

ILCC News

VOLUME XV FIRST ISSUE, 2004



Underage and alcohol don't mix

By: Lee J. Roupas, ILCC BASSET Program Manager

Liquor licensees are responsible for any mishaps that occur at their liquor establishments. On a daily basis, licensees deal with intoxicated patrons and people under 21 attempting to purchase alcohol or gain access in their establishments.

Underage drinking poses many legal problems for licensees. An establishment that repeatedly violates the law by serving someone under 21 can face thousands of dollars in fines or be shut down temporarily or permanently. Repeat offenders are usually closely monitored by local liquor and law enforcement authorities.

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Texas Hold'em Poker, Nascar Pools, Video Poker, Pulltabs - It's All Gambling

By: William D. O'Donoghue, ILCC Chief Legal Counsel & Catherine Marisco, ILCC Staff Attorney

There has been a disturbing and growing trend among Licensees regarding games of chance. The Illinois Liquor Control Commission has seen a steady increase in illegal gambling operations at licensed establishments. Part of the increase can be linked to the growth in popularity and increase in Cable T.V. shows such as the World Series of Poker. While these shows have increased the interest of the average person in playing card games such as poker, the law governing what is illegal gambling has not changed. Likewise, the law has not changed in that a licensee is in violation of the Liquor Control Act if gambling is allowed on the premises. A gambling violation is considered to be a major offense by the Illinois Liquor Control Commission.

What activity constitutes the offense of illegal gambling? Section 28-1 of the Illinois Criminal Code (720 ILCS 5/28-1) provides that a person commits the offense of gambling when he "plays a game of chance or skill for money or other things of value." Additionally, the Criminal Code states that a person commits the offense of gambling when he "sets up or promotes any lottery or sells, offers to sell or transfers any ticket or share for any lottery." Any activity on a licensed establishment that meets these definitions is considered gambling and is therefore illegal.

Texas Hold 'Em Poker

One new game that has grown in popularity is Texas Hold'em Poker. We

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Attention licensees

By: Dusanka Vunjak, ILCC Licensing Manager

1 – Plan ahead

All license holders should plan ahead when they are renewing their liquor license by mail and allow at least 5 business days for the issuance of their new liquor license. This also applies to new licensees who are applying for a new liquor license.

2 – Organize paperwork

When renewing a liquor license or applying for a new liquor license, licensees must remember to provide the Commission with a copy of their local liquor license and a copy of their Certificate of Insurance. The Certificate of Insurance is required for all on premise and combined licensees.

3 – Pay new license fee by deadline

Senate Bill 774 that passed on May 31, 2003 raised the retailer liquor license fee from \$175 to \$500, for all retail licensees. Please be aware, as of July 1, 2003 the retailer liquor license fee is \$500.

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Director's Note



Michael J. Malone
ILCC Executive Director

The summer months at the Commission were busy with the special-event liquor license season. As a result, we decided to focus our first educational video on addressing the many licensee questions that arose during this past season. As the development phase for the video project continues, we decided the video would provide a detailed explanation of the licensing process.

In addition, our Beverage Alcohol Sellers and Servers Education and Training (BASSET) program has developed a new Age-Verification Training Guide to teach liquor sellers and servers how to determine a customer's age. I invite you to review the BASSET section in this issue to order guides for your staff.

For those liquor licensees that also sell tobacco, I encourage you to read the tobacco article in this issue to review the new change in the law regarding the sales clerks' age and single pack cigarette displays.

Finally, we began the fifth year of the Tobacco Enforcement Program. I am pleased to announce that we have 180 grants representing 242 cities throughout the state that will collectively distribute 10,000 retail kits and conduct 16,000 compliance checks to tobacco retailers. We are encouraged by the interest of these cities that are committed to communicating and enforcing minimum-age tobacco laws.

Legal note: Fee Increase Announcement

As most of you know, violations of the Illinois Liquor Control Act of 1934 and/or the ILCC Rules & Regulations may, if deemed necessary by the Commission, lead to the issuance of an "Offer in Compromise" requiring the payment of administrative fees.

These fees have not been revised in nearly ten years. After a thorough and comprehensive review, beginning October 1, 2004, a newly revised fee structure will be in effect and applicable to all violations under Commission review.

Licensees remember to sign the Inspection Report

In an effort to verify that liquor licensees' concerns are addressed during our liquor inspections, licensees are now required to sign their name, the date and the time the Commission's inspection report was reviewed with them.

The Commission wants to ensure that our field agents have reviewed the inspection report with each licensee, and explained any violations that may have been discovered during the inspection. By implementing this new procedure, we seek to improve the lines of communication between the Commission and the industry, and to ensure each licensee an opportunity to clarify any questions. Your signature only confirms that the review has been conducted, it is not an admission or does it in any way prevent you from contesting any violation that may have been cited. The agent will provide a copy of the completed Inspection Report for your file.

ILCC News

*Article suggestions
are welcome!*

The Commission welcomes your input to enhance the *ILCC News* publication. If you have a suggestion for an article topic or a helpful hint to share with other licensees, please contact Karen Faltin at the Commission's Chicago Office.

ILCC News is published by the Illinois Liquor Control Commission for state liquor licensees, local government officials, industry associations and related government agencies.

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WEB QUESTIONS ANSWERED:

What happens when a retailer with a liquor license changes?

By: Rachel Repke, ILCC Intern

Many retailers contacting the Commission have similar inquiries and concerns. Over the past eight years, a great deal of the e-mails the Commission receives focus on understanding the proper procedures to follow when businesses undergo various changes.

Relocation:

When an establishment relocates, expands, is sold or changes in a variety of other ways, there are certain steps to take to ensure that the business is still being conducted legally. This article will clarify which types of changes constitute action to be taken by the owner and tips to making the resulting transition as smooth as possible.

It is not uncommon for a business to relocate, even if it is only to another building across the street. When caught up in the ordeal of moving it can be easy to forget several priorities along the way. One thing to remember is the validity of the liquor license. If a business relocates within the same local municipality that issued their existing liquor license, it is only necessary for the licensee to complete a change of address form. This form can be found on the Commission's web site at www.state.il.us/lcc by clicking Licensing Division and then Applications.

In other cases, a move may result with the need for a new license to be issued. If the business moves to an area outside the original municipality, the licensee is now required to apply for a new local license first and then a new state license. A change of address form would not apply in this type of situation.

Further, as businesses grow they often expand to incorporate additional services. Catering is a popular service that many restaurants begin offering to increase sales. An application for a State of Illinois Specialty Retailer's Liquor License, including brew pub-caterer retailer-wine maker retailer can be found on the Commission home page or at either the Chicago or Springfield office locations. The application needs to be completed and sent to the Commission along with a check or money

order of \$200 and a photocopy of the establishment's local liquor license.

In addition to not only providing extra services, many owners will want to open additional locations to reach a larger clientele base. When a business decides to open a second location, the licensee must apply for a separate local license and a separate state liquor license. By applying for these licenses early, it eliminates some of the stress that comes with opening an additional business. Please note that you cannot apply for a liquor license until you have determined the name and address of your new establishment.

Transfer of Alcohol:

A common inquiry of business owners opening an additional location is the transfer of alcohol. It is illegal to transfer alcohol between establishments, even if the ownership is the same for each. However, when a business is first opened or is closing, a one-time transfer can be requested. A licensee can print a one-time transfer form from the Commission's web site and return it via either fax or U.S. mail. The one-time transfer only applies when a new business is opening and an owner is transferring inventory from one of their locations to the new location or when a business is closing and the owner wishes to transfer the inventory to another location for good.

While alcohol cannot be shared among the separate businesses, a central office can be established so that all invoices can be kept at one location. Invoices from the past 90 days must be on-site for inspection at any time. If there is only one location, all invoices must be kept there. If there is more than one location, however, the licensee can email, write or fax a letter to the Commission requesting permission to keep all invoices at a central location. The Commission will review the request and, if accepted, the letter will be stamped "Approved" and returned to the licensee. In cases of larger corporations, requests have been made to keep all invoices at an out-of-state location. In the past, this has been approved as long as the invoices are available electronically at any time.

Underage and alcohol don't mix

Continued from page 1

Not only do licensees face legal consequences, there are also social ramifications caused by underage drinking. According to the Pacific Institute for Research and Evaluation, approximately 9.7 million drinkers are between the ages of 12 and 20 in the United States.

As a result, some of the social problems caused by underage drinking include: alcohol-related traffic deaths, violence, suicide, alcohol poisoning, rape, and an increased dropout rate at colleges and universities.

In 1998, the leading cause of death for people between the ages of 15 – 20 was motor vehicle crashes. Statistics from the National Highway Traffic Safety Administration indicate that 36% of those crashes were alcohol-related.

Liquor licensees must continue to prevent alcohol from being accessible to people under the age of 21. Proper training in the Beverage Alcohol Sellers and Servers Education and Training (BASSET) can provide the skills to detect a false identification. Once training is completed, licensees and staff must take the steps taught in BASSET to identify the false identification card, refuse the sale, and/or use proper discretion to confiscate the ID and hand it over to law enforcement authorities.

Using the skills taught in BASSET training and taking initiatives to check age-verification could prevent the high cost of underage drinking to communities and business.

To enroll in a BASSET course, please contact the Illinois Liquor Control Commission's BASSET program at (312) 814-0773.



Assemble at Annual Conference Tobacco Program Grantees

By: Rachel Repke, ILCC Intern

This past July, the Commission held its fifth annual Tobacco Enforcement Program (TEP) conference in Orland Park. In attendance were officers and special community employees participating in the Commission's TEP. Building positive relationships between retailers and law enforcement was the focus of the meeting.

By collaborating, communities will efficiently reach their goal of improved compliance rates; an outcome that is positive for both retailers and law enforcement officials and, most importantly, the health of children throughout Illinois.

There are many reasons why communities in the program felt the need to apply for the grant. When asked why Harwood Heights applied, Dan Tyrpak of the Harwood Heights Police Department said, "because of the increase of kids smoking in our area-especially the girls." The reasons may vary but the goal is the same: reducing youth access to tobacco. The meeting presented grantees with various ways of enforcing the laws and reporting compliance test results to help communities target these concerns.

The program is flexible and designed to tailor fit the needs of each specific community. Each community has different strengths and weaknesses. Kevin Beckman of the East Peoria Police Department said, "Our town is pretty small and the retailers do the phone tree thing and you just can't avoid it." Beckman is a returning grant participant who came to gain new insight into how to structure

the program in his area. "By doing a few inspections at a time with both girls and boys, you may avoid tipping off retailers to the sting operation in progress," stated Jeff Barr, ILCC tobacco program manager.

Enforcement officials are required to inspect each retailer three times during the year. Retailers are given educational kits including age-verification guides, warning signs and flyers reviewing the tobacco laws. Local officials are not out to trick retailers as the retailers are informed that the checks will occur. Nevertheless, it is still the law enforcement's responsibility to conduct the checks and cite those that are not in compliance with the law. "We feel bad because sometimes we've heard of the clerk getting fired," said Beckman. However, the program's overall effectiveness warrants enough of a rationale for it to continue. "We've participated the year before. At the end of the program we got a 100 percent compliance rate," said Beckman.

The success of the TEP is also measured by Synar inspection results. Not only do these inspections measure the TEP's success, but also determine whether or not Illinois continues to receive federal funding for Substance Abuse Prevention and Treatment. "Illinois is probably doing more regarding tobacco enforcement, than other states, from a Synar perspective," said Richard Sherman, PhD statistician and ILCC Synar consultant.

Certification class for tobacco & alcohol compliance checks

By: Rachel Repke, Industry Intern

Woodridge Police Department Sergeant Dave Krupka spoke as a coach preparing his team for the big game. "All of you know best how to reduce youth access to alcohol and tobacco - by providing retailers with education tools and implementing enforcement efforts," said Krupka. He presented to officers this past summer at the Illinois Law Enforcement Training and Standards Board compliance check course. Police officers from all over the state became certified in conducting alcohol and tobacco compliance checks. The ultimate goal of the training is to reduce deaths and injuries associated with alcohol and tobacco use among minors. Ideally, law enforcement will work in co-operation with retailers.

"The merchants that sell tobacco and alcohol have to know that we are going to back them up," said Krupka.

Research shows that by reducing youth access to tobacco and alcohol, the level of related criminal activity also decreases. One study, Krupka highlighted, was conducted by DePaul University. The study of 29 Illinois communities found cities with a high level of tobacco enforcement have lower crime rates when studied over an 8-year period (American Journal of Health Promotion (2000) 14, Pp.229-231). The class discussed supporting retailers in their efforts and making it a priority to limit product access to teens. In order for compliance checks to be accurate and fair, all establishments that sell age-restrictive products in the state are subject to inspections.

Krupka stressed the tobacco checks in particular are a critical activity with high stakes. In Illinois, there is a lot at stake; exactly

\$27 million dollars of federal funding. If Illinois' Synar results fall below an 80 percent compliance rate, the state can lose up to \$27 million in federal funding for Substance Abuse Prevention and Treatment.

As of this year's 2004 Synar report, Illinois had a preliminary compliance rate of 94 percent. "I think we are ahead of the curve here in Illinois," said Krupka.

Those on the force for a few decades shared how the alcohol and tobacco laws changed to the needs of their communities. Officers also discussed the various efforts to reduce youth access by implementing different city ordinances. Some towns fine the parents for supplying underage kids with cigarettes. Other areas mandate parent phone calls if a kid is caught with tobacco. Krupka shared how suspending alcohol and tobacco licenses have been a successful deterrent for reducing retailer sales to minors in Woodridge. In 1997, a year after the Woodridge tobacco license law took effect; DuPage County became the first county in America to achieve 100 percent compliance.

Compliance checks are an effective way to measure progress, inform communities on their prevention efforts and enforce the laws. He said that many retailers believe completely eliminating youth access to tobacco and alcohol products is an unrealistic goal; but he wants them to remember that abiding by the law every time will eventually make a difference.

If you are interested in more information regarding the compliance check course, contact Jeff Barr at (312) 814-6884.

New Tobacco Laws

Two bills were recently signed into law and both are designed to further reduce youth access to tobacco. The Display of Tobacco products Act places restrictions on self-service displays and amends the Sale of Tobacco to Minors Act by regulating the age of clerks selling tobacco products. The second is the Prevention of Cigarette Sales to Minors Act and is designed to prevent illegal cigarette sales to minors via the Internet. The following is a summary of each Act and their effective dates. For review of the entire Act, visit the states website at www.legis.state.il.us/legislation/publicacts.

Public Act 93-0886 (House Bill 4302) is effective January 1, 2005 and requires all single packs of cigarettes to be sold from behind the counter or in an age restricted area or in a sealed display case. It does not apply to retailers with 90 % of their revenue from tobacco products or locations that do not allow persons under the age of 18 to enter; provided a sign indicating persons under 18 are not permitted is posted. In addition, persons under the age of 16 are prevented from selling tobacco products unless it is a family owned business and the clerk is a son or daughter of the owner. Essentially, the law bans self-service displays in areas frequented by minors and prevents clerks under 16 from selling tobacco products.

Public Act 93-0960 (Senate Bill 2148) is effective immediately and makes it illegal for any person selling cigarettes to ship or cause to be shipped any cigarettes unless the person shipping the cigarettes is a licensed distributor or delivers the cigarettes to a licensed distributor. Further, common or contract carriers cannot deliver cigarettes to persons other than distributors without verifying through written identification that the individual is over 18 years of age. In addition, when shipping cigarettes in the state, if the container or wrapping is not the manufacturer's original, it must be visibly marked with "cigarettes." Essentially, the law bans Internet or phone sales of cigarettes to individuals.

Renewal Tips for Licensees

By: Dusanka Vunjak, ILCC Licensing Manager

Tip #1 - Plan ahead:

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Tip #2 - Organize paperwork:

When renewing a liquor license or applying for a new liquor license, licensees must remember to provide the Commission with a copy of their local liquor license and a copy of their Certificate of Insurance. The Certificate of Insurance is required for all on premise and combined licensees.

Tip #3- Pay new license fee by deadline:

Senate Bill 774 that passed on May 31, 2003 raised the retailer liquor license fee from \$175 to \$500, for all retail licensees. Please be aware, as of July 1, 2003 the retailer liquor license fee is \$500.



Trick Or Kit
order the
Free Tobacco
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Call Jeff Barr
at 312.814.6884

VILLAGE MANDATES BASSET ORDINANCE - DOES YOUR TOWN?

By: Lee J. Roupas, ILCC BASSET Program Manager

The Village of Carol Stream recently mandated the Beverage Alcohol Sellers and Servers Education and Training (BASSET) program through a local ordinance. In order to implement the program, the Carol Stream Police Department was issued a BASSET license from the Illinois Liquor Control Commission, making them eligible to train liquor licensees, their staff and neighboring communities' licensees. The police department assigned an officer to conduct BASSET courses on a monthly basis in the Village Hall.

The mayor, city council and police department collectively felt enacting the mandatory BASSET training ordinance would ensure a safer community by reducing drunk driving incidents and underage sales. By dealing with these societal problems, towns - like Carol Stream - found the BASSET program as a means to reduce these unsafe occurrences in their communities. Municipalities are allowed to implement town-specific training requirements as applicable for proper licensure or employment.

Currently 55 municipalities adopted the BASSET Program in their local ordinances. In Illinois, training and licensing requirements differ in each municipality. Some local liquor commissioners require every owner, manager or employee selling or serving alcohol to attend BASSET training. Other ordinances require one or two employees on the premises to complete the certified BASSET training course. Even in towns where training is not mandatory, liquor licensees voluntarily require their staff to attend training. As a good business practice, these establishments have a greater chance to protect themselves from liability issues.

In municipalities that require BASSET training, the local police department sends one or two officers to an instructor training course and obtains a BASSET license from the Commission. To date 26 police departments are licensed to teach the BASSET program. Attendees have the opportunity to meet with local law enforcement officers and cultivate a good working relationship. By collaborating with the police department, licensees are able to address the problems they encounter in their establishments and work together to prevent any unsafe incidents from occurring.

Local officials are strongly encouraged to mandate BASSET training in their communities in order to avoid underage sales, and decrease drunk driving accidents that will ultimately save more lives.

To obtain a BASSET license, an instructor training course must be completed and a BASSET application must be submitted with a check or money order for \$250. For more information regarding the BASSET program, please call (312) 814-0773.

Zappulla picked as BASSET trainer of the quarter

By: Lee Roupas, ILCC BASSET Program Manager



Cathy Zappulla has been in Chicago for a short time. The New York state native has been in Chicago two years and was hired as the Manager of Training and Development for the Hard Rock Hotel in Chicago.

She was given the duty of training her fellow employees at the Hard Rock Hotel since February, when the hotel received its Beverage Alcohol Sellers and Servers Education and Training

(BASSET) license.

Prior to coming to Chicago, Zappulla worked in Washington D.C. for the last 10 years as Senior Director of Operations for a Healthcare Consulting Firm.

When asked what she enjoys most about being a BASSET trainer she responded, "I enjoy the fact people presume they know everything about alcohol service, then after taking a course they find that they do not know everything and learn something new."

In her spare time she does interior design and is an artist. Zappulla also likes spending time with her pets (two dogs and three cats), which were strays that she rescued.

NEW BASSET LICENSEES FOR 2004 (JUNE - AUGUST)

JUNE

Connie's Pizza
Doubletree Hotel
John Gescheidle
Karco, Inc.
Weber Grill

JULY

City of Evanston
Marriott International - Chicago O'Hare

AUGUST

Charles Mormino Professional Bartending - BASSET
Instructor Training Inc.
Eastern Illinois University
Marriott - Lisle - Hickory Ridge Conference Center



TO ORDER **BASSET** PROGRAM MATERIALS THIS FALL

Call

Lee Roupas at
312.814.0773



Texas Hold'em Poker, Nascar Pools, Video Poker, Pulltabs - I't's All Gambling
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have received numerous inquiries asking if a licensee may host a tournament or allow the game to be played at an establishment. The short answer is that Texas Hold'em Poker or any other game such as the Amateur Poker League is gambling. These are games of skill or chance. Even if the participants are not required to pay anything to play, the fact that the participants are able to win prizes constitutes gambling. Of course, any entrance fee or cash prize to the winner is also a clear violation of Illinois law. Any Poker tournament or other card game tournament may not be held at a licensed establishment. The person who operates, keeps, owns, uses, purchases, exhibits, rents, sells, bargains for the sale or lease of, manufactures or distributes any gambling device is in violation of Illinois law.

Sport Pools, Pulltabs & Ad Tabs

Many seemingly innocent activities actually are illegal gambling under Illinois law. NASCAR Pools, Football Pools, Pull Tabs, Ad Tabs are all considered illegal lotteries under the Illinois Criminal Code. The term lottery is defined as "any scheme or procedure whereby one or more prizes are distributed by chance among persons who have paid or promised consideration for a chance to win such prizes, whether such scheme or procedure is called a lottery, raffle, gift, sale or some other name." (720 ILCS 5/28-2(b)). In each of the above games an individual pays money for a chance at a prize. Therefore the games are illegal gambling.

Video Poker

Many establishments have video gaming devices that are legal

when used for amusement purposes only. However, too often we are finding that, particularly for Video Poker machines, the devices are being used for illegal gambling operations. If a licensee has a video gaming machine and awards a prize, be it cash or something else, it is illegal gambling. Due to the fact that this is clearly illegal gambling, the Illinois Liquor Control Commission takes a hard line approach to these offenses. If a licensee is found to have committed this offense, a serious penalty will result.

Charitable Organization Exception

There is an exception to the gambling statute, for games conducted in accordance with the Illinois Charitable Games Act (230 ILCS 30/1). The Illinois Charitable Games Act permits certain "qualified organizations" to conduct games that would otherwise violate the gambling statute as long as the organization satisfies the licensing and operational requirements of the statute. Under this law, bars, restaurants and billiard halls are not considered "qualified organizations."

In closing, we would like to remind all licensees to use common sense. The definition of illegal gambling is not a complicated one. Be careful before you are talked into an event by some promoter who tells you that he has checked the law and the promoted activity is not gambling under Illinois law. Is risking your license really worth taking the word of a promoter? Check with your private attorney or give us a call for an opinion before embarking on risky activity that could result in a severe penalty being assessed by us. Don't gamble with your license.

Illinois Liquor Control Commission

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ILCC Available Publications

The following FREE Commission publications
are available to all licensees by calling:
312.814.4802

- Illinois Liquor Control Act
- Rules and Regulations
- Industry Education Guide
- Happy Hour Flyer
- Alcohol & Tobacco Government Signs
- "Just The Facts" Alcohol Flyer
- *ILCC News* - Newsletter
- Local Liquor Commissioner Handbook
- BASSET Program Brochure
- BASSET Age-Verification Guide
- Under 21 Program Posters
- "We Card Hard" Decal

Help scare minors away this
Fall at your establishment!

