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NEW FAKE ID'S – BEWARE

By Diane M. Weiss, Executive Director

As we approach the summer and vacation season begins we all need to be extra diligent on checking for identification and making sure that we card all of the patrons that appear to be underage. You need to make sure your staff is trained on what a valid driver's license looks like not only from the state of New Jersey but from other States as well. If you know what a valid license looks like you are more likely to spot a fake one. This is a good time to invest in a Drivers License Guide which can be purchased for a minimal price of \$25.00. You can order one by calling 1-800-227-8827 or order one at www.driverslicenseguide.com. If our jobs are not hard enough we have recently been advised by one of our members that there is a new website that produces excellent replicas of New Jersey and other states driver's licenses. The NJ license has all the holograms; it scans and passes the UV test. The website is WWW.IDCHIEF.COM. The cost is \$200 for two ids. The website boasts about price incentives group rates and shipping is free. It is a good idea to go online and take a look at the licenses they claim they can reproduce. The NJLBA has contacted the Document Fraud Unit at the Motor Vehicle Commission as well as the Division of ABC on this issue. We are very concerned about these licenses and their use. We have been advised that what we hear about these licenses is true. The licenses do have the full holograms, they scan and they pass the UV light inspection. We are in close contact with the Documents Fraud Unit and we are waiting to hear back from them on what to look for on these licenses to help detect that they are fraudulent. As soon as we find out more information we will post it on the NJLBA website at www.njlba.org... Be sure to periodically check the NJLBA website for updates on this issue. In order to protect yourself you should be aware of the statute that discusses the defense: In Title 33, Intoxicating Liquors, specifically 33:1-77 – Sale to person under legal age; penalty; defense, it is stated in this section a defense to serving a person under the legal age: (a) that the purchaser falsely represented in writing or by producing a driver's license bearing a photograph of the licensee, or by producing a photographic identification card issued pursuant to section 1 of P.L. 1968, c. 313 (C.33:1-81.2) or a similar card issued pursuant to the laws of another state or the federal government that he or she was of legal age to make the purchase, (b) that the appearance of the purchaser was such that an ordinary prudent person would believe him or her to be of legal age to

make the purchase, and (c) that the sale was made in good faith relying upon such written representation, or production of a driver's license bearing a photograph of the licensee, or production of a photographic identification card issued pursuant to section 1 of P.L. 1968, c. 313 (C.33:1-81.2) or a similar card issued pursuant to the laws of another state or the federal government and appearance and in the reasonable belief that the purchaser was actually of legal age to make the purchase. In laymen's terms proof the proof, ask questions of the person presenting the identification, have them fill out an Age Representation form and take a good look at the purchaser, looks can be deceiving. The purchaser has to appear to be 21 years or older to make the defense. If you are not sure about the ID ask yourself why and don't make the sale. Be known as a place that checks ID's and train your staff to do the same.

MOTOR VEHICLE ADVISORY NEW ENHANCED DIGITAL DRIVERS LICENSE

The New Jersey Motor Vehicle Commission (MVC) has released a new Enhanced Digital Drivers license (EDDL). Although, the look of the EDDL differs slightly from the existing driver license, the Motor Vehicle Commission would like to ensure that everyone is aware of these new documents. On May 1, 2011 the Commission discontinued issuing the old digital drivers license and now only issues the new EDDL to all drivers in the state. If you encounter an old digital drivers license with an issue date after 5-1-2011 it is a fraudulent document. As of today id.chief.com does not offer a reproduction of the new EDDL license. To see a copy of the new EDDL, the security features they contain and how it differs from the old license go to the internet and type in www.state.nj.us/advisories.com.

Leo Kiely to Receive 2011 ABL Top Shelf Award

MillerCoors CEO to be honored at ABL Convention in June

American Beverage Licensees (ABL) announced today that Leo Kiely has been selected as the 2011 ABL Top Shelf Award honoree. Mr. Kiely, in his role as the Chief Executive Officer of MillerCoors, is responsible for leading the company and is known for his hands-on management style and keen knowledge of the beverage business. MillerCoors currently employs 8,800 workers with total revenues of approximately \$7 billion per year.

Given annually since 2005, the ABL Top Shelf Award recognizes those members of the beverage alcohol industry who have demonstrated excellence over their career and have a successful history of positive influence on their communities. It is the highest honor given by ABL and will be presented to Mr. Kiely at the Top Shelf Award Banquet at the 9th Annual ABL Convention on June 14, 2011 in Milwaukee, Wisconsin.

"Leo Kiely has been a fixture in the beer industry for nearly two decades and a key player in the evolving landscape of our industry," said ABL President David Jabour. "His support for the retail tier and his work to make this a better industry for everyone involved serve as an example for all to follow."

Before his current role with MillerCoors, Mr. Kiely was the president and chief executive officer of Molson Coors Brewing Company, a position he accepted in 2005. He guided the company through major transitions in recent years, including the merger of Adolph Coors Company and Molson Inc. in 2005.

Mr. Kiely joined Coors in 1993 as its chief operating officer, and moved into the role of chief executive officer in 2000. He initiated broad managerial and organizational improvements that are helping the company fulfill its pledge to "sell more beer, more profitably." In a relatively short time, he has forged relationships

with customers and suppliers, ranging from barley growers to beer distributors to retailers, across the country.

Mr. Kiely also takes time to give back to his community and to charitable causes. He currently serves on the Metropolitan State College of Denver Foundation Board and the board of the Denver Center for the Performing Arts. He also is a national trustee of the Boys & Girls Clubs of America and chairman of the board of Mile High United Way of Denver.

In addition to his alcohol industry and charitable work, Mr. Kiely sits on the board of directors of the National Association of Manufacturers in Washington, D.C, and the SEI Center for Advanced Studies Board for the Wharton School of Finance in Philadelphia.

"Mr. Kiely joins an elite group of Top Shelf Award recipients who have demonstrated their love of the beverage alcohol business and their dedication to making our world a better place through giving and charitable efforts that epitomize the spirit of our great industry," said ABL executive director John Bodnovich.

Mr. Kiely graduated summa cum laude from Harvard University with a bachelor's degree in economics. He earned his master's degree in business administration from the Wharton School of Business, University of Pennsylvania. Before entering the beverage alcohol industry, Mr. Kiely worked in various executive management and marketing positions with Frito-Lay Inc., a subsidiary of PepsiCo; Ventura Coastal Corporation, a division of Seven Up Inc; Wilson Sporting Goods; and Proctor & Gamble.

For those who wish to join in honoring Mr. Kiely and for more information about the ABL Top Shelf Award Banquet and 2011 ABL Convention, which will be held on June 12-14, 2011 at the Hilton Milwaukee City Center in Milwaukee, Wisconsin, please visit <http://www.ablusa.org>

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In Memorium

It is with deepest sympathy that we announce the passing of

Harold Freundlich NJLBA Past President

Mr. Freundlich was President of the New Jersey Licensed Beverage Association from 1988 to 1990.

While living in New Jersey, Mr. Freundlich was also the Mayor of Byram Township and owner of Unkie's Place in Byram.

At the time of his passing, Mr. Freundlich resided in Lebanon, Tennessee. Mr. Freundlich leaves behind his wife, Nancy, a son Harold and daughter Tammy.

Condolences can be sent to:
Mrs. Nancy Freundlich
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Legislative Affairs Report

NEW JERSEY LICENSED BEVERAGE ASSOCIATION • TRENTON, NEW JERSEY

by Jeffrey A. Warsh, Esq

FY 2012 BUDGET DOMINATES TRENTON

With hard-charging Governor Chris Christie at New Jersey's helm and the US economy stuck in neutral, the FY 2012 (July 1, 2011 – June 30, 2012) budget preparation dominates the New Jersey political and governmental landscape. The month of April – which is traditionally exclusively dedicated to the budget committees and budget hearings – produced less controversy than was anticipated but was, nonetheless, filled with virtually non-stop budget hearings. The Senate and Assembly Budget Committee hearings on the Department of Law & Public Safety's proposed budget raised no controversial issues with respect to the alcoholic beverage industry. It is highly significant to note that, at this time, there is no proposed increase to the Beverage Alcohol Excise Tax, or to the Sales Tax. It appears likely that, unlike 2009 in the last year of Governor Jon Corzine, our industry will dodge the Excise Tax bullet in 2012.

On the alcoholic beverage control regulatory and legislative front, the action has been fast and furious. Due to New Jersey's regulatory Sunset Law, the entire body of ABC regulations is about to sunset, resulting in the Division re-promulgating the entirety of Chapter 13 (the full body of New Jersey's ABC regulations). Comments were due on the proposed regulations on May 6, 2011. For the most part, the proposed regulations were, in all respects, identical to the existing regulations. However (isn't there always a "However"?), the ABC has proposed one major change to the activities permissible on licensed premises. The issue is tastings. In response to requests from "third party marketers" for the privilege to participate in tastings on both plenary retail consumption and on plenary retail distribution licensed premises, the Division has proposed a "Special Permit for marketing agent" at *N.J.A.C. 13:2-5.6* and at *N.J.A.C. 13:2-37.1* (Con-

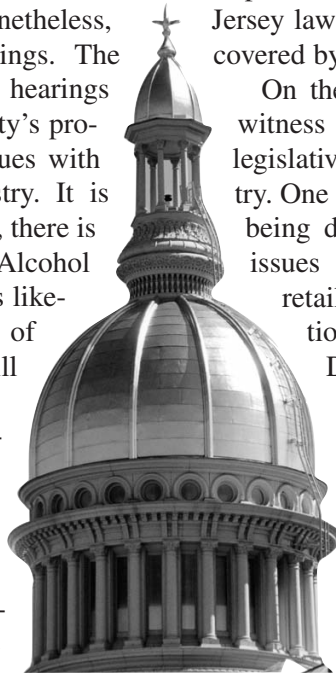
sumer alcohol beverage tasting and sampling events). This is the type of situation we have all seen in other states whereby outside entities provide tasting facilitators in branded costumes. A "marketing agent" may assist a licensee at an unlimited number of tasting events for a \$1,000.00 annual fee. It is important to note that alcoholic beverage licensees are absolutely responsible for all actions taken or violations of New Jersey law by any employee of a marketing agency covered by a Special Marketing Agent Permit.

On the legislative front, we are continuing to witness an unprecedented amount of interest in legislative changes to the beverage alcohol industry. One of the primary alcoholic beverage matters being debated is a legislative resolution to the issues faced by New Jersey wineries, whose retail outlets have been declared unconstitutional by the Federal Third Circuit Court on

December 17, 2010. A variety of bills – ranging from the allowance of "full throttle" direct shipment of wine (S766/A1904) to the maintenance of New Jersey's constitutional ban on the direct shipment of alcoholic beverages, along with the constitutional allowance of retail outlets in which wine may be sold in original containers as well as by the glass (A3831/S2785) – are competing for legislative attention. Stay tuned.

A new bill, aiming to have craft breweries possess the same privileges as New Jersey wineries, has most recently been introduced as A3969/S2870. When we speak about the legislative "slippery slope," this is what we mean.

Most significantly, it is important for all NJLBA members to get informed, to stay informed, and to mobilize others in the industry – as well as outside the industry - to take action. See you at the Wellhofer Picnic!!



Behind the Bar

by David T. Kratt

WHEN YOU MUST SAY ENOUGH IS ENOUGH



There's an old joke about a bartender telling a customer, "I think you've had enough to drink," and the customer slurs, "You mind if I get a second opinion?"

So the bartender says, "Sure. You're ugly, too."

What's funny about that is, in the old days, customers weren't usually cut off unless they became a problem or were really

drunk. But times have changed, and for the better. Today, visible intoxication is our cue to intervene:

Be aware of the clues –

Watch a customer perform normal tasks, such as, taking money out of his wallet or her purse. Did a customer ask for a stiff one or keeps asking you to turn up the stereo? Watch him walk. Talk to him. Look him in the eyes. Is he focused on you or looking somewhere off into space? How much has your bar served this customer? Talk to other servers and ask them to help keep an eye on the customer, as well.

Sometimes the clues come too late.

He sat down at the bar and ordered his first drink. It wasn't until after you served him that you realized you made a mistake. A customer drinking before coming to your bar is definitely a wild card. Another wild card, especially on busy nights, is when a customer moves around the bar and orders drinks from several servers. But you now know he's visibly intoxicated. And now is the time to intervene, not later.

Use the "ugly" details sparingly –

You're slurring your words. You spilled your drink. You almost fell trying to get off your barstool. You bounced off a wall or two coming back from the dance floor. You keep bugging people. And you're ugly, too.

A customer is not going to say, "Oh, well since you put it that way...."

To a customer, getting cutting off means the good times aren't going to roll anymore and that's hard to swallow when you're on a roll. So be aware that the ugly details may fuel an already tense situation. And don't feel compelled to convince a customer that this is the right thing to do, either. The goal is to keep the message simple – "We can't serve you anymore."

Steps after the intervention –

But I'm fine! What did I do? Let me have just one more drink and then I'll leave. Could you make me a weak one then? But I'm not driving!

"Sorry – ice water, pop or coffee – that's it."

"Okay, could I have another drink after coffee?"

"Sorry."

And by the way, a customer may try to get a drink from you if you weren't the one cutting off the customer. Don't pull the good-bartender-bad-bartender routine by saying something like, "I would if I could but the other bartender cut you off." You need to say, "We can't serve you anymore," because you are that second opinion.

Please send correspondence to dtkratt@chartermi.net or P.O. Box 638, Grand Haven, Michigan 49417.

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Paramount Air Service is still owned by the Tomalino family. Andre's daughter Barbara bought the business in 1985 and operates it today along with a staff of 25-30 seasonal employees. And Andre still enjoys "hangar flying" with the new pilots each year.

The Federal Aviation Administration is honoring Andre on May 24 for his more than 70 years in aviation. "Earning a distinguished reputation for conducting safe and effective banner tow operations." The FAA stated, "Mr. Tomalino has the reputation for pioneering numerous procedures and equipment developments which have subsequently become industry standards. For his many contributions to the aviation industry we and your fellow industry members are justifiably grateful."

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NOTICE TO THE REGULATED COMMUNITY

A question has arisen regarding the interplay between the two-license limitation law, N.J.S.A. 33:1-12.31, and the hotel/motel exception in N.J.S.A. 33:1-12.20. The purpose of this Notice is to clarify any confusion that may exist with respect to the permissible sale of package goods. Pursuant to N.J.S.A. 33:1-12.3 1, no person may hold a beneficial interest in more than two retail liquor licenses. N.J.S.A. 33:1-12.32 lists certain exceptions to N.J.S.A. 33:1-12.31.

Some background information is required to answer the question. In order for a plenary retail consumption licensee (without the broad package privilege) to sell package goods, the licensee must have a principal public barroom. N.J.S.A. 33:1-12.23. However, pursuant to N.J.S.A. 33:1-12.25, if a consumption license is issued for a hotel/motel premises, a principal public barroom is not required for the sale of package goods delivered by room service staff to individual rooms on the hotel/motel premises.

The Appellate Division has agreed that a hotel/motel license, issued as an exception to the population cap, is in other respects a plenary retail consumption license. Tenaglia v. City of Wildwood, Docket No. A-0240-03T1 (unreported) (App. Div. 2005). Thus, if a hotel/motel licensee wishes to sell package goods for consumption off the licensed premises, it is subject to the same requirement as all plenary retail consumption licensees (without the broad package privilege), that is, the sale must take place from the principal public barroom. Thus, a hotel/motel licensee is not permitted to operate a kiosk or convenience store selling package goods to either hotel/motel guests or the general public.

Given this background information, I will now address the question that has arisen regarding the interplay between the two-license limitation law, N.J.S.A. 33:1-12.31, and the hotel/motel exception in N.J.S.A. 33:1-12.20. The two exceptions to the two-license limitation law in N.J.S.A. 33:1-12.32 that are relevant are the exceptions for restaurants and hotel/motels. The closing paragraph of N.J.S.A. 33:1-12.32 indicates that the sale of alcohol at a restaurant, when the license is held under this exception, is limited to consumption on the licensed premises only. Similarly, since a hotel/motel license is essentially a plenary retail consumption license sited at a hotel/motel, when a hotel/motel license is acquired by a person or persons holding a beneficial interest in two other retail licenses, it may only be used in conjunction with a restaurant and for consumption on the license premises. However, this does not preclude the sale of package goods delivered by room service staff to individual rooms on the hotel/motel premises, which is permitted by statute to all hotel/motel licensees. N.J.S.A. 33:1-12.25.

If there are any further questions, or if any clarification is necessary, please contact the Division.



JERRY FISCHER
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