

UPDATE ON RULES ADOPTED

At their November 23rd meeting the Commission voted to adopt proposed amendments to rule 45.110(c)(4) regarding food, beverages, entertainment and recreation that may be provided to retailers by members of the upper tiers.

Rule 45.110 defines the term "inducement" as it is used in 102.04, 102.07, 102.12 and 108.06 of the Alcoholic Beverage Code. As a general matter, inducements are practices that place retail independence at risk. Paragraph (c) of the rule gives examples of such practices.

The new rule reflects the commissioner's judgement that the provision of food, beverages,

entertainment and recreation, within certain stated limitations, will not normally operate to give upper tier members an undue amount of control over retail operations.

The limitations contained in the rule are:

- ◆ *The value of food, beverages, entertainment and recreation provided cannot exceed \$500.00 per person on any one occasion.*
- ◆ *Food, beverages, entertainment and recreation provided may only be consumed or enjoyed in the immediate presence of the providing upper tier member and the receiving retailer.*

- ◆ *In the course of providing food, beverages, entertainment or recreation, upper tier members may only provide ground transportation.*

Food, beverages, entertainment and recreation may also be provided at conferences, conventions and similar events so long as the primary purpose of the retailer's attendance at the event is not to receive the food, beverages, entertainment and recreation provided by the rule. Further, upper tier members are required to keep "complete and accurate records of all expenses incurred for retailer entertainment for two years."

This rule became effective December 20, 1998.

(L.-R.) TABC Program Administrator Don Engleking, Commissioner John T. Steen, Jr., Texas Department of Transportation (TxDOT) Program Administrator Chris Willrich, Chairman Allan Shivers, Jr., TxDOT Director of Traffic Safety Susan Bryant, Chief of Enforcement Greg Hamilton and Commissioner Martha Dickie pose for a picture at a recent Commission meeting. The TxDOT officials presented the commission with a James J. Howard Highway Safety Trailblazer Award on behalf of the National Association of Governor's Highway Safety Representatives in recognition of the agency's "leadership and innovations in the reduction of underage drinking." The agency's work with the Cops In Shops program led to the special commendation.

The TABC also garnered another award recently as the agency was recognized by the United States Department of Justice's Federal Bureau of Investigation. The FBI Director's Community Leadership Award was presented to the commission in recognition of the "outstanding contribution made by the agency through unselfish dedication and leadership." The agency's work in targeting underage drinking through programs such as Project SAVE led to the special recognition.



All About Minor Stings....



The Criminal Justice Division (CJD) of the Governor's Office has awarded the TABC a \$51,000 grant to produce and distribute a training film that will teach local police officers how to conduct minor stings using the TABC model for such operations. Another \$16,548 will be passed through the TABC to the Texas Municipal Court Training Center (TMCTC) for the production of a booklet which will be used by youthful offenders performing community service under the supervision of municipal or justice-of-the-peace courts for alcohol-related offenses. "We at the TABC are delighted to have the opportunity to join forces with the Texas Municipal Courts Training Center and with the Governor's Criminal Justice Division to develop educational programs targeting both sides of the underage drinking problem. The Training Center's program directly addresses underage drinking issues with underage drinkers, while the TABC program will help law enforcement agencies deal with the supply side of the problem," said TABC Chief of Enforcement Greg Hamilton.

When asked how the TABC became involved in these projects, Chief Hamilton noted that, "As more and more local police agencies became involved in alcohol and tobacco compliance efforts, we identified a real need for a training curriculum that would give officers the tools they needed to conduct sting operations that were both effective and fair. We approached the Governor's CJD team. They agreed with us, and gave the TABC the opportunity to fill that need."

When completed, the minor sting film will be 12 - 15 minutes in length. It will be distributed, along with other training materials, to 1,500 local law enforcement agencies across Texas. Master copies of the youth guides will be distributed to 2,100 municipal and JP courts, along with resource manuals for the judges. ♦

Administrator's Corner



One alert citizen, two responsive TABC enforcement professionals and cooperative industry members pulled together to do a little crime fighting just a few weeks ago. Our conscientious citizen watched two people taking alcoholic beverages from what appeared to be a delivery vehicle and placed them in a private vehicle. The citizen was quick to call the local offices of the Texas Alcoholic Beverage Commission and gave our lieutenant the location, descriptions and details of the activities that had occurred. The only person in our office available for immediate response to this matter was the sergeant who quickly went out to

the scene of the incident. However, as is often the case, the suspects were long gone upon his arrival.

Meanwhile, the witness had also called the business to whom the truck belonged and when everybody was able to compare notes and discuss the entire incident in more detail, it appeared that some unauthorized transactions were taking place. Our sergeant and the industry members got together to lay out a plan for further investigation using the resources of both the TABC and the business.

The following week the sergeant conducted a moving surveillance on the delivery truck and soon found the driver delivering unvoiced alcoholic beverages to a retailer. Due to a minor technical detail, no criminal charges of theft were filed against the driver, but

administrative charges were brought against him and the retailer who was obviously purchasing stolen property. Soon thereafter the driver was dismissed from his job and seems to have disappeared. The retailer has paid a standard \$1,050.00 administrative penalty for the violations.

This kind of cooperation serves as an excellent example of the benefits of working together. We all have an interest in protecting the reputation of the alcoholic beverage industry from the misdeeds of a few and we all gain appreciation from the legislature, the public and each other when we do it together.

I hope each of you had a happy and safe holiday season and that you enjoy a successful 1999!

Doyme Bailey



It's A SHATTERING Experience!

The TABC has added a profoundly hard-hitting program to its list of underage drinking initiatives. Called "Shattered Dreams," the program requires several months of intensive planning and the close cooperation of local public safety agencies, hospitals and schools before it reaches fruition, but when it all comes together, the impact on participants and observers can be staggering. It is a two-day simulation of the toll drunk drivers take on families and communities.

The program targets high school students and involves the dramatization of an alcohol-related crash on or near a high school campus, complete with police and EMS response, ER treatment, family notifications, and the arrest and booking of the driver. The crash scene drama is played out before the student

body during a school day. Throughout the day the other elements of the "docu-drama" unfold. To give students a better understanding of the number of DWI-related deaths, an individual dressed as the "Grim Reaper" appears in a different classroom every 15 minutes to select a new victim (every 15 minutes someone in Texas is injured or killed by a drunk driver). The victims are taken out of class, made-up in white faces and dressed in black t-shirts to symbolize death, and, then returned to their classrooms to continue their day. By the end of the day, every student has one more "dead" classmate present in the classroom with him, and on that note the school day ends.

The next morning a wrap-up assembly is held featuring those who played roles in the previous days drama, including the "crash" victims, the drunk driver, their parents, and participating law enforcement and medical personnel. Their comments and impact statements from community members whose lives have been affected by teenage alcohol use and

teenage DWI bring a closure to the program and reinforce its dual message for the teenage audience -- Don't drink until you are 21, and never drink and drive.

"The TABC has so far participated in a few "Shattered Dreams" productions. The response of all participants, especially that of students, educators, and parents, has been tremendous. What we are hearing from participants is that this program is touching kids and changing their behaviors as no other program has done before," said Enforcement Chief Greg Hamilton. "We are excited by the results," Hamilton continued, "and are in the planning stages for "Shattered Dreams" productions in four other communities."

If you are interested in staging a "Shattered Dreams" program at your local high school, contact the nearest TABC office for information and assistance. ♦

Project S.A.V.E. Available for Retailers

It's here! It's ready! Is it for you? Project SAVE for retailers is a program designed for establishments that sell alcoholic beverages for consumption on or off the premises. The presentations will be scheduled for you and your employees at your convenience. You have the ability to choose various topics of instruction which fit your particular business and schedule the instruction at times which are right for you! Topics are available on intoxicated persons, minors, false identification, vice offenses, administrative and criminal cases, to name a few. Instruction includes

hands-on activities, videos, slides and one-on-one time with a TABC agent for questions.

You will also have a chance to evaluate the program each time your employees receive training by completing the evaluation form given to you at the time of training. The form is merely folded, sealed and dropped in the mail. Postage is paid by the agency.

The TABC believes that a combined effort of education and enforcement will result in an increase of voluntary compliance with the law by retailer. By educating retailers and their



employees on the law and the consequences for noncompliance and increasing voluntary compliance, the agency continues its efforts to protect the health, safety and welfare of the citizens of Texas. Call your local TABC office and schedule your session today! ♦

MAY I SEE YOUR I.D. PLEASE?

An unprecedented campaign involving 25 enforcement agencies within Travis County will soon be targeting the use of fake identification cards by minors. Austin State Senator Gonzalo Barrientos of Austin unveiled details of "Operation Fake-Out" at a press conference in the State Capitol recently. In making the announcement, Senator Barrientos noted that undercover officers from the various agencies will be targeting area establishments and work with the licensed premises in detecting persons under the age of 21 who present a fake, altered or counterfeit I.D. for the purpose of buying alcoholic beverages.

"It's estimated that as many as 60% of young people who frequent nightclubs in our city are in possession of fake I.D.'s and we can no longer accept, tolerate nor condone such actions," said Austin TABC Captain David Ball. Persons caught with a fake I.D. will be arrested and taken to jail where they will be questioned by officials with the U.S. Secret Service, the Texas Department of Public Safety, TABC and other agencies. "The goal is to find the source of these documents," added Ball.

Working with licensed premises, fraternities/sororities, high schools, colleges/universities, community groups, local government

agencies and other interested parties, the enforcement agencies involved in the campaign are determined to address the extent of the problem in the Austin area. Posters trumpeting the operation are being distributed to area high schools and colleges/universities. "A successful operation would be to have no violations detected and no one arrested," notes Ball. "However, our experience has shown that young people are going to try to buy alcoholic beverages because it's the 'thing to do' or some sort of rite of passage," he added.

"Based on the success of this campaign in the Austin area, we will be exploring other parts of the state where we can conduct a similar crackdown," said TABC Chief of Enforcement Greg Hamilton. ♦

**WANT A FAKE ID?
HOW MUCH ARE
YOU WILLING TO PAY?**

**Possession of a fake ID
or another's ID**
Fine: Up to \$500 and/or jail

Use of a fake ID or another's ID
Fine: Up to \$500,
community service, loss of
driver's license and/or jail

**Purchase of alcoholic
beverages using a fake ID**
Fine: Up to \$4,000
Jail: Up to one year

**Manufacture/Sale of a fake ID
(3rd degree felony)**
Fine: Up to \$10,000
Prison time: Up to 10 years

It's okay to have a fake ID
if it says: "NOT A
GOVERNMENT DOCUMENT"
in 1/4" red letters, front
and back. Otherwise, you are
in violation of State Law.

**CHECK YOUR WALLET.
YOU CAN'T AFFORD IT.**

TRAVIS COUNTY SHERIFFS DEPT. • AUSTIN POLICE DEPT. • AUSTIN COMMUNITY COLLEGE DEPT. • TRAVIS CO. PCT. 1 CONSTABLES OFFICE • U.S. SECRET SERVICE • AUSTIN ISD POLICE DEPT. • LAGO VISTA POLICE DEPT. • TRAVIS CO. PCT. 2, 3, 4, 5 CONSTABLE • TX. ALCOHOLIC BEVERAGE COMM. • Pflugerville Police Dept. • TEXAS DEPT. OF PUBLIC SAFETY • HUSTON TILLOTSON COLLEGE PUBLIC SAFETY DEPT. • ST. EDWARD'S UNIVERSITY PUBLIC SAFETY DEPT. • LOWER COLORADO RIVER AUTHORITY "LCRA" • LAKEWAY POLICE DEPT. • SUNSET VALLEY POLICE DEPT. • MANOR POLICE DEPT. • ROLLINGWOOD POLICE DEPT. • MUSTANG RIDGE POLICE DEPT. • UNIVERSITY OF TEXAS POLICE DEPT. • CONCORDIA UNIVERSITY OF AUSTIN SECURITY • WESTLAKE HILLS

New Agents Welcomed

November 6, 1998 was graduation day for our latest crop of new enforcement agents. Sergeant Randy Motz, Training Supervisor, describes the Fall 1998 Rookie Class as "Outstanding... a truly remarkable group," a sentiment echoed by Training Officers Tracey Cox and Jose Primera.

The Fall 1998 Rookie Class consisted of 18 experienced peace officers, all of whom had to complete six weeks of intensive liquor law training before being sent to the field. As for assignments, the bulk of the new agents were assigned to either Houston or to the Dallas-Fort Worth Metroplex. Three went to El Paso, two to Austin, and one each to Angleton, Odessa, and San Antonio. ♦

Seizing Some "High-Tech" Stills!



Pictured (l.-r.) are Marion County Precinct 2 Constable Jerry Dreesen, TABC Agent Tommy Rodgers, Marion County District Attorney Investigator Larry Nance, TABC Agent Warren Hearne and Upshur County Precinct 2 Constable Billy Rogers standing over the "high tech" stills confiscated during a recent raid in Marion County. Photo credit: Mac Overton, Gilmer Mirror.

Following an intensive one-month investigation that included several law enforcement agencies working in two counties, two "high tech" moonshine stills were seized recently in Marion County. A 70-year-old Marion County man was arrested on charges of possession of equipment used to manufacture illegal whiskey and possession of untaxed liquor. The man was producing up to 300 gallons of the 190-proof alcohol a week and was selling each gallon for \$50.

"It's powerful stuff and can burn with a blue flame," said Upshur County Precinct 2 Constable Billy Rogers who initiated the investigation after receiving a tip that someone was manufacturing illegal alcohol. At one point in the investigation, officers spent some six hours in the rain and cold before discovering the bootleg alcohol. Located in a shed behind the man's home, the stills were electrically heated, had stainless steel tanks and tubing, thermostats and electrical control panels. They were heated by

hot-water heater elements. Also seized were six gallons of 190-proof alcohol, three gallons of mash, a 150-gallon plastic trough and other containers capable of holding 180 gallons of mash.

"The stills were the finest I've seen in 17 years with the TABC," noted Longview TABC Agent Tommy Rodgers. ♦



You Asked..... questions about alcoholic beverage regulations

I'm a teacher and one of my students said that it is legal for parents to serve alcohol to their minor child. He also said parents can order alcohol for their child in a restaurant or bar as long as the parents are sitting with them. Is this true?

State law allows parents to serve alcoholic beverages to their underage offspring and permits the minor to possess and consume them as long as the minor remains in the parents' visible presence. Minors can consume and possess alcoholic beverages in the visible presence of their parents, court appointed guardian or legal-aged spouse.

A parent may also order an alcoholic beverage for his or her child in a bar or restaurant, but service to the child must be made by the parent since a licensee or permittee cannot deliver, sell or serve an alcoholic beverage to a minor.

While state law permits this activity, the establishment has the discretion to choose not to allow any minor to possess or consume on the licensed premises.

A child endangerment charge could be filed if the parent served and permitted the child to consume an excessive amount of alcoholic beverages. Remember that a person 15 years of age or older is not a child as defined by the child endangerment law, Penal Code 22.041(c).

Where can I find a list of restaurants and bars and their beverage sales?

In 1994 collection of the mixed beverage or gross receipts tax was transferred to the State Comptroller. The Comptroller currently is posting that information in the form of a monthly file with state wide sales information on their website. These figures are only for establishments that sell liquor by the drink. You can find those files at "<http://www.window.state.tx.us/filelib/filelib.html>" or "<http://www.cpa.state.tx.us/m25econ.html>."

I own a limo service and would like to sell or provide alcoholic beverages as a service to my customers. Do I need to get a license to do this?

The TABC cannot issue a license to a limousine operator for the sale of alcoholic beverages in or from his vehicles. Consequently, you cannot provide alcoholic beverages to your customers as part of the limo services for which you collect a fee. The customers could bring their own alcoholic beverages, if you wish to allow it. Complimentary drinks provided in conjunction with a service for which a fee was collected would be considered a sale of alcoholic beverages without a license.

Allan Shivers, Jr., Chairman
Martha Dickie, Commissioner
John T. Steen, Jr., 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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