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by Scott Silver, Esquire
- **Behind the Bar**



75TH DIAMOND ANNIVERSARY CONVENTION



Seventy five years goes by quickly when an Association has a mission.

It was August, 1933 at the Penn-Atlantic Hotel in Atlantic City where a group of concerned and dedicated on-premise licensees who recognized the need for representation in the highly regulated and controlled liquor industry environment met for the first Alcohol Beverage Retailers' Convention. It is only fitting that Atlantic City and the Tropicana Casino and Resort is the site of the *Diamond* anniversary celebration on October 8-10, 2007.

On-premise and off-premise licensees, their guests and staff, from New York, Pennsylvania, Maryland and New Jersey will be traveling to the City by the Sea to enjoy three days of fun, education and camaraderie. Not only will the Convention attendees be commemorating an his-

toric milestone but they will also have the opportunity to network to find solutions to common problems.

Whether you have questions about ABC rules, the new fire safety regulations or how to successfully market your establishment, the Convention will be providing a seminar to answer your concerns. The award winning Techniques of Alcohol Management (TAM) seminar for owners, managers and employees will be given on Monday.

In addition to the seminars, the Convention includes a social side. Meals, cocktail receptions, hospitality bars and entertainment complete the package.

If shopping is your thing, visit the Quarter or the outlet stores at The Walk or at Caesar. And, of course, gambling is also available. How lucky can you get!

The fastest growing food and beverage trade show on the east coast focusing on ideas, innovations and insight is being presented on Tuesday and Wednesday by Nightclub and Bar. The show specializes in new products and services that will help your business grow and succeed. The admission price to the trade show is included in the Convention registration fee (A \$70 savings).

The Tropicana Casino is offering a special Convention room rate of \$90.00, plus taxes and fees, single or double occupancy. Hotel reservations can be made by calling the Tropicana at 1-800-THE TROP. To receive the special Convention rate use code HABRC 7.

Register for the Convention today (see page 5 for registration form).

ANHEUSER BUSCH HOSTS NJLBA MEETING

The Executive Committee and Board of Directors were invited to hold their July Board meeting at the Anheuser Busch Brewery located on routes 1 and 9 in Newark.

The brewery covers 88 acres and has the capacity to produce 10 million barrels of beer annually. The facility pays more than \$8.3 million dollars in annual property taxes and employs over 800 full and weekend employees with an annual payroll in excess of \$68 million dollars.

The Anheuser Busch brewery in Newark is one of twelve breweries in its nationwide system and was opened in 1951 as the second plant in the system. The brewery services New Jersey, Delaware, New York, Pennsylvania, Rhode Island and

Connecticut. The Newark brewery has contributed more than \$1.5 million in the past decade to a large number of local charitable organizations.

Based in St. Louis, Anheuser Busch is the leading American brewer, holding a 48.8 percent share of U.S. beer sales. The company brews the world's largest selling beers, Budweiser and Bud Light, as well as Budweiser Select. Anheuser Busch is one of the largest theme park operators in the United States, is a major manufacturer of aluminum cans and one of the worlds largest recyclers of aluminum cans.

These facts were proudly presented to the Board by the resident brew master, J. Scott Mennen before the commencement of the tour of the facility.

Before entering the plant, the Board Members were required to wear hard hats, plastic eye shields and ear plugs. It was explained that Anheuser Busch had received the National Safety Council "excellence achievement" award for safety and had completed one million man hours without a lost time accident. Anheuser Busch emphasizes safety in everything we do for our employees and guests.

The brew master was an informative guide to the art of brewing premium beer and answered many questions about producing, packaging and marketing the product. The Board was impressed by the cleanliness and efficiency of the operation.

"Representing the on-premise licensed beverage retailers, the heart of the hospitality industry"

The original Tavern, Bar and Restaurant Association of New Jersey established 1933

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If you have any questions or need additional information, contact First Data representative, Laura Sachs at 1-800-767-2484, ext. 32182.

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Editor: Lewis B. Rothbart
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YES, WE WANT TO BE PART OF THE 75th DIAMOND ANNIVERSARY CONVENTION

Seventy five years ago there were no computers, no television, no cable and no light beer. As America was in the process of repealing Prohibition, an enlightened group of potential alcohol beverage retailers realized the importance of having an organization to protect the interests of the newly created on-premise licensees. That realization resulted in the birth of the original bar, tavern and restaurant association and for the past 75 years, NJLBA has fought, along with our industry partners, to protect the retail tier from oppressive laws and overbearing regulations.

The 75th Diamond anniversary Alcohol Beverage Retailers' Convention is scheduled for **October 8 – 10, 2007** at the Tropicana Casino and Resort in Atlantic City. On-premise and off-premise licensees from New York, Pennsylvania, Maryland and New Jersey will be attending this milestone event.

Today more than ever, a strong association is necessary to guard against legislation and neo-prohibitionist attacks which threaten to destroy your business. Licensee participation and resources are needed to fight the new threats.

By purchasing a **business card ad or larger**, you are making it possible for the Association to continue to protect your license and to show the opposition that we stand united. No matter what size ad you choose, your continuing support is appreciated.

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(Camera ready copy required)

DEADLINE FOR AD COPY – SEPTEMBER 10, 2007

WELLHOFER/WILINSKI

2007 SCHOLARSHIP RECIPIENTS

“The Scholarship Foundation is pleased to announce that Melissa Nogiewich and Michael Pappa have been chosen to receive the scholarship grants for this year” stated Scholarship Chairman, Nick Balka. “On behalf of the committee we want to thank all the students who submitted an outstanding group of applications.”

Melissa Nogiewich is the daughter of Benjamin Nogiewich, owner of the Tuckerton Pub. Melissa attended Tom River High School where she attained a near perfect 4.9 grade point average and was consistently on the high honor roll. She received academic letters throughout her high school career. In addition to her academic excellence, Melissa was a member of the varsity cross country and winter/spring track team and was elected captain in her junior and senior years.

Melissa was elected to the National Honor Society and volunteered her time in the tutorial program and toys for tots program. She was also a member of the History Club and T.E.A.M., a volunteer service organization.

Melissa will be attending Lebanon Valley College where she is enrolled in a six year physical therapy program.

Michael Pappa is the son of William and Linda Pappa and nephew of George Pappa, owners of the Tropical Pub located in Belmar. Michael attended Fairfield College Preparatory and graduated summa cum laude. Michael also found time to play on the Fairfield Prep football team for four years and was awarded the distinguished honor of being named as a National Football Scholar-Athlete for 2007. He is a member of the National Honor Society.

Michael served as a member of the Student Council his entire four years and was elected Vice President of the council in his senior year. He was a member of the Latin Club, History Club and Connecticut Latin Day.

Michael is very active in his local church parish. He is deeply involved in volunteering for charitable enterprises and has raised thousands of dollars for his service trips to Appalachia, the local shelters in Norwalk and his trip to Malawi, Africa with the World Vision Organization.

Michael will be attending Middlebury College in Vermont in the fall.

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TENTATIVE CONVENTION AGENDA

Monday, October 8, 2007

1 PM – 6 PM	Registration Desk Open
2 PM – 5 PM	TAM Seminar
7 PM – 9 PM	Welcome Cocktail Party
10 PM until ????	Boogie on the Boardwalk, House of Blues

Tuesday, October 9, 2007

8 AM – 10 AM	Continental Breakfast sponsored by Insurance Management Group
10 AM – 5 PM	Registration Desk Open
10 AM – 11 AM	How the new fire safety regulations will affect you.
	Presentation by NJ Division of Fire Safety
11 AM – Noon	ABC Seminar
Noon	Luncheon
Noon – 5 PM	Nightclub & Bar Trade Show, Taj Mahal
6:30 PM – 9 PM	Silent Auction
7 PM – 10 PM	Cocktail Reception and Dinner
10 PM	Mixx it up, Borgata Hotel & Casino

Wednesday, October 10, 2007

8 AM – 10 AM	Continental Breakfast
10 AM – 4 PM	Registration Desk Open
10 AM – Noon	Association Meetings including presentation by BMI
Noon	Luncheon – Presentation by Mason Harris
	“Successful Marketing is NOT an Accident”
2 PM – 3 PM	Seminar
3 PM – 4 PM	Seminar
7 PM – 10 PM	Cocktail Reception and Dinner

REGISTRATION FORM

Member

____ Full Registration @ \$250 – Monday, Tuesday, Wednesday
 ____ Single Day(s) Registration @ \$125 – Any One Day

Non-Member

____ Full Registration @ \$275
 ____ Single Day(s) Registration @ \$150

Please **circle** which day or days you will be attending: Monday Tuesday Wednesday

Please **circle** which affiliate you are with: NJLBA NJLSA Empire MSLBA PTA

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ALL REGISTRATIONS INCLUDE ADMISSION TO THE NIGHTCLUB & BAR TRADE SHOW (a \$70 value)

NO REGISTRATION REFUNDS

Legal Corner

by Scott Silver

Supreme Court Affirms Responsibility

On July 18, 2007 an unanimous New Jersey Supreme Court ruled that licensees are strictly liable for regulatory violations committed by their employees, at least with respect to illegal drug activity. This does not create a new rule of law or change the liability of licensees under existing ABC regulations. But it is perhaps the clearest and most forceful statement of the principle that the court has made, at least in recent times. However, the court also ruled that in imposing penalties for such violations, the ABC should take a more considered approach than it took in this case. The ruling was issued in the case of Division of Alcoholic Beverage Control v Maynard, Inc. (A-120),

Maynards is a restaurant and bar located in Margate (Atlantic County). It held a liquor license for over fifty years without any prior violation. It enjoyed an excellent reputation in the community and was responsibly operated. In 2002, the County Narcotics strike force conducted an undercover investigation of a cook employed by Maynards. On six occasions, the cook sold cocaine to an undercover police officer at the licensed premises. The ABC filed six disciplinary charges against Maynards for “allowing, permitting or suffering” unlawful drug activity on its licensed premises. Maynards established that it had no knowledge of the illegal activity, employed a sophisticated surveillance system, that there was nothing more it could have done to discover or prevent the unlawful activity, and that it would never tolerate drug sales.

The ABC found the licensee “suffered” the illegal drug activities and thereby committed the six violations charged. A license suspension of 370 days was imposed, of which 120 were to be served. The remainder were to be held in abeyance for a period of two years and would be lifted if no other violations occurred during that period. On appeal, Maynards claimed that the ABC was holding it to an impossible standard, and that a defense was established by its lack of knowledge and involvement in the illegal activity, and its extraordinary efforts to detect and prevent such activity. It argued that licensees would be discouraged from taking more than minimal measures to detect and discourage illegal drug activity if efforts to do so did not provide a defense to regulatory violations.

The court considered the State’s policy of strictly regulating the alcoholic beverage industry. It examined the two regulations on which the ABC relied. NJAC 13:2-23.5 prohibits a licensee from “allowing, permitting or suffering” illegal drug activity on its licensed premises. NJAC 13:2-23.28 provides that a regulatory violation by an agent, servant, employee of a licensee is sufficient to establish the guilt of a licensee. Reading these two regulations

together, the court found that when illegal drug activity occurs on a licensed premises, it makes no difference if the act is by the licensee or by the licensee’s employees. The word “suffering” imposes strict liability on a licensee making it responsible for the employee’s prohibited conduct *regardless of knowledge and regardless of preventative efforts*. The court thus affirmed the ABC’s finding that, as a result of the cook’s drug activities on the licensed premises, Maynards committed the disciplinary violation of “suffering” illegal drug activity on its licensed premises.

The absence of knowledge and Maynards’ efforts to detect and prevent prohibited conduct did NOT provide a defense to the disciplinary violations. However, the court held that these things should have been better considered by the ABC in setting a disciplinary penalty.

The licensee’s lack of knowledge of the proscribed conduct, its efforts to prevent and detect prohibited conduct, its prior disciplinary history, and its character and reputation, were all factors that should have been considered more thoroughly. The failure to do so resulted in a penalty that the court considered “shocking to one’s sense of fairness’ and not proportional to the relevant facts. The court also held that the stacking of violations for six drug sales in the circumstances of the case was not appropriate. On what may be equitable grounds, the court held the six drug sales were to be considered a single violation, because all six transactions were the result of government action which served no law enforcement purpose after the first sale. The penalty under the ABC’s presumptive penalty schedule for a single violation is ninety days.

The case was remanded to the ABC, with a directive that they reconsider the mitigating factors and impose an appropriate penalty for the violation. The court strongly suggested that a fine-in-lieu-of suspension should be considered by the ABC.

The Maynards’ decision reaffirms the ABC’s long-standing policy that a licensee is strictly liable for regulatory violations involving on-premises drug activity by employees. It makes clear that when settling a penalty, the ABC must give greater weight and consideration to mitigating factors, such as the efforts undertaken by licensees to detect and prevent disciplinary violations. It also suggests that the ABC reconsider, at least in some circumstances, the policy of stacking charges for repeated but identical offenses. It remains to be seen whether the ABC construes the Maynards decision narrowly, to apply only to violations involving employee drug activities, or more broadly so as to apply to other types of disciplinary violations.

ADT SECURITY SERVICES, ALLIED MEMBER

ADT Security Services, Inc. is the oldest and largest security provider. We help protect more than 5 million homes, 90% of the Fortune 500 companies and over 100 U.S. airports. More than 80% of the world's top 200 retailers use our anti-theft and security systems. Each day, our 5 monitoring centers, which are strategically located across the country, respond to over 130,000 alarm calls.

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ADT representatives Robert Wheaton or Kevin Potter can be reached at 732-346-6193.

IN MEMORIAM

It is with deep sorrow and extreme sadness that we report the passing of two long-time distinguished members of the Association.

In March, Past President and owner of the Deefield Inn, Theresa (Terry) Sorgento passed unexpectedly.

In June, Josephine Zanotti, former Morris County Director, co-owner of the Rest-A-Bit Tavern and wife of Past President Frank Zanotti passed after a long illness.

NJLBA and its membership offer condolences to their loved ones. They will be sadly missed.

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Legislative Affairs Report

NEW JERSEY LICENSED BEVERAGE ASSOCIATION

TRENTON, NEW JERSEY

by Barbara McConnell

With the Legislature back in session after several weeks of recess during the Budget process, State Treasurer Bradley Abelow has said that the State appears to be in good fiscal shape - unlike Fiscal Year 2007. However, he has warned that high debt and unfunded pension and health-benefit liabilities loom in New Jersey's future, and that "these problems will not be solved easily."

In spite of these warnings, the Legislature is rushing to enact several "anti-business" bills that will likely impose higher costs on the business community and impact an already tenuous economy:

Paid Family Leave

Recently the Senate Budget and Appropriations Committee released S-2249 which expands the Temporary Disability Insurance program to provide TDI benefits for workers caring for sick family members and newborn and newly adopted children. The legislation would apply to all businesses with two or more employees; and would allow workers to take up to 12 weeks of paid leave benefits for the purposes cited above. The legislation is ready to be voted on in the Senate, but it is being rumored that the bill may yet be subject to some amendments and changes.

If enacted, workers would be required to contribute to the State Disability Fund a percentage of their wages, in addition to any monies they already contribute. However, the business community believes that this far-reaching law will result in higher unemployment and disability taxes on the business community. For certain, the law will have a tremendous impact on small businesses. The cost of increased overtime and hiring temporary workers will hurt small business and put additional burdens on the workers who are still there. Several who testified said, "this legislation will devastate our operations, and may even force some small businesses out of business." Joan Verplanck, President of the New Jersey State Chamber said in her testimony, "this legislation will nail NJ's Coffin Shut."

Health Care Costs

According to New Jersey Business and Industry Association's 2007 Health Benefits Survey, health insurance costs have soared 80 percent in just five years, causing many employers to simply drop their insurance, or close their businesses. In spite of New Jersey's high insurance costs, the Legislature is considering a proposal that would make premiums even more expensive. Senators Vitale and Buono - S-807; and Assemblymen/women Gordon, Johnson, Manzo, Burzichelli, and Greenstein - A-2512 - are sponsoring legislation that would mandate unlimited coverage for the treatment of hundreds of behavioral disorders and substance abuse. Continuing to mandate coverage without working to lower the cost of health insurance will only exasperate the matter.

Mandatory Health Care

Another issue on the table is "Mandatory Health Care" whereby all employers would be required to offer health insurance to their employees, or pay into a universal state fund that would provide coverage.

On the surface, mandated employer health insurance proposals may seem like an appealing way to ensure that businesses are responsible for a proportional share of health care expenses. However, it is a short-term solution that targets business as the primary provider of health

insurance, and does nothing to change the fact that health care costs in the United States and New Jersey are spiraling out of control. And again, it comes at a time when businesses are struggling to cope with a sluggish economy and skyrocketing fuel costs.

Menu Labeling

On June 7, the Senate Health, Human Services Committee had under consideration S-2264, legislation which mandates certain nutritional information for food or beverage items offered for sale. While the law would only apply to large chain restaurants and supermarkets, it would still be an administrative nightmare for these establishments - and an unnecessary costs to business. If the legislation becomes law, a retail food establishment would be required to list in a clear and conspicuous manner adjacent to each food or beverage item on a standard printed menu, the total number of calories, grams of saturated and trans fat, grams of carbohydrates and milligrams of sodium, per serving, as usually prepared and offered for sale. The same requirements would apply for those food establishments who use a "menu board".

The bill was held in Committee, which indicates there major problems with the proposal.

Trans Fats

S-2265 - Karcher - would ban trans fats from being served or used in the preparation of foods served in restaurants throughout New Jersey. Again, this is a severe encroachment by government into the every day dietary choices made by individuals and business owners. Already, several large chains have announced that they are no longer using "trans fats"; and you will note that manufactures are also removing "trans fats" from their products. This is in response to their consumers and an industry that is encouraging the use of less trans fats - not state legislatures' mandating policy on food processing.

Fire Protection

On June 6, the Department of Consumer Affairs proposed new regulations which would require sprinkler protection for exterior balconies, decks and ground floor patios of newly constructed dwelling units. Another cost imposition to businesses and developers.

Notes of Interest

Commissioner Susan Bass Levine, Department of Community Affairs, has left the building and is now the Executive Director of the New York/New Jersey Port Authority.

NJLBA had requested a meeting with Commissioner Levine, but before she left her office she responded by saying she was turning our request over to the Deputy Commissioner and William Connelly.

Six incumbent legislators were defeated in their party's primary election: *Guy Gregg, Sussex County who was running for the Senate Republican nomination; Fred Caraballo, Essex County; Louis Manzo, Hudson County; Silverio Vega, Hudson County; Oadline Truitt, Essex County; and Craig Stanley, Essex County.*

The U. S. Congress is proposing a \$.61 increase in the federal excise tax on tobacco to fund health care.



Behind the Bar

by David T. Kratt

AND THE TOP 10 BARTENDER TRAITS ARE



I know what you're going to think—"Why is that trait on the list?" or "Why doesn't my trait have a spot on the list?"

Well, come up with your own "top ten" list.

I'm serious. As a beginning bartender, wouldn't connecting the dots to becoming a well-rounded bartender be easier with list in hand?

Here's what a few of my bartender buddies and I came up with:

10. A job worth doing well – Day after day, from the time you clock in – on time – to the time you lock the door behind you – which you never forget to do – your performance is always on the mark.

You just broke into the top ten.

9. Speed and controlling the bar – Not a wasted step or move, combining tasks, timely completion of tasks and so forth all means that you are controlling the bar and not the other way around.

8. Constantly scanning the bar – Busy times or slow, one bartender buddy said that he uses a 30-second rule, which is, signaling a customer if he can't get to them within 30 seconds. Now that's keeping an eye on the bar.

7. A clean bar is a happy bar – A layer of dirty cocktail napkins and cash register receipts covering the floor behind the bar? Dirty glasses piled high? Your bar is sticky?

Never, because you know what customers would think.

Now you're connecting some dots!

6. Grace under pressure – Dealing with a problem customer or breaking a glass in the ice bin; it always seems to happen at the worst possible moment. But nothing can dislodge you from that Zen-like spot you're in.

5. Not being put on the spot – He said, "Just give her a drink," when you told him she didn't want another one. Now what? Bartending is full of those moments when you're caught off balance and don't know quite what to say or do. It's awkward, but you learned how to handle it.

4. Carrying the niceties on your sleeves – There are lots of them

and they're dropping off your sleeves right and left—"It's nice to see you." "How have you been?" "Thank you." "See you next time."

3. Your welcome mat is always out – One bartender said, "No frowns; just sincere smiles." Another said, "You can't have an attitude behind the bar." And you have your ways of making your customers feel welcome.

2. Let the comebacks fly – It's not about having smart-aleck remarks. Nor do you need a repertoire of jokes or bag of tricks. You use the moment or situation to come up with clever and personalized one-liners.

You are now a personality behind the bar.

1. Keep on connecting those dots – Drum roll please....

You learn from your experiences and absorb what other bartenders do well. You never stop learning and never think you know everything.

Now that's a great spot to be in.

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

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