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**Underage Drinking Enforcement Training Center (UDETC):
Features New Document Online: “Party Patrols: Best Practice
Guidelines for College Communities”**

Alcohol-related problems at off-campus parties are a challenge for universities, communities and their law enforcement agencies to address. Party patrols are often used in response to unruly community parties, but there is the lack of standard operation procedures. To fill this gap, a group of California law enforcement agencies convened in May 2010 for a full day training to identify a set of best practices for party patrols. The guidelines capture the experience and insights of the police officers that participated in the training. Presenting party patrols as a comprehensive program, the guide describes six specific components: 1) effective legal tools, 2) messaging and visibility, 3) party prevention and education, 4) early intervention, 5) collaborative partnerships, and 6) enforcement strategies. In addition, six municipal nuisance ordinances that have proven to be effective tools for their respective police departments are provided as examples in the appendix. You can download and review the full publication at: http://www.udetc.org/documents/Party_Patrol_Guidebook.pdf

RESOURCE ALERT LEGAL CASE

“Does an underage buyer’s misleading response to a question from a bartender render the decision to impose a license suspension null and void?”

On November 9, 2010, the Court of Appeals of Minnesota handed down their opinion in an appeal from a City of Eagan’s Licensing Board’s decision to impose a civil fine and a license suspension for a sale of alcohol to a minor during a compliance check under Minn.Stat. § 340A.503, subd. 2(1) (2008).

In the evening of December 21, 2009, Eagan Police Officer Christopher Meade went to the restaurant dressed in plain clothes to conduct an alcohol-compliance check; he was accompanied by Joshua Grubb, an underage purchaser. The bartender recognized Officer Meade from past visits to the restaurant, and knew him to be a police officer. The bartender asked each man for his proof-of-age identification. She first examined the Minnesota identification card produced by Grubb, which showed his date of birth, October 10, 1989, and bore the legend “UNDER 21” at the top of his photograph. After asking the underage buyer some questions in an attempt to determine his true age, the bartender made a sale of alcohol to the underage buyer after examining the license a second time.

This case presents an interesting question of whether an underage buyer’s misleading answer to a licensee’s employee is sufficient to render a penalty imposed by the licensing board null and void. To read more about this interesting case and determine whether her arguments prevailed, please click on the link below.

<http://www.udetc.org/documents/resourcealerts/Feb2011case.pdf>

SUCCESS STORIES: GUAM

Guam raises the drinking age from 18 years to 21.

On July 8, 2010 all 15 senators voted to raise Guam’s drinking age from 18 years to 21. The bill was first introduced by Vice-Speaker BJ Cruz and was then amended by Senator Rory Respicio. The new law took a lengthy path and was debated for years. Included in the measure, which took effect immediately on July 8, 2010, were two other alcohol-related measures—one that rolls back weekend drinking hours from 4 a.m. to 2 a.m. and one that stiffens penalties for establishments that violate these new drinking hours. This success story emphasizes the need to be vigilant, the importance of educating communities and the importance of collaborative partnerships.

NATIONAL ELECTRONIC SEMINARS

February 2011

Alcohol Energy Drinks: They Pack a Killer Punch!

Date: Thursday, February 24, 2011

Time: 3:00-4:15 p.m. ET

Speakers: Steve Schmidt, Michele Simon and Dr. Mary Claire O’Brien

*“Teen crashes into house in Arizona after playing beer pong”
“Nine dangerously drunk college students hospitalized in WA”
“20-Year old Florida college student dies of gunshot”*

What did all of these tragedies have in common? All of these incidents involved the consumption of alcohol energy drinks or “AED’s”. Many states quickly took the initiative to ban or discourage the sale of these beverages. The Food and Drug Administration initiated an investigation of the caffeinated alcohol beverages which have been nicknamed “blackout in a can” or “liquid cocaine” by those that have consumed the product. Join us to get an update on what is being done around the Country to prevent similar injuries and death as a result of underage access to alcohol.

Visit www.udetc.org/audioconfregistration.asp to register.

To print a copy of this month’s Resource Alert visit:
www.udetc.org/documents/ResourceAlerts/ResourceAlert0211.pdf

**IN RE: On-Sale Liquor License Held by Cooper's Restaurant, Inc. d/b/a Cooper's Restaurant,
4185 South Robert Trail, Eagan, MN 55123.**

A10-304

November 09, 2010

Considered and decided by Bjorkman, Presiding Judge; Kalitowski, Judge; and Collins, Judge.

City of Eagan Robert D. Miller, Minneapolis, Minnesota (for relator Cooper's Restaurant, Inc.) Sharon K. Hills, Michael G. Dougherty, Severson, Sheldon, Dougherty & Molenda, P.A., Apple Valley, Minnesota (for respondent City of Eagan)

UNPUBLISHED OPINION

Relator Cooper's Restaurant, Inc. (restaurant) challenges the decision of respondent City of Eagan (city) imposing a civil penalty and suspension of the restaurant's liquor license following an administrative hearing. The restaurant concedes that it sold an alcoholic beverage to an underage person, but contends that the city's decision is not supported by substantial evidence and is arbitrary and capricious because the sale was induced by "trickery or deception." We affirm.

FACTS

In the evening of December 21, 2009, Eagan Police Officer Christopher Meade went to the restaurant dressed in plain clothes to conduct an alcohol-compliance check; he was accompanied by Joshua Grubb, an underage purchaser. The restaurant had been cited for violations of relevant statutes, regulations, or ordinances three times within the preceding 36 months: twice for selling alcoholic beverages after 1:00 a.m. without having the requisite special permit and once for selling an alcoholic beverage to an underage person.

Officer Meade and Grubb entered the restaurant, took seats at the bar, and each ordered a beer. The bartender recognized Officer Meade from past visits to the restaurant, and knew him to be a police officer. The bartender asked each man for his proof-of-age identification. She first examined the Minnesota identification card produced by Grubb, which showed his date of birth, October 10, 1989, and bore the legend "UNDER 21" at the top of his photograph. The bartender asked Grubb "if he had done the 21 shots on his birthday," and Grubb said, "No." After looking at Officer Meade's Minnesota driver's license and confirming that he was of-age, the bartender examined Grubb's identification card a second time before serving them each a beer.

The restaurant had a card-swipe device, which if used by the bartender would have scanned Grubb's identification card and shown that he was 20 years old and underage. The restaurant also had a bulletin board displaying the date on or before which a person must have been born in order to be 21 or more years old. The bartender, who had nearly 25 years of bartending

experience, simply admitted that she “made a total human error” and “miscalculated” Grubb's age.

Because the restaurant failed the alcohol-compliance check, the city initiated administrative proceedings. Officer Meade, Grubb, the bartender, the restaurant's owner, and the restaurant's attorney appeared at the administrative hearing. The restaurant's owner argued that the bartender was misled because Grubb's answer to her question about drinking 21 shots could be taken as an acknowledgement that he was 21 years old. But the bartender specifically testified that she never asked Grubb his age or whether he was 21 years old; she stated that she always looks at the identification-card picture, but acknowledged that the picture on “[Grubb's identification card] says under 21.” Her only explanation was that she “got confused with the birth dates.”

The restaurant's owner relied on Officer Meade's presence in support of his argument that Grubb misrepresented his age, contending that a fair assumption would be that “they're to tell the truth.” The bartender agreed that she respected Officer Meade's position as a police officer and did not expect him to try to trick her, and she stated that Officer Meade's presence “probably” influenced her decision to serve Grubb. The restaurant's owner acknowledged that the restaurant had failed alcohol-compliance checks in the past and that he was aware that alcohol-compliance checks are conducted by police officers accompanied by underage persons.

The city's administrative-hearing officer issued a decision concluding that the restaurant served alcohol to an underage person. The city ordered the restaurant to pay a \$2,000 civil penalty and suspended its liquor license for 30 days. This certiorari appeal followed.

DECISION

Municipalities have broad discretion in the issuance, regulation, and revocation of liquor licenses. *Hymanson v. City of St. Paul*, 329 N.W.2d 324, 326 (Minn.1983); *In re On-Sale Liquor License, Class B*, 763 N.W.2d 359, 365 (Minn.App.2009). A municipality may impose a civil penalty and suspend a liquor license based on the licensee's failure to comply with an applicable statute, rule, or ordinance relating to alcoholic beverages. Minn.Stat. § 340A.415 (2008). The suspension may not take effect until the licensee has been provided with an opportunity for an administrative hearing. *Id.* This court may reverse or modify the municipality's decision if the decision is arbitrary and capricious, unsupported by substantial evidence, or affected by an error of law. Minn.Stat. § 14.69 (2008). Reversible error must be shown by the party claiming it. *On-Sale Liquor License*, 763 N.W.2d at 366.

Under Minnesota law, it is unlawful to sell or give an alcoholic beverage to a person under 21 years of age. Minn.Stat. § 340A.503, subd. 2(1) (2008). Proof of age may be established only by one of the government-issued forms of identification enumerated in the statute, including a Minnesota identification card. *Id.*, subd. 6(a) (2008). A person prosecuted for selling an alcoholic beverage to an underage person has an affirmative defense of reasonable, good-faith reliance only if the reliance is on proof of age as established by one of the authorized forms of identification. *Id.*, subd. 6(b) (2008). With exceptions not relevant here, the act of an

employee of a licensed establishment is deemed to be the act of the licensee. Minn.Stat. § 340A.501 (2008).

Under the Eagan city code, a licensee's fourth violation within a 36-month period calls for a \$2,000 civil penalty and a 30-day suspension of its license. Eagan, Minn., City Code § 5.02, subd. 4(G) (2009). A violation includes any failure to comply with any applicable statute, regulation, or city-code provision relating to alcoholic beverages. Id., subd. 4(F) (2009).

The restaurant concedes that it sold an alcoholic beverage to Grubb, who was 20 years old, but argues that “the deceptive manner in which the [alcohol-compliance] check was conducted rendered the transaction capricious” and that “evidence gained from the use of trickery or deception” is not substantial evidence. In support of this contention, the restaurant relies on *Wajda v. City of Minneapolis*, in which the supreme court stated that an administrative agency abuses its discretionary power through “unreasonable, arbitrary, capricious, or fraudulent action.” 310 Minn. 339, 343, 246 N.W.2d 455, 457 (1976) (quotation omitted).

The restaurant suggests that Grubb's response to the bartender's question about 21 shots, coupled with Officer Meade's status as a police officer, amounts to fraudulent behavior within the meaning of *Wajda*. We disagree. It is undisputed that: (1) Grubb produced his valid Minnesota identification card; (2) the bartender failed to utilize the readily available card-swipe machine, never asked Grubb's age, and ignored the qualifying date of birth displayed on the bulletin board; (3) Officer Meade made no representation as to Grubb's age; and (4) the restaurant was aware that the city occasionally conducted alcohol-compliance checks with police officers accompanied by underage persons. These facts negate the suggestion that the illegal sale was induced by fraudulent behavior on the part of the city.

Moreover, as a matter of law, the sole source of verification of Grubb's age upon which the restaurant was entitled to rely was his Minnesota identification card. The card stated Grubb's date of birth, showing him to be 20 years old, and bore the legend “UNDER 21” at the top of his photograph. See Minn.Stat. § 340A.503, subd. 6(b). The city's decision to impose a civil penalty and suspend the restaurant's liquor license is thus supported by substantial evidence and is not arbitrary and capricious.

Affirmed.

FOOTNOTES

FOOTNOTE. FN*. Retired judge of the district court, serving as judge of the Minnesota Court of Appeals by appointment pursuant to Minn. Const. art. VI, § 10.



February 2011

Guam raises the drinking age from 18 years to 21

Raising the legal drinking age was always a hot topic in Guam. After much deliberation and written amendments, on July 2010, all 15 senators voted to raise Guam's drinking age from 18 years to 21. Vice-Speaker B.J. Cruz introduced the bill, which was then amended by Senator Rory Respicio. The amendment allows adults aged 18 to 20 to continue serving alcohol. The rationale for this amendment was that it would cause hardship on youth who had secured jobs in bars, and they would lose irreplaceable salaries and benefits.

The new policy was signed into law on July 8, 2010. The U.S. Air Force quickly complied with the new law, establishing the same restrictions at on-base clubs (the Navy already had the higher drinking age.) The new law took a lengthy path and was debated for years—it was first being brought up in response to public outcry following the December 2006 traffic death of a bicyclist (Ramon Oberiano) who was the victim of a drunk driver. His family attended the historic signing event. The measure, which took effect immediately, was hailed as a success by coalitions in Guam, which played a major role in getting it passed. Also passed with the bill were two other alcohol-related measures: one that rolls back weekend drinking hours from 4 a.m. to 2 a.m. and one that stiffens penalties for establishments that violate these new drinking hours.

The policy received positive support from coalitions through supportive letters and calls. A current social marketing campaign, *One Nation*, provided education and helped raise of the island's drinking problem. The campaign was highlighted at the 2010 Enforcing Underage Drinking Laws (EUDL) National Leadership Conference in Anaheim, California, and

featured public service announcements, billboards, posters, t-shirts, and water bottles to promote healthy behaviors and alcohol-free lifestyles on Guam. For additional information on this please go to http://www.peaceguam.org/Underage_Drinking/One_Nation.htm

Underage drinking is an important and relevant concern for Guam. Data from the territory's Youth Risk Behavior survey reports¹ that:

- More than one-fourth of Guam's high school students had their first alcoholic drink before the age of 13;
- Seventeen percent of middle school students had their first alcoholic drink before the age of 11
- More than one-third of high school students are current drinkers.

With alcohol's negative effects on other health-related incidents and suicide rates, Guam is taking a proactive step forward in preventing underage drinking. This success story emphasizes the need to be vigilant, the importance of educating communities, and the importance of forming collaborative partnerships.

For additional information on this success story contact:

Ms. Rebecca J. Respicio, EUDL Coordinator
 Phone: 671-735-5032
 E-Mail: rebecca.respicio@dya.guam.gov

¹ http://www.peaceguam.org/Underage_Drinking/underage_drinking.htm

Enforcing Underage Drinking Laws Program

AUDIO CONFERENCE

TOPIC

Alcohol Energy Drinks: They Pack a Killer Punch!

"Teen crashes into house in Arizona after playing beer pong"

"Nine "dangerously drunk" college students hospitalized in Washington"

"20-Year old Florida college student dies of gunshot"



What did all of these tragedies have in common? All of these incidents involved the consumption of alcohol energy drinks or "AED's". Many states quickly took the initiative to ban or discourage the sale of these beverages. The Food and Drug Administration initiated an investigation of the caffeinated alcohol beverages which have been nicknamed "blackout in a can" or "liquid cocaine" by those that have consumed the product. Join us to get an update on what is being done around the Country to prevent similar injuries and death as a result of underage access to alcohol.

DATE

February 24, 2011

TIME

3:00-4:15 PM Eastern Time

PRESENTERS

Presenter 1:

Steve Schmidt, National Alcohol Beverage Control Association
sschmidt@nabca.org

Presenter 2:

Michele Simon, JD, MPH, Marin Institute
micheles@marininstitute.org

Presenter 3:

Mary Claire O'Brien, M.D., Wake Forest University Baptist Medical Center
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REGISTER

Please register by using one of our automated options:

- **To register on our website**, please visit www.udetc.org and complete the online registration form, or
- **To register by phone**, please call our toll-free number, 1-877-335-1287, extension 230, and follow the prompts.

Telephone dial-in instructions and accompanying materials for the audio conference will be mailed one (1) week before the call.



National Electronic Seminars Enforcing Underage Drinking Laws Program

The OJJDP Audio-TELECONFERENCE Series

2011 National Electronic Seminars Calendar

February 24, 2011 3:00 – 4:15 p.m. Eastern Time

Alcohol Energy Drinks: They Pack a Killer Punch!

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“Nine “dangerously drunk” college students hospitalized in Washington”
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March 24, 2011 3:00 – 4:15 p.m. Eastern Time

Managing Alcohol at Special Events

Managing alcohol at special events such as open air concerts, sporting events, fairs/festivals, can be a complex and challenging experience for communities. When alcohol is added to events whether large or small, planned or spontaneous, consumption of alcohol increases the event’s complexity. Alcohol related incidents and prevention of underage drinking are especially challenging for law enforcement and other first responders as it relates to the public health and safety of all attendees. Hear how effective planning, proper management, policy application and enforcement are at the core of managing special events whether they are large or small in nature. Please join us on March 24, 2010 at 3:00 PM EST as our continuing National Electronic Seminar Series will speak to the implementation of effective strategies you can use in the prevention of underage drinking and other alcohol related issues at planned, or spontaneous events in your community. UDETC’s regular monthly National Electronic Seminar Series focuses on reducing alcohol related harm to youth, our most precious and promising national resource.

April 21, 2011 3:00 – 4:15 p.m. Eastern Time

Logic Models and Workplan Development

Yogi Berra said, “If you don’t know where you’re going, how are you gonna’ know when you get there?”

He makes a good point! How do we make sure we know where we are going with our underage drinking prevention and enforcement efforts? Logic Models are tools being used increasingly by coalitions and organizations and recommended by funders in the prevention field. A program logic model is defined as a picture of HOW your coalition does its work, including the theory, assumptions and research that underlie its choice of activities. It is a one page diagram that links your activities and processes to the outcomes you intend to produce – both short term and long term. The process of developing a logic model as a group – for example community coalitions and enforcement working together to create it – helps to ensure everyone is on the same page in a project. In our April National Electronic Seminar we will examine how logic models are constructed and how they relate to evaluation. Sample logic models will be shared.



We want to hear from you!

Do you have an Underage Drinking Topic that would make a great National Electronic Seminar? Send us your suggestions at udetc@udetc.org and put ‘NES Topic Suggestion’ in the subject line!

For audio-conference registration information, please visit www.udetc.org

All programs provide opportunities for presentation, discussion, and sharing information. Telephone dial-in instructions and accompanying materials will be mailed to registrants two weeks before the audio conference.

To register for any of these free electronic seminars by phone, call toll-free 1-877-335-1287 extension 230