



# NLLEAGRAM

National Liquor Law Enforcement Association

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## Message from the President

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### Dear National Liquor Law Enforcement Association Members,

I hope everyone enjoyed the holidays. As we start the New Year, I want to share with you some of the discussions from the January board meeting.

In a continuation of the discussions from last summer's conference, we talked extensively about how to grow NLLEA for the future, and what we want that future to look like. Several questions focused on perhaps re-defining the mission, vision, and values of the organization. The focus here is not to change the mission of NLLEA, but to do a better job of defining and communicating our mission, vision, and values to our membership. So, for the sake of discussion, I thought I'd share some thoughts on the future of NLLEA with you.

My vision for NLLEA would be loosely based on the traditional small non-profit organization business model. Whether you're Red Cross, Mothers Against Drunk Driving, or the International Association of Chiefs of Police, it starts with a champion or group of champions. Those champions are usually volunteers with the vision and foresight to help others or each other to accomplish a shared objective. The Red Cross is the best example that I'm personally familiar with. It was founded by volunteers, and still relies on thousands of volunteers worldwide to fulfill its mission. As I write this, Red Cross volunteers are mobilizing to render assistance to areas struck by the recent tsunami.

Red Cross assistance doesn't happen by accident. Their disaster relief operations are supported by a dedicated and well trained professional staff supported by stable funding sources. My point is that even the Red Cross started with volunteers and has evolved into a world class organization that uses paid staff to provide the infrastructure that supports their volunteers.

I believe the NLLEA is approaching a crossroads.

While we are fortunate to have many dedicated members who volunteer their time in support of NLLEA activities, I believe that ultimately, we need to have a full-time, paid advocate to help us take NLLEA to the next level.

Most small associations hire a paid executive director to run the business of the association. The executive director reports to the board of directors or other governing body. The problem for small organizations is finding an ongoing and substantial funding source.

That brings us to our NHTSA-funded PIRE partnership that I mentioned in the previous newsletter. NHTSA has recently awarded PIRE a three year grant that supports such tasks as producing this newsletter, maintaining our website, assisting with the annual meeting, and so on. That means that we will continue to have PIRE staff support for these activities for the next three years. While that's great news, we need to be thinking strategically now as we chart the course beyond the next three years.

Many of you responded to my recent inquiry asking for input on expanding NLLEA's national profile. Your feedback was unanimous in support of expanding and growing NLLEA.

The board shares your enthusiasm and accepts the challenge of planning to make it happen. With guidance from Jim Gogek in PIRE's San Diego media office, we are putting together a strategic communications plan. The key components are developing answers to the following questions:

What are the goals and objectives of the NLLEA?  
What audiences do we want to reach?  
What is our message for each audience?  
What are our strategies and tactics for getting our message out?  
What partnerships need to be developed and/or nurtured?  
What accomplishments do we want to achieve?



This plan can then be used by our membership to decide what issues or opportunities to dedicate our limited resources to.

Obviously, the challenge of implementing this vision in a volunteer organization is in staffing it. So as I look out three years and beyond, I see the need for a paid manager or executive director in NLLEA's future. At this point, I don't know how we are going to fund it, but I believe it is the next step in developing and growing the NLLEA into a fully independent organization. With PIRE's assistance, our financial reporting system was modified a couple of years ago to create a solid financial track record specifically designed to make NLLEA eligible to apply and compete for future grants, so we are not starting from scratch.

Toward that end, I proposed and the board approved convening a "Futures Working Group" in accordance with NLLEA Bylaws, Article VI, Section 1, which empowers the president "to establish such Ad Hoc committees as necessary during his/her tenure in office..." This group will be made up of Chris Curtis, Dave Reitz, and Greg Hamilton. They are tasked to brainstorm and develop strategic alternatives for the NLLEA to become financially self-sufficient and self-sustaining. The goal is for this workgroup to submit a report to the NLLEA board by June 1, 2005, so that the board will have a proposed NLLEA Strategic Plan ready for discussion and approval at the 2005 annual conference.

If you have any questions or comments about this or any other issue facing the NLLEA, I'd love to hear from you! My email address is [rip@liq.wa.gov](mailto:rip@liq.wa.gov) and my direct phone number is 360-664-1726.

Sincerely,



Rick Phillips  
NLLEA President

## Two Conferences to Attend!

With the \$1.5 million earmark from congress (see "News from the Hill" on page 4), the NLLEA and PIRE have the opportunity to co-create a National Center for Alcohol Law Enforcement. We hope that this is just the first step toward securing additional funds for alcohol law enforcement throughout the country, but much work remains. To develop and grow this funding opportunity, our political advisors suggested that we hold this year's NLLEA conference in the Washington DC area to maximize our visibility.

We worked with the Underage Drinking Enforcement Training Center to schedule our conferences together as planned, but were unable to locate a hotel in the DC area large enough to hold the joint conference while allowing the Enforcing Underage Drinking Laws Program's conference to remain within its budget. After much discussion, the board decided that the benefit of possibly securing long term funding for alcohol law enforcement outweighed the benefits of having a joint conference. So, the NLLEA and the EUDL conferences will be held separately this year. This was a decision made in consultation with our EUDL partners. Our partnership is as strong as ever, and we will continue to support the EUDL program, beginning by serving on the planning committee for their upcoming conference.

**The NLLEA conference will be held in September 2005, in northern Virginia. Be on the lookout for more information regarding conference dates and location. One of the main goals of this conference will be to impress upon key congressional members the importance of alcohol law enforcement in protecting public health and safety. A conference highlight will be the opportunity for NLLEA conference attendees to visit Capitol Hill to meet their respective legislators.**

**The Enforcing Underage Drinking Laws Program's 6<sup>th</sup> National Leadership Conference will be held in Tucson, Arizona on August 18-20, 2005. The Call for Presentations and registration information will be on the UDETC website ([www.udetc.org](http://www.udetc.org)) later this month.**

We hope to see you all at both conferences and apologize in advance for any inconvenience created by this change. If you have any questions, feel free to contact any board member.

# NHTSA Corner

## Before and Beyond Enforcement

by Ruth Esteban-Muir and Bob Hohn

Communities across the nation are facing the dilemma of achieving viable economic growth while preventing increased violence, crime, transportation, and other public quality of life issues such as underage drinking and impaired driving. Population trends show that in the next decade there will be 11 million more people aged 18 to 30 socializing in public arenas at a rate more than twice that of those over 30, increasing the potential for greater high-risk alcohol consumption activities. In a critical role for the community, law enforcement has the delicate job of keeping the peace and enforcing laws, while helping cities to maintain and prosper as attractive communities in which to live and socialize.

While enforcement, especially high visibility enforcement, has proven to be an effective deterrent, sound policies and processes that are enforceable must first be in place. Recognizing the potential impact that urban and zoning policies and planning processes could have on reducing impaired driving, pedestrian safety, and other traffic-related issues, the National Highway Traffic Safety Administration (NHTSA) has been working with the Responsible Hospitality Institute (RHI) to identify the current strategies that are being used. The Responsible Hospitality Institute is a central clearinghouse and facilitator of national, state and local networks seeking to create more safe and vibrant places to socialize.

Communities that have implemented controls of alcohol retail outlets through zoning, abatement, and nuisance ordinances have reported changes in crime, violence, and sales to minors. A study conducted in 1993 showed that controls on the physical availability of alcohol can result in reduced alcohol consumption and related problems, such as automobile crashes and crime (Gruenewald, Ponicki, and Holder 1993). Controls can occur through restrictions on retail outlets' hours of operation and restrictions on outlet locations and outlet density.

As a first step toward identifying current efforts in this area, RHI held a two-day networking conference in November of 2004 that brought more than twenty cities together in Philadelphia to share information on managing trends and issues in dining and entertain-

ment districts. Attendees represented a variety of perspectives, including planning departments, business improvement districts, city councils, downtown associations, liquor control boards, college and universities, and police departments.

While many policies and processes can take some time to develop as well as implement, there were several successful and promising strategies shared that may be easily and readily adopted. These included safe rides programs, the extending of business hours, security training for entertainment venues (restaurant, bars, etc.), place of last drink surveys, and bridging traditional law enforcement with community policing.

### Safe Ride Programs

Safe rides programs are designed to provide an alternative transportation service to drinkers who would otherwise drive while they are intoxicated. Safe rides programs have been in existence in a variety of forms for more than two decades in nearly every state. Safe rides programs must be easily accessible, affordable, and appealing for individuals to consider using them as an alternative.

### Extended Business Hours

Some cities have recognized that businesses close when service of alcohol is stopped, leaving patrons potentially too intoxicated to drive or walk. To help address this issue, some on-premise alcohol outlets have chosen to leave their businesses open after alcohol service has stopped. This allows patrons the time to sober up and, if needed, find an alternative ride, thus keeping intoxicated patrons off the roads and out of the streets.

### Security Training

Recognizing another avenue to reduce liability, on-premise outlets are instituting security training of bouncers, wait staff, hosts, and bartenders. Not only can staff learn to identify potentially dangerous patrons and problems, they may be equipped with skills to identify overly intoxicated patrons wishing to enter or exit their facilities.

### Place of Last Drink Surveys

Place of last drink surveys have become a means for communities to identify problem alcohol outlets. Data can be collected from drivers who have been stopped by law enforcement for driving intoxicated. It also may

be collected through first or second offender DUI treatment programs. Once identified, an outlet receives notification that they are considered a problem outlet and may be warned. In addition to issuing warnings, some programs offer responsible beverage service training to these outlets.

### **Bridging Traditional and Community Policing**

Community policing is collaboration between the police and the community that identifies and solves community problems. All members of the community become active allies in the effort to enhance the safety and quality of neighborhoods. While many police departments have designated community police officers, there is a growing trend to adopt community policing into standard operating procedures.

While some of these strategies have been around for quite some time and many liquor law enforcement agencies have been actively involved in implementing them, communities and law enforcement working together to consider and adopt these strategies may be the first necessary steps toward having an impact on impaired driving and underage drinking. NLLEA has taken the lead in several of these same areas. Currently, NHTSA is working with NLLEA on demonstration projects that include place of last drink and security training programs.

## *News From the Hill*

by James Copple

PIRE and their colleagues at NLLEA should be celebrating the acquisition of a \$1.5 million earmark with the help and assistance of Congressman Frank Wolf of Virginia and Senator Judd Gregg of New Hampshire. This earmark will provide training and technical assistance to law enforcement agencies and officers throughout the United States on alcohol laws, with a mission to develop and implement policies that will increase and improve alcohol law enforcement and ultimately reduce alcohol-related harm. (See page 5 for more information on this new program.)

### **Legislative Goals for 2005**

We will be working on three fronts for expanded efforts to help Liquor Law Enforcement.

1. We will seek to grow or expand the current \$1.5 million earmark to \$2.5 million to expand the training throughout the United States and involve more NLLEA members in the specific training programs.
2. A major goal for this legislative session is passage of the Underage Drinking and Retail Assistance Act of

2005. This act will provide grants to the states to enhance liquor law enforcement and enforce establishment compliance with existing laws preventing youth access. The act will provide incentives for the acquisition and implementation of electronic age verification technology and provide affirmative defense to establishments using and monitoring the use of the technology. It appears that Congressman Sensenbrenner of Wisconsin will be sponsoring the bill.

3. We will seek to protect and strengthen existing enforcement programs already in place at OJJDP. The Enforcing Underage Drinking Laws (EUDL) initiative housed in OJJDP will continue to need our support. Congress has a very tight budget cap for this year, and it will be necessary for us to maintain this important and vital program for law enforcement.

As we advocate and monitor these legislative efforts, we will keep you apprised and ask for your assistance as necessary.

## *What's New?*

### **2005 Training Academy: Make Plans to Attend!**

by Chuck Conkling

This year the NLLEA Training Academy will be held in Chester, WV. It begins on Sunday, May 15th and ends with graduation on May 21, 2005. Make plans now to attend.

The host hotel is the Mountaineer Racetrack & Gaming Resort. This is an all inclusive location with several restaurants on the site. West Virginia ABC uses this location for training and conferences and has already begun planning the event. The nearest airport is Pittsburgh, PA, which is about 30 miles away. Transportation will be provided. Many thanks to West Virginia ABC for stepping up to the plate.

The room rate is \$75.00 per day for single and double rooms plus any normal hotel and local tax. The student registration fee will be \$400.00. Contact information, applications and transportation request forms will be posted to the NLLEA website. I will send out a membership email as soon as these are available. **Please return the forms to me by April 15, 2005.**

We plan to have four phases this year. The Basic and Advanced Phases will remain essentially the same. Phase III will be the Technology Phase and will be comprised of a shortened Video Gambling class and an expanded Surveillance class which will include outside surveillance as well as electronic surveillance. This will

allow hands on instruction with much of the electronics tailored to our enforcement needs. The Leadership phase is again targeted toward first line supervisors, especially those who have recently been promoted. The class is open to everyone as seats are available but those currently in supervisory positions will be given priority. All students will attend Monday's class which will deal with the funding of terrorism through convenience store crime. This class will be taught by members of an FBI Joint Terrorism Task Force.

We will have a full and varied curriculum again this year. The instructors presenting these classes are recognized as leaders by their respective agencies and have many years of experience. The Academy is an opportunity for your officers to receive excellent training from instructors who understand our unique enforcement challenges.

Please contact me if you have any questions or suggestions for future training.

Chuck Conkling  
Training Coordinator  
Send mail to: [cconkling@cwcinva.com](mailto:cconkling@cwcinva.com)

## National Center for Alcohol Law Enforcement

PIRE is excited to announce the creation of the National Center for Alcohol Law Enforcement (NCALE), thanks to the acquisition of the \$1.5 million earmark from Congress mentioned in this issue's "News from the Hill" column. NCALE – to borrow an acronym from one of NLLEA's founding member agencies, the North Carolina Alcohol Law Enforcement Division – will be a comprehensive alcohol law enforcement training and technical assistance program for local law enforcement departments throughout the United States, and will be administered through the Bureau of Justice Assistance at the U.S. Department of Justice. The long-term mission of this Center is to develop and implement policies that will increase and improve alcohol law enforcement and ultimately reduce alcohol-related problems.

The goals and objectives of the National Center for Alcohol Law Enforcement are to:

- Advance local officers' understanding and expertise in alcohol law enforcement;
- Facilitate effective collaboration between state ABC agencies, local law enforcement agencies, and other law enforcement agencies;
- Increase the enforcement of alcohol laws; and
- Reduce alcohol-related problems.

Emphasis will be placed on strategies designed to facilitate the effective enforcement of alcohol policies most likely to reduce alcohol-related injuries and violence, including those that address: sales to intoxicated persons, sales practices that encourage intoxication, public nuisance standards applicable to problem establishments, and enforcement of underage drinking laws. A key goal of the Center is to broaden law enforcement's focus beyond underage drinking issues to the consideration of the role of alcohol law enforcement generally for the protection of public health and safety.

NCALE hopes to work in close collaboration with the National Liquor Law Enforcement Association and its members in all aspects of its operations. The Center plans to establish five regional centers headed by Regional Directors. The Directors will be experienced alcohol law enforcement officers who will be responsible for assisting states in their regions in developing strategic plans, and then meeting specific training and technical needs as identified through the strategic plans. A central staff of experts in curriculum development, training, and evaluation will assist in each regional center's activities. A cadre of law enforcement trainers, with extensive experience in various aspects of alcohol law enforcement, will be available as consultants to the Regional Directors for training and technical assistance.

PIRE is still in the initial planning stages of creating NCALE, and we welcome any and all suggestions as to how the work of this Center can partner with NLLEA members in meeting our mutual goals and objectives. If you have any questions, please feel free to contact Rebecca Ramirez at 301-755-2761 or email her at [rramirez@pire.org](mailto:rramirez@pire.org). We look forward to a long and productive working relationship with the NLLEA as we work together to improve our communities' health and safety.

## SOT Suspended

In October of 2004, payment of the Special Occupational Tax (SOT) was suspended for three years for certain businesses, including producers, wholesalers, importers, and retailers of alcohol beverages, and manufacturers of non-beverage products. The suspension will take effect on July 1, 2005 and was enacted as part of H.R. 4520, the American Job Creations Act of 2004. The businesses affected by the suspension will still be required to file the annual SOT Tax Return with the Alcohol and Tobacco Tax and Trade Bureau (TTB). TTB will continue to issue SOT tax stamps as proof of registration.

## Virginia's Education Programs Help Increase Compliance Rate

By Rohn Brown, Education Coordinator, Virginia Department of Alcoholic Beverage Control

Since the summer of 2002, Virginia has introduced three programs to help retail licensees better comply with alcohol-related laws, rules and regulations. Since the introduction of these programs, the compliance rate of licensees during Virginia ABC's underage buying stings has increased to a record 90 percent. While there are many other factors that have contributed to this improvement, such as stiffer fines for repeat offenders, licensee education is an important part of the enforcement mix.

### Prevent Underage Sales: Virginia's Alcohol Laws

ABC Special Agents hand delivered and introduced "Prevent Underage Sales: Virginia's Alcohol Laws" to over 13,000 licensees across Virginia in July and August 2002. New licensees receive this packet once their new license is issued. The video and information folder is an in-house training aide that managers can use with new and experienced sellers and/or servers of alcohol. To best use the packet, managers assess their employees' prior knowledge with a pre-test. Employees then watch the video and take a post-test to see how much they learned.

### Managers' Alcohol Responsibility Training (MART)

MART debuted in the spring of 2003 as 402 managers attended 10 trainings. Three more were added to meet the demand. The six-hour class, which was designed by ABC special agents, helped off and on-premise licensee managers better understand and comply with Virginia's alcohol-related laws, rules and regulations. The class also helps managers create policies and understand alcohol-related advertising and regulations on hiring minors in an ABC licensed business.

### Responsible Sellers/Servers: Virginia's Program (RSVP)

This training was designed specifically for Virginia's bartenders, clerks, cashiers, wait staff and other "front-line" employees. The first series of RSVP classes debuted from June to September of 2004 and trained approximately 900 employees from on and off-premise establishments. Sixty-one Virginia ABC special agents were trained to teach the three-hour program. Employees can sign up for the trainings on-line at the Virginia ABC Web site. Another round of trainings offered monthly started in November, 2004.

For more information on Virginia ABC's licensee education programs, visit their website at [www.abc.state.va.us/Education/licensee\\_edu.htm](http://www.abc.state.va.us/Education/licensee_edu.htm).

## Homecoming with the AlcoScan AL-1000

By Officer Sheri Zanger, Washington State Liquor Control Board

On October 8, 2004, Monroe High School (Washington State) played the annual Homecoming Football Game. The weather was crisp but clear and the alumni, students, parents, and opposing team were arriving for the big event. But this year, something new was awaiting them at the main gate. The week prior to the game, the School Resource Officer began circulating the news that a Liquor Officer would be staged at the main gate checking for alcohol. He warned the students not to try to get past the Liquor Officer because she had a gadget that could automatically detect alcohol in cups, bottles, and cans. Yes, the School Resource Officer was met with whines and groans, but unbeknownst to him, the students were indeed listening.

On the night of the game, the Liquor Officer stood just inside the main gate. In her hand she held the AlcoScan AL-1000, a bright yellow foot-long wand that, when held over open cans, bottles, cups, etc., can detect the presence of alcohol. This device is one of twelve AlcoScan wands that the Liquor Control Board purchased with a grant from the Washington State Department of Health. Over 200 people came through the gate requiring a scan. The results were amazing! Not a single student was caught trying to bring alcohol into the game! Yes, one parent made an attempt, but failed. The Liquor Officer, out of curiosity, scanned the garbage can just outside the main gate and it registered positive for alcohol while the garbage can just inside the main gate registered negative!

The following night was the Homecoming Dance. According to the School Resource Officer, not one alcohol related incident occurred due primarily to the fear that the AlcoScan AL-1000 might show up!

The success of the Homecoming Football Game and Homecoming Dance has led the Snohomish County Washington "Pro-Active Criminal Enforcement" (PACE) multi-agency organization to begin the process of purchasing three AlcoScan AL-1000s with the intentions of loaning them to local law enforcement agencies and schools.

For more information about the article above, contact: Officer Sheri Zanger at (425) 514-5892. For more information about the AlcoScan AL-1000, visit the product website, [www.acs-corp.com](http://www.acs-corp.com) (click on Products, Personal Testers).

## ABC Enforcement Actions Roundup:

### Georgia: Record Fine Paid by Alcoholic Beverage Wholesaler

Jackson Beverages, Inc., an alcoholic beverage wholesaler located in Griffin, Georgia, recently pleaded guilty to six citations and paid a \$125,000 fine for violation of Georgia's alcoholic beverage laws and regulations. The fine is believed to be the largest fine ever paid by a Georgia wholesaler. Georgia Department of Revenue officials, who have been with the DOR for more than 25 years, believe \$6,000 had previously been the largest imposed fine.

The citations covered violations dating from 1994 to the present for the following infractions:

- Making sales of alcoholic beverages to unlicensed businesses and individuals.
- Allowing unlicensed individuals to receive delivery of alcoholic beverages at the Jackson Beverages location.
- Making sales of alcoholic beverages for which no accurate invoices or sales tickets were prepared or provided.
- Providing goods or services without charge to licensed retailers.
- Delivering alcoholic beverages to separate locations on behalf of a licensed retailer.
- Making sales and deliveries of alcoholic beverages without receiving payment at the time of delivery.

"We intend to continue our active pursuit of individuals and businesses involved in the distribution and selling of alcoholic beverages in Georgia who are not operating within the parameters established by the state's laws and regulations," said Georgia Revenue Commissioner Bart L. Graham. "We also will be pursuing any tax violations that may be associated with these illegal activities."

For more information, contact: Charles Willey, Director of Public Information, at (404) 417-2106 or [charles.willey@dor.ga.gov](mailto:charles.willey@dor.ga.gov).

### Georgia: Moonshine Still Destroyed

In November of 2004, local police and Georgia Department of Revenue agents blew up a moonshine still discovered in Rabun County, Georgia. Hidden in a stand of hardwood trees under mud and camouflage, the still was capable of producing about 300 gallons of illegal alcohol a week. This would have translated into \$10,000 to \$15,000 in tax-free weekly revenue for the still makers. As noted by Bart Graham, Commissioner of the Department of Revenue, "When you see somebody putting that much effort into it, they're not doing it for a hobby." Despite an overnight stakeout of the still site, the still makers avoided immediate identification and arrest; an investigation of a suspect is currently underway.

According to Ronald D. Johnson, Director of the Alcohol and Tobacco Division of the Georgia Department of Revenue, their agency locates and investigates approximately five stills per year. In all probability, more stills are found annually, as local law enforcement agencies do not always report seizures to the state. The unlawful manufacturing of distilled spirits in Georgia is a felony punishable by a fine exceeding \$1,000 and confinement from 1 to 10 years.

For more information, contact: Assistant Director Howard A. Tyler at (404) 417-4868 or [howard.tyler@dor.ga.gov](mailto:howard.tyler@dor.ga.gov).

### Idaho: Crackdown on Illegal Electronic Gambling Machines

In a coordinated crackdown, Idaho State Police - Alcohol Beverage Control (ISP-ABC) officers, assisted by local law enforcement officers, Lottery Commission and State Tax Commission officials, served search warrants on 13 bars across the state in November of 2004, confiscating approximately 50 illegal electronic gambling machines. The raid came after months of surveillance and a joint investigation by ISP and other agencies detected an alarming number of establishments were operating the machines in violation of Idaho gambling and liquor licensing laws. The agency had also received numerous tips about the activity, many of those from distraught family members of compulsive gamblers who were spending everything they had on their habit.



*Confiscated Gambling Machine*

"Players put money into the machines to play and, if they win, credits are then accrued on the machine. The player then has someone from the bar record their credits and pay them off," said ISP's Alcohol Beverage Control Bureau Chief, Lt. Bob Clements. "We estimate as much as \$2,000 could be earned per machine, per week, making this a very lucrative business. Each machine might initially cost between \$2,000 and \$5,000 each, but that is quickly paid off," said Clements.

Idaho State Code 23-928(2) states that establishments operating under a liquor license shall not permit gambling. Penalties for violations range from misdemeanor gambling charges to potential suspension of an establishments liquor license. Officials are now looking into other possible charges as the investigation continues. "We suspect this problem goes much deeper than those locations we discovered in this initial effort," said Clements, "...and we will be continuing to pursue leads and seek out locations where illegal gambling activity is occurring."

ISP-ABC has also been coordinating their efforts with the Idaho Lottery Commission, the agency responsible for legal gaming in the state. "Where profits from this illegal gambling goes only into the pockets of those running the operations, Lottery dollars support Idaho schools," said Commission Director, Roger Simmons. "Since the Idaho Lottery was established in 1989, it has returned \$275 million back to both the K-12 public schools and the colleges and universities of Idaho. At the end of fiscal year 2004, the Idaho Lottery provided a record \$25 million in dividend and related interest earnings to Idaho's 113 school districts."

For more information, contact: Rick Ohnsman, Agency Information Officer at (208) 884-7231.



### **Massachusetts: Targeting Holiday Underage Drinking and Open Bars**

The Massachusetts Alcoholic Beverages Control Commission (MABCC) conducted two operations during the 2004 holiday season to curb underage

drinking and service to intoxicated persons. Starting the day before Thanksgiving, MABCC investigators conducted stings in bars and package stores across Massachusetts to crackdown on underage drinking. On the first day, the investigators found six minors in possession and two adults who had bought alcohol for minors. This compared very favorably to the previous year's patrol on the day before Thanksgiving, when 55 minors and 5 adults were apprehended. Frederick G. Mahony, chief investigator of the MABCC attributed the change to both the rainy weather in 2004 and the agency's stepped-up, year-round enforcement of underage drinking laws. This operation continued until New Year's.

The second operation involved notifying local licensing boards and bar owners that Massachusetts' "happy hour" law, which prohibits open bars with unlimited drinks except at private functions, applied to New Year's Eve open bars. Vigorous enforcement of this law by MABCC began in 2003, but discrepancies existed as to how the law was interpreted between the state and municipalities. Previously, the law had been interpreted to allow open bars and all-you-can-drink deals when purchased in advance as part of a fixed price ticket for the night. This stricter interpretation of the law meant that clubs and bars could no longer define these New Year's functions as "private" events, and would face penalties if they continued to do so. The MABCC advocated rigorous enforcement of the law as a way to prevent tragedies resulting from overconsumption of alcohol, particularly by patrons in their 20s. As noted by Frederick Mahony, package-deal parties are "...somewhat analogous to a buffet. The natural tendency for people of that age is to drink all they can because they paid X amount of money. What we ended up seeing were young people that were tremendously intoxicated and we spent half our night making sure they weren't getting behind the wheel of a car."

For more information, contact: Frederick (Ted) Mahony, Chief Investigator, at (617) 727-3040, ext. 14.



*Illegally distilled alcoholic beverages discovered in Virginia bust*

### **Virginia: Meth Lab and Still Uncovered in One Bust**

Special Agents from the Virginia Department of Alcoholic Beverage Control's (VABC) Staunton Regional Office recently uncovered a large-scale methamphetamine and distilling operation in Augusta County. VABC agents received information that a 52-year-old male was manufacturing alcoholic beverages and selling them from his residence. VABC conducted an investigation that resulted in the issuance of a search warrant for the residence.

During the execution of the warrant, approximately 40 gallons of illegally distilled alcoholic beverages were discovered along with the still used for production. Manuals for methamphetamine manufacture, chemicals, \$28,000 in cash, guns, and approximately 4 ounces of methamphetamine were also found at the residence. In addition, a small quantity of illegal drugs was found on the suspects' person.

Due to the hazardous nature of these types of drug labs, federal authorities were contacted. The scene was secured and chemists from the Drug Enforcement Administration along with special agents from the Virginia State Police and the DEA assisted. In addition, a Hazardous Materials Team was also provided to dispose of the chemicals and contaminated equipment. Augusta County Virginia Sheriffs Deputies also assisted with the search and subsequent investigation of the drug lab.

As a result of the thorough investigation, separate felony charges were filed against the suspect, his spouse and his son. The charges are being heard in the local circuit court.

For more information, contact: M. Whitney Miller, Public Relations Specialist, at (804) 213-4640.

## **Current Enforcement and Compliance Research**

Recent studies have produced important findings about alcohol enforcement and compliance. The following is a sampling of this research.

### **Translating Enforcement Research into Enforcement Practice**

Many of you who attended the 2003 Annual Meeting in Atlanta may remember presentations made by John Wiggers, a researcher from Australia who reported on a successful program conducted in New South Wales to target establishments cited as place of last drink by arrestees. When these establishments were selected for intervention by enforcement and education, significant reductions in alcohol-related incidents resulted. The Alcohol Linking Program was a collaborative effort among law enforcement officers, researchers, health practitioners, statisticians, and computer programmers. The positive outcomes of the Alcohol Linking Program resulted in a decision by the New South Wales government and police to adopt the program as a required element of routine policing practice. Dr. Wiggers and his colleagues recently published an article (reference below) which reports on the processes and strategies that made this possible. Key to this process was the involvement of the police from the beginning in assessing the feasibility of collecting place of last drink data, and collecting the data itself. This article provides a useful case study of a successful collaboration between law enforcement and researchers that resulted in real reductions in alcohol-related criminal incidents. **A link to this article is provided on the NLEA website at <http://www.nleea.org/reports.htm>. Wiggers, J, Jauncey, M, Considine, R, Daly, J, Kingsland, M, Purss, K, Burrows, S, Nicholas, C, and Waites, R. (2004) Strategies and outcomes in translating alcohol harm reduction research into practice: the Alcohol Linking Program. *Drug and Alcohol Review* 23: 355-364**

### **Enforcement Prevents Underage Drinking**

Researchers from the Oregon Research Institute and the Prevention Research Center of Pacific Institute for Research and Evaluation studied the effects of alcohol availability and enforcement on young people's drinking habits. Nearly 16,700 students, ages 16-17, in 92 communities in Oregon were surveyed about their drinking habits, where they obtained alcohol if they drank, and their perception of the likelihood of getting

caught by the police for possession of alcohol. While the majority (70 percent) of students who drank reported getting alcohol from non-commercial sources such as friends or parents, a noteworthy minority (30 percent) reported obtaining alcohol from grocery stores or other retail establishments. Higher rates of community level commercial access were significantly related to higher average levels of alcohol use, binge drinking, drinking at school, and drinking and driving. Not surprisingly, stronger perceived enforcement of minor in possession laws was related to lower levels of alcohol use and related problems in these communities. This study offers important evidence of the critical role of enforcement in preventing underage drinking.

**Dent, C, Grube, J, and Biglan, A. (2005) Community level alcohol availability and enforcement of possession laws as predictors of youth drinking. *Preventive Medicine* 40:355-362.**

### **High Rates of Service to Intoxicated Persons**

A recently published study offers evidence of a high rate of service to intoxicated persons at licensed establishment, both on and off-premise. Trained actors simulating intoxication were sent to 355 licensed establishments to attempt purchases of alcohol. Seventy-nine percent of the establishments sold alcohol to these buyers. Off-premise establishments sold alcohol to the buyers in greater numbers (83 percent) than did on-premise establishments (76 percent). In just over half of all purchase attempts, the server made some indication that he or she had noticed the intoxication level of the buyer, yet still served alcohol to the buyer 61 percent of the time. These results are a clear indication that some combination of increased enforcement and server training is needed to improve compliance with over-service laws, a goal that is particularly important given the potential for injuries or fatalities resulting from impaired driving and alcohol-related violence.

**Toomey, T, Wagenaar, A, Erickson, D, Fletcher, L, Patrek, W, and Lenk, K. (2004) Illegal Alcohol Sales to Obviously Intoxicated Patrons at Licensed Establishments. *Alcoholism: Clinical and Experimental Research* 28(5): 769-774.**

**If you would like copies of either of these two studies, please contact the NLLEA at 301-755-2795 or [support@nllea.org](mailto:support@nllea.org).**

## **Hot Issues**

In December of 2004, the NLLEA Executive Board voted to send a letter to the Anheuser-Busch company in protest of recent Bud Light "referee" advertisements that portray referees stealing beer and evading questioning and arrest by law enforcement officers. The Board concluded that these ads were in violation of the Beer Institute's Advertising and Marketing Code Guidelines which state that beer advertising and marketing should not portray or imply illegal activity of any kind. The NLLEA has worked to hold the alcohol industry responsible for the messages it sends to consumers, and particularly to young people. In 2002, the NLLEA played a leadership role in mounting a successful protest against a Sam Adams Light beer ad that appeared to condone underage drinking parties. In keeping with this tradition, the following letter was sent to Anheuser-Busch:

*December 14, 2004*

*Mr. August A. Busch IV  
President  
Anheuser-Busch Inc.  
One Busch Place  
St Louis, Mo 63118*

*Dear Mr. Busch:*

*The National Liquor Law Enforcement Association (NLLEA) is a non-profit association of law enforcement personnel dedicated to protecting public safety through enforcement of liquor laws and regulations in the United States and Canada. Additionally, the NLLEA fosters a cooperative and beneficial working relationship with alcohol researchers, public health organizations, and responsible members of the liquor industry.*

*It has come to our attention that Anheuser-Busch is promoting the sale of Bud Light Beer in a commercial using men dressed as football referees who are being questioned by police officers about stealing beer. These men lie to police then run away with the beer to avoid the police officers. This particular advertisement is being run on television and on the Bud Light website.*

*We believe this television spot is irresponsible and a violation of The Beer Institute's Advertising and Marketing guidelines which state: "Beer advertising and marketing material should not portray or imply illegal activity of any kind." This particular commercial gives the impression that lying to police and running away from law enforcement officers is funny and acceptable. While we appreciate the attempted humor, unfortunately, this ad crosses the line and mistakenly*

sends the wrong message to millions of viewers, especially underage persons.

*We call on you to immediately withdraw this commercial from your broadcast and website advertising campaigns. We would also ask that you make a concerted effort to ensure that future advertising campaigns are in compliance with the guidelines of the Beer Institute.*

*Sincerely,  
Rick. Phillips, President  
National Liquor Law Enforcement Association*

In response, John Kaestner, Vice President of Consumer Affairs, sent a letter stating that the purpose of the ads was to entertain and amuse adult viewers and that Anheuser-Busch does not believe that they violate the intent of the industry's advertising code. He also stated that Anheuser-Busch has a "great respect" for law enforcement and that it is the company's belief that progress against alcohol abuse can be made through education and awareness initiatives, coupled with effective law enforcement.

## On the Legal Side

by Aidan J. Moore

### ***"You Should Have Gone Home When You Had the Chance!"***

In 2002 the Vermont Supreme Court took up the appeal of the Chittenden District Court denial of a motion to suppress evidence arising out of a civil citation for minor in possession of alcohol and a later arrest for DUI in the case of *State of Vermont v. Joseph B. Benoit*.

The defendant's appeal arguments were centered on a belief that the district court erred because: (1) the court failed to find that defendant was in custody when he was given a Breathalyzer test prior to the civil citation; (2) the State did not meet its burden of proving that the defendant's submission to the Breathalyzer was a knowing, voluntary and intelligent waiver of his Miranda rights; and (3) without the illegally obtained evidence the officer had no reasonable basis for his subsequent suspicion that defendant was driving under the influence of alcohol.

### **Facts of the Case**

On August 22, 2000, at approximately midnight, two officers from the Colchester Police Department responded to a noise complaint at a home on East Lakeshore Drive in Colchester. Looking through the windows, the officers saw alcohol containers and several people they suspected to be under age. The

officers knocked and were given consent to enter the home. Once inside, the officers asked the twenty to twenty-five people in the home to separate into groups, based on whether they were over or under twenty one, and checked the identification of those claiming to be over the legal drinking age. The officers remained at the scene for twenty to twenty five minutes, administering breath tests and issuing civil citations to those minors in possession of alcohol. Defendant was present at the scene and was issued a citation for minor in possession of alcohol. One of the officers present called defendant's parents and asked them to come pick him up, so as to avoid the defendant driving home.

At approximately 2:30 a.m., later that same morning, one of the officers present at the East Lakeshore Drive home at midnight drove by again, and saw a car turning into the driveway. The officer observed defendant slump down in the front seat of the car, and eventually get out of the car and enter the house. The officer ran a check on the license plate which revealed the car belonged to defendant's parents. The officer had been present earlier in the evening, had seen defendant, was aware that he had been issued a civil citation and that defendant's parents had been called to pick him up, and therefore was suspicious that defendant had been driving under the influence of alcohol.

The officer approached the house and asked for defendant. Defendant came to the door, and the officer asked defendant if he had been driving the car. Defendant denied that he had, which the officer knew to be untrue. The officer observed defendant's bloodshot and watery eyes and odor of intoxicants. The officer requested that defendant perform dexterity tests, and defendant refused. The officer arrested defendant for driving under the influence and took him to the station for processing, included the administering a blood alcohol test. Defendant was charged with criminal DUI as well as a civil violation.

### **Analysis**

The Defendant filed a motion to suppress all evidence from the earlier incident at the home as well as all evidence from the DUI arrest, and dismiss both the criminal and civil suspension charges. The Chittenden District Court denied defendant's motion and on February 27, 2001, defendant entered into a plea agreement, conditioned on this appeal. The Defendant argued that he was under custodial interrogation at the time of the initial citation and therefore that the state has the burden of establishing that he was given his Miranda rights, and that his submission to the initial breath test was a knowing, voluntary waiver of his rights. He further asserted that the evidence obtained from the violation of his Miranda rights was the sole basis for the officer's later DUI stop and that accord-

ingly; all evidence from that stop must be excluded as “fruits of the poisonous tree.”

Defendant’s appeal centered on his contention that he was in custody at the time of the initial breath test and citation, and therefore, should have been administered a Miranda warning.

“In *Miranda v. Arizona*, 384 U.S. 436, 479 (1966), the United States Supreme Court declared that the series of procedural safeguards, now known as Miranda warnings, are necessary to assure that a suspect’s constitutional right to remain silent is “scrupulously honored” by law enforcement officers. *State v. Trombley*, 147 Vt. 371, 374, 518 A.2d 20, 23 (1986).

The Court noted that Defendant’s claim of error was grounded entirely on the premise that Miranda warnings should have been given to defendant when police officers administered breath tests to minors at the Colchester party. As such, it is inherently flawed. The Court held that even if it were to extend the application of Miranda to circumstances where an individual is subject to only civil citation - *an extension for which defendant cites no authority* - police are not required to refrain from gathering “non-testimonial” evidence from an individual in custody. The Court noted that they have previously held that an evidentiary breath test was “non-testimonial” in nature and thus may be administered even after a defendant has invoked Miranda rights. *State v. Blouin*, 168 Vt. 119, 124, 716 A.2d 826, 829 (1998).”

In their analysis of the facts and circumstances the Court held that “[g]iven that police were not required to read defendant Miranda warnings before administering a breath test, the knowledge that defendant had been cited as a minor in the possession of alcohol as a consequence of the breath test results is not “fruit of the poisonous tree.” That information, combined with the officer’s observation of the defendant driving into the driveway and slumping down in an apparent attempt to hide, provided the officer with reasonable suspicion to believe that a motor vehicle violation had been committed. See *State v. Paquette*, 151 Vt. 631, 634, 563 A.2d 632, 635 (1989) (valid stop must be based on reasonable articulable facts and rational inferences to warrant intrusion). Acting on that suspicion, the officer then went to the door of the residence to question the driver. An officer may knock on the door of a residence and speak to the driver of a vehicle he saw approach the residence where he has otherwise valid, reasonable suspicion, for the investigation. *State v. Elkins*, 155 Vt. 9, 14, 580 A.2d 1200, 1202-03 (1990). Defendant’s denial that he was driving the car, after the officer had just observed him doing so, bloodshot, watery eyes, odor of intoxicants, and refusal to do dexterity tests

provided ample probable cause to believe that defendant had been driving while under the influence of alcohol.

### Summary

The Vermont Supreme Court affirmed the decision of the Chittenden District Court to admit the evidence obtained by the officers into the proceeding. The Court’s thoughtful analysis of the “Fruit of the Poisonous Tree Doctrine” to these facts should provide each reader with encouragement that evidence properly obtained and clearly articulated will be admitted to trial.

For more information about the state specific case law in your jurisdiction you should consult with your department’s prosecutor.

## Congratulations!

The Virginia ABC is pleased to announce the promotion of **SAC Shawn P. Walker** to the position of Deputy Director for the Law Enforcement Bureau. Deputy Director Walker joined the Bureau in 1993 as a Special Agent assigned to the Chesapeake Regional Office. He has served as Special Agent in Charge of Compliance/ Training and Education since 1997. Mr. Walker was instrumental in providing training specific to the needs of Virginia ABC agents. Mr. Walker has also been active in national law enforcement groups and is currently the **Secretary/Treasurer** of the **NLLEA**. In addition, he is a member of the Education Committee of the National Alcohol Beverage Control Association (NABCA).

The NLLEA would like to thank the following contributors to this newsletter:

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Carol Cannon	M. Whitney Miller
Chuck Conkling	Aidan Moore
James Copple	Rick Ohnsman
Ruth Esteban-Muir	Rick Phillips
Bob Hohn	Rebecca Ramirez
Florence Hunt	Charles Willey
Ronald Johnson	Sheri Zanger

We’re looking for articles for the Spring 2005 Newsletter. If you would like to contribute an article, news about your agency and its programs, or career updates to the next NLLEAgram, please submit it to the following address by **April 15, 2005**:

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