Public Safety and Law Enforcement in Alcohol Regulation

Jerry Oliver – CAP Advisory Council Wednesday, April 18, 2012 Radisson Hotel Lansing



What is the Center for Alcohol Policy?

- The purpose of the Center is to educate policymakers, regulators and the public about alcohol, its uniqueness and its regulation
- Launched in 2007, the Center has accomplished a great deal in five short years of operation



 CAP conducts an annual national survey to learn about Americans attitudes toward alcohol regulation Nearly three-quarters of adults nationwide believe that alcohol is different than other products and needs state regulation.

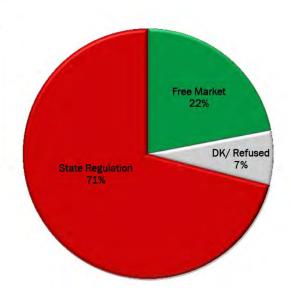
ALCOHOL POLICY

Thinking specifically about the way states regulate alcohol, which ONE of these positions on alcohol regulations best summarizes your own opinion?

The free market is the best option to regulate any industry including the alcohol industry

Or

Since alcohol is different than other consumer products, it needs a different set of rules and the state should be regulating this industry





 The Center conducts an annual Legal Symposium bringing together a wide array of alcohol interests to discuss appropriate regulation.



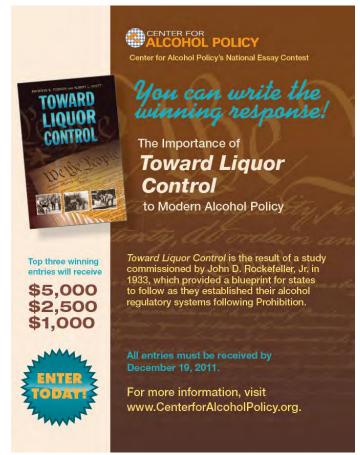
September 9-11 Dallas



• In 2011, the Center re-published the influential book, *Toward Liquor Control*, which established the blue print for many states to set up their regulatory systems post-Prohibition

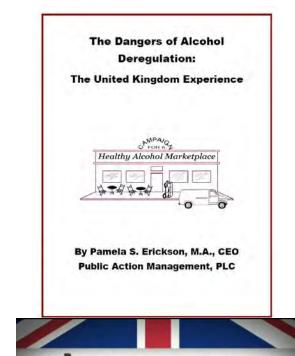


 The CAP holds an annual essay contest on alcohol regulation bringing the issue before students, scholars and professionals





 The CAP has led the way in contrasting the problems a deregulated alcohol market has had in the United Kingdom versus a regulated market in the United States







ted Kingdom Experience vs. American Alcohol Regulation

 The Center also served as the Washington, DC sponsor of the highly regarded Ken Burns documentary, Prohibition





POLICY

Law Enforcement Concerns

- Increased availability, limited resources
- New business models conflicting with public safety goals



An Example from Arizona

1939

- 1,560 Licensees
- 20 Investigators
- 78 licenses/Investigator
- Only 38 Statutes

2011

- 12,000+ Licensees
- 12 Investigators
- 1,000 licenses/Investigator
- 80 + Statutes
- 58 Rules



Hours of Service Extension

• In 2005, Arizona extended the hours of sale of alcohol from 1:00 AM to 2:00 AM. Supporters pointed to 365 more hours where tax revenue could be collected. Little consideration was given to the 365 more hours of law enforcement coverage that would be required.



Hours of Service Extension

 In 2010, the Sunday morning hours of availability were extended from 10:00 AM to 6:00 AM. In the 1990's when the hours were extended from 12:00 PM back to 10:00 AM the state saw \$250,000 increase in yearly tax revenue. Is the increased access to alcohol worth it? It Depends.

CENTER FOR ALCOHOL POLICY

Follow the money In FY 2011, Arizona collected an estimated 440.9 million dollars in revenues exclusively from liquor. The chart below will help you to follow where liquor revenues come from and how they're distributed. WHERE LIQUOR REVENUE COMES FROM... \$368,748,326 \$63,365,229 \$8,828,882 Liquor License Fees & Fines Liquor Luxury Bar & Restaurant Liquor Sales Tax WHERE THE MONEY GOES \$241,912,059 \$190,548,282 \$7,465,582 \$1,015,515 Municipalities: Other State: Liquor Regulation State General Agencies Counties Eund Sources: State of Arizona, Department of Liquor Licenses and Control (DLLC), and Department of Revenue (DOR) Research: Department of Liquor Licenses and Control, Sept. 2011 Information based on DOR preliminary FY2011 figures.

CENTER FOR ALCOHOL POLIC

Evolving Industry Models



Retailer Business Models Versus Public Good

 "To earn a dollar, supermarkets would rather sell a \$1 item 100 times, making a penny on each sale, than 10 times with a dime markup. Low markup to stimulate high volume sales is the fundamental principle of mass merchandising, which the supermarket industry introduced to the marketplace in the 1930s." – Food Marketing Institute "Competition and Profit" publication, 2007

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Large Volume/Cheap Purchases of Some Products are Beneficial





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ALCOHOL POLICY

As cheap as they "CAN"





What We're Spending

2010 - 2011 Change

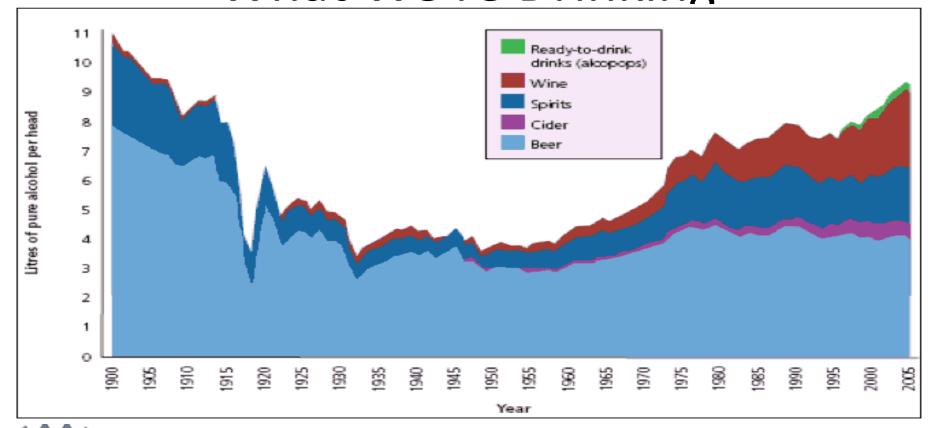
Liquor Sales 1.4% \$18.7 billion

Cheap Brands ↑ 5.5%

Expensive Brands ↓ 5.1%



What We're Drinking





What We're Drinking

2010 – 2011 Change

Beer

1.9%

2.83 billion cases

Wine

1.7%

301.9 million cases

Distilled Spirits ↑ 2.1%

192.7 million cases

CENTER FOR

Fast Food Alcohol

Fast food, Fast alcohol =fast drunks



Opportunity to drive evening business

Alcohol is a way to compete

CENTER FOR

ALCOHOL POL

Burger King, Sonic Add Alcohol to Menus

Posted by Adam Smit on July 3, 2011 1:40 PM

Burger King, Sonic, and other fast-food chains have gotten into the business of selling booze, according to USA Today. As a means of competing with casual dining establishments, these franchises have opened up select locations with liquor licenses to give diners the option to buy wine or beer with their meals. In South Florida, two Sonic restaurants will soon sell beer and wine. Burger King has opened "Whopper Bars" in Miami, Las Vegas, and Kansas city to sell beer along with their burgers. Starbucks has already begun selling local beer and wine at select Seattle stores.



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Draft systems at tables





Barbershops / Hair Salons





Movie Theatre



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Starbucks ENTER FOR

ALCOHOL POLICY

Ice Cream Parlors







Cave Creek
Car Wash



Pool Bars





ALCOHOL POLICY

Summary

Increased access of alcohol sales has a significant impact on local police and regulators' resources:

- More locations for alcohol sale increase the need for liquor law compliance checks to reduce illegal sales to minors and intoxicated individuals.
- More alcohol consumption: increases calls for police service for crime, violence, drunk driving, and domestic disputes.
- Increased personal risk to all enforcement officials



Meet Today's Panel

- Penny Norton, FACE The Prevention Resource Group
- The Honorable Don Allen, Ingham County District Court
- Scott Ellis, National Hospitality Institute
- Don McGehee, Alcohol and Gambling Enforcement Division, Michigan Attorney General's Office
- Laura Fitzpatrick, Muskegon Alcohol Liability Initiative, MCHP/Mercy Health Partners





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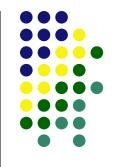
Muskegon Alcohol Liability Initiative



- Formed in December 2008.
- Coordinates law enforcement & prevention efforts on alcohol.
- Members from 19 organizations including law enforcement, substance abuse agencies, distributer, colleges, education, hospital.

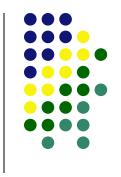


Alcohol Prevention Goals



- Reduce alcohol related injuries and fatalities among youth and young adults in Muskegon.
- Reduce the negative impact of underage drinking on Muskegon county youth: academic, social, physical, and legal.
- By 2016, reduce the percent of 12th graders that report current binge drinking (5+ drinks).

Muskegon ALI in Action



- Responsible Beverage Service Education both retailer & volunteer
- Conduct Compliance Checks for retailers
- Enhance law enforcement such as party patrols, high visibility enforcement
- Education to local youth on safe driving, consequences of drinking and driving, and other emergent issues.

Retailer Education

 Hosted several events with Michigan Liquor Control Commission staff, public health & law enforcement.





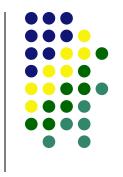


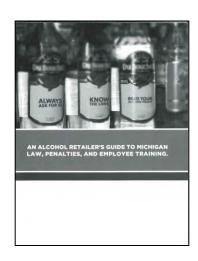




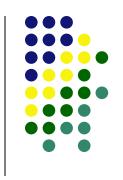
Retailer Education

 Muskegon law enforcement & public health have visited over 280 licensed beverage retailers distributing vendor education materials each year since 2009.



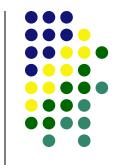


Muskegon County Alcohol Compliance Checks



- Muskegon Participated in Training Video with other Counties to train additional decoys.
- > 2009 *88% of Area Retailers Checked in Compliance
- 2010 Retailer Compliance Rates at 90%
- 2012 Retailer Compliance Rates over 95%...so far

Volunteer Responsible Beverage Service



 Muskegon provides training to licensees and volunteers local beer tents.



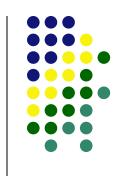


 Annually Muskegon ALI members train 200 – 800 volunteers.





Safe Prom & Underage Party Enforcement



 Law enforcement agencies provide prevention at area proms & youth parties.

 Covers most Muskegon County proms with law enforcement.

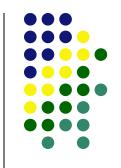
 Party patrols at area hot spots and party response teams.

State Policies & Advocacy

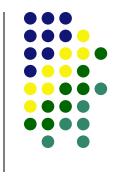




- Muskegon ALI hosted meetings in Muskegon with the Michigan Liquor Control Commissioners and elected officials.
- Local jurisdictions very involved in policy with ordinances.
- Alcohol Awareness Month declarations in several municipalities.
- 2011 Member appointed to Governor's Regulatory Reform Committee on Liquor Control Codes.



Local Alcohol Policies

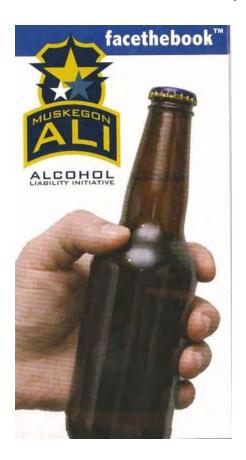


- Include community specific policies on special or outside events including:
 - Special use permits.
 - Training requirements.
 - Local law enforcement requirements or inspection fees.
 - Local information for responsible beverage service.

In School Promotion







Thank you

Laura Fitzpatrick, MPA
Program Manager
Coalition for a Drug Free Muskegon County
Muskegon Community Health Project

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Center for Alcohol Policy Michigan Policy Forum Series

Public Safety & Law Enforcement in Alcohol Regulation

Presented by: Penny Norton, Director



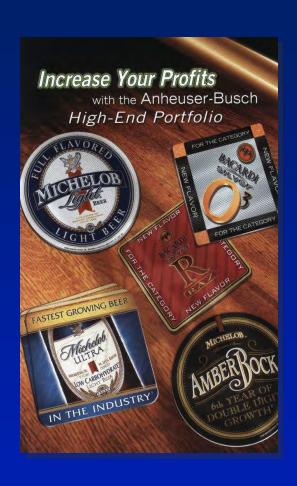
Prescription Drug Basics



Rx depressant drugs:

- Slow normal brain function
- Lower heart rate and blood pressure
- Over time, can cause tolerance and/or addiction
- If abused, can cause overdose or death
- Cannot be legally obtained without a prescription

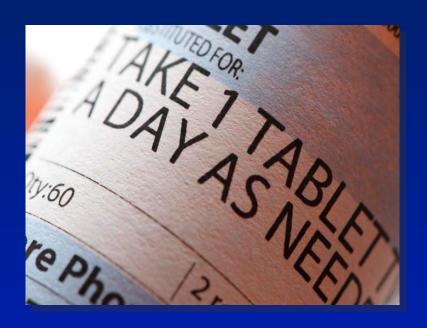
Alcohol Basics



Alcohol is a depressant drug that:

- Slows normal brain function
- Lowers heart rate, blood pressure and respiration
- Can cause a tolerance level and is potentially addictive
- Can cause overdose or death
- Is legal for anyone over the age of 21

Current Problems With Rx Drug Medications

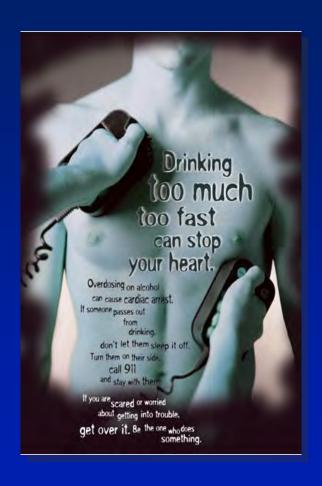


- 100,000 Americans die every year from the effects of Rx medications.¹
- Annually over 500,000
 Americans are admitted to hospitals because of a bad reaction to an Rx medication.²
- Rx drugs are everywhere. Every day 2,500 youth age 12-17 misuse a pain reliever for the first time.³

Sources

- 1. www.oftwominds.com/journal08/Prescription-Drugs.htm
- 2. Ibid
- 3 SAMHSA 2009

Current Problems With Alcohol



- Alcohol is the #1 preventable cause of death for people under the age of 21.¹
- It is the 3rd leading cause of preventable death in adults preceded only by smoking and heart disease.²
- Alcohol is the leading fetal neurotoxin in the world.³
- It's currently regulated by the Bureau of Alcohol, Tobacco and Firearms.

Sources:

- World Health Organization, 2010.
- 2. Ibid.
- 3. Boston Medical Center; Dr. Tim Naimi, M.D., Grand Rounds, Sept. 2010.

Smoking Cessation and Prevention Efforts

Individual Actions:

- 1. Get regular medical checkups.
- 2. Cut down and don't inhale.
- 3. Use tobacco products with low tar and nicotine levels.
- 4. Quit smoking. Use nicotine patches/go to "smoke-stop" workshops.
- 5. Expect to die sooner if you smoke.

Policy Actions:

- Rotating warning messages on all advertising.
- 2. Smoke-free seating on airlines and restaurants.
- 3. Smoke-free worksites and public buildings.
- 4. Access restrictions for vending machines and tobacco products in general.
- 5. Increase excise tax on tobacco products.

Heart Disease Risk Reduction Efforts

Individual Actions:

- 1. Avoid foods high in salt, fats and cholesterol.
- 2. Watch for a history of heart disease in your family.
- 3. Exercise to keep your weight down and don't smoke.
- 4. Avoid stress.

Policy Actions:

- Mandatory package labeling on food products.
- 2. Mandatory changes in physical examination forms used by physicians.
- 3. Insurance premium incentives for non-smokers.
- 4. Implementation of worksite fitness programs and facilities.

Drinking and Driving

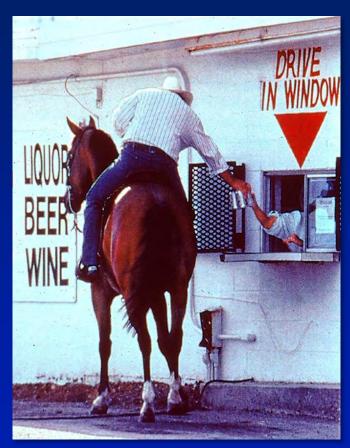
Individual Actions:

- 1. Designated drivers
- 2. Court monitoring
- 3. Public awareness campaigns
- 4. Citizen advocacy groups like MADD, SADD and BADD

Policy Actions:

- Raising the minimum drinking age from 18 to 21
- 2. Lowering BAC levels from .12 to .10 to .08
- 3. Legalizing and integrating sobriety checkpoints
- 4. Stronger laws for repeat offenders as well as vehicle impoundment and interlock systems

Alcohol in Our Society



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- Once sold only through taverns and liquor outlets, alcohol is now sold in grocery stores, convenience stores, gas stations, airplanes, on the Internet and even at drivethrough purchase points.
- Increasing availability and accessibility not only makes alcohol easier to obtain, but also changes our thinking about drinking.



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Alcohol Abuse and Its Impact on Public Safety

Honorable Donald L. Allen, Jr. District Court Judge

Presentation Objectives

- Who we are at the 55th District Court
- What we do
- Who we target
- Why we do what we do
- Why it has importance to the entire community

Statement of the Problem

- National Highway Safety Administration
 - 112 million individuals alcohol impaired
 - 10, 102 alcohol related fatalities (2009)
 - Drivers involved in fatal crashes 8 times more likely than nondrunk drivers to have a prior drunk driving conviction
 - * Emphasis on repeat drunk drivers

Drunk Driving in Michigan

- Statistics
 - 41,883 arrest for drunk driving
 - 9,986 alcohol involved crashes(2010)

OHSP-determined that 34% of all traffic fatalities

were alcohol related in Michigan (2009)

Individuals who engage in OWI not only drink heavily, but are more likely to be clinically dependent on alcohol

Preventing Drunk Driving

- Social Marketing/educational
- Enforcement
- Legal/legislative initiatives

Community value



Why do people drink and drive?



Social Marketing

- Objective to change behavior by increasing awareness and public support
- Examples:
 - Mothers Against Drunk Driving (1980)
 - Ad Council Friends don't let friends drive drunk
 - Local Parental responsibility(Underage Drinking not a Minor Offense)

CARROLLTON BUS CRASH

- KENTUCKY (1988)
- FIRST ASSEMBLY OF GOD CHURCH TRIP
- .24 WRONG WAY I 71
- 27 DEATHS
- Bodies Inside the Bus
- Worst Drunk Driving Accident

Law Enforcement

- Increasing probability for detection(crackdowns)
- Better Training for police officer(FST)
- Less than 1% chance of detection

Legislative and Court

- Generally target repeat drunk drivers
- Examples:
 - Vehicle sanctions (immobilization)
 - Licensing Sanctions(suspended and restricted)
 - Treatment and Education Programs
 - Mandatory sentences and substantial fines
 - *Sobriety Courts

Problem Solving Courts

- Purpose of this presentation:
- 1. Describe the 55th Judicial District Courts
- Sobriety Court Program.
- 2. Outline the participants of the program.
- 3. Outline the interest that are indicated in a "Problem Solving" Court.

Jurisdiction of the Court

- Geographic Area of the Court
- 1. City of Lansing
- 2. City of East Lansing
- 3. Out County and the City of East Lansing

Persons Admitted to the Program

- 1. City of Lansing- felony drunk driving charges
- 2. 55th District Court
 - Felony drunk drivers (5years prison)
 - Misdemeanor drunk drivers
 - "Super Drunk" drivers (jail of 180 days & \$700)

*Pilot Program- Ignition interlock device

Program Requirements

- Defendant Eligibility
- Violent Offender
 - An offense involving the death or a serious bodily injury to any individual; or the carrying, possession, or use of a firearm or other dangerous weapon; or criminal sexual conduct
 - Felony involving the use of force against another individual with the intent to cause death or serious bodily harm

Program Requirements(cont)

- Defendant Eligibility
 - No prior participation
 - Prosecutorial Approval
 - Subsequent felony conviction

Intensive Supervision

- Requirements
 - Bi-weekly Judicial Review
 - Weekly Meetings PO
 - Daily PBT
 - Random Weekly UDS
 - Mandatory Treatment
 - AA
 - Daily Journal

Intensive Supervision(Cont)

- Sobriety Court Bond Conditions
 - Daily pbt(verification sheet)
 - Weekly uds
 - Biopsychosocial assessment
 - Attendance at 12 step program
 - Maintain/secure employment
 - Maintain a daily journal(home work)
 - 11pm curfew
 - *NightHawk

Findings

- Re-arrest Rate 50-70%(Calif. 2007)
- Retention Rate 73%
- Census 83
- Graduates 348
- Re-arrest 55th (Thru 2011)

17% (DWLS, RF, and child support)

7%(alcohol 6%, drugs 1%)

Conclusions

Objectives

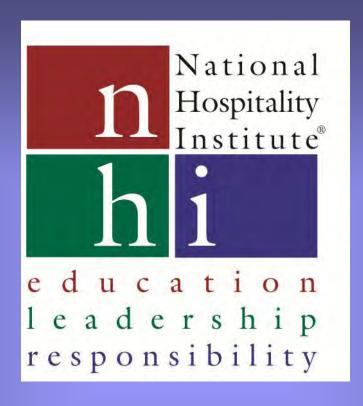
Who we are, what we do, and why it matters to the community.

People from all walks of life are changing their lives and the fortunes of their family.

* What does that mean to you?



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TAKING AN ACTIVE ROLE TO EDUCATE LICENSEES Presented by Scott Ellis Executive Director Michigan Licensed Beverage Association

HISTORY

MICHIGAN LICENSED BEVERAGE ASSOCIATION® (MLBA®) has 2500 members statewide

- -Founded in 1930's
- -Members own all sizes and types of establishments in the liquor businesses
- -Three companies have evolved from the original: A for-profit mutual insurance company, the not-for-profit membership association and the non-profit National Hospitality Institute® which administers the educational programs

EDUCATION



NATIONAL HOSPITALITY INSTITUTE®

 Expanded educational programs to cover variety of stakeholders

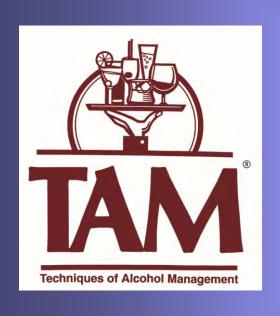
 Hired enforcement officer and retired enforcement supervisor from Michigan Liquor Control Commission as consultants

Motto: Do it right the first time

Michigan Liquor Licensee Training SeminarTM

Michigan Liquor Law Enforcement
Training SeminarTM

Successful Bar Management™



TECHNIQUES OF ALCOHOL MANAGEMENT®



- In 1983 the Association created the Techniques of Alcohol Management[®] (TAM[®]) program for Michigan
- The program has expanded nationwide
- This is a 3 hour server training program that emphasizes the goals of TAM®

MICHIGAN LIQUOR LICENSEE TRAINING SEMINARTM

- Developed in 1999 as the New Licensee Program to address the following:
 - MLCC and Health rules & regulations
 - Violation and hearing process
 - Developing internal operating procedures
 - Building working relationship between law enforcement and licensees
- Updated in 2004-2005 with broader appeal to all licensees
- It is a voluntary 8-hour program offered several times a year

MICHIGAN LIQUOR LAW ENFORCEMENT TRAINING SEMINAR™

Training Program For Police Officers

- Developed in 2005 and MCOLES Certified
- 8-hour class designed to educate enforcement officers
 - liquor investigations
 - liquor laws
 - proper methods for using decoys
 - building working relationship between law enforcement and licensees
- Helps to create mutual understanding and interpretation of common rules and regulations

SUCCESSFUL BAR MANAGEMENTTM

- Managing Bartenders & Waitstaff
 - Key skills to teach bar personnel
- Bartender Theft
 - course describes exactly how bartenders steal
 - what you can do about it."
- Beverage Control
 - keeping up with the inventory
 - tips on how to organize inventory



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Bill Schuette
Attorney General

To Serve and Protect

2012 Center for Alcohol Policy Forum
Public Safety and Law Enforcement
in Alcohol Regulation



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Felepe Hall Assistant Attorney General

Jason Geissler Assistant Attorney General

> Vickie Fox Secretary

State's Guiding Principal

- On November 8, 1932, Michigan became the first state to ratify the 21st
 Amendment repealing prohibition. This ended the days of the Purple Gang bootleggers in speeding boats crossing the St. Clair River into Canada for spirits.
- Throughout the more than 75 years of the Liquor Control Commission's existence, the guiding philosophy of the State has been to strictly regulate the sale and distribution of alcohol in order to protect the rights and interests of Michigan citizens. Notably, one of the first initiatives in Michigan that won voter approval in 1932 was a measure to establish a liquor control commission that passed overwhelmingly.





ALCOHOL REVENUES

Annually, alcohol generates more than \$3.5 billion in gross sales.

 Over \$335 million in tax revenue and other fees are generated from alcohol sales annually.

LICENSING VIOLATIONS PROSECUTED BY AG

Sales to underage persons (40%), serve to visibly intoxicated persons, bar fights, illegal gambling, licensee or employee convicted of an illegal act, illegally obtained transfer, NSF checks, prostitution, and many other illegal activities.





PROTECTING THE PUBLIC HEALTH, WELFARE, AND SAFTEY 2002-2011

- About \$11 million in fines were assessed against liquor licensees.
- Assisted in the collection of over \$12.7 million in jeopardy assessments.

PROTECTING THE PUBLIC HEALTH, WELFARE, AND SAFTEY 2002-2011

- Over 25K complaints issued and drafted by AG.
- Over half of the violations come from MLCC enforcement.
- About 40-45% of violation complaints go to hearing.
- Policing over 17K liquor licensees and 25K gaming licensees.

We are not the Alcohol Gestapo!



ALCOHOL ENERGY DRINKS (AEDs)

In 2007, 29 attorneys general, including the Michigan AG, joined together writing a letter to the Alcohol and Tobacco Tax and Trade Bureau (TTB) expressing their objection to AEDs and requesting investigation as to whether they should be classified as malt beverages.

AEDs

- In 2009, 25 state attorneys general requested the FDA examine whether the use of caffeine in alcoholic beverages is considered safe under FDA regulations. Medical professionals argued that adding caffeine and other stimulants to beverages poses serious public health risks.
- In October of 2010, the Michigan Liquor Control Commission (MLCC) took action against alcohol energy drinks stating, *inter alia*, that caffeine is not a safe additive in alcohol and banned them from the shelves of all retailers in the state giving 30 days to remove the product.

FDA Makes Finding AEDs Unsafe

In November of 2010, the FDA found that AEDs – high-proof alcohol packed with caffeine and other stimulants – are not generally recognized as safe. The agency <u>issued warning</u> <u>letters</u> to four manufacturers of alcoholic energy drinks stating, "As it is used in your products, caffeine is an unsafe food additive."

Flavored Malt Beverages (FMBs) Alcopops



Flavored Malt Beverages (FMBs)- Alcopops

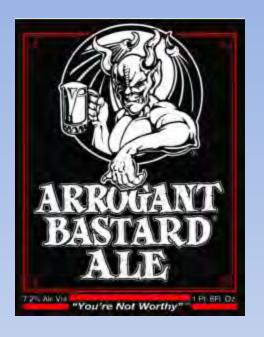
 In 2011, Michigan AG signs on to letter prepared by the Attorneys General of Maryland and Utah to the Federal Trade Commission objecting to the alcohol content of certain FMBs marketed to younger drinkers and commenting on the proposed Consent Agreement of FDA and Phusion Projects (Four Loko).

 Attorneys general urge the maker of Blast by Colt 45, a fruitflavored malt beverage, to "eliminate the serious safety risks" presented by a product that they describe as a "bingein-a-can." The drink, in a colorful 23.5-ounce can, resembles soda pop but has an alcohol content of 12%, more potent than a typical can of beer.

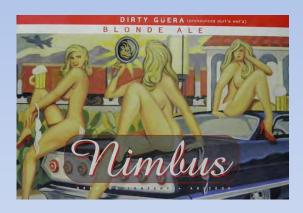
Litigation from Commission Decisions & State Alcohol Laws

Raging Bitch Beer Labeling Lawsuit



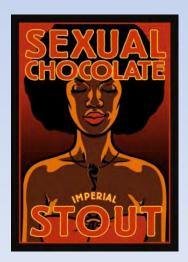






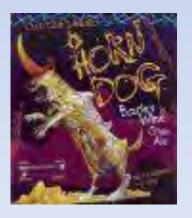












Little Krugy Alcohol



Vanilla-Caramel flavored cream-liqueur (30% proof) in its unique bottle. THE TRUE ADULT BEVERAGE. I have become the "Talk of the Town" and "the Hit of the Party" and "The New Comer to Town." Little 50 ml shots.

Infused Alcohol Whipped Cream & Jell-O Shots









Legal issues with banning alcohol drinks & labels

- Is the evidence sufficient to establish a health, safety and welfare problem?
- Is it just anecdotal?
- Is there some scientific report?
- If a label issue, is it misleading, deceptive, profane or obscene?

Granholm v Heald

Landmark decision on interplay between Commerce Clause and 21st Amendment





Michigan AG leads 36 other state attorneys general in standing up for states' rights under the 21st Amendment in U.S. Supreme Court wine shipment case.

Aftermath from Granholm



Effective ways to remedy health, welfare and safety concerns without legal recourse

- Communications with manufacturer and distributor
- Public policy campaigns
- Michigan Alcohol Policy Organization
- Alcohol Justice formerly Marin Institute

2012 CAP Michigan Policy Series Next Event:

What's Happening in the World of Alcohol Regulation May 3, 2012

Radisson Hotel Lansing