meet with members of the industry to discuss changes to the proposed amendments. Commissioners will review all public comments and recommendations and determine the final form the rules should take at a future meeting.

Anyone interested in making comments, suggestions or observations should call General Counsel Lou Bright at (512)206-3204 or write to him at the agency's headquarters address. ♦

Playing By the Rules...

Senate Bill 337, amending §11.64(a) of the Texas Alcoholic Beverage Code, allows the agency, under certain circumstances, to deny a licensee/permittee the right to pay a civil fine in lieu of a suspension. This provision applies to licensees/permittees who violate the Code's health, safety and welfare provisions. These provisions forbid such violations as sale to minors and intoxicated persons, or committing offenses related to prostitution or gambling. In making its decision to allow or deny the payment of a civil fine, the Commission must consider the type of license or permit held by the violator, the circumstances surrounding the violation and past violations of the party charged in the case.

House Bill 1899 adds §5.435 to the Code. That provision allows any member of the public to appear in a contested case conducted by the Commission and to speak on any issue related to the hearing. The Commission must consider this testimony in making its final decision in the case. Contested cases address the question of whether a particular license should be granted or denied, renewed or suspended.

Agency staff has drafted proposed rules interpreting and applying Senate Bill 337 and House Bill 1899. These drafts have been circulated to industry representatives for informal comment.

Future issues of this newsletter will report on the rules once they are adopted.

You Asked... questions about alcoholic beverage regulations

Can employees or bar owners drink on the premises of a bar or restaurant after hours?

If a bar or restaurant is located in an extended hours area, employees and bar owners may consume alcoholic beverages until 2:15 a.m. If the owner does not hold a late hours permit, employees and bar owners may consume until 2:15 a.m., as long as they do not *sell, serve or deliver alcoholic beverages* between 12:00 and 2:15 a.m. If the bar or restaurant is located in an area which does not have extended hours, employees and bar owners may consume until 12:15 a.m. on Sunday - Friday, and 1:15 a.m. on Saturday, even if they have closed the business before these times. Under no circumstances may they consume alcoholic beverages on the premises, nor may the owner sell alcoholic beverages to his employees, after the hours in which the sale, service or delivery of alcoholic

beverages is prohibited by law.



How can a licensee or permittee get a copy of the Code or Rules?

The Alcoholic Beverage Code and Texas Alcoholic Beverage Commission Rules are available for downloading at our web site: www.tabc.state.tx.us. The new Code, updated for the 75th Legislative Session, will be available on-line in September. New or revised rules are updated on the web site when they are voted on and approved by the Commission. A copy of the Code and Rules is also available by contacting our General Services Department at (512) 206-3254. The updated Alcoholic Beverage Code will be available in September, 1997, and will cost approximately eight to ten dollars.



Allan Shivers, Jr., Chairman
Roy Orr, Commissioner
Martha Dickie, Commissioner
Doyne Bailey, Administrator

The *TABC Today* is an external publication of the Texas Alcoholic Beverage Commission. We welcome comments, suggestions and/or questions from our readers. To report a possible violation of the Alcoholic Beverage Code, call toll-free 1-888-THE-TABC (Voice/TDD).

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