



NLLEA GRAM

National Liquor Law Enforcement Association

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Spring 2006

Message from the President

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NLLEA Officers

Linda Ignowski
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Secretary/
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Sergeant - at -
Arms

Dear National Liquor Law Enforcement Association Members,

It is hard to believe that we are already into the second quarter of the year! The NLLEA Training Academy is just a month away! This year it will be held in Salt Lake City, Utah on May 21-26. The Academy will offer four phases to meet different levels of experience and knowledge among your staff. Please submit your registration forms soon to ensure spots for your staff members. You can obtain more information about the event on the NLLEA website.

The NLLEA Annual Conference is about four months away. I encourage you to register early and make your hotel reservations as soon as possible. I recently learned that rooms are now being reserved in an overflow hotel a block away from the conference. The Board is currently reviewing workshop proposals for the conference. It is great to see so many proposals covering a variety of topics. It will be tough deciding which ones will meet our members' interests and needs.

The Board has moved the Annual Business Meeting earlier in the conference in order to obtain more participation from our members. (In recent years, we seemed to lose many members by Saturday morning.) The membership will vote in a new Sergeant-At-Arms, and I encourage you to consider running for this office. In addition, the Board will solicit our membership to find out if any member agencies would like to host the next Annual Conference in 2007.

Last month, the Board submitted a letter to the Surgeon General of the United States responding to his request for comments as he prepares to

issue a "Call to Action" on underage drinking prevention. Our comments centered on the important role of liquor law enforcement in preventing underage drinking. We emphasized that our member agencies have a long-standing commitment to and expertise in underage drinking enforcement that includes: 1) enforcing minimum purchasing age laws; 2) other retail-oriented enforcement efforts; 3) false ID investigations; and 4) addressing college communities that serve as high-risk settings for underage drinking and related problems. We had a very short turnaround for submitting comments to the Surgeon General, and we appreciate the staff at PIRE for notifying us of the opportunity and assisting in the development of our comments.

Finally, the Board sent out for an electronic vote a proposed change to By-Laws regarding our Membership Dues section. Unfortunately, we received a minimal number of responses. As a result, we feel uncomfortable about implementing the By-Laws change without more participation from our membership. Therefore, we will schedule a vote on the proposed By-Laws change during our Annual Business Meeting in August so that we can have full discussion and participation from our membership.

I look forward to seeing you at our 20th Annual Conference in August!

Linda Ignowski

Linda Ignowski
2005-2006 President



News From the Hill

Bringing the Message Home

by Jim Copple



The war in Iraq, Homeland Security and immigration reform continue to capture the attention of this Congress. There is no doubt that funding for projects outside of the war and homeland security are going to be difficult. There is,

however, increased media attention on underage drinking, and there is also increased community pressure to be vigilant on this important issue. Media exposure combined with good information from liquor law enforcement should help sustain federal funding for our efforts. In the first quarter of this year - PIRE alone gained media exposure to over 4 million individuals with earned media valued at over \$355,000. This is a significant increase over previous quarters, and it indicates that there is a strong interest in the alcohol issue.

Also, there is an emerging awareness that there is no group of law enforcement officers more skilled or trained at reading government issued IDs than liquor law enforcement. Possessing the skills and technology for recognizing identity fraud is now a much sought after expertise by numerous federal, state, and local law enforcement agencies. Liquor law enforcement's experience in this field is needed for both the enhanced law enforcement activities around homeland security and for immigration reform.

Liquor law enforcement should continue to seek ways to offer their training and expertise to other agencies now needing to determine the authenticity of a government issued ID. Your experience in this area is becoming a sought-after commodity.

Legislative Front

We are reasonably confident that funding for the Enforcing the Underage Drinking Laws Program will continue at the current level. We are also reasonably confident that funding will be restored for the National Center for Alcohol Law Enforcement (NCALE). Having said that, our efforts to secure any new dollars will require us to be persistent and consistent in our messages to members of Congress. ***We urge you to meet with your Congressional delegation when they are home on recess this spring (April-May). Set up appointments to educate them about your work.***

We encourage you to invite federal and state elected officials to accompany you on a ride-a-long. Let them see first hand the challenges you face in dealing with establishments operating out of compliance or with the behavior of the overly intoxicated. These ride-a-long opportunities for a member of Congress are beneficial to our efforts. It helps to make our case, and they love them.

Regardless, education of policymakers should be a major priority this spring and summer. Meet with them, provide data and above all let them feel and experience your world and your challenges. As you do that - they will inevitably ask if you have any specific needs or concerns. The simple answer is yes! We need increased funding to enhance training and force size. We need better laws and the resources to monitor compliance to those laws. We need to resist efforts to lower taxes on alcohol, and we need to continue to find ways to enhance controls. Alcohol promotion that spills over into youth audiences is a concern and requires better vigilance on the part of the FCC and other agencies monitoring advertising.

You know the needs and concerns - we simply must take advantage of opportunities to share them. Congressional recesses - when the member of Congress is back home in the district - are an excellent opportunity.

Congratulations!

Congratulations to **Pat Parmer**, the newly appointed Chief of Washington State Liquor Control Board's Division of Enforcement and Education. Chief Parmer was appointed to his position last January after serving for 34 years with the Florida Department of Business and Professional Regulation. Chief Parmer also served in a number of senior management positions in Florida state government prior to his tenure with the Florida Division of Alcoholic Beverages and Tobacco.

ICCPUD Tackles Underage Drinking and Driving Problems

by Cheryl Neverman

Did you know that young people who start drinking before age 15 are **four** times more likely to develop alcohol dependence sometime in their life than people who start drinking at age 21? They are also **seven** times more likely to be involved in an alcohol-related traffic crash.

Following the publication of the National Academy of Sciences/Institute of Medicine (NAS/IOM) report titled *Reducing Underage Drinking: A Collective Responsibility* in September 2003, Congress urged the Substance Abuse and Mental Health Services Administration (SAMHSA) to convene an interagency committee to address the problem of underage drinking.

SAMHSA convened the first meeting of the Interagency Coordinating Committee for the Prevention of Underage Drinking (ICCPUD) in April 2004. ICCPUD is comprised of top officials from several Federal agencies engaged in underage drinking and related problem prevention. Agencies include SAMHSA, the National Highway Traffic Safety Administration (NHTSA), the National Institute of Alcohol Abuse and Alcoholism, the Centers for Disease Control and Prevention, the Office of Juvenile Justice and Delinquency Prevention, and the Office of Safe and Drug Free Schools, among others.

All states and the District of Columbia have laws establishing 21 as the minimum drinking age. NHTSA estimates that these laws have reduced traffic fatalities among 18- to 20-year-old drivers by 13 percent and saved nearly 24,000 lives since 1975. Unfortunately, however, far too many youth continue to die on our roads as a result of underage drinking and driving.

New research can tell us more about the nature of underage drinking and driving today. Alcohol use among children and adolescents starts early and increases rapidly with age. The average age of first use of alcohol among youth who drink has now dipped to 14. A higher percentage of youth aged 12-20 use alcohol than use tobacco or illicit drugs (29% versus 24% and 14%, respectively). Motor vehicle crashes are the leading cause of death for youth between ages 15 to 20, and in 2004, 24 percent of drivers age 15 to 20 killed in crashes had BAC levels of .08 or higher. These figures clearly indicate that underage drinking is a leading public health problem in the United States.

A preliminary Report to Congress from ICCPUD describes the broad range of activities to combat

underage drinking currently being implemented by Federal agencies and offers a plan for enhancing these efforts. The plan is helping the agencies to identify future opportunities for collaboration and closing gaps that need to be addressed such as reaching youth who do not attend high school or college.

ICCPUD has also worked with the Ad Council to produce a public service announcement (PSA) campaign, *Start Talking Before They Start Drinking*, that targets parents of youth with messages about the risks associated with underage drinking. One PSA has been released, and it can be downloaded from the ICCPUD website (www.stopalcoholabuse.gov). Additional materials detailing more associated risks such as alcohol-impaired driving are being developed.

Following a national meeting in which teams of state officials met in Washington, D.C. in October 2005, ICCPUD promoted a series of town hall-style meetings which took place all across the Nation. These meetings aimed to educate young people and adults about new research on the risks and effects of underage drinking, the impact of underage drinking on communities as well as individuals, and strategies for preventing underage alcohol use and alcohol impaired driving by youth. Most meetings occurred in late March 2006 and were designed to empower communities to take effective long-term action.

How can NLLEA become more involved? In many cases, State liquor law enforcement agencies are an integral part of the State ICCPUD teams and, as such, have been involved in providing assistance to local communities who participated in Town Hall meetings. The real key to the success of the Town Hall Meetings is long-term community action on effective underage drinking prevention and enforcement strategies like retail compliance checks, should tap operations, underage drinking party patrols and dispersal techniques, sobriety checkpoints, and saturation patrols. If your agency is not already involved, check out the locations of the meetings at <http://www.stopalcoholabuse.gov>. State maps with community contacts will show where activities have been initiated.

For further information regarding ICCPUD or activities to address underage drinking and alcohol-impaired driving in your own state or community, please contact NHTSA staff, Cheryl Neverman at 202-366-2696 (cneverman@dot.gov) or Heidi Coleman at 202-366-2568 (hcoleman@dot.gov).

What's New

2006 Training Academy Around the Corner

by Chuck Conkling

The 2006 Training Academy is just a few short weeks away. When you are making your travel plans, remember that we start at noon on Sunday, May 21st. Utah Highway Patrol will be handling airport transfers so don't forget to fax me the Transportation Form as soon as you have made flight arrangements. This will help to ensure that you won't have to pay for transportation from the airport and that you're not left stranded.

Tony Garcia, Tricia Wilson and the entire Utah HP team are planning a big Western Cookout for Monday night so have your students bring some jeans, boots and hats, or whatever 'western' garb they have. Also, we will wear the Academy t-shirts for the graduation photos this year so no one needs to pack a suit.

The class schedule has firmed up. In response to your requests, there will be an eight-hour Integrity Leadership/Ethics block in the Leadership Phase. We also have a new eight-hour class that deals with drug-related activities and alcohol outlets. This class will include attention to the use of date rape drugs in alcohol establishments and the growing presence of violent gangs in alcohol outlets throughout the country. This is an important class offering that all students will attend on Monday.

We have room for more students, so fax in those registration forms. Remember the deadline is April 28th for reserving hotel rooms and for reserving space for students. We are usually able to work in a few students after that date, but the hotel will not hold rooms at the special Academy rate after April 28th.

Thanks in advance to all the folks in Utah for their hard work. And thanks to all of you who send instructors. The Academy could not function without your continued support. If you have any suggestions or concerns, please contact me at 919-481-4998 or cconkling@cwcinva.com.



Participants in the 2005 Training Academy Technology Phase



WANTED: Your Association Needs You!

The National Liquor Law Enforcement Association is looking for people who are interested in promoting the growth and development of the Association. If you have a passion for making a difference and feel that you have the vision to lead this Association into the future, you should consider running for office.

As an officer of the NLLEA you will help formulate the Association's agenda, work with state, local and federal law enforcement and public safety agencies, and represent the growing ranks of law enforcement professionals who make up the NLLEA. Candidates for NLLEA offices must be among the four individuals listed with their agency's membership. Individual members are not eligible to seek office.

At the next Annual Meeting in August, the Board anticipates a vacancy for the Sergeant-At-Arms position. The NLLEA's Sergeant-At-Arms participates in quarterly NLLEA Board meetings, reviews workshop abstracts submitted for the Annual Conference, reviews nominations for the annual NLLEA Law Enforcement Awards, and oversees PIRE staff charged with producing and disseminating the NLLEA *Newsgram*. The Sergeant-At-Arms position is a first-year position on the Board. In the subsequent four years, the Sergeant-At-Arms will serve as Secretary/Treasurer, Vice President, and President, before serving his or her final year on the Board as Immediate Past President.

The importance of liquor law enforcement to public safety has never been more apparent to advocates, organizations, and public officials who are working to protect and improve community well-being. Over the years, NLLEA officers have played a significant role in bringing about this increase in awareness. In order to guarantee that recognition of our work remains strong, the NLLEA needs dedicated, knowledgeable, and passionate individuals to serve on its Board.

If you would like to declare your candidacy for the Sergeant-At-Arms position, please submit:

- A picture of yourself for the upcoming newsletter; and
- A brief statement (no more than 500 words) detailing your background and qualifications, why you would like to hold this office, and your vision for the future for the NLLEA.

Candidates for the Sergeant-At-Arms position should submit their information to support@nllea.org by July 5, 2006 for inclusion in the next NLLEA Newsletter.

Nominations Sought for 2006 NLLEA Awards

It's spring and that means that it's time to send in your nominations for the 2006 Annual Law Enforcement Awards. Awards are given to individuals and agencies that have demonstrated outstanding services and achievements in the field of liquor law enforcement. The 2006 Awards will be presented at the 20th Annual Conference in Baltimore, Maryland on Friday, August 25th.

The four NLLEA Awards recognize:

- **Liquor Enforcement Agency of the Year**
- **Liquor Enforcement Officer of the Year**
- **Most Innovative Liquor Law Enforcement Program**
- **Outstanding Community Service Award (The John W. Britt Community Service Award)**



2005 Agents of the Year

The award nomination form and additional information about the eligibility criteria and required documentation, please visit the NLLEA website: <http://www.nllea.org/Awards.htm>.

All Award nominations are due no later than July 10, 2006. Please send in your nominations with **five copies** of all supporting documentation to:

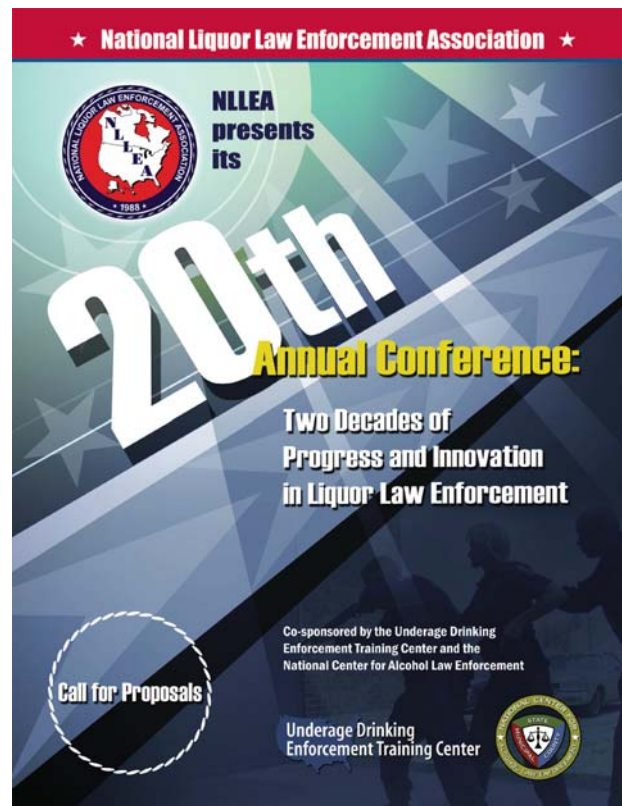
NLLEA
11710 Beltsville Drive, Suite 125
Calverton, MD 20705-3102

Plans for Annual Conference Well Underway

The 20th Annual Conference is fast approaching. This year's event will be held in conjunction with the Underage Drinking Enforcement Training Center's National Leadership Conference (NLC) from August 23 to 26 at the Marriott Baltimore Waterfront Hotel. Titled *Two Decades of Progress and Innovation in Liquor Law Enforcement*, the conference will feature engaging and informative workshop sessions, the awards recognition luncheon, networking sessions, and the Saturday evening banquet. Participants will also have opportunities to enjoy the happenings in Baltimore's scenic Inner Harbor.

The conference registration form was mailed to all NLLEA members in February, and it is available online at <http://www.nllea.org/Conferences.htm>. Conference registration fees are \$200 for members, \$250 for non-members, and \$100 for spouses/guests. Registrations must be received by July 31, 2006 in order to be included in the Conference Participants List. On-site registration will be accepted.

In light of the fact that the NLLEA and NLC conferences will be held concurrently, Association members should make arrangements for hotel accommodations as soon as possible. As of newsletter press time, accommodations were being provided by a second overflow hotel.



The next issue of the *NLLEA Newsgram* will feature detailed information about the conference agenda and optional recreational activities, but up-to-date information about all aspects of the conference will always be available at <http://www.nllea.org/Conferences.htm>.

POP QUIZ

This year marks the 20th Annual NLLEA Conference. The first national gathering of liquor law enforcement professionals took place in 1987 and the following year, the NLLEA was officially incorporated. Whether or not you attended the first gathering, with a little use of the Internet, you should be able to answer most (if not all) of the following questions pertaining to events in 1987.

Where did the first national gathering of liquor law enforcement professionals take place?

Who won the World Series that October, and how many games were played?

Three of the top ten grossing movies that year featured law enforcement officers as leading characters. Name them.

Who won the Iditerod?

Send your answers to support@nllea.org. Individuals submitting the most correct answers will have their names entered into a drawing to receive a special prize at the 20th Annual NLLEA Conference Banquet in August.

News from Around the Nation

Delaware ATE Agents Enforce Gambling Statutes, Conduct Source Investigations



Agents from Delaware Alcohol and Tobacco Enforcement (ATE) have begun a new initiative focused on illegal gambling operations in licensed premises. This enforcement effort partners ATE agents with Delaware State Troopers to create a statewide gambling task force to address illegal gambling. Agents and state troopers together conduct undercover gambling investigations and make criminal arrests for illegal gambling. Agents also file administrative charges against the licensed establishments in which the illegal gambling occurred. Since January 2006, agents have seized over 20 gambling machines and over \$8,000 in cash. Seven other illegal gambling investigations are currently pending, and arrests and seizures of machines and currency are imminent.

ATE agents are also engaged in "Checkpoint Strikeforce." Checkpoint Strikeforce is a nationwide campaign that conducts DUI checkpoints throughout the year on a statewide basis. ATE agents participate in multi-agency DUI checkpoints resulting in arrests for impaired driving, underage drinking, narcotics possession, and other related offenses. ATE agents also conduct post arrest interviews with all individuals arrested for DUI in order to determine where a driver had last been drinking. If the place of last drink involves a licensed establishment, ATE agents initiate an overservice investigation with the establishment. In this proactive way, ATE agents are helping to keep other intoxicated drivers off of Delaware roads and to hold licensed establishments accountable for overservice of patrons.

Surgeon General Prepares to Issue Call to Action

The Office of U.S. Surgeon General Richard H. Carmona announced last month that the nation's chief health educator intends to issue a first-ever "Call to Action" on underage drinking prevention. Toward that end, the Office invited public comment for consideration in the development of this influential statement. Researchers, advocates, state administrators, and policymakers were among the many individuals and constituency groups

that responded by the March 15th deadline. The Board of the National Liquor Law Enforcement Association also submitted comments.

Among the duties of the Surgeon General is the responsibility to protect and advance the health of the Nation through educating the public; advocating for effective disease prevention and health promotion programs and activities; and, providing a highly recognized symbol of national commitment to protecting and improving the public's health. The Surgeon General is also charged with articulating scientifically-based health policy analysis and advice to the President and the Secretary of Health and Human Services (HHS) on the full range of critical public health issues facing the Nation. Surgeon General Carmona is a former police officer with the Pima County, Arizona Sheriff Department's SWAT team.

Welcome Back, Bill Pacheco



Chief Liquor Enforcement Officer Bill Pacheco is pleased to be back in Maui.

County of Maui Chief Liquor Enforcement Officer Bill Pacheco recently returned from a one-year deployment in Iraq. In August 2004, he was mobilized with the Hawaii Army National Guard for Operation Iraqi Freedom. After six months of intensive training, on Oahu and

then Texas and Louisiana, Chief Pacheco shipped out to Iraq in January 2005. He served as a platoon sergeant with 1st Platoon, Company A/2-299 Infantry, 29th Brigade Combat Team. In this capacity, Chief Pacheco was responsible for 47 soldiers and non-commissioned officers as well as civilian and military police dog search teams. He also supervised a team of 10 Iraqi national civilian translators.

Chief Pacheco was stationed at Camp Victory Base in Western-Central Baghdad. His primary mission included managing the second largest entry control point in Iraq. At this control point, hundreds of Iraqi civilians, third county national civilians as well as cars and trucks were searched and screened daily for explosives, contraband, and weapons. Chief Pacheco also led combat patrol convoys into nearby surrounding villages.

Chief Pacheco was awarded the Meritorious Service Medal and the Army Commendation Medal for his service. He is now very happy to be back home with his wife, Kristi, and son. The NLLEA extends its deepest appreciation to Chief Pacheco for his service to our country.

Fall Training Leads to Spring Enforcement

Late last September, Alabama ABC convened a gathering for local law enforcement departments interested in increasing their enforcement of state alcohol laws. The training provided instruction on how to enforce Alabama's laws on underage drinking and sales to intoxicated persons.



Last month one local law enforcement agency in attendance, the Gulf Shores Police Department, applied the knowledge learned to crack down on underage drinking during spring break. Enforcement activities centered on nightly party patrols, and the department reached out to other law enforcement agencies to assist them in this work. These agencies included the Baldwin

County Sheriff's Department, Orange Beach Police Department, and Alabama ABC.

According to Chris Curtis, Southeast Regional Director for the National Center for Alcohol Law Enforcement, "Dozens of arrests of underage drinkers and intoxicated persons made during the week contributed significantly to a safer and more pleasant holiday for visitors." Curtis participated in the Gulf Shores enforcement effort in March, and the Center assisted Alabama ABC pull together the fall training by arranging for an expert instructor in party patrol and controlled party dispersal techniques and attracting media coverage of the training.

Efforts to stop underage drinking throughout Alabama have increased in the past year due to several tragic and shocking incidents. These incidents have shed new light on the terrible consequences of a so-called "harmless rite of passage" and the role that adults play in contributing to these consequences.

Current Enforcement Research

Study Examines Agency Characteristics Associated with Enforcement of Underage Drinking Laws

Researchers at Wake Forest University recently published a study examining the characteristics of agencies engaged in retail compliance check operations and Cops in Shops programs. Conducted as part of a larger study called the Tobacco Enforcement Study (TES), the research included interviews with representatives from local law enforcement agencies in all 50 states in 1999. Representatives included personnel

from city police departments, departments of public safety, and sheriffs or county police.

The study produced four key findings: 1) Local law enforcement agencies were more likely to conduct alcohol compliance checks than to have Cops in Shops programs; 2) Special community policing units were associated with having Cops in Shops programs; 3) Having a Drug Abuse Resistance Education (DARE) officer was negatively associated with conducting compliance checks; and 4) Conducting tobacco compliance checks was positively associated with conducting underage drinking enforcement activity.

Researchers concluded that the strong link observed between tobacco and alcohol compliance checks may indicate a culture within some law enforcement agencies supporting strict enforcement of age of sale laws.

Montgomery, J.M., Foley, K.L. and Wolfson, M. (2006). *Addiction*. 101(2):223-231.

Not a member of NLLEA?

Join now and save \$50 on the conference registration. Call (301) 755-2795 or go to www.nllea.org for more information on how to become a member.

The Law Corner

"It's Not How You Say It, But What You Say That Counts"

by Aidan J. Moore, JD



In April 2005, the Georgia Supreme Court reviewed the Constitutionality of an advertising ordinance maintained by the City of Jasper. In the case of *Folsom v. City of Jasper et al*, Scarlett Folsom, proprietor of the Blue Rodeo

Café, appealed an order of the Pickens County Superior Court affirming the City of Jasper's decision to suspend Folsom's liquor license for thirty days and impose a one-year probationary period.

The punishment was imposed after the City determined that Folsom and her establishment, the Blue Rodeo Café, was guilty of three violations of the City's Alcoholic Beverages Ordinance. The City claimed that Folsom twice violated the ordinance's restrictions on alcohol advertisements, and that the third violation occurred when a patron of the Café was allegedly battered by an employee of the Café.

The Facts of the Case

The ordinance involved in this case prohibits all "advertisement[s] of any kind advertising alcoholic beverages for sale or advertising the brand names or prices of alcoholic beverages..." The ordinance also bans businesses from advertising their business name or trade name if that name includes any of the specifically prohibited words listed in the ordinance, all of which are related to alcohol.

The City cited the Café for two violations of this portion of the ordinance. The first violation involved a newspaper advertisement for a New Year's Eve party that promoted "Balloon Drops, Party Favors, and Champagne all for \$15.00 per person." The second violation occurred when the Café purchased another newspaper advertisement promoting a "Miller Lite Promotion Party Saturday Night." The Café argued that the ordinance constitutes a "blanket prohibition against truthful, non-misleading speech about a lawful product" in violation of the First Amendment.

Analysis of the Case

The Georgia Supreme Court looked to *Liquormart, Inc. v. Rhode Island* 517 U.S. 484 (116 SC 1495, 134 LE2d 711) (1996), the seminal case decided by the U.S. Supreme Court, for guidance in its evaluation of the ordinance.

The Court's inquiry, under the *Liquormart* analysis, is whether the prohibition constitutes a "blanket prohibition against truthful, non-misleading speech about a lawful product." *Id* at 504. "Although the Supreme Court did not articulate the full parameters of this inquiry, it is sufficient for this case that the Supreme Court found that a ban on the advertisement of the prices of alcoholic beverages qualified as such a "blanket prohibition." The Court noted the ordinance in this case went even further, prohibiting the advertisement of alcoholic prices, brand names, and even the business's name if it contains certain words. Under this analysis the Court found the ordinance constitutes a "blanket prohibition" on commercial speech.

The City argued that its ordinance did not constitute a "blanket prohibition" because it allowed the advertising of alcoholic beverages within the licensed establishment, so long as they are not visible from the outside. The Court took notice that it undermines the value of advertising to only allow the Café to advertise to people who have already decided to patronize their establishment. Further, in *Liquormart*, the prohibition was still considered a "blanket prohibition" even though the law allowed the advertising of alcohol prices within the retailer's premises so long as it was not visible from outside the store.

Further analysis by the Court observed that the ordinance amounted to a "blanket prohibition on truthful, non-misleading speech," and therefore the ordinance must be reviewed with "special care" under the four-part test for commercial speech, originally set forth by the U.S. Supreme Court in *Central Hudson Gas and Elec. Corp. v. Public Serv. Comm'n of New York* 447 U.S. 557 (100 SC 2343, 65 LE2d 341) (1980).

"Bans against truthful, non-misleading commercial speech...usually rest solely on the offensive assumption that the public will respond 'irrationally' to the truth. The First Amendment directs us to be especially skeptical of regulations that seek to keep people in the dark for what the government perceives to be their own good." *Liquormart*, 517 U.S. at 503 (citations omitted).

Accordingly, this kind of restriction on speech will "rarely survive constitutional review."

Accordingly, the Court found the City's ordinance prohibiting the advertisement of alcoholic beverages could not pass constitutional scrutiny, and the City's punishment against the Café could not be justified based on the Café's two violations of that aspect of the ordinance.

The Court also looked at the Superior Court's ruling on the constitutionality of the ordinance as it applied to the conduct of the licensee's employee. The ordinance authorized the city to suspend or revoke an alcohol license if the City Council determines, "to their own satisfaction," that the licensee is guilty of any "violation of federal or state law."

The Petitioner argued that the ordinance is overbroad and violated due process because it allows the City to revoke or suspend a license if the City Council, in its discretion, determines that any violation of law has occurred, regardless of whether the violation is related to the purposes of the licensing scheme. The Court noted in this case, however, "in order to show that the ordinance is overbroad as applied, the Petitioner needed to show that the alleged violation, the battery of a patron by an employee, was unrelated to the regulatory purposes of the alcohol license. This they could not do.

"The risk of unruly patrons, and the risk of an overzealous response to that unruliness by employees of the alcohol-serving establishment, is clearly one of the reasons for the State's regulation of the sale and consumption of alcoholic beverages at establishments like the Cafè. Therefore, the ordinance is not overbroad as applied in this case."

The Georgia Supreme Court looked to their ruling in the case of *Bryant v. City of Americus*, where the Court held that an ordinance that committed "to the sole discretion of the mayor and city council the determination of whether or not these grounds to revoke exist in a given case... does not per se derogate from or conflict with due process principles." But in that case, the ordinance did not violate principles of due process because even in committing the decision to the discretion of the city council, the ordinance set forth specific grounds for revocation and thereby limited the scope of the council's discretion. Thus, the ordinance met the "ascertainable standards" requirement of the statute by clearly limiting the council's discretion to a determination of whether the specifically proscribed conduct had in fact occurred.

The Court went on to compare the standard in *Bryant* to the case before the bench. "In this case, [contrary to our holding in *Bryant*], there are no such limits on the council's discretionary revocation authority, and no "ascertainable standards" to guide or limit the grounds for the council's decision." The Ordinance authorized the Council to revoke an alcohol license if it determines in its own discretion that *any* legal violation has occurred. That type of absolute discretion in both the determination of the occurrence of the violation as well the relevance

of the violation does not comport with basic principles of due process or the statutory requirements. "Absolute and uncontrolled discretion by governing authorities to issue [or revoke] licenses invites abuse, and exercise of discretion by states and local governments must be tempered by ascertainable standards..."

Accordingly, the Court held the part of the Jasper ordinance authorizing license revocation for any legal violation that the Council determines to its own satisfaction to have occurred violates basic principles of due process and could not stand.

"Because all of the grounds purportedly justifying the suspension and probation of Folsom's liquor license, as set forth in the City's Alcoholic Beverages Ordinance, fail constitutional scrutiny, the judgment of the Superior Court upholding the punishment imposed by the City of Jasper is hereby reversed."

Summary

Many state and local alcohol law enforcement and licensing agencies operate with statutes and ordinances similar to those stated in this case. A review of the advertising rules in your state or community with your agency legal counsel would be a worthwhile investment of your time in an effort to evaluate the Constitutionality of your regulatory provisions.

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

Maria Carmona
Chuck Conkling
Jim Copple
Joey Dacanay
Michael Downs
Linda Ignowski
Aidan Moore
Cheryl Neverman
Sharon Otsubo
Wayne Pagan

We're looking for articles for the Summer 2006 issue of the *NLLEAgram* If you would like to contribute an article, news about your agency and its programs, or career updates to the next issue, please submit to the following address by **July 5, 2006**:

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