

HIGH-RISK DRINKING ON COLLEGE CAMPUSES

WHITE PAPER

*First you take a drink, then the drink takes a drink,
then the drink takes you.*

F. Scott Fitzgerald (1896 – 1940)

I. INTRODUCTION.

Authority.

Pursuant to Iowa Code § 123.16 (2001), the Iowa Alcoholic Beverages Commission (Commission) acts as a policy-making body and serves in an advisory capacity to the Division Administrator.¹ As leaders who regulate Iowa’s alcoholic beverage industry, the Administrator and the Commission face the challenge of administering the “Iowa Alcoholic Beverage Control Act” with the purpose of protecting the welfare, health, peace, morals and safety of all Iowans. The Administrator and the Commission are empowered by Iowa Code § 123.20(6) to “regulate the entire beer, wine, and liquor industry in the state.”

Methodology.

Concerned by the number of incidents involving alcohol abuse at Iowa colleges and universities, the Commission held a series of public forums to address problems of excessive, abusive and illegal use of alcohol and associated behaviors on the part of Iowans, particularly college-age youth. Following a Commission meeting held in Ankeny, public forums were held in Iowa City, Ames and Cedar Falls, home of Iowa’s three regents institutions. The structure of the public forums was similar, although each forum differed according to attendance and community specific issues. All of the forums were well attended by law enforcement, college officials, business leaders, elected and non-elected officials, community members, prevention and treatment specialists, students and parents.² Commission members found the forums to be an educational process, affording the Commission an opportunity to hear the views, opinions and perspectives of a variety of concerned citizens.

The purpose of the white paper is to identify and address problems associated with liquor promotions and the corresponding consequences of excessive alcohol consumption by Iowa’s college-age youth. Comments from public forum participants are incorporated throughout the paper.

¹ A list of commission members is found in Appendix I.

² A list of forum presenters is found in Appendix II.

II. DEFINING THE ISSUE.

What is High-Risk Drinking?

High-risk drinking is an all-inclusive term for a social problem that is hard to define. Researchers have differing views on how high-risk drinking should be defined. Dr. Henry Wechsler and other noted researchers from the Harvard School of Public Health, refer to high-risk drinking as “binge drinking,” the consumption of four or more drinks in one sitting during a two-week period for woman and five or more drinks in one sitting during a two-week period for men.³ Frequent high-risk drinking is defined by these sources as drinking three or more times in a two-week period. (A drink is defined as 12-ounces of beer, 5-ounces of wine, or a 1-ounce shot of liquor taken straight or in a mixed drink.)⁴

Wechsler’s definition of high-risk drinking is not intended to diagnose college students as alcoholics or to determine if they are legally intoxicated at any given time. The definition is not linked to the time elapsed while drinking, the weight of the drinker, or food eaten during the drinking period. Rather, the measure is designed to track how many students on college campuses nationwide are drinking at levels high enough to significantly increase the risk of problems for themselves and of those around them.

Dr. William DeJong, Director of the Higher Education Center for Alcohol and Other Drug Prevention, U.S. Department of Education, says that Wechsler’s definition of high-risk drinking is misleading. Wechsler’s “binge” definition does not factor in the weight, age or tolerance of the individual, the length of a “sitting” and whether the individual consumed any food prior to consuming alcohol.⁵ If a woman has two glasses of wine with a leisurely dinner followed by two more drinks sipped over a four or five-hour period following the dinner, the woman’s blood alcohol content would remain low. Because of the manner in which the body processes alcohol, it would be hard to imagine that the woman would feel the effects of the alcohol.

For the purposes of this paper, high-risk drinking refers to a level of alcohol consumption at a quantity and frequency rate that surpasses the body’s ability to process the alcohol. The risk of impairment problems and alcohol poisoning increases significantly when a person participates in high-risk drinking behaviors (drinking games, chugging, doing several shots of alcohol during a short period of time). High-risk drinking threatens the welfare, health, peace, morals and safety of all Iowans.

³ Harvard School of Public Health researchers refer to high-risk drinking as “binge drinking.”

⁴ Harvard School of Public Health College Alcohol Study (CAS); CORE Institute at Southern Illinois University; University of Michigan’s Monitoring The Future Study; CDC National College Health Risk Behavior Study.

⁵ Thomas, A., and Powers, S., *More College Students Choosing Not to Drink*. Columbus Dispatch (3/15/00).

High-Risk Drinking on College Campuses.

Dr. Henry Wechsler, Harvard School of Public Health, examined the nature and scope of heavy episodic alcohol use among a national sample of American college students. In a representative sample of 140 colleges and more than 17,000 students, Wechsler found 84% of college students drink alcohol and 44% of those drinkers are high-risk drinkers who consume five or more drinks in a single sitting. Approximately two out of five college students are high-risk drinkers. Drinking patterns established in high school often persist during college. Compared to other students, college students who were high-risk drinkers in high school are almost three times more likely to participate in high-risk drinking in college. However, the myth that all college students are high-risk drinkers is just that. Although the current level of high-risk drinking by college-age students is a serious problem, 56% of students at four-year institutions either abstain or drink in moderation.⁶

What are the Effects of High-Risk Drinking?

The effects of high-risk drinking vary. Alcohol is involved in 66% of student suicides and 95% of violent crimes on college campuses.⁷ Wechsler's study found a positive relationship between high-risk drinking and driving after drinking. Among the frequent high-risk drinkers, 62% of the men and 49% of the women have driven a car after drinking. Underage drinking is a factor in nearly all the leading causes of death and injury for youth ages five to twenty-five: automobile crashes, homicides, suicides, injuries, and HIV infections.⁸ Students who frequently participate in high-risk drinking are 21 times more likely than non-binge drinkers to:⁹

- Be hurt or injured.
- Drive a car after drinking.
- Get in trouble with campus or local police.
- Engage in unplanned sexual activity.
- Engage in unprotected sex.
- Damage property.
- Fall behind in schoolwork.
- Miss class.

⁶ *College Binge Drinking in the 1990's: A Continuing Problem*; Journal of American College Health, Vol. 48, March 2000.

⁷ Eigan, Lewis. *Alcohol Practices, Policies and Potentials of American Colleges and Universities*, U. S. Department of Health and Human Services, 1991.

⁸ Pacific Institute for Research and Evaluation. *Cost of Underage Drinking*. Washington, D.C.: U. S. Department of Justice, Office of Justice Programs, Office of Juvenile and Delinquency Prevention, 1999.

⁹ *College Drinking in the 1990's: A Continuing Problem*; Journal of American College Health, Vol. 48, March 2000.

High-Risk Drinking and Sexual Assault.

According to Columbia University's National Center on Addiction and Substance Abuse, alcohol is involved in 90% of campus rapes.¹⁰ A study on campus rape published in the Journal of American College Health found that 73% of the assailants and 55% of rape victims used alcohol or other drugs prior to the assault.¹¹

High-Risk Drinking and Drunk Driving.

There is a positive relationship between high-risk drinking and driving after drinking. Wechsler's national study found that, among frequent high-risk drinkers, 62% of men and 49% of women drive after drinking. Approximately, half of these students have ridden with a driver who was drunk.¹²

Second-Hand Effects of High-Risk Drinking.

Three out of four moderate drinkers and abstainers who lived in dormitories or fraternities and sororities reported experiencing at least one secondhand effect from high-risk drinking. Wechsler's survey found:¹³

- 23% had experienced unwanted sexual advance.
- 11% had been pushed, hit or assaulted.
- 36% had been insulted or humiliated.
- 16% had property damage.
- 71% had sleep or study interrupted.

What are the Costs Associated with High-Risk Drinking?

The costs associated with high-risk drinking are staggering. College students spend approximately \$5.5 billion on alcohol each year. This amount is more than they spend on books, soda, coffee, juice and milk combined.¹⁴ No precise estimates exist for societal costs associated strictly with high-risk drinking. However, according to the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, annual costs of alcohol use by those under age 21, is estimated at more than \$58 billion.

¹⁰ National Center on Addiction and Substance Abuse (CASA) at Columbia University. 1994.

¹¹ Meilman, Philip W., *Alcohol-Induced Sexual Behavior on Campus*. Journal of American College Health 42, 1993.

¹² *Binge Drinking on Campus: Results of a National Study*. Wechsler, H., Dowdall, George W., Davenport, Andrea, and DeJong, 2001.

¹³ Wechsler, H., Lee J. Kuo M., and Lee, H., Harvard School of Public Health, 1999.

¹⁴ Eigan, Lewis. *Alcohol Practices, Policies and Potentials of American Colleges and Universities*, U.S. Department of Health and Human Services, 1991.

III. IOWA'S CAMPUS COMMUNITIES.

Iowa has many communities that are home to institutions of higher education. In addition to the state's three regent's institutions, the state has many private colleges, as well as a system of regional community colleges. The concentration of the state's young adults in these communities means that the issue of high-risk drinking directly affects many of Iowa's communities disproportionately.

Peter Nathan, Professor of Psychology at the University of Iowa conducted surveys of University of Iowa students, using the same procedure and questions used by Wechsler in his national study. Nathan found 70% of UI undergraduates meet the criteria for high-risk drinking while 46% meet the criteria for frequent high-risk drinking. Nathan also found that between one-third and one-half of all freshmen women experienced one or more episodes of alcohol-related unwanted sexual advances.

According to Rick Ahlstrom, Chief of Police in Cedar Falls, Iowa City is not the only college community with underage and high-risk drinking problems. In Cedar Falls, officers are more heavily staffed Thursday through Saturday evenings consuming the majority of the police resources, particularly on the third shift, to try to control the actions of people in the bar areas. A city street has to be blocked off to accommodate students who stand around outside of the bars. In October 1996, the Cedar Falls mayor ordered the bars adjacent to the University of Northern Iowa to close early after they became overcrowded with drunken revelers from the homecoming football game. Intoxicated students responded by throwing bricks, overturning cars and causing serious damage to nearby property and businesses.

Like Iowa City and Cedar Falls, Ames has experienced its share of incidences that involved underage, high-risk drinking and violence. For years, Iowa State University's Veishea festival was known across the country as a drinking paradise. Each year, the spring festival drew revelers who partied into the early hours of the morning, leaving beer cups and cans piled in well-trodden lawns. The Veishea festival was plagued with riots in 1988 and 1992, and, in 1997 with the murder of one young man who had been on a 3-day drinking binge.

IV. ALCOHOL PROMOTIONS.

Advertising Targets Youth and High-Risk Drinkers.

Alcohol advertising often targets college students. With enactment of the 21-year old minimum drinking age laws in 1984, advertising by local bar and tavern owners as well as wholesale distributors largely replaced advertising by brewers, distillers and vintners.¹⁵ The Center for Science in the Public Interest (CPSI) found that between 1984 and 1996, the

¹⁵ *Last Call for High Risk Bar Promotions that Target College Students: A Community Action Guide.* Washington, D. C.: Center for Science in the Public Interest, 1997.

average space devoted to advertising by local alcohol outlets increased by 68%. The survey found that one-third of the bar ads promote such high-risk drinking activities as:

- “Ladies drink free.”
- “Progressive pitchers.”
- “Nickel pitchers ‘til ten o’clock.”
- “Penny and nickel drink night.”
- “Penny ‘til you pee beer.”
- “All you can drink specials.”
- “Bladder buster.”

The survey also found that bar promoters distribute handbills to students between classes, post fliers on campus kiosks and dormitory bulletin boards, and stuff student mailboxes with listings of the week’s drink specials.¹⁶ These and other promotions jeopardize the welfare, health, peace, morals and safety of the entire community.

Drink Specials Fuel High-Risk Drinking.

Easy access to cheap alcohol in large volume is a problem on Iowa’s campuses that, in turn, fuels underage and high-risk consumption. Fifty-one percent of students under age 21 who drink report that they pay less than one dollar for a drink, get it free or pay a set price for an unlimited number of drinks, compared to 15% of students age twenty-one to twenty-three.¹⁷

Bars that offer “all-you-can-drink specials” or an unlimited quantity of alcohol for one low price acknowledge an intention to serve patrons regardless of their level of intoxication. Since these specials tend to be time-limited (“all you can drink from 9 ‘til midnight”), customers feel pressure to drink quickly making it more difficult for them to gauge their level of intoxication. Bars that offer patrons two or more drinks for the price of one essentially force customers to order their “next” drink before they have even had an opportunity to consume their current drink. Like “all-you-can-drink” specials, “two-fers” make it difficult for customers to pace their drinking or monitor their level of intoxication. Because servers usually deliver two drinks at one time, patrons may also drink faster to get to the second drink before it becomes warm or flat.

Some bars attract students by offering a ride home, sponsoring a “drunk bus” or other “safe-ride” program. Others may offer non-alcoholic beverages to designated drivers. Intend to prevent drunk driving, the practice also encourage non-driving students to drink excessively by implicitly suggesting that drinking responsibly simply means not drinking and driving.

¹⁶ Ibid.

¹⁷ Wechsler H., Lee J. Kuo M., and Lee, H., Harvard School of Public Health, 1999.

Differing Points-of-View.

Drink specials reflect owners' frequently expressed belief that they must use drink specials to compete with other bars for student patrons to remain competitive in the business. According to Don Stalkfleet, owner of the Sports Column and Joe's Place in Iowa City, "if all bar owners would decide to get rid of price specials, then everyone would be on a level 'playing field'. However, the likelihood of everyone agreeing to that is small." Jim Clayton, owner of the Soap Opera in Iowa City expressed the same sentiment. According to Clayton, the problem is access and price. "Business people respond to the market for a profitable opportunity. They pay high rent, advertise heavily and discount their product to attract young people to their bar. That is a powerful cultural message being sent to the young people." David Moore, owner of the Fieldhouse Restaurant & Night Club and College Street Billiard Club & Deli noted that some bar owners would prefer not to sell beer by the pitcher, but do so to stay competitive.

Linda Ciccone, Substance Abuse Coordinator at Iowa State University, observed that encouragement of irresponsible decision-making regarding alcohol consumption is a major concern. "Drink specials and happy hours that last all day long encourage irresponsible consumption. Twenty years ago, drinking was part of an event. Today, drinking is the event." Students begin drinking at an earlier age and may come to campus with a 5 or 6 year established drinking pattern. Consistent research shows that 25% of the people drink 75% of the alcohol. However, over age 21, the target group is really the 25% who make the poor decisions and are involved in the accidents, crimes, assaults and other illegal activity.

According to Bill Shackelford, President of the Polk County Chapter of MADD, Iowa MADD Chapters, as well as MADD Chapters nationwide, are supportive of discussions regarding the problems of high-risk drinking on college campuses. "MADD supports the efforts to curtail happy hours, free beer and other promotions that precipitate binge drinking."

The hospitality industry offered a few cautionary words. Doni DeNucci, Chief Executive Officer of the Iowa Hospitality Association, stated, "When specials are limited, all bar owners, both good and bad, are limited. There needs to be care in defining prohibitions on limiting happy hours and price specials. Most states that do have such laws also have certain exceptions. If 10% of the problem rests with college towns, then these laws and regulations should be handled by local ordinance."

Generally speaking, college students have a point-of-view all their own. Students expressed the view that any war against binge drinking would be a feeble battle because students do not care. Students also took the position that trying to regulate drink specials is government intrusion on a private enterprise. Students tended to justify high-risk and underage drinking by having a designated driver who either does not drink or has only a few beers. And, the students countered that bar owners who say they want regulation have ulterior motives in that the regulations will mandate bar owners to charge higher prices for the same amount of alcohol, thus driving up bar tabs. In stark contrast, however, parents firmly expressed the view that an environmental change is needed and that the promotion and advertising of drink specials should be banned.

V. SOCIAL NORM MARKETING.

The problems with high-risk drinking are both behavioral and environmental. Although students may drink heavily compared with the general population, consumption patterns actually pale in comparison to reality. Generally, students perceive their peers' drinking levels to be higher than their own level and higher than they actually are.¹⁸ Exaggerated perceptions of others' drinking causes some students to increase their own consumption in order to "keep up."¹⁹ The gap between reality and perception is often enormous.

Studies conducted by researchers show that informing students about the real consumption patterns can turn around this dynamic. When students more accurately perceive how much drinking is actually occurring, the information changes their perception of the norm, thereby reducing the quantity and frequency of high-risk drinking, as well as the negative consequences associated with high-risk drinking. The effort to correct this common misperception is referred to as "social norm marketing."

Social norm marketing campaigns have been successfully conducted at several universities:

- Northern Illinois University experienced a 44% reduction in high-risk drinking after 9 years of social norm campaigns.
- The University of Arizona experienced a 28% reduction in high-risk drinking over 3 years of social norm practices.
- Western Washington University experienced an 8% reduction in high-risk drinking after 1 year of social norm marketing.
- Hobart and William Smith University experienced a 12% reduction in high-risk drinking after 2 years of social norm marketing.

To be effective, campus alcohol policy must include more than efforts to educate students about the consequences of alcohol misuse or interventions that focus primarily on treating or punishing those who may be putting at risk their own or others' health and safety. Effective campus-community collaboration is essential to tackling the range of off-campus factors that can significantly shape the drinking environment. Research has found that the most effective way to decrease high-risk drinking is to target the whole community rather than just those individuals who are likely to participate in high-risk drinking. Such an effort takes government intervention.

¹⁸ Baer, JS; Sacy, A; & Larimer, M. *Biases in the Perception of Drinking Norms among College Students*. (Journal of studies on Alcohol 52(6): 1991).

¹⁹ C.A. Presely, et. al., *Alcohol and Drugs on American College Campuses*, Vol. 111:1991-93, The Core Institute, Southern Illinois University at Carbondale, January 1996.

VI. GOVERNMENT INTERVENTION.

The Federal Approach.

The driving force behind recent prevention activity on college campuses is the “Drug-Free Schools and Campuses Act”. The Act requires institutions of higher learning to certify to the U.S. Department of Education that colleges and universities have implemented a policy that prohibits the unlawful possession, use or distribution of drugs or alcohol on college property, or as part of a college activity. Failure to meet the Act’s criteria places a school’s federal funding in jeopardy.

The “Drug-Free Schools and Campuses Act” requires each institution of higher learning, as a condition to receiving any federal financial assistance, to provide the following information to each student and employee:

- Description of the health risks associated with the use of alcohol and illicit drugs.
- Description of any alcohol or drug counseling, treatment, or rehabilitation programs available to students and employees;
- Standards of conduct clearly prohibiting the unlawful possession, use or distribution of alcohol and illicit drugs by students and employees on school property or as part of any school activities.
- Description of applicable legal sanctions under local, state or federal laws for the unlawful possession, use or distribution of alcohol and illicit drugs.
- Statement clarifying the school will impose disciplinary sanctions on students and employees for violation of the standards of conduct.
- Description of sanctions, up to and including expulsion, termination of employment and referral to local law enforcement.

Schools are also required under the Act to provide a written review of their program every two years to determine program effectiveness and implement any needed changes, as well as to ensure that the school’s sanctions are being consistently enforced. The “Drug-Free Schools and Campuses Act” is a beginning, but more is needed.

What has been done on Other Campuses?

Responding to the welfare, health, peace, morals and safety issues associated with high-risk drinking, several states have enacted laws or regulations that prohibit or limit certain promotional activities. Violation of these laws and rules subjects bars and other licensed

establishments participating in promotional activities that encourage high-risk drinking, to administrative sanctions such as civil penalties, license suspensions and revocations.

A brief overview of the laws and regulations in other jurisdictions, reflects:²⁰

- Eighteen states prohibit or restrict “all-you-can-drink” specials.
- Six states prohibit happy-hour drink specials.
- Seven states restrict the hours during which bars may offer discounts.
- Seven states ban “ladies nights.”
- Four states restrict the hours during which bars may offer “ladies night” specials.
- Fourteen states prohibit or restrict selling two or more drinks for the price of one.
- Nine states prohibit or restrict drink specials in which bars charge their usual price for a larger drink.
- Texas prohibits bars from charging a cover price for admission, then selling penny drinks or drinks for “any coin.”
- Massachusetts bans any promotion that results in the sale of drinks at a price that is lower than the bar’s cost.
- Maine rejects any marketing practice that has the specific purpose “to encourage customers to drink to excess.”

The regulatory efforts of these states reflect a team spirit in the war against high-risk drinking.²¹

How has Iowa Responded?

Local authorities, pursuant to Iowa Code § 123.39(2), share concurrent jurisdiction with the state in governing Iowa’s alcoholic beverage licensees. Iowa Code § 123.39(2) allows local authorities to adopt ordinances governing activities and other matters which may affect the retail sale and consumption of alcoholic beverages. Although these local ordinances cannot conflict with state statute, cities and counties have “home rule” authority to enact ordinances that are more restrictive than state statute.

While the issue of underage and high-risk drinking is a concern that mostly affects communities where colleges and universities are located, the problem can have a spillover effect into neighboring communities. For instance an ordinance recently adopted in Iowa City, focusing primarily on enhanced enforcement and restriction of drink specials, raised

²⁰ National Clearinghouse for Alcohol and Drug Information: *Last Call for High-Risk Bar Promotions That Target College Students*, November 30, 2001.

²¹ Highlights of other states’ laws and rules are found in Appendix III. Copies of actual laws and rules are found in Appendix IV.

concern from nearby communities.²² College crowd drinkers can simply travel a short distance to another jurisdiction to avoid the impact and consequences of local alcohol regulations. Students at the University of Iowa are dodging the new ordinance by busing their parties to nearby North Liberty, Tiffin, Solon and Shueyville. While Iowa City has several officers patrolling the downtown area every weekend, North Liberty has only two officers whose time is spent keeping the crowds under control. Consequently, the smaller abutting communities contend that statewide regulation, rather than conflicting local ordinances, is a better alternative to curb underage drinking and public intoxication. Iowa City officials agreed that a statewide remedy would aid all communities by providing a level “playing field.” Chief Rick Ahlstrom, Cedar Falls Police Department, concurred with that view: “The problem is statewide and law enforcement communities need help.”

According to Iowa City bar owner Don Stalkfleet, the campus climate encourages underage and excessive consumption. “Working toward legislation to restrict cheap drink specials is one piece of a very comprehensive effort to provide alternatives to partying atmospheres. Because of this, the only way to get rid of drink specials is to enact a statewide statute. Legislation regarding happy hours and drink specials would apply to everyone and would create a level ‘playing field.’”

Jim Clayton, an Iowa city business owner cautioned that a local ordinance is not enough to solve the problem of underage and binge drinking. “If there is no broad-based incentive that goes beyond the Iowa City community, the problem moves to surrounding communities.”

Julie Thompson, Coordinator for Substance and Sexual Abuse at the University of Northern Iowa, agreed with Ms. Clayton. “When the owner of a Cedar Falls establishment voluntarily discontinued its weekly “Beer Flood” promotion, because the promotion was fueling over-consumption, a competitor stepped in and offered the promotion at a new location.”

The City of Ames has its own approach. In 1988, following the Veishea riots, Ames began enforcing an existing ordinance that prohibited minors from being on licensed premises where the primary business is alcohol sales. The ordinance allows the city to pursue individuals who have a duty to make sure that underage persons do not get onto the premises. The city also established a Special Operations Unit within the police department to work primarily in alcohol education and enforcement. The city has been fairly successful with this approach. Although not all problems have ceased, access of underage drinkers has improved due to student, bar owner and public awareness of laws and ordinances, as well as the possible adverse consequences.

In 1998, the Veishea festival became officially alcohol-free. The festival targeted the “Cyclone family” of students, faculty, staff, alumni and members of the Ames community. The festival’s 1998 theme became “A Time for Change” with a renewed focus on academic achievements rather than drinking and partying. University and community leaders worked closely with the licensee community, many of whom agreed to not offer or advertise drink specials during the festival. The concerted efforts proved successful as the number of Veishea-related citations and arrests declined 28%, a significant reduction from the previous year.

²² A copy of Iowa City’s ordinance is found in Appendix V.

On an ongoing basis, Ames has also taken administrative action against licensees for allowing minors on licensed premises and for selling or providing alcoholic beverages to underage persons. Since 1996, Ames officials have obtained administrative sanctions against approximately 30 licensees through administrative hearings held before the Iowa Alcoholic Beverages Division. According to City Attorney John Klaus, “the administrative process is a good process for providing fairness to the licensee, while providing a remedy for the local government.”

Finally, the issue of high-risk drinking hasn’t gone unnoticed by the Iowa Legislature. In March 2001, Representative Steve Warnstadt introduced House Concurrent Resolution 26, requesting the establishment of an interim study committee to review current issues, law enforcement disparities, and criminal penalties related to the purchase, possession and consumption of alcohol by persons under legal age.

VII. RECOMMENDATIONS.

As a state, we may be blameless for letting the problem of high-risk drinking on college campuses exist, but we should be blamed if we allow the practice to persist. In order to effectively change the environment that encourages high-risk drinking and to revert the related consequences, the Iowa Alcoholic Beverages Commission sets forth the following recommendations.

Recommendation #1: Common sense and public opinion support enactment of a state law prohibiting all-you-can-drink liquor promotions that encourage over-consumption, underage drinking, public intoxication and drunk driving.

The Commission believes that common sense dictates that the practice of promoting the sale of alcohol by means of all-you-can-drink liquor promotions should be statutorily prohibited. Given the fact that the average person becomes intoxicated after consuming between 4 to 6 drinks in an hour, no basis exists to support the present and growing practice of liquor buffets.

While the commission stands in full support of the free enterprise system, the risk posed by over-consumption of alcohol is so apparent that the 21st Amendment to the U.S. Constitution grants to the states the right to regulate the trafficking of alcohol within their borders. The risk to the consumer, as well as to the rest of society, far outweighs any concerns as to free competition in the marketplace. Besides, bars retain more responsible means available to compete for customers.

Moreover, the Commission finds that strong public support exists for enactment of a statute banning such irresponsible promotions. Broad support for banning such practices was evident at the public forums. That support was passionately noted by community leaders, university officials and bar owners alike. And public opinion, as measured by recent letters to editors on the issue, clearly is in opposition to such promotions.

Several state statutory models exist to guide Iowa lawmakers in enacting a ban on such promotions. Sixteen states have laws that prohibit the practice, including Alabama, Alaska, Arizona, Illinois, Kansas, Maine, Michigan, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Rhode Island, Tennessee, Texas and Virginia.²³

While some may contend that such a statute is not necessary because existing laws suffice, liquor law enforcement is not even across the state. See Recommendation # 4, below. The Commission also supports a statewide regulation to avoid the unintended consequences when the various local regulations conflict with each other. Community-by-community enactment of ordinances, in this case, has the effect of sending intoxicated patrons across city lines. Alternatively stated, the communities where such promotions have been offered have struggled to draft ordinances that have the consequence of shifting the problem to adjoining communities.

It is the Commission's belief and position that enactment of a state statute prohibiting all-you-can-drink liquor promotions is the single greatest tool that can be implemented to attack high-risk drinking and the negative consequences that flow from such behavior. The benefits that can be derived by this proposal to reduce intoxication would be equally beneficial to the state at large. The Commission strongly urges the legislature to act on this recommendation.

Recommendation #2: A legislative study committee should be appointed to review restricting other alcohol promotions, within reason, and to gauge the impact and political viability of such proposals.

The Commission further recommends that additional restrictions against other alcohol promotions, within reason, may be in order. The impact and political viability of such ideas, however, need to be reviewed in greater detail and involve more community input. For that reason, the Commission is recommending that a legislative study committee be appointed to review the merit of additional drink special restrictions.

Many states, presently, do restrict other forms of liquor promotions. A review of some of the regulations from other jurisdictions include:²⁴

²³ The various state statutes and rules prohibiting liquor buffets can be found in Appendix IV.

²⁴ Ibid.

PROMOTIONAL ACTIVITIES

“Two-fers.”

Bars that offer patrons two or more drinks for the price of one essentially invite patrons to order their “next” drink before they have consumed their current drink. “Two-fers” make it difficult for customers to pace their consumption or monitor their level of intoxication. Because servers usually deliver two drinks at once, patrons may drink faster to get to the second drink before it becomes flat or warm.

- States with laws governing “two-fers” include: Alabama, Indiana, Michigan, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Texas and Virginia.²⁵

Increase Alcohol Volume Without Proportionate Price Increase.

When a law prohibits specific marketing practices, bar owners may develop new promotions not considered by the legislature. Bars may respond by offering a single drink that is twice as large as the usual serving or offering to make the drink a “double” for little or no extra charge.

- States with laws governing increased alcohol volume without proportionate price increases include: Alabama, Illinois, Kansas, Ohio, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Texas and Virginia.²⁶

Sell Alcohol at a Price Lower than the Seller’s Cost.

Bars can avoid laws governing “all-you-can-drink” specials and “two-fers” by charging prices, sometimes in conjunction with a cover charge. “Coin nights,” “nickel pitchers,” “quarter shots,” free drinks and similar promotions encourage customers to drink excessively.

- States with laws governing selling alcohol at a price lower than cost include: Alaska, Kansas, Maine, North Carolina and South Carolina. Texas prohibits bars from charging a cover charge for admission, then selling penny drinks or drinks for any coin.²⁷

“Happy Hours.”

Like other time limited drink specials, “happy hours” encourage customers to consume a large number of drinks in a short period of time. Generally, “happy hour” promotions are

²⁵ Ibid.

²⁶ Ibid

²⁷ Ibid.

not a problem unless the “hour” is expanded for an extended period. Many states restrict the duration of such practices.

- States with laws governing “happy hours” include: Alabama, Alaska, Illinois, Indiana, Kansas, North Carolina, Tennessee, Texas and Virginia.²⁸

Note: Many laws governing “happy hours” provide a few promotional alternatives. Possible suggestions for consideration include:²⁹

- *Offering free food or entertainment at any time.*
- *Including drinks as part of a meal package.*
- *Including drinks as part of a hotel/motel package.*
- *Negotiating drinks as part of a contract between a hotel/motel or multiuse establishment and another group for the holding of any function, meeting, convention or trade show.*
- *Selling pitchers, carafes or bottles that are customarily sold in such manner and delivered to two or more persons at one time.*

It is worth noting that many of the states permit the liquor promotions outlined above, however, the statutes and regulations place reasonable limitations on such drink specials. For instance, many states restrict the length of a “happy hour” to a reasonable length of time. The Commission agrees that rational restrictions, rather than a total ban, on these liquor promotions may be more appropriate. The Commission is mindful that the objective is to restrict high-risk drinking, and not to control liquor prices for pricing purposes alone.

Any such review, however, should commence with an examination and review of existing laws and programs to determine their effectiveness at redressing the problems associated with alcohol on college campuses. Alcohol on college campuses has changed drastically in the past two decades and since the enactment of many of the existing regulations.

To determine if legislation is needed to make the state’s programs more effective, an understanding of the existing laws and their usefulness is first in order. Issues that the legislature may want to examine include:

²⁸ States with laws governing such promotional activity are found in Appendix IV.

²⁹ See Illinois Statute in Appendix IV.

LEGISLATIVE STUDY COMMITTEE

Evaluate Law Enforcement Programs.

How effective are current programs? Is it time to update existing programs or create new programs and provide additional funding to crackdown on:

- Minors who purchase or attempt to purchase alcoholic beverages?
- Adults who purchase alcohol for minors?
- Licensed establishments who routinely violate existing laws regarding the sale and service of alcoholic beverages to underage and intoxicated patrons?

Evaluate Current Laws.

How effective are current laws? Is it time to update existing laws, enact new laws or provide additional funding to enforce laws against:

- Adults who purchase alcoholic beverages for minors?
- Drunk driving?
- Level the “playing field” by enacting a statewide statute to eliminate the “spillover” effect of local ordinances that result in uneven jurisdictional enforcement of underage drinking and intoxication?

Evaluate Other State Laws and Rules.

How effective are Iowa’s programs when compared with other states programs? Is it time to develop a new Iowa strategy based on what has worked in other states? A legislative study committee should:

- Research other states’ laws for programs that have proven successful in the area of promotional activities that fuel over consumption, underage drinking, intoxication and drunk driving.
- Develop a written blueprint based on the best strategies available to reduce and prevent promotional activities that fuel over-consumption, underage drinking, public intoxication and drunk driving.
- Become a model program for other states in the area of working for widespread application of the action team concept.

The Commission, regardless of the method of review, urges the legislature to review existing regulations and consider restricting other alcohol promotions, in whole or in part. Only through a systematic review can Iowa determine the best set of regulations to effectively control and regulate the sale of alcoholic beverages, especially in college communities, without being overly intrusive on the liquor industry. A legislative study committee, if appointed, could thoroughly review other restrictions on alcohol promotions and properly gauge the impact and political viability of such proposals. Iowa has too much at stake not to pursue such an undertaking in earnest.

Recommendation #3: A single state agency should be charged with fostering partnerships among the various entities that administer college alcohol education programs and working towards developing a comprehensive approach to reducing the incidence of high-risk drinking on Iowa's college campuses.

The Commission recommends that a single state agency be charged with fostering partnerships among the various entities that administer college alcohol education programs. The designated state agency should assist in the development of a comprehensive approach to reducing the incidence of high-risk drinking on Iowa's college campuses.

The importance of forming partnerships in the battle against high-risk alcohol consumption cannot be overstated. At this point, no coordinated effort formally exists among the various college programs to share ideas, strategies or programs. While each academic institution may have unique conditions that contribute to the local alcohol problem, many of the problems are common to all or many of the state's campuses and college communities.

The Iowa Alcoholic Beverages Division, in coordination with the Criminal and Juvenile Justice Planning Division of the Iowa Department of Human Rights, is planning to initiate such an effort with the various college campuses and communities this fall. And, to a degree, the Commission's public forums served as a vehicle for several of the colleges to share what was going on in their communities and to coordinate the efforts among the various college campuses. This sort of cooperation and collaboration can lead to positive results in reducing excessive consumption.

The Commission would like to see this coordination and collaboration continue. In that vein, it recommends that a single state entity be assigned responsibility to support the collective effort. The Commission, in so proposing, is not advocating that a state entity would assume responsibility for the college alcohol education programs; such responsibility should rightfully remain with the individual academic institutions that are in a better position to determine the best programs for their campuses.

And, once established, consideration should be given to developing and coordinating alcohol education programs at the primary and secondary educational levels as well. A contributing factor cited for high-risk drinking at the college level, according to several forum presenters, is the fact that many student arrive on campus with well-developed alcohol problems formed at an early age. Simply stated, colleges are, to a degree, inheriting problems that are merely being passed on to them from primary and secondary schools.

Recommendation #4: A portion of the fees reverted to local communities from liquor licenses and profits should be earmarked and dedicated for local and statewide enforcement of the existing alcoholic beverage laws.

The Commission also recommends that a portion of the fees collected for liquor licenses and from the profit of the state’s wholesale distribution of alcohol, reverted annually to cities and counties throughout the state, should be committed to enforcement of the existing alcoholic beverage laws. The failure to commit sufficient resources to this task is fiscally irresponsible and places the state’s citizenry at unnecessary risk.

The alcoholic beverage industry, in part because of the externality costs to society, is heavily taxed. The state generated over \$62 million dollars in profit from the sale and regulation of alcoholic beverages in Fiscal Year 2001. Of that amount, \$ 10.6 million was reverted to local jurisdictions, based on population, from the state’s wholesale liquor profits, along with a \$2.7 million reversion from liquor license fees.

All told, the Iowa Alcoholic Beverages Division reverted over \$13 million last fiscal year to Iowa cities and counties from the sale and licensing of alcohol. Of that sum, little is given back to regulate the industry itself. In fact, most of the funds for alcohol enforcement are derived from federal funds, instead of state dollars.

Some examples of the local reversion are provided:

REVERSIONS TO CITIES AND COUNTIES			
	<u>FEES*</u>	<u>PROFITS**</u>	<u>TOTAL</u>
<u>CITIES</u>			
Ames	\$ 48,940.00	\$ 239,264.00	\$ 288,204.00
Boone	13, 955.00	60,893.00	74,848.00
Burlington	42,540.00	133,698.00	176,238.00
Cedar Falls	35,176.00	168,538.00	203,714.00
Cedar Rapids	139,807.00	534,498.00	674,305.00
Chariton	3,165.00	27,872.00	31,037.00
Des Moines	192,982.00	949,316.00	1,142,208.00
Iowa City	68,153.00	295,563.00	363,716.00
Sioux City	81,827.00	395,596.00	477,423.00
Urbandale	26,845.00	135,452.00	162,297.00

	<u>FEES*</u>	<u>PROFITS**</u>	<u>TOTAL</u>
<u>COUNTIES</u>			
Black Hawk	\$ 2,958.00	\$ 0.00	\$ 2,958.00
Boone	1,257.00	0.00	1,257.00
Des Moines	1,625.00	0.00	1,625.00
Dubuque	7,833.00	0.00	7,833.00
Johnson	4,258.00	0.00	4,258.00
Linn	4,420.00	0.00	4,420.00
Lucas	1,495.00	0.00	1,495.00
Madison	618.00	0.00	618.00
Polk	13,955.00	0.00	13,955.00
Story	3,623.00	0.00	3,623.00
 <u>ALL CITIES AND COUNTIES</u>			
Cities	\$ 2,484,490.00	\$ 10,500,838.00	\$ 12,985,328.00
Counties	<u>201,199.00</u>	<u>0.00</u>	<u>201,199.00</u>
	\$ 2,685,689.00	\$ 10,500,838.00	\$ 13,186,527.00
<p>* The Iowa Alcoholic Beverages Division reverts two-thirds (2/3) of all on-premises liquor license fee collected. Cities also collect and maintain all fees collected for beer permits, less the Sunday sales fees for such licenses. Beer permit fees are not included in these totals and would be in addition to the amounts reported herein.</p> <p>** Liquor profits are shared with Iowa cities and are based on the population of a community.</p>			

Commission members suggest that the Iowa legislature consider earmarking a percentage of the license fees and liquor profits for liquor law enforcement activities. Funding for that purpose is appropriate and necessary.

Research and experience confirm strong enforcement helps to reduce underage drinking and public intoxication by limiting access to alcohol, reducing opportunities for youth to drink and curbing impaired driving. Consistent, vigorous enforcement reinforces the message that adults and youth must be responsible for their actions and that violating the law is unacceptable. In today's environment, law enforcement officials are often challenged by competing demands and budget constraints.

Iowa has several laws in place aimed at reducing the ability of those under age of 21 to obtain alcohol and to prohibit licensed establishments from serving intoxicated patrons. To protect the health, safety and welfare of Iowans, the following enforcement activities should be conducted on an ongoing basis to deter underage drinking and public intoxication.

ONGOING ENFORCEMENT ACTIVITIES

Enforcement Targeting Retailers.

In general, the most effective enforcement strategies are aimed at licensed retailers and, therefore, charged with the responsible distribution of alcoholic beverages.

- *Compliance checks.* Regular and routine compliance checks of licensed establishments serve as a reminder that retailers are expected to comply with the state's alcoholic beverage laws. When retailers know that they will be held accountable for illegal sales and service, the establishments are more inclined to train and supervise their employees.
- *Controlled Buys.* Controlled buys, also known as "stings," are one of the most effective tools to reduce illegal sales to underage youth and intoxicated persons. Controlled buy operations send a message of zero tolerance to retailers and the community especially when they are well publicized and repeated over time.
- *Criminal Tickets and Fines.* Criminal fines against individuals who sell or serve alcoholic beverages to underage youth and intoxicated persons serve as a deterrent and send a message of zero tolerance.
- *Administrative Penalties.* The deterrent effect of compliance checks and controlled buy operations increases when combined with administrative penalties. Administrative penalties shift the burden of responsibility from the servers or clerks to the licensees.
- *Investigate the Source.* Focusing law enforcement efforts on problem establishments can help to make the most of limited resources. Tracking the last place to sell or serve a drunk driver before the driver got behind the wheel can help enforcement officials to identify and zero in on problem establishments. The Iowa Alcoholic Beverages Division recently receive a federal grant to develop such a program and to train law enforcement in Iowa.

Enforcement Targeting Youth.

Enforcement targeting youth deter young people from attempting to buy alcoholic beverages and send a message about community norms.

- *Point-of-Purchase Programs.* Point-of-purchase programs, such as “cops in shops,” are popular with retailers and have a deterrent effect on underage youth. Point-of-purchase programs are, in effect, reverse “sting” operations that focus on the minor rather than the retailer. Point-of-purchase programs serve three purposes: to curb the purchase of alcoholic beverages by minors; to assist retailers in their efforts to operate legal establishments; and, to lower the number of minors who drink and drive.
- *Zero Tolerance Laws.* Zero tolerance laws, also known as “use and lose” laws, are effective in reducing the harm associated with drinking and should be ambitiously enforced.
- *Use-and-Lose Laws.* Young people can easily obtain false ID’s by altering valid cards or purchasing near-perfect facsimiles. All too often, youth get away with using false ID’s and with using valid ID’s of legal age individuals. Laws governing such activity should be vigorously enforced with appropriate penalties imposed, without exception.

Enforcement Activities Targeting Adults.

Enforcement targeting adults also send a message about community norms.

- *Shoulder Tap Programs.* “Shoulder tapping” refers to the common practice used by minors to obtain alcohol from adult strangers. Like point-of-purchase programs, shoulder tap programs are, reverse “sting” operations that focus on the adult purchaser rather than the retailer or youth. Shoulder tap programs should be conducted in problematic areas with penalties consistently enforced against adults who purchase alcohol for underage youth.

Enforcement Activities Targeting Intoxicated Drivers.

Enforcement targeting intoxicated drivers protects the public’s health, safety and welfare.

- *Sobriety Checkpoints.* Sobriety checkpoints are a visible way for police to deter drunk driving. According to the National Highway Traffic Safety Administration, checkpoints can reduce alcohol-related crashes by at least 15 percent saving lives and saving communities millions of dollars. Checkpoints.
- Checkpoints involving license examination and random testing to determine whether a driver has been drinking should be conducted on an intermittent basis in problematic areas.

- *Tracking Point-of-Purchase.* The last place to sell or serve a drunk driver before the driver got behind the wheel should be identified to help law enforcement officials zero in on problem establishments. Follow-up compliance checks and controlled buys should be conducted at the identified location with criminal and administrative penalties enforced.

Educational Activities for all Parties.

Education is an important component of voluntary compliance because informed individuals can make sound decisions. Informed individuals can govern their actions with knowledge of the consequences.

- *Enforcement Officials.* Because limited time is allocated to alcoholic beverages law training in the Iowa Law Enforcement Academy's curriculum, funding should be provided for alcoholic beverages law enforcement courses. The courses should be certified so that officers can take them to meet continuing education requirements.
- *Licensees.* Licensees are expected to know and maintain compliance with the laws and rules governing alcoholic beverages. Licensees are penalized when the laws are violated. A percentage of civil penalty monies collected by the Division should be earmarked for alcoholic beverages training and educational materials.
- *Public.* Awareness campaigns (billboards, radio and TV public service announcements) targeting youth and adults should be developed and distributed to promote public awareness.

Liquor regulations, without the dedication of proper funding for enforcement, are meaningless and empty. The Commission urges the legislature to properly fund enforcement of the existing alcoholic beverage laws. A portion of the profits derived from the licensing and sale of alcohol should be earmarked and dedicated to local and statewide enforcement. The Commission believes that this is an important public safety concern that warrants the legislature's full consideration.

Recommendation #5: All parties involved and responsible for underage alcohol sales and consumption should be held accountable, and the penalties for minors should be increased to a level that would deter underage consumption.

The Commission next recommends that responsibility for underage alcohol sales and consumption should be shared by all responsible parties. Underage buyers, clerks and retailers alike should be held accountable. And, in that vein, meaningful penalties should be designed for all parties.

Business owners often complain that the laws governing the selling and serving of alcoholic beverages to underage youth and intoxicated persons are unfair. Until penalties for youth are increased, retailers bear the greater burden of compliance. The Commission recommends that the penalties for underage offenders should be restructured to incorporate meaningful consequences for minors.

In restructuring the penalties for minors, the following should be considered:

RESTRICTED PENALTIES

The Judicial System.

The judicial system's lack of consequences for youth cited for underage drinking (other than drinking and driving) is often the reason for drinking given by youth. Consequences such as supervised probation with restrictions, along with some type of rehabilitation and follow-up, should be applied through the judicial system as a deterrent against underage drinking.

Driver's License Suspensions.

Because a driver's license is a prized possession for most young people, license suspension or revocation can have a powerful deterrent effect on underage drinking and impaired driving. An intoxicated youth with a driver's license should have the license suspended for one year. An intoxicated youth without a license should not be allowed to obtain a license for one year.

Fines and Tickets.

Level the playing field by increasing the criminal fines for minors and adults to be more in line with those paid by licensees. Impose monetary fines for underage youth in possession of alcohol with an opportunity to pay for the fines through several hours of unpaid community service, perhaps in an emergency room setting where the consequences of drinking and driving can be experienced first hand.

The Commission recommends that sanctions against underage minors that attempt to purchase or possess alcohol should be subjected to penalties that have meaningful consequences. The current penalty structure places a heavier emphasis on the retailer and clerk, and does not reflect the responsibility and the role of minors for underage alcohol sales and consumption. All three levels need to be held accountable and the penalty structure needs to reflect that the role of the underage buyer, the clerk and the retail alike. A system that only holds the clerk and retailer accountable is patently unfair and does not offer a deterrent to youth from consuming or attempting to purchase alcohol. All parties involved and responsible for underage alcohol sales and consumption should be held accountable.

Recommendation #6: The State should adopt the .08 BAC intoxication level.

The Commission finally recommends adoption of the .08 BAC intoxication level. Governor Vilsack championed the proposal and the legislature debated the issue this past legislative session. The proposal, however, died in the waning hours of the session, failing to obtain the constitutionally required majority vote of both houses. The failure to act was unfortunate.

The Commission urges the legislature to revisit and reconsider its vote on this proposal, and strongly supports the Governor in this effort. A lower BAC level will act as an important deterrent to drunk drinking and save lives. College communities, like other Iowa communities, would be well served by a strong message that drinking and driving pose an unnecessary and unreasonable risk to the public.

The Commission's support of the .08 proposal is based on the merits of the proposal itself, and is not based on the potential loss of federal highway funds. The proposal of a .08 BAC level is justified on the merits of the proposal alone.

The Commission, like the majority of Iowans, supports lowering the BAC level to .08. So should the legislature.

VIII. CONCLUSION.

Students do not make decisions about the use of alcohol entirely on their own. They are influenced by campus social norms and expectancies and by policy decisions affecting the availability of alcohol on and off the campus, the level of enforcement of regulations and laws and the availability and attractiveness of alcohol-free social and recreational opportunities. When businesses in campus communities offer "all-you-can-drink" promotion and other attractive incentives for students to drink, and campus prevention programs highlight the risks of alcohol use amid the blare of such inducements, mixed messages are sent making it difficult for students to make sound choices about alcohol. Clearly, there is a need for a comprehensive approach to address high-risk drinking and its destructive consequences.

The time has come to establish and implement strategies for reducing and eventually eliminating the problems associated with high-risk drinking. Instead of stigmatizing alcohol and trying to scare people into abstinence, society needs to recognize that it is not alcohol itself but rather the abuse of alcohol that poses the problem. Simply doing more of what is not working will not lead to success; it is essential to rethink the approach to the problem. Should more resources be dedicated to enhance enforcement of Iowa's existing laws? Should additional laws be enacted to address certain forms of promotional activities that encourage high-risk drinking? No single approach will entirely solve the problem. But each approach, wisely implemented and used in combination with other promising strategies, may reduce the scope of the problem and limit the danger to the health, safety and welfare of Iowans.

The Commission believes that the recommendations contained in this White Paper form the foundation of such a discussion and debate. Implementation of any or all of the Commission's recommendations, however, is subject to legislative approval. The Commission only has authority to make recommendations in this area. It is up to the legislature to determine the merits of each recommendation. The Commission, however, hopes that the legislature will give consideration to the recommendations and adopt those proposals deemed worthy.



I drink eternally. Drink always and ye shall never die. Keep running after a dog and he will never bite you; drink always before the thirst, and it will never come upon you.

Jack Kerouac (1922-1969)
Letter to Allen Ginsberg, 14 July 1955

APPENDIX I

IOWA ALCOHOLIC BEVERAGES COMMISSION MEMBERS

ROBERT CRAMER, CHAIRPERSON

Commissioner Cramer is serving his second term as a member of the Iowa Alcoholic Beverages Commission. Commissioner Cramer was appointed by Governor Branstad in May of 1996 to fill an unexpired term. He was reappointed in 1998 to serve a 5-year-term and currently serves as the Chairperson of the commission.

Commissioner Cramer is a graduate of Parsons College and is currently the President and Director of Fareway Stores, Inc. in Boone. He also serves as Director of the Boone Bank & Trust and previously served as a Director of Citizens National Bank and as Past Chairman of the Iowa Grocers Association. Commissioner Cramer lives in Boone where he is active in many organizations. He has served for many years as the Chairman of the Boone Educational Endowment Foundation and also serves as a trustee of Buena Vista College.

DARYL HENZE, VICE CHAIRPERSON

Commissioner Daryl Henze was first appointed to the Iowa Alcoholic Beverages Division in 1994 by then Governor Branstad to fill an unexpired term. In 1997 Mr. Henze was reappointed to serve a 5-year term and currently serves as the Vice Chairperson of the Commission.

Commissioner Henze has also served three terms as a member of the Accountancy Examining Board of the Professional Licensing & Regulation Division, including one term as the Chairman of the Board. Commissioner Henze is a graduate of Mankato State University and recently retired after 36 years with a national accounting firm. Currently, Commissioner Henze is a consultant and sits on the Board of Directors of a Des Moines business, and resides in Urbandale.

GAYLE COLLINS, SECRETARY

Commissioner Collins is the newest member of the Iowa Alcoholic Beverages Commission and was appointed to her current position by Governor Tom Vilsack in May of 2001. Commissioner Collins was appointed to fill a 5-year-term and was recently elected to serve as the Secretary to the Commission.

Commissioner Collins graduated from the University of Iowa with a Bachelors and Masters degree and is currently employed with Crowley Commercial Real Estate Services. In addition to her duties with the Commission, Ms. Collins has served as President of the Des Moines Parks and Recreation Board. Ms. Collins has also been politically active in city, county, state and national projects, and she currently resides in Des Moines, Iowa.

SHIRLEY DAGGETT, MEMBER

Commissioner Daggett was first appointed to the Iowa Alcoholic Beverages Commission on March 1, 1995 to fill an unexpired term and was reappointed to another 5-year term in May of 1999. During her time on the Commission, Commissioner Daggett has assumed many positions including that of chairperson.

Commissioner Daggett attended the Metropolitan School of Business as well as Des Moines Area Community College. She is employed at Holmes Murphy & Associates in West Des Moines as a Human Resources Benefits Administrator. Commissioner Daggett and her husband live on a farm near Earlham, Iowa.

DICK STOFFER, MEMBER

Commissioner Stoffer was appointed to the Iowa Alcoholic Beverages Commission in May of 1996 and reappointed to another 5-year-term in 2001. In his capacity as a member of the Alcoholic Beverages Commission, Commissioner Stoffer has served as the Chairperson and Vice-Chairperson of the Commission.

Commissioner Stoffer is a graduate of Simpson College with a BA in Political Science and is currently employed as the President, CEO, and Chairman of the Board of the Midwest Heritage Bank in Chariton. Commissioner Stoffer is also active in many other organizations including the Variety Club, Juvenile Diabetes Foundation and is the Director of the Chariton Arts & Recreation Department. Commissioner Stoffer resides in Chariton, Iowa.

APPENDIX II

PUBLIC FORUM PRESENTERS

Commission Meeting, Ankeny, October 24, 2000

Doni DeNucci
Executive Director & CEO
Iowa Hospitality Association
Urbandale, IA

Julie Kearney
Researcher
University of Iowa
Iowa City, IA

Dale Helling
Assistant City Manager
City of Iowa City
Iowa City, IA

Julie Phye
Coordinator
Stepping Up Project
University of Iowa
Iowa City, IA

Public Forum, Iowa City, February 15, 2001

Chief Rick Ahlstrom
Cedar Falls Police Department
Cedar Falls, IA

Honorable Ernest Lehman
Mayor
City of Iowa City
Iowa City, IA

Carolyn Cavitt
Chairperson
Stepping Up Project
University of Iowa
Iowa City, IA

Officer R. A. Mebus
Iowa City Police Department
Iowa City, IA

Jim Clayton
Owner
The Soap Opera
Iowa City, IA

David Moore
Owner
The Fieldhouse & Night Club
College Street Billiard Club & Deli
Iowa City, IA

Doni DeNucci
Executive Director & CEO
Iowa Hospitality Association
Urbandale, IA

Dr. Peter Nathan
Professor of Psychology
University of Iowa
Iowa City, IA

Phillip Jones
Vice President, Dean of Students
University of Iowa
Iowa City, IA

Judy K. Parks
Assistant City Attorney
City of Ames
Ames, IA

Julie Phye
Coordinator
Stepping Up Project
University of Iowa
Iowa City, IA

Dr. Paul Pomrehn
School of Public Health
University of Iowa
Iowa City, IA

Bill Shackelford
President
Polk County Chapter of Mothers Against
Drunk Driving (MADD)
West Des Moines, IA

Dan Shay
Employee
Fleck Sales Company
Cedar Rapids, IA

Don Stalkfleet
Owner
Sports Column
Joe's Place
Iowa City, IA

Julie Thompson
Coordinator
Substance & Sexual Abuse Services
University of Northern Iowa
Cedar Falls, IA

Chief R. J. Winkelhake
Iowa City Police Department
Iowa City, IA

Public Forum, Ames, April 19, 2001

Linda Ciccone
Coordinator, Substance Abuse Program
Iowa State University
Ames, IA

Brian Dunn
Health Promotion Coordinator
Iowa State Student Center
Iowa State University
Ames, IA

John Klaus
City Attorney
City of Ames
Ames, IA

Wendell Moseby
Student (former Resident Hall Assistant)
Iowa State University
Ames, IA

Officer Tom Oxley
Special Operation Unit
Ames Police Department
Ames, IA

Julie Phye
Coordinator
Stepping Up Project
University of Iowa
Iowa City, IA

Gene Russell
Iowa Hospitality Association
Urbandale, IA

Julie Thompson
Substance & Sexual Abuse Coordinator
University of Northern Iowa
Cedar Falls, IA

Cedar Falls, IA

Andrew Wrightsman
Interfraternity Council President
For the Greek Community

Public Forum, Cedar Falls, September 19, 2001

Anonymous Parent
(Mother of 2 Daughters)
Cedar Falls, IA

Dedra Billings
Educator, Graduate Student
University of Northern Iowa
Cedar Falls, IA

Mike Jackson
Student, Resident Assistant
Computer Consultant
University of Northern Iowa
Cedar Falls, IA

Nathan Rivera
Student, Resident Hall Assistant
University of Northern Iowa
Cedar Falls, IA

Michelle Swanson
Faculty Member, College Hill Resident
(Board Member, College Hill Assn.)
University of Northern Iowa
Cedar Falls, Iowa

Julie Thompson
Coordinator
Substance & Sexual Abuse Services
University of Northern Iowa
Cedar Falls, IA

Susan Tillman
Student
University of Northern Iowa
Cedar Falls, IA

APPENDIX III
AN OVERVIEW OF STATE
HAPPY HOUR & DRINK PRICE SPECIALS

STATE	STATUTE	ADMIN. RULE	HOME RULE	NO REGS.
ALABAMA		X		
ALASKA	X			
ARIZONA	X			
ARKANSAS		X		
CALIFORNIA	X			
COLORADO				X
CONNECTICUT		X		
DELAWARE		X		
FLORIDA				X
GEORGIA			X	
HAWAII				X
IDAHO			X	
ILLINOIS	X	X		
INDIANA	X			
IOWA			X	X
KANSAS	X			
KENTUCKY		X		

LOUISIANA	X			
MAINE	X			
MARYLAND			X	
MASSACHUSETTS		X		
MICHIGAN		X		
MINNESOTA				X
MISSISSIPPI				X
MISSOURI	X	X		
MONTANA	X			
NEBRASKA	X			
NEVADA			X	
NEW HAMPSHIRE	X			
NEW JERSEY		X		
NEW MEXICO		X		
NEW YORK	X			
NORTH CAROLINA		X		
NORTH DAKOTA				X
OHIO		X		
OKLAHOMA	X			
STATE	STATUTE	ADMIN. RULE	HOME RULE	NO REGS.
OREGON		X		
PENNSYLVANIA		X		
RHODE ISLAND	X			
SOUTH CAROLINA	X			
SOUTH DAKOTA				X
TENNESSEE		X		
TEXAS		X		
UTAH	X	X		
VERMONT	X	X		
VIRGINIA		X		
WASHINGTON		X		
WEST VIRGINIA				X
WISCONSIN				X
WYOMING				X

TOTALS	18	21	5	11
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APPENDIX IV HAPPY HOUR AND DRINK PRICE SPECIAL LAWS & RULES

ALABAMA ADMINISTRATIVE RULE

Limitations on Happy Hour and Similar Price Reductions.

20-X-6.13

(1) It shall be unlawful for any ABC Board licensee to:

(a) Serve multiple drinks for a single price.

(b) Establish a single retail price based upon the required purchase of two or more drinks.

(c) Sell or otherwise furnish drinks before 10 a.m. or after 9 p.m. at a price which is reduced from the usual customary or established retail price charged for such drinks.

(d) Sell or provide one person or group of persons drinks at prices less than those charged the general public for that day.

(2) Nothing herein contained shall be construed to prohibit the dispensing of drinks customarily sold in pitchers, provided such pitchers shall be available at all times the licensee

is open for business. The usual, customary or established retail price thereof shall not be reduced before 10 a.m. or after 9 p.m.

(3) The term "drink" or "drinks" is defined herein to mean any beverage containing any quantity of alcohol. "Multiple drinks" is defined to mean two or more drinks containing any quantity of alcohol or a single container which contains more than the normal quantity of alcohol for an individual drink in accordance with ABC Board Regulation 20-X-6-.04(2). The term "pitcher" is defined to mean any receptacle containing a minimum of sixty (60) fluid ounces of beverages.

(4) This regulation shall not apply to legitimate, prearranged private parties, functions, or events where guests thereof are served in a room or rooms so designated and used exclusively therefor.

ALASKA STATUTE

Pricing and Marketing of Alcoholic Beverages.

AS 04.16.015.

(a) On premises where alcoholic beverages are sold by the drink, a licensee or a licensee's agent or employee may not

- (1) offer or deliver, as a marketing device to the general public, free alcoholic beverages to a patron;
- (2) deliver an alcoholic beverage to a person already possessing two or more;
- (3) sell, offer to sell, deliver alcoholic beverages to a person or group of persons at a price less than the price regularly charged for the beverages during the same calendar week, except at private functions not open to the general public;
- (4) sell, offer to sell, or deliver an unlimited number of alcoholic beverages to a person or group of persons during a set period of time for a fixed price;
- (5) sell, offer to sell, or deliver alcoholic beverages to a person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not open to the general public;
- (6) encourage or permit an organized game or contest on the licensed premises that involves drinking alcoholic beverages or the awarding of alcoholic beverages as prizes.

(b) A licensee or a licensee's agent or employee may not advertise or promote in any way, either on or off the premises, a practice prohibited under (a) of this section.

(c) This section may not be construed as prohibiting a licensee or a licensee's agent or employee from offering free food or entertainment at any time, from serving wine by the bottle or carafe or beer by the pitcher with or without meals, or from including an alcoholic beverage as part of a meal package.

(d) Notwithstanding (a) and (b) of this section, a licensee or a licensee's agent or employee when acting as a caterer may offer or deliver free alcoholic beverages to a political, charitable, or educational group or organization.

ARIZONA STATUTE

4-22. It is unlawful:

23. For an on-sale retailer or employee to conduct drinking contests, to sell or deliver to a person an unlimited number of spirituous liquor beverages during any set period of time for a fixed price, to deliver more than thirty-two ounces of beer, one liter of wine or four ounces of distilled spirits in any spirituous liquor drink to one person at one time for that person's consumption or to advertise any practice prohibited by this paragraph.

ARKANSAS ADMINISTRATIVE RULE

Prohibited Activities; Grounds for Cancellation, Suspension, Revocation, or Placing of Monetary Fine Against Any Permit.

SECTION 1.79

In addition to the violation or failure to comply with any of these Regulations or any Alcoholic Beverage Control Law of the State of Arkansas, any permit issued pursuant to any Alcoholic Beverage Control Law of the State of Arkansas, may be cancelled, suspended, revoked, or assessed a monetary fine for any of the following prohibited activities committed by the permittee or any employee, agent or servant of the permittee:

Advertising, Selling or Dispensing Alcoholic Beverages on a Two or More for the Price of One Basis.

SECTION 179(28)

The permittee advertised, sold, dispensed, or served any alcoholic beverages for on premises consumption on the basis of two or more drinks for the price of one. Further, the permittee advertised, sold, dispensed, or served alcoholic beverages without a limit to any person on the basis of a flat fee or cover charge.

CALIFORNIA STATUTE

Business and Professions Code Section.

25600.

(a) (1) No licensee shall, directly or indirectly, give any premium, gift, or free goods in connection with the sale or distribution of any alcoholic beverage, except as provided by rules that shall be adopted by the department to implement this section or as authorized by this division.

CONNECTICUT ADMINISTRATIVE RULE

Restrictions on Drink Promotions.

Sec. 30-6-A24b.

(a) Definitions.

(1) The term – “drink” as used in this section means a unit of liquid containing alcoholic liquor customarily considered in the on premises consumption retail alcoholic beverage trade as a single serving for one person including, but not limited to, a double, half-bottle, half-carafe and split.

(2) The term – “private function” as used I this section means any gathering of persons for ceremony or entertainment or any other purpose provided such event shall not be open to the general public during the event and shall be restricted to invited guests.

(b) Restrictions. No permittee, backer, or employee or agent of same, at any on-premises consumption place of business shall:

(1) sell, offer, or deliver more than one drink to any one person for his/her own consumption at any one time. A second serving may be allowed only after the first serving has been substantially disposed of or consumed;

(2) sell, offer or deliver drinks by the pitcher or other vessel containing more than one drink except to two or more persons, excluding minors as defined by the Liquor Control Act, at any one time. A second serving may be allowed only after the first serving has been substantially disposed of or consumed;

(3) sell, offer or deliver to any person an unlimited number of drinks during any set period of time for a fixed price;

(4) encourage or permit, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prizes.

(c) Private Functions and Hotel Guest Bars. The provisions of this section shall not apply to private functions held in a room or rooms at any on premises consumption place of business or to hotel guest bars.

(d) Nothing in this section shall be construed as an exception to any other provision of the Liquor Control act or Regulations of Connecticut State Agencies, especially those respecting hours and days of sale, the sale of alcoholic liquor to minors or intoxicated persons.

DELAWARE ADMINISTRATIVE RULE

Prohibited Trade Practices.

Rule 2.

I. Purpose. Promotional activities which tend to encourage excessive and/or uncontrollable consumption of liquor resulting in increased risk to consumers and the general public are not acceptable. Activities which impact adversely on open competition within the industry are not acceptable. This rule seeks to prohibit all such acts.

IV. Prohibited Practices.

A. Retail Licensees.

1. On Premises License. No establishment licensed to sell alcoholic beverages for consumption on the premises where sold shall engage in any trade practice which can reasonably be expected to cause, encourage, or induce a consumer to purchase, receive, or consume alcoholic beverages in excessive amounts or at an unduly rapid rates and shall include, but not be limited to, the following:

a. Giving any alcoholic beverages in any form, either directly or indirectly, to any individual, organization, group, or other entity.

b. Giving any form of cash (medium of exchange). Either directly or indirectly, to any individual, organization, group, or other entity, except for bona fide contributions to not for profit entities and provided that such contribution is in no way conditional upon purchase and/or consumption of alcoholic beverages.

c. Selling alcoholic beverages at a price which is less than the seller's cost.

d. Promoting, sponsoring, conducting, or participating in any event that is in any way conditional upon or involves consumption of alcoholic beverages.

e. Offering or selling two (2) or more drinks for the regular price of one.

- f. Extending credit except as provided in Rule 56.
- g. Unlimited consumption of alcoholic beverages for a set price. However, caterers, as defined in 4 Del. C., § 101(7), and private functions in which the host/hostess pays a set price and which are conducted by invitation on a licensed premises are excluded from this prohibition.
- h. Delivering alcoholic beverages to any person who is or appears to be intoxicated.
- i. Soliciting or receiving any items which an importer licensee is prohibited under Section IV-B-1-a or IV-B-1-b from giving to a retailer.
- j. Open bars are generally not permitted pursuant to the provisions of IV-A-1-g above; however, the Commission may grant a variance to this section provided that the licensee meets the criteria that follows:
- 1.) The licensee must submit a written request to the Commission for a variance in this rule for a specific, planned event.
 - 2.) Admission to the event must be by ticket only and include the place, time, date, and hours of the event.
 - 3.) The request for a variance must be received by the Commission six (6) weeks in advance of the planned event.
 - 4.) Food of adequate variety and quantity must be offered as part of the package price for a ticket to the event.
 - 5.) Non-alcoholic beverages must be available and offered as part of the package price of a ticket for the event.
 - 6.) The tickets use for each event must contain a statement that the licensee retains the right to discontinue service of alcoholic liquor as required by state law and Delaware alcoholic Beverage Control Commission rules.
 - 7.) All servers of alcoholic liquor and staff at the event must be trained in compliance with the Delaware mandatory server training law.
 - 8.) Adequate staff must be on site to monitor drinking by patrons and to take action consistent with state law and Commission rules.
 - 9.) The approval for an open bar by the Commission does not authorize the unlimited consumption of alcoholic beverages for a set price. Licensees, therefore, are still required to comply with all other applicable rules and laws, including the prohibition on serving a patron who is intoxicated or appears to be intoxicated and refuse service of alcoholic liquor to underage patrons.

2. Off Premises License. No establishment licensed to sell alcoholic beverages for consumption not on the premises where sold shall engage in any trade practice which can reasonably be expected to cause, encourage, or induce a consumer to purchase, receive, or consume alcoholic beverages in excessive amounts or at any unduly rapid rate and shall include, but not be limited to, the following:

- a. Giving alcoholic beverages in any form, either directly or indirectly, to any individual, organization, group or entity, except that wine tasting on those premises properly licensed for such is permitted in accordance with established regulations.
- b. Selling alcoholic beverages at a price which is less than the seller's cost.
- c. Promoting, sponsoring, conducting, or participating in any event in which any gift, prize, service, or other gratuity is received by any consumer and is in any way conditional upon or involves consumption of alcoholic beverages.
- d. Extending credit except as provided in Rule 56.
- e. Delivering alcoholic beverages to any person who is or who appears to be intoxicated.
- f. Soliciting or receiving any items which an importer licensee is prohibited under Section IV-B-1-a or IV-B-1-b from giving to a retailer.

ILLINOIS STATUTE

Happy Hours Prohibited.

Sec. 6-28. (235 ILCS 5/6-28).

(a) All retail licensees shall maintain a schedule of the prices charged for all drinks of alcoholic liquor to be served and consumed on the licensed premises or in any room or part thereof. Whenever a hotel or multi-use establishment which holds a valid retailer's license operates on its premises more than one establishment at which drinks of alcoholic liquor are sold at retail, the hotel or multi-use establishment shall maintain at each such establishment a separate schedule of the prices charged for such drinks at that establishment.

(b) No retail licensee or employee or agent of such licensee shall:

- (1) serve 2 or more drinks of alcoholic liquor at one time to one person for consumption by that one person, except conducting product sampling pursuant to Section 6-31 or selling or delivering wine by the bottle or carafe;
- (2) sell, offer to sell or serve to any person an unlimited number of drinks of alcoholic liquor during any set period of time for a fixed price, except at private functions not open to the general public;
- (3) sell, offer to sell or serve any drink of alcoholic liquor to any person on any one date at a reduced price other than that charged other purchasers of drinks on

that day where such reduced price is a promotion to encourage consumption of alcoholic liquor, except as authorized in paragraph (7) of subsection (c);

(4) increase the volume of alcoholic liquor contained in a drink, or the size of a drink of alcoholic liquor, without increasing proportionately the price regular charged for the drink on that day;

(5) encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or the awarding of drinks of alcoholic liquor as prizes for such game or contest on the licensed premises; or

(6) advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under paragraph (1) through (5).

(c) Nothing in subsection (b) shall be construed to prohibit a licensee from:

(1) offering free food or entertainment at any time;

(2) including drinks of alcoholic liquor as part of a meal package;

(3) including drinks of alcoholic liquor as part of a hotel package;

(4) negotiating drinks of alcoholic liquor as part of a contract between a hotel or multi-use establishment and another group for the holding of any function, meeting, convention or trade show;

(5) providing room service to persons renting rooms at a hotel;

(6) selling pitchers (or the equivalent, including but not limited to buckets), carafes, or bottles of alcoholic liquor which are customarily sold in such manner and delivered to 2 or more persons at one time; or

(7) increasing prices of drinks of alcoholic liquor in lieu of, in whole or in part, a cover charge to offset the cost of special entertainment not regularly scheduled.

(d) A violation of this Act shall be grounds for suspension or revocation of the retailer's license as provided by this Act.

ILLINOIS ADMINISTRATIVE RULE

Giving Away of Alcoholic Liquors.

SECTION 100.280

a) No licensee, individual, partnership or corporation shall give away any alcoholic liquor for commercial purposes or in connection with the sale of non-alcoholic products or to promote the sale of non-alcoholic products.

b) No licensee, individual, partnership, or corporation shall advertise or promote in any way, whether on or off-licensed premises, any of the practices prohibited under subsection (a) of this Section. This includes, but is not limited to, advertisements using the words “free” or “complimentary” with alcoholic liquor.

c) Subsection (a) shall not apply to, test marketing or tasting.

INDIANA STATUTE

IC 7.1-5-10-20 -- Sec. 20.

(a) It is unlawful for a holder of a retailer's permit to do any of the following:

1) Sell alcoholic beverages during a portion of the day at a price that is reduced from the usual, customary, or established price that the permittee charges during the remainder of that day.

2) Furnish two (2) or more servings of an alcoholic beverage upon the placing of an order for one (1) serving to one (1) person for that person's personal consumption.

3) Charge a single price for the required purchase of two (2) or more servings of an alcoholic beverage.

(b) Subsection (a) applies to private clubs but does not apply to private functions that are not open to the public.

(c) Notwithstanding subsection (a)(1), it is lawful for a holder of a retailer's permit to sell alcoholic beverages during a portion of the day at a price that is increased from the usual, customary, or established price that the permittee charges during the remainder of that day as long as the price increase is charged when the permittee provides paid live entertainment not incidental to the services customarily provided.

(d) Notwithstanding subsection (a), section 12 of this chapter, and IC 7.1-5-5-7, it is lawful for a hotel, in an area of the hotel in which alcoholic beverages are not sold, to make available to its registered guests and their guests alcoholic beverages at no additional charge beyond what is to be paid by the registered guests as the room rate.

KANSAS STATUTE

Certain Sales Practices Prohibited; Penalties; "Drink" Defined.

Chapter 41 – Article 26 – 41-2640

(a) No club, drinking establishment, caterer or holder of a temporary permit, nor any person acting as an employee or agent thereof, shall:

(1) Offer or serve any free cereal malt beverage or alcoholic liquor in any form to any person;

(2) offer or serve to any person a drink at a price that is less than the acquisition cost of the drink to the licensee or permit holder;

(3) sell, offer to sell or serve to any person an unlimited number of drinks during any set period of time for a fixed price, except at private functions not open to the general public or to the general membership of a club;

(4) sell, offer to sell or serve any drink to any person at any time at a price less than that charged all other purchasers of drinks on that day;

(5) increase the volume of alcoholic liquor contained in a drink or the size of a drink of cereal malt beverage without increasing proportionately the price regularly charged for the drink on that day;

(6) encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or cereal malt beverage or the awarding of drinks as prizes; or

(7) advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under subsections (a)(1) through (6).

(b) Nothing in subsection (a) shall be construed to prohibit a club, drinking establishment, caterer or holder of a temporary permit from:

(1) Offering free food or entertainment at any time; or

(2) selling or delivering wine by the bottle or carafe.

(c) Violation of any provision of this section is a misdemeanor punishable as provided by K.S.A. 41-2633 and amendments thereto.

(d) Violation of any provision of this section shall be grounds for suspension or revocation of the licensee's license as provided by K.S.A. 41-2609 and amendments thereto and for imposition of a civil fine on the licensee or temporary permit holder as provided by K.S.A. 41-2633a and amendments thereto.

(e) Every licensed club and drinking establishment shall make available at any time upon request a price list showing the club's or drinking establishment's current prices per drink for all drinks.

(f) As used in this section, "drink" means an individual serving of any beverage containing alcoholic liquor or an individual serving of cereal malt beverage.

KENTUCKY ADMINISTRATIVE RULE

General Advertising Practices.

804 KAR 1:100.

Necessity, Function, and Conformity: KRS 244.130 permits this department to regulate the advertising of alcoholic beverages. This administrative regulation is designed to regulate said advertising in a manner consistent with modern marketing practices and in conformance with relevant statutory provisions and legislative intent.

Section 1. No licensee shall advertise or cause to be advertised any alcoholic beverages or his place of business in any manner not in conformity with the Kentucky Revised Statutes and administrative regulations governing alcoholic beverages.

Section 7. No licensee shall, in whatever media or by whatever means, use the terms "free," "complimentary" or any other terms which infer or suggest giveaways in the advertising of alcoholic beverages.

LOUISIANA STATUTE

Acts Prohibited on Licensed Premises; Suspension or Revocation of Permit.

§ 90. -- A. No person holding a retail dealer's permit and no agent, associate, employee, representative, or servant of any such person shall do or permit any of the following acts to be done on or about the licensed premises.

- (15) Sell or serve any alcoholic beverages at a price fixed on an "all you can drink" basis after the hour of 10:00 p.m.

MAINE STATUTE

Prohibition of Certain Practices.

709.

1. Certain practices prohibited. The following practices are prohibited.

A. No licensee or employee or agent of a licensee may:

- (1) Offer or deliver any free liquor to any person or group of persons;
- (2) Deliver more than 2 drinks containing spirits, a carafe containing more than one liter or 33.8 ounces of wine, or any serving or pitcher containing more than one liter or 33.8 ounces of malt liquor, to one person at one time;
- (3) Sell, offer to sell or deliver to any person or group of persons an unlimited number of drinks for a fixed price, except at private functions not open to the public;
- (4) Encourage or permit, on the licensed premises, any game or contest that involves drinking or the awarding of drinks as prizes; or
- (5) Any other practice the specific purpose of which is to encourage customers of the licensee to drink to excess; and

B. No licensee may advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under paragraph A.

2. Exceptions. Subsection 1 does not prohibit the following practices:

- A. Licensees offering free food or entertainment either with or without the purchase of one drink;
- B. Licensees increasing the prices for drinks when entertainment is provided;
- C. Licensees including a drink as part of a meal package;
- D. The sale or delivery of wine, malt liquor or mixed drinks by the bottle, carafe or pitcher when sold with meals or to more than one person;
- E. Those licensed under section 1402 offering free wine tastings
- F. Those licensed as bona fide hotels offering room services to registered guests
- G. Licensees offering reduced prices for prearranged private parties on the premises of the licensee; or
- H. Licensees whose licensed premises include more than one room charging different prices for the same drink served in the different rooms.

MASSACHUSETTS ADMINISTRATIVE RULE

Prohibition of Certain Practices.

204 CMR 4.00:

4.01 Definitions

Licensee: means any person, club, partnership, corporation or other entity licensed under the provisions of M.G.L. c. 138 to sell alcoholic beverages to be served and drunk on the premises.

4.02: Required Records

All licensees shall maintain a schedule of the prices charged for all drinks to be served and drunk on the licensed premises or in any room or part thereof. Such prices shall be effective for not less than one calendar week.

4.03: Certain Practices Prohibited

(1) No licensee or employee or agent of a licensee shall:

- (a) offer or deliver any free drinks to any person or group of persons;
- (b) deliver more than two drinks to one person at one time;
- (c) sell, offer to sell, or deliver to any person or group of persons any drinks at a price less than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the public;
- (d) sell, offer to sell or deliver to any person an unlimited number of drinks during any set period of time for a fixed price, except at private functions not open to the public;
- (e) sell, offer to sell or deliver drinks to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not open to the public;
- (f) sell, offer to sell or deliver malt beverages or mixed drinks by the pitcher except to two or more persons at any one time;
- (g) increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price regularly charged for such drink during the same calendar week;
- (h) encourage or permit, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prizes.

(2) No licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under 204 CMR 4.03

4.04 Exceptions

Nothing contained in 204 CMR 4.03 shall be construed to prohibit licensees from offering free food or entertainment at any time; or to prohibit licensees from including a drink as part of a meal package; or to prohibit the sale or delivery of wine by the bottle or carafe when sold with meals or to more than one person; or to prohibit those licensed under M.G.L. c. 138 §

15, from offering free wine tastings; or to prohibit those licensed under M.G.L. c. 138 § 12, from offering room services to registered guests.

4.05 Application

The provision of 201 CMR 4.00 shall be deemed to be a condition of every license issued under M.G.L. c. 138 to sell alcoholic beverages to be drunk on the premises, and said provisions may be enforced by the local licensing authorities or their agents and by the Alcoholic Beverages Control Commission or its investigators.

4.06 Severability

The provision of CMR 4.00 are severable, and if any provision or the application thereof is held by court of competent jurisdiction to be invalid, such invalidity shall not affect any other provision of 204 CMR 4.00.

MICHIGAN ADMINISTRATIVE RULE

Sale of Unlimited Quantity of Alcoholic Liquor at Specific Price.

R 436.1438 -- Rule 38.

(1) An on-premises licensee shall not sell, offer to sell, or advertise the sale of, an unlimited quantity of alcoholic liquor at a specific price.

(2) No licensee shall sell, offer to sell, or advertise the sale of, 2 or more identical drinks containing alcoholic liquor to a person for that person's consumption for 1 price. When 2 or more identical drinks containing alcoholic liquor are served to a person at 1 time, the price charged for the second and each additional identical drink shall be the same as the price charged for the first drink.

MISSOURI STATUTE

Sale by Drink Defined.

311.100.

The sale of any intoxicating liquor except malt liquor, in the original package, in any quantity less than fifty milliliters shall be deemed "sale by the drink", and may be made only by a holder of a retail liquor dealer's license and when so made, the container in every case shall be emptied and the contents thereof served as other intoxicating liquors sold by the drink are served.

MISSOURI ADMINISTRATIVE RULE

Advertising of Intoxicating Liquor and Nonintoxicating Beer.

11 CSR 70-2.240

(5) No advertisement of intoxicating liquor or nonintoxicating beer shall contain:

(G) Any statement offering any coupon, premium, prize, rebate, sales price below cost or discount as an inducement to purchase intoxicating liquor or nonintoxicating beer except, manufacturers of intoxicating liquor other than beer or wine shall be permitted to offer and advertise consumer cash rebate coupons and all manufacturers of intoxicating liquor may offer and advertise coupons for nonalcoholic merchandise in accordance with section 311.355, RSMo;

(H) Any statement offering free delivery or credit terms to consumers, as an inducement to purchase intoxicating liquor or nonintoxicating beer; and

(I) A price that is below the retailer's actual cost.

MONTANA STATUTE

Sale of Liquor at less than Posted Price Unlawful.

16-3-307.

It is unlawful for any licensee under the provisions of this code to resell any liquor purchased by the licensee from an agency liquor store or the state of Montana for a sum less than the posted price established by the department and paid by the licensee.

NEBRASKA STATUTE

Multiple Drinks.

019.01U

019.01U1 No licensee shall sell, or serve for on-premises consumption, an unlimited quantity of beer, wine, or spirits at a specific price.

019.01U2 No licensee shall sell or serve two or more drinks containing beer, wine, or spirits to a person for that person's consumption on the licensed premises for one price. A pitcher

shall not be considered a drink, however, no licensee shall sell two or more pitchers for one price.

019.01U3 Nothing in this rule shall limit, or in any way restrict, the price which may be charged by any licensee for a single drink containing beer, wine, or spirits to be consumed on the licensed premises.

019.01U4 No licensee shall mix or pour alcoholic beverages directly into a patron's mouth. The so-called upside-down drinks are prohibited.

NEW HAMPSHIRE STATUTE

Free Drinks.

Section 179:44

I. No licensee shall give away free drinks to customers, patrons, members or guests, in any manner.

NEW JERSEY ADMINISTRATIVE RULE

Prohibited Promotions.

TITLE 13 -- 13:2-23.16

(a) Except for consumer alcoholic beverage tastings or tasting dinners conducted in accordance with N.J.A.C. 13:2-37, and promotions permitted in this section, no licensee, permittee or brand registrant shall, directly or indirectly, allow, permit or suffer and practice or promotion that:

1. Offers unlimited availability of any alcoholic beverage for consumption on a licensed premises, for a set price, except for:

i. Private parties, not sponsored by the licensee, such as wedding and birthday parties, and events held by social affair permittees; or

ii. New Year's Eve parties sponsored by a licensee where a set price for attendance includes an open bar;

2. Offers to a patron or consumer a free drink, gift, prize or anything of value, conditioned upon the purchase of an alcoholic beverage or product, except for:

- i. Branded or unique glassware or souvenirs in connection with a single purchase;
 - ii. Consumer mail-in rebates offered in accordance with N.J.A.C. 13:2- 24.11;
 - iii. Manufacturer's sweepstakes and contests, not prohibited by law, where entry or opportunity to win is open to the public without a requirement that a purchase be made;
 - iv. Discounts offered by retailers to consumers on the purchase of alcoholic beverages for off premises consumption;
 - v. Offers of not more than one free drink per patron, as a gesture of good will, in a 24 hour period, by an on-premise consumption licensee;
 - vi. Offers of not more than one free drink coupon, ticket, or token redeemable by a patron, once in a 24 hour period;
 - vii. Offers of a set price for a meal that includes a single alcoholic beverage drink; or
 - viii. Offers of a single bottle of wine or champagne to guests staying at a licensed hotel or motel, as part of a specialty package, provided that the primary guests are of legal drinking age;
3. Requires or allows a consumer to prepurchase more than one drink or product at a time via tickets, tokens, admission fees, or the like, as a condition for entry into a licensed premises or as a requirement for service or entertainment thereon; or
4. Offers any prize, gift or award which consists of alcoholic beverages or coupons or gift certificates which may be redeemed for alcoholic beverages, such as two for one, and the like, except for a prize consisting of alcoholic beverages in sealed containers offered in a raffle licensed pursuant to N.J.S.A. 5:8-50. A coupon or gift certificate, other than a certificate purchased by a consumer for an amount equal to the dollar value of the certificate, shall expressly state that the certificate shall not be applied toward the purchase or consumption of alcoholic beverages.
- (b) No prize or promotion shall be given to, nor shall any contest for consumers be open to, any person under the legal age to purchase or consume alcoholic beverage, any supplier, wholesaler, distributor or retailer; or affiliates, employees or members of the immediate family or household of any such persons or entities.

Sales Below Cost; Prohibited.

13:2-24.8

- (a) Notwithstanding other provisions of this subchapter, no wholesaler distributor or other licensee, privileged to sell to retailers, and no retail licensee, shall offer to sell or sell alcoholic beverages at a price below "cost" except for authorized samples and donations pursuant to

N.J.A.C. 13:2-24.7, or upon petition to and approved by the Director, pursuant to a bona fide "close out" sale.

(b) "Cost" is defined as the actual proportionate invoice price and freight charge to a distributor or wholesaler and the actual proportionate invoice price to a retailer, as the case may be, of any given container of an alcoholic beverage product, plus applicable State and Federal taxes. The actual invoice price shall be determined by the "last-in-first-out" method applying generally accepted accounting principles.

NEW MEXICO ADMINISTRATIVE RULE

Sales to Intoxicated Person.

11.1 No licensee shall sell or serve alcoholic beverages to any person who is obviously intoxicated. In addition to other commonly recognized tests of intoxication, a blood alcohol content level of .14 or higher on a test taken not more than one (1) hour after sale or service of alcoholic beverages shall be presumptive evidence that the purchaser was intoxicated at the time of the last sale.

11.2 The following practices are prohibited on a licensed premises:

11.2.1 games or contests that involve drinking alcoholic beverages or the awarding of alcoholic beverage drinks as prizes;

11.2.2 the sale or delivery to a person of an unlimited number of alcoholic beverage drinks during any set period of time for a fixed price;

11.2.3 the sale or delivery of two or more alcoholic beverages for the price of one;

11.2.4 allowing any person to have more than two unconsumed alcoholic beverage drinks at any one time;

11.2.5 the sale or delivery of alcoholic beverages by the drink for less than half the usual, customary, or established price for a drink of that type on the licensed premises;

11.2.6 the sale or delivery of alcoholic beverages by the drink for less than cost; or

11.2.7 the advertising of the practices prohibited by this regulation.

11.3 Nothing contained in this regulation shall prohibit a licensee from:

11.3.1 including one alcoholic beverage drink per person as part of a meal package when approved by the director in writing;

11.3.2 selling wine by the bottle or carafe, or beer in a pitcher, when sold with a meal;

11.3.3 selling wine by the bottle or carafe, or beer in a pitcher, to more than one person;

11.3.4 offering free samples or tastes of alcoholic beverages in quantities of 1.5 ounce or less if the product is wine, beer, or a beverage containing alcohol and at least one other ingredient, or .5 ounce or less if the product is undiluted spirituous liquors, when done to promote a product;

11.3.5 offering free alcoholic beverage drinks to registered guests in its hotel when approved by the director in writing; or

11.3.6 utilizing a "free drink coupon" which is limited to one drink per day per patron or giving a patron a free drink as a gesture of good will or friendship. Free drinks as a gesture of good will or friendship may not be advertised and may not be given at any established interval or based on the purchases by the customer.

11.3.7 offering to customers product promotions such as sweepstakes, rebates on non-alcoholic beverage items, or goods that are not or do not include alcoholic beverages.

at a private party if the wholesaler provides the licensee with an invoice for the donated alcoholic beverages.

NEW YORK STATUTE

Unlimited Drink Offerings Prohibited.

S 117-A.

1. No licensee, acting individually or in conjunction with one or more licensees, shall:

(a) offer, sell, serve, or deliver to any person or persons an unlimited number of drinks during any set period of time for a fixed price.

(b) allow a person, agent, party organizer, or promoter, as such terms shall be defined by the authority in rule and regulation, to offer, sell, serve, or deliver to any person or persons an unlimited number of drinks during any set period of time for a fixed price.

(c) advertise, promote, or charge a price for drinks that in the judgment of the authority creates an offering of alcoholic beverages in violation of the purposes and intent of this section, or which in the judgment of the authority is an attempt to circumvent the intent and purposes of this section, such as offerings of free drinks, or multiple drinks for free or for the price of a single drink, or for such a minor

amount that in the judgment of the authority the pricing would constitute an attempt to circumvent the intent and purposes of this section.

2. As used in this section, licensee means and includes the licensee, and any employees, or agents of such licensee.
3. With respect to an individual licensee, this section shall not apply to private functions not opened to the public, such as weddings, banquets, or receptions, or other similar functions, or to a package of food and beverages where the service of alcoholic beverages is incidental to the event or function.
4. The authority shall investigate any documented allegation of a violation of this section upon a complaint by any person.
5. The authority shall promulgate rules and regulations necessary to implement the provisions of this section.

NORTH CAROLINA ADMINISTRATIVE RULE

Happy Hours Regulated.

.0232

(a) An on-premise permittee or his agent shall not:

- (1) sell more than one drink to a patron for a single price;
 - (2) establish a single price based upon the required purchase of more than one drink;
- or

(3) deliver more than one drink at one time to a patron for his consumption. This Rule does not prohibit the sale of pitchers of alcoholic beverages to two or more patrons. This Rule also does not prohibit serving a single carafe or bottle of wine to a single patron.

(b) An on-premise permittee or his agent shall not give away a drink or sell one at a price that is different from the usual or established price charged for the drink for any period of time less than one full business day. Free or reduced drinks under this provision shall be offered to all customers, not just a segment of the population.

(c) For purposes of this Rule, a "drink" contains the amount of alcoholic beverages usually and customarily served to a single patron as a single serving by the permittee.

(d) Exception for Certain Holidays. An on-premise permittee may include alcoholic beverages in a package offering that includes a meal or entertainment if the offered special is made in conjunction with the following holidays: New Year's, Valentines Day, Mother's Day, or Father's Day.

(e) The offer of a meal and alcoholic beverage at a single total price is not a violation of this Section so long as the total price reflects the actual price of the alcoholic beverages and not a reduced price.

General Prohibitions.

.1006

(f) No on-premise permittee or his agent shall advertise any drink promotion prohibited by Rule 2S .0232. This Paragraph includes a ban on all advertisements of "2 for 1," "buy 1 get 1 free," "buy 1 get another for a _____ (nickel, penny, etc.)," and any other similar statement indicating that a patron must buy more than one drink.

OHIO ADMINISTRATIVE RULE

Limitations on Happy Hours and Similar Retail Price Reductions.

301:1-1-50

(A) No liquor permit holder and no agent or employee of a liquor permit holder shall:

(1) Offer to sell, furnish, or deliver to any person or group of persons:

(a) Two or more servings of any alcoholic beverage upon the placing of an order for an individual drink of any alcoholic beverage;

(b) An unlimited number of servings of alcoholic beverages during any set period of time for a fixed price;

(c) Any alcoholic beverage after nine p.m. at a price less than that charged to other patrons.

(2) Encourage or permit any game or contest that involves drinking or the awarding of alcoholic beverages as a prize.

(3) Increase the volume of alcoholic beverages contained in a serving without increasing proportionately the price charged for such serving.

(B) All permit holders shall maintain on their permit premises a schedule of prices for all drinks of alcoholic beverages to be served or consumed thereon. Scheduled prices shall be effective for not less than one calendar month, dating from twelve p.m. on the first day of each month. Prior to nine p.m., permit holders may sell, furnish, or deliver any of these alcoholic beverages at a lower price during happy hour periods. After nine p.m., no permit holder shall offer to sell, furnish, or deliver to any person any alcoholic beverages at a price less than the regularly-charged price as established by the aforementioned schedule of prices.

OKLAHOMA STATUTE

B. No licensee of the ABLE Commission shall:

1. Receive, possess, or sell any alcoholic beverage except as authorized by the Oklahoma Alcoholic Beverage Control Act and by the license or permit which the licensee holds;
3. Give any alcoholic beverage as a prize, premium or consideration for any lottery, game of chance or skill or any type of competition;
4. Advertise or offer "happy hours" or any other means or inducements to stimulate the consumption of alcoholic beverages including:
 - a. deliver more than two drinks to one person at one time;
 - b. sell or offer to sell to any person or group of persons any drinks at a price less than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the public;
 - c. sell or offer to sell to any person an unlimited number of drinks during any set period of time for a fixed price, except at private functions not open to the public;
 - d. sell or offer to sell drinks to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not open to the public;
 - e. increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price regularly charged for such drink during the same calendar week; or
 - f. encourage or permit, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prizes.

Provided that the provisions of this paragraph shall not prohibit the advertising or offering of food or entertainment in licensed establishments.

OREGON ADMINISTRATIVE RULE

Restrictions.

845-007-0020

(2) The Commission prohibits references to temporary price reductions for alcoholic beverages to be consumed on the licensed premises. These references include "happy hour," "dimers," "two-for-one," "social adjustment hour," "free," or similar terms. The licensee

may make references to temporary price reductions inside the licensed premises if the reference is not visible from the outside.

PENNSYLVANIA ADMINISTRATIVE RULE

Discount Pricing Practices.

§ 13.102.

(a) General. Retail licensees may discount the price of alcoholic beverages for a consecutive period of time not to exceed 2 hours in a business day, but may not engage in discount pricing practices between 12 midnight and the legal closing hour. Retail licensees may not engage in the following discount pricing practices unless specifically excepted in subsection (b):

(1) The sale or serving, or both, of more than one drink of liquor, wine, or malt or brewed beverages at any one time to any one person, for the price of one drink.

(2) The sale or serving, or both, of an increased volume of one drink of liquor, wine, or malt or brewed beverages without a corresponding and proportionate increase in the price for the drink.

(3) The sale or serving, or both, of an unlimited or indefinite amount of liquor, wine, or malt or brewed beverages for a set price.

(4) The pricing of alcoholic beverages in a manner which permits the price to change within the 2-hour period.

(b) Exceptions. Nothing in subsection (a) prohibits:

(1) The sale or serving, or both, of an unlimited or indefinite amount of liquor, wine or malt or brewed beverages for a fixed price for catered events which have been arranged at least 24 hours in advance.

(2) The offering for sale of one specific type of alcoholic beverage or drink per day or a portion thereof at a reduced price, if the offering does not violate subsection (a).

(3) The sale, serving or offering of an unlimited or indefinite amount of alcoholic beverages as part of a meal package after 7 p.m. on December 31, 1999, until 2 a.m. on the following day by a hotel licensee to registered overnight guests of the hotel.

RHODE ISLAND STATUTE

Certain Practices Prohibited.

SECTION 3-7-26-- § 3-7-26

(a) No licensee, employee or agent of any licensee who operates under a license to sell alcoholic beverages shall:

1) Cause or require any person or persons to buy more than one drink at a time by reducing the price of that drink;

(2) Increase the volume of alcohol contained in any alcoholic beverage without proportionately increasing the price;

(3) Sell, propose to sell or deliver to any person or persons an unlimited number of drinks during a certain period of time for a fixed price; or

4) Allow or encourage any game or promotion on the premises which involves the drinking of alcoholic beverages or the awarding of alcoholic beverages as prizes for consumption on the premises.

(b) No licensee shall advertise or promote in any manner, or in any medium, happy hours, open bars, two-for-one nights and/or free drink specials.

(c) Nothing in this section shall be construed to prohibit a licensee from offering free food or entertainment at any time; or to prohibit licensees from including an alcoholic beverage as part of a meal package; or to prohibit the sale or delivery of wine by the bottle or carafe when sold with meals or to more than one person; or to prohibit free wine tastings. Except as otherwise limited by this section, nothing contained in this section shall limit or may restrict the price which may be charged by any licensee for any size alcoholic beverage to be consumed on the licensed premises.

(d) Adherence to this section is deemed to be a condition attached to the issuance and/or continuation of every license to sell alcoholic beverages for consumption on the licensed premises, and this section shall be enforced by the applicable local licensing authority, its agents, and the department.

(e) The provisions of this section are deemed to be severable and any final decision by a court of competent jurisdiction holding that any provision of this section is void, shall not make void nor affect any of the remaining provisions of this section.

SOUTH CAROLINA STATUTE

Drinking Contests or Games Prohibited; Definitions.

SECTION 61-6-2230.

(A) No person licensed to sell alcoholic beverages pursuant to this article may knowingly conduct, operate, organize, promote, advertise, run, or participate in a "drinking contest" or "drinking game".

(B) For purposes of this section, "drinking contest" or "drinking game" includes, but is not limited to, a contest, game, event, or other endeavor which encourages or promotes the consumption of alcoholic beverages by participants at extraordinary speed or in increased quantities or in more potent form. "Drinking contest" or "drinking game" does not include a contest, game, event, or endeavor in which alcoholic beverages are not used or consumed by participants as part of the contest, game, event, or endeavor but instead are used solely as a reward or prize. Selling alcoholic beverages in the regular course of business is not considered a violation of this section.

Discount Prices.

SECTION 61-6-4550.

No person who holds a biennial license to sell beverages for free, at a price less than one-half of the price regularly charged, or on a two or more for the price of one basis. Alcoholic liquors may be sold at a price less than the price regularly charged from four o'clock p.m. until eight o'clock p.m. only. The prohibition against dispensing the beverages for free does not apply to dispensing to a customer on an individual basis, to a fraternal organization in the course of its fund-raising activities, to a person attending a private function on premises for which a biennial license has been issued, or to a customer attending a function sponsored by the person who holds a biennial license. However, no more than two functions may be sponsored each year, and must be authorized by the department. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars or imprisoned not less than three months, in the discretion of the court.

TENNESSEE ADMINISTRATIVE RULE

Happy Hour Restrictions

100-1-.03

(16) – No licensee or employee or agent of a licensee shall engage in any of the following promotional practices during the period beginning with 10:00 p.m., prevailing time, until the time set by law for closing of such licensed establishments:

- (a) serve two or more drinks or containers of alcoholic beverages to a consumer at one time.
- (b) sell, offer to sell, or deliver to any person or group of persons any drinks that are priced less than the price regularly charged for that drink in that size during the same calendar week, except at private functions not open to the public; or
- (c) increase the volume of alcohol contained in any such drink during any calendar week without increasing proportionately the price regularly charged for such drink.

TEXAS ADMINISTRATIVE RULE

On Premises Promotions.

RULE §45.103

(a) This rule is adopted to prohibit those practices by on-premise retail establishments that are reasonably calculated to result in excessive consumption of alcoholic beverages by consumers. Such practices constitute a manner of operation contrary to the public welfare, health and safety of the people in violation of §§11.61(b)(7) and 61.71(a)(17) of the Alcoholic Beverage Code.

(b) Excessive consumption of alcoholic beverages shall be determined by the standard of public intoxication articulated in §49.02 of the Penal Code.

(c) Retail licensees and permittees may not:

(1) serve, sell, or offer to serve or sell, two or more open containers of alcoholic beverages at a price less than the number of containers actually sold or served;

(2) increase the volume of alcohol contained in a drink without increasing proportionally the price thereof;

(3) serve or offer to serve more than one free alcoholic beverage to any identifiable segment of the population during the course of one business day. Licensees and permittees may, however, without prior advertising, give one free alcoholic beverage to individual consumers in celebration of birthdays, anniversaries or similar events;

(4) sell, serve, or offer to sell or serve an undetermined quantity of alcoholic beverages for a fixed price or "all you can drink" basis;

(5) sell, serve, or offer to sell or serve, alcoholic beverages at a reduced price to those consumers paying a fixed "buy in" price;

(6) sell, serve, or offer to sell or serve, alcoholic beverages at a price contingent on the amount of alcoholic beverages consumed by an individual;

(7) reduce drink prices after 11:00 p.m.;

(8) sell, serve or offer to sell or serve more than two drinks to a single consumer at one time;

(9) impose an entry fee, cover or door charge for the purpose of recovering financial losses incurred by the licensee or permittee because of reduced or low drink prices;

(10) conduct, sponsor or participate in, or allow any person on the licensed premises to conduct, sponsor or participate in, any game or contest to be determined by the

quantity of alcoholic beverages consumed by an individual or group, or where alcoholic beverages or reduced price alcoholic beverages are awarded as prizes;

(11) engage in any practice, whether listed in this rule or not, that is reasonably calculated to induce consumers to drink alcoholic beverages to excess, or that would impair the ability of the licensee or permittee to monitor or control the consumption of alcoholic beverages by consumers.

(d) The provisions of subsections (c)(1) through (c)(7) do not apply where:

(1) the permittee or licensee has entered into an agreement under the terms of which all or a portion of the licensed premises are utilized for a private party or a meeting of a particular organization; or

(2) a caterer's or other temporary permit or license is used for a private party or a meeting of a particular organization.

(e) Notwithstanding the provisions of (c)(1) through (c)(7) of this rule, licensees and permittees may:

(1) offer free or reduced-price food or entertainment at any time, provided the offer is not based on the purchase of an alcoholic beverage;

(2) include alcoholic beverages as part of a meal or hotel/motel package;

(3) sell, serve or deliver wine by the bottle to individual consumers during the sale or service of a meal to the consumer;

(4) sell, serve or deliver alcoholic beverages in pitchers, carafes, buckets or similar containers to two or more consumers at one time.

UTAH STATUTE

Operational Restrictions.

32-4-106.

Each person granted a restaurant liquor license and the employees and management personnel of the restaurant shall comply with the following conditions and requirements. Failure to comply may result in a suspension or revocation of the license or other disciplinary action taken against individual employees or management personnel.

(11) (a) Liquor may not be sold except at prices fixed by the commission.

- (b) Mixed drinks and wine may not be sold at discount prices on any date or at any time.
- (12) Each restaurant patron may have only one alcoholic beverage at a time before the patron on the patron's table.
- (13) No more than one ounce of primary liquor may be served to a patron at a time, except:
 - (a) wine as provided in Subsection (2)(c); and
 - (b) heavy beer as provided in Subsection (2)(d).
- (14) Alcoholic beverages may not be purchased by the licensee, or any employee or agent of the licensee, for patrons of the restaurant.

UTAH ADMINISTRATIVE RULE

Preamble.

The alcoholic beverage industry has often proclaimed its sense of responsibility for judicious handling of its products. Accordingly, the commission urges the industry to avoid any description of a situation that leads the reader or viewer to believe that the enjoyment of that situation is dependent upon the consumption of alcoholic beverages.

General Provisions.

- (a) Utah statutes and rules of the commission govern the regulation of advertising of alcoholic beverages sold within the state, except where the regulation of interstate electronic media advertising is preempted by federal law. The Federal Alcohol Administration Act, 27 U.S.C. 205(e) and (f), and federal regulations, Subchapter A, Parts 4, 5, 6, and 7, of the Bureau of Alcohol, Tobacco and Firearms, United States Department of the Treasury, as set forth in 27 CFR 4,5,6, and 7, (1993 Edition) are adopted and incorporated by reference to regulate the labeling and advertising of alcoholic beverages sold within this state, except where the provisions of the federal statute and regulations may be contrary to or inconsistent with the provisions of Utah statutes, or rules of the commission.
- (b) No advertisement or promotional scheme involving alcoholic beverages which is primarily or especially appealing to minors is permitted. No advertisement or promotional scheme involving alcoholic beverages shall be placed with or appear in any school, college or university newspaper.
- (c) No advertisement or promotional scheme involving alcoholic beverages that encourages over- consumption or intoxication such as "all you can drink for \$..." , or "happy hour" is allowed.

VERMONT STATUTE

Restrictions; Exceptions.

TITLE 7 § 61.

A person, partnership, association or corporation shall not furnish or sell, or expose or keep with intent to sell, any malt or vinous beverage, or spirits, or manufacture, sell, barter, transport, import, export, deliver, prescribe, furnish or possess any alcohol, except as authorized by this title. However, this chapter shall not apply to the furnishing of such beverages or spirits by a person in his private dwelling, unless to an habitual drunkard, or unless such dwelling becomes a place of public resort, nor to the sale of fermented cider by the barrel or cask of not less than thirty-two liquid gallons capacity, provided the same is delivered and removed from the vendor's premises in such barrel or cask at the time of such sale, nor to the use of sacramental wine, nor to the furnishing, purchase, sale, barter, transportation, importation, exportation, delivery, prescription, or possession of alcohol for manufacturing, mechanical, medicinal, and scientific purposes, provided the same is done under and in accordance with rules and regulations made and permits issued by the liquor control board as hereinafter provided.

VERMONT ADMINISTRATIVE RULES

57. First class or first and third class licensees shall not offer alcohol beverages at reduced prices for any period of time during daily legal hours. This shall not be construed to regulate prices charged for group events to its attendees only, such as banquets; nor to prohibit cover charges or price adjustments during times when live entertainment, as defined in General Regulation No. 47, is presented on licensed premises, nor to preclude lower alcohol beverage prices for a full day.

- a. Licensees shall not offer or permit games, contests, or promotions which encourage the rapid or excessive consumption of alcohol beverages.

VIRGINIA ADMINISTRATIVE RULE

Happy Hour and Related Promotions; Definitions; Exceptions.

3VAC5-50-160.

A. Definitions:

1. "Happy Hour." A specified period of time during which alcoholic beverages are sold at prices reduced from the customary price established by a retail licensee.

2. "Drink." Any beverage containing the amount of alcoholic beverages customarily served to a patron as a single serving by a retail licensee.

B. No retail licensee shall engage in any of the following practices:

1. Conducting a happy hour between 9 p.m. of each day and 2 a.m. of the following day;
2. Allowing a person to possess more than two drinks at any one time during a happy hour;
3. Increasing the volume of alcoholic beverages contained in a drink without increasing proportionately the customary or established retail price charged for such drink;
4. Selling two or more drinks for one price, such as "two for one" or "three for one";
5. Selling pitchers of mixed beverages;
6. Giving away drinks;
7. Selling an unlimited number of drinks for one price, such as "all you can drink for \$5.00"; or
8. Advertising happy hour in the media or on the exterior of the licensed premises.

C. This regulation shall not apply to prearranged private parties, functions, or events, not open to the public, where the guests thereof are served in a room or rooms designated and used exclusively for private parties, functions or events.

WASHINGTON ADMINISTRATIVE RULE

Do I have to sell liquor at a certain price?

WAC 314-11-085

(1) Retail liquor licensees must sell beer, wine, and spirits to customers at or above the licensee's acquisition cost.

(2) An exception to this requirement is that licensees may give a customer a drink free of charge under limited circumstances, such as a customer's birthday or to compensate for unsatisfactory products or services. Free liquor may not be used in advertising or as part of a promotion.

Advertising by Retail Licensees.

WAC 314-52-110

(2) No retail licensee shall offer for sale any liquor for on premises consumption under advertising slogans such as "two for the price of one," "two for one drinks," "buy one--get one free," "two for \$____," nor any similar phrase or slogan where the express or implied meaning is that a customer, in order to receive a reduced price, would be required to purchase more than one drink or quantity of liquor at one time.

APPENDIX IV
IOWA CITY ORDINANCE
(Happy Hours & Drink Specials)

4-5-7: Limitations on Sales:

A. Unlawful: It shall be unlawful for a holder of a liquor control license, or wine permit or beer permit, or its employees or agents, to do any of the following:

1. Sell, offer to sell, dispense or serve for on-premises consumption, two (2) or more servings of any alcoholic liquor, wine, or beer to any one person for the price of one such drink.
2. Sell, offer to sell, dispense or serve for on-premises consumption an unlimited number of servings of alcoholic liquor, wine, or beer for a fixed price or an unlimited number of servings for free.
3. Increase the volume of alcoholic liquor contained in a drink, for on-premises consumption, without proportionally increasing the price charged for such drink.
4. Dispense or serve for on-premises consumption, more than two (2) servings of any alcoholic liquor, wine, or beer at any one time to any one person. With respect to alcoholic liquor, beer or wine customarily sold in quantity, such as pitchers of beer and bottles of wine, the permittee, licensee, employee or agent shall not dispense or serve such alcoholic liquor, wine, or beer unless he or she can verify that the

person or persons who will consume such alcoholic liquor, wine, or beer are of legal age.

5. Encourage or permit any game or contest or tournament of any kind which involves drinking any alcoholic liquor, wine, or beer or the awarding of alcoholic liquor, wine, or beer as a prize.
6. Dispense, pour, or otherwise serve any alcoholic liquor, wine, or beer directly into a person's mouth.

B. Exceptions: Nothing in subsection A of this section shall be construed to prohibit a holder of a liquor control license, or wine, or beer permit, or its employees or agents, from:

1. Including servings or drinks of alcoholic liquor, wine, or beer as part of a hotel or motel package which includes overnight accommodations.

Providing a fixed price for an unlimited or indefinite amount of drinks for private events. A "private event" is one restricted to a particular group or persons. The licensee or permittee shall provide means or methods by which to identify persons participating in the private event, such as the use of a separate room or a means to identify such party.