

SMOKING BAN CHALLENGED IN COURT

Believing that the Smoke-Free Air Act signed by the Governor on January 15, 2006, was unfair, discriminatory, arbitrary and in violation of the Constitutional provisions of equal protection by exempting the casinos from the no smoking provisions of the law, NJLBA joined the New Jersey Hospitality Coalition for Fairness in filing a lawsuit challenging the legislation. The Coalition represents all segments of the hospitality industry and was formed to fight for the rights of the hospitality business community.

The lawsuit contends that all on-premise establishments must be treated the same and that it is unconstitutional to treat one class of licensees, the casinos, differently from the other Atlantic City and state-wide on-premise licensees. The lawsuit further contends that all New Jersey employees must be treated equally. The rationale for the legislation was to protect workers and customers from second hand smoke. The litigation will test the right of the Legislature to treat the health of the casino workers differently from the health of other employees.

The Governing Board of the Association has voted to spend substantial resources to determine the validity of the ban. This is an important issue for our membership and could adversely affect the income of our members. It has always been the position of the Association that the smoking issue should be one of individual choice and should be market driven. Government should not be allowed to ban the use of a legal product on a business property. That decision should rest with the owner.

If no injunctive relief is given by the Court or if the Court does not render a decision before April 15, 2006, the law becomes effective and enforceable on that date. Guidelines to insure compliance with the law are being drafted by the State Board of Health. The law requires signage that smoking is prohibited on the indoor premises. No smoking paraphernalia such as ash trays are permitted on the premises. Cigarette sales are allowed with proper licenses.

HEALTH INSURANCE UPDATE

As part of the ongoing legal action brought by the United States Department of Labor relating to the termination of the NJLBA Employee Benefits Plan (the "Plan"), the NJLBA and other parties to that case have worked out an important Order to halt, at least temporarily, all other legal proceedings relating to payments and claims for benefits under the Plan. The Order was entered by the United States District Court for the District of New Jersey on January 5, 2006, and immediately took effect that day.

Most importantly, the Order prohibits any state or federal court actions from going forward against the Plan or any Plan participants or beneficiaries for payment for benefits due under the Plan, or for medical, hospital or other health charges covered by the Plan. The Order expressly freezes any collection actions by health care providers or collection agencies for benefits covered by the Plan. The Order stays any and all such legal actions until the final disposition of the Department of Labor's case, or until otherwise ordered

by the United States District Court.

In addition, all creditors of the Plan and/or collection or credit reporting agencies are prohibited from making or continuing to make any adverse credit reports regarding participants or beneficiaries of the Plan for failure to pay for medical or other health services covered by the Plan.

Finally, all health care providers, medical or service providers, or collection agencies are expressly prohibited from filing, prosecuting, continuing, or enforcing any claims for benefits covered by the Plan as soon as they are advised of the Court's January 5th Order.

If you are aware of any health care provider, collection agency, or credit reporting agency taking any actions prohibited by the Court's Order, please contact the NJLBA for more information on how to proceed.

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NJLBA SPOTLIGHT: SEA BREEZE BEVERAGE SYSTEMS

NJLBA has approved Sea Breeze to offer NJLBA membership a Best Value Preferred Vendor Program. Based in Morris County, Sea Breeze manufactures a variety of syrups and juice concentrates since 1925 to suit every style of operation. Better than top quality products is Award Winning extraordinary beverage equipment repair service.

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tomers' thirsts and your quest for best value. Add another focus with New York Bash® Energy Beverage Concentrate only from Sea Breeze®.

Company President Sanders is pleased to announce that his son, Josh Sanders, has recently joined Sea Breeze representing a fourth generation leaping into our 81st year continuing to deliver our Mission, Motto and Advantage to our customers.

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THE NEW JERSEY RESTAURANT ASSOCIATION: AN ACT OF BETRAYAL

by Jim Hill, President, New Jersey Licensed Beverage Association

They say *"all is fair in love, war and politics"*, but I prefer to believe that most people try to live and conduct their business by that higher rule, "Do Unto Others as you Would have them Do Unto You."

In all my years as a business owner and as a member of NJLBA, certainly I have experienced vigorous competition; opposition; differences of opinion; and occasionally duplicity, but for the most part I have found that people play fair, and strive to live and work by the "Golden Rule".

However, this past week the New Jersey Restaurant Association showed they don't play fair, and engaged in an act of betrayal against members of the New Jersey Licensed Beverage Association.

You see, it all started like this: In April of 2005, the Board of Directors of NJLBA voted to change the name of the organization to one that would convey more clearly who we are and who we represent - bars, taverns, and restaurants with an alcoholic beverage license. Members of the Board and I, as President, NJLBA, spent an enormous amount of time on this project, speaking with members, customers, and professionals about the name change.

In April, the name, "NJBAR - New Jersey Bar and Restaurant Association" was unanimously adopted by the Board.

As a courtesy to the New Jersey Restaurant Association, our Board notified them of NJLBA's plans, and the rationale behind the decision. NJRA responded by letter of April 27, expressing their *"strong disappointment with the news that NJLBA has voted to change the name of their organization to the NJ Bar and Restaurant Association,"* believing that it would *"encroach on the New Jersey Restaurant Association's name."* They further stated that, *"this unabashed (mis)appropriation directly conflicts with the spirit of partnership that we have tried to foster between our organizations..."*

In the spirit of partnership, NJLBA decided to reconsider the name change. In the meantime, NJRA filed to have the name, "New Jersey Bar and Restaurant Association" copyrighted. **They also announced last week that they had formed the "New Jersey Bar and Restaurant Association" as an official Division of NJRA, "dedicated to preserving the value of your on-premise consumption liquor license."** The announcement,

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BMI SONGWRITERS PROVIDE MUSIC TO MAKE HOSPITALITY MEMORABLE

Music has been associated with hospitality for hundreds of years. Songwriters and storytellers were often given special consideration by royalty because of their ability to entertain guests at the palace. Native Americans marked special occasions with flutes, drums and dancing. European settlers would assemble musical groups of family and friends to make festivals memorable. As the centuries passed, composers gave us music for every holiday and celebration. Today, hardly anyone would throw a party without their favorite tunes.

Those who create the songs we enjoy no longer have kings to provide for them, but our civilization values their talent no less. Songwriters – along with authors, playwrights, photographers, poets, movie producers and others who create intellectual property – are important contributors to our social fabric, and their work is protected by our copyright laws.

Many members of the hospitality industry are keenly aware of the importance of music in their businesses. Hotels, resorts, restaurants, amusement parks, universities, museums and recreational facilities use music to relax, entertain, amuse and stimulate their customers. Can you recall walking into a hotel, restaurant or amusement park where there was no music? Perhaps you were not consciously aware of the void, but the facility may have seemed strangely cold and impersonal. Music affects us in subtle ways.

Business owners who use copyrighted music in their establishments may think songwriters are compensated for public performances of their songs in the purchase price of CDs. They sometimes don't understand why businesses are responsible for obtaining a license from performing rights organizations such as BMI before they can play copyrighted music for their customers.

When you purchase a CD or tape of music, you buy the right to play that music in your home and car, or in private gatherings of family and acquaintances. If you play music in a business, whether the music is recorded or live, copyright law requires that you obtain permission from the composers of that music.

“Some business owners would like to see all performing rights included in the purchase price of recorded music, but that wouldn't be fair to the majority of consumers who buy music only for personal use,” said Tom Annastas, BMI Vice President, General Licensing. “Copyright laws and the way we license music make the cost more equitable by associating price with the quantity and intensity of music used.”

As a non-profit-making performing rights organization, BMI serves as a clearinghouse for the royalties collected on the works of writers and publishers. A composer who owns a copyrighted work grants BMI the right to license performances of the work and the right to prevent others from doing so without permission.

Songwriters receive little more than three cents for each song included on a CD or tape sold, and those royalties make up less than half the income of most songwriters. Most of their compensation comes from the public performance of their music in businesses, such as radio, television, restaurants, hotels and amusement parks.

While businesses may still negotiate directly with copyright owners for use of their work, BMI can save much time and expense for a business using dozens or hundreds of songs. With a single agreement, BMI grants legal access to more than 6.5 million songs from more than 300,000 composers and publishers – more than half the music performed in the United States today.

“We exist to provide a service to songwriters and businesses which use music,” said Annastas. “We believe if the public has a better understanding of how composers are compensated for enriching our lives, we will have more knowledgeable customers with a better appreciation for the craft behind great music.”

For more information about BMI and music licensing, visit their website at www.bmi.com or call 1-800-925-8451.

An Act of Betrayal

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together with a membership application form was sent to NJLBA members as an obvious attempt to raid NJLBA of their members.

Is any of this illegal? Probably not, but it does show that the New Jersey Restaurant Association *doesn't play well with others*, nor do they play by the Golden Rule. It certainly is the kind of tactic that destroys *trust and goodwill* that they so righteously spoke of in their April 27, 2005 letter to NJLBA.

Drink

Responsibly.

Drive

Responsibly.

SCHOLARSHIP APPLICATION DEADLINE APRIL 30, 2006

Since 1945, the Wellhofer/Wilinski Scholarship Foundation has awarded scholarships to deserving students helping them to continue their higher education.

All applications for this year's scholarship must be in the NJLBA office on or before April 30, 2006.

To be eligible for the Scholarship, the applicant must be a son, daughter or grandchild of a bona fide dues paying, on-premise retail consumption licensee association member. Sons, daughters or grandchildren of retired NJLBA members are also eligible if the retired licensee had paid dues for the last five (5) years they were in business prior to the application.

Two scholarship grants are awarded in the sum of \$10,000.00 each payable at the rate of \$2,500.00 per year. The recipient must be a matriculated, full time undergraduate student attending any recognized degree granting college or university in the United States.

If your child or grandchild is eligible, please call the office for an application and return the completed application before April 30, 2006.

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Legislative Affairs Report

NEW JERSEY LICENSED BEVERAGE ASSOCIATION

TRENTON, NEW JERSEY

by Barbara McConnell

The New Regime

Jon Corzine was sworn in as New Jersey's 54th Governor, and the 212th Legislature convened to tackle pressing issues. The most pressing of which will be the challenge of balancing a projected \$6 billion state budget deficit for fiscal 2007, and renewing the state's transportation fund, which will be broke by June 2006.

While most of the Governor's Cabinet position has been filled, as well as key staff positions, including:

Governor's Staff:

Thomas Shea, Chief-of-Staff

Stuart Rabner, Chief Counsel

Jeannine LaRue, Patti McGuire and Maggie Moran, Deputy Chiefs of Staff

Legislative Leadership

Stepping down as Acting Governor, Senator Richard Codey will retain his position as Senate President. Joe Roberts ascended to the position of Assembly Speaker, when Speaker Sires announced that he would be running for Congress to fill the vacancy of Congressman Bob Menendez who was tapped to fill the unexpired term of Senator Jon Corzine.

On the Minority side, Alex DeCroce will continue as Assembly Republican Leader; and Leonard Lance will continue as the Senate Republican Leader in the Senate.

Legislative Issues

In the waning days of the 211th Legislature, members of NJLBA were being hit left and right with onerous issues that will have a tremendous impact on their businesses. Foremost among those issues were:

New Jersey becomes the 11th State to Enact a Smoking Ban in all Public Places

After fight off this issue for over 8 years, the Legislature with the support of Governor Richard Codey, and Speaker Albio Sires, both Houses voted to enact one of the most stringent smoking bans in the country. The most controversial aspect of the bill was the fact that there was an exemption for the casinos but not other groups. The law takes affect April 15, 2006 - 90 days after the date of enactment.

Arguments that a ban on smoking would severely impact bars and taverns - especially those establishments in Atlantic City were met with token sympathy by legislators who added that they would have preferred to vote for a bill that included casinos; "however, this a step in the right directions..." Most legislators also stated that, "give me a bill that includes casinos and I'll vote for it..."

At the start of the 212th Legislature, numerous bills were introduced to include casinos, most notable of which was a bill introduced by Atlantic City former Mayor James Whelan, recently elected to Legislature. He argued that "casinos employees should also be protected from second-hand smoke..."

While these bills may be well intended, it is doubtful that the issue will ever be considered by the Legislature.

NJLBA is currently considering several options in order to gain

some relief from this onerous and intrusive act, such as joining in a court action with the New Jersey Restaurant Association.

New Jersey Fire Code for "Nightclubs" Ignites Again

Back in 2003, following the tragic fires in Rhode Island and Chicago at entertainment venues, several states, including New Jersey, were reviewing their "safety" codes and enforcement effectiveness.

According to the Department of Community affairs, Division of Fire Safety, New Jersey has one of the most stringent fire safety codes in the nation. They also believe that their enforcement is excellent, and that their fire inspectors and officials are well trained. The Department, at that time, conducted a review/inspections of all 1,500 nightclubs in NJ, and did not find any large scale violations.

Following the Rhode Island fire, NJLBA representatives met with Fire Code officials at Community Affairs, and agreed to a voluntary education program to our members on the "Do's and Don'ts for Entertainment Venues.

However, on January 17, 2006, the Department proposed amendments to the Uniform Fire Code and to the Uniform Construction Code, which were published in the New Jersey Register.

These amendments impose new restrictions on Occupancy Limitations; Suppression systems; House Lights and Sound Systems; Automatic Fire Alarm Systems; Means of Egress; Use Group Definition; and their Relationship to Uniform Construction Code. By the Department's own admission, these new rules will

impose additional costs on existing "alcoholic beverage establishments", including permit fees; the hiring of licensed electricians; a licensed fire protection contractor; a licensed alarm installer or a design professional (architect or engineer). They also comment that "the cost to retrofit an existing nightclub to comply with the proposed retrofit requirements of the Uniform Fire Code may be significant..."

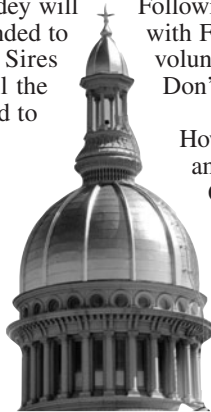
NJLBA is currently preparing comments in response to these proposed regulations, and also seeking the help of leadership to apply a commonsense approach to these proposals.

Special Liquor Licenses

While we were able to hold back the enactment of legislation to provide a "special liquor license" in certain "smart growth" areas of the state in the last days of the 211th Legislature, the issue wasted no time in resurfacing in 2006. However, NJBLA, together with the Restaurant Association were able to get language included that required that these licenses must be valued at "fair market value".

S-168 (Lesniak/Kyrillos) - which provides for special alcoholic beverage permits in certain development projects (generally known as the Interwest Project) was released from the Senate Economic Growth Committee on January 30, 2006.

This is an issue that will continue to be in the forefront of public policy in New Jersey, and NJLBA will certainly keep their eye on the storm.



LEGAL CORNER

by Paul D. Strauchler, Esquire
POST, POLAK, GOODSSELL, MacNEIL & STRAUCHLER, PA

Intrawest, the Canadian-based developer of the Mountain Creek housing and ski resort in Vernon, New Jersey, is anxiously awaiting the results of a New Jersey legislative bill (S168) that would grant NJABC the ability to issue "special permits" to entities operating restaurants located within a "qualifying development project." Such permits would enable these entities to sell alcoholic beverages under the umbrella of a single municipal plenary retail consumption license. The bill essentially creates an exception to the population restrictions presently existing under New Jersey liquor law.

If approved, the new law would permit the Director of NJABC to issue special permits to separate restaurants operating at the development, since Intrawest already holds a plenary retail consumption license. While the law would allow the contracts between restaurant businesses and Intrawest to establish the parties' respective legal liabilities, Intrawest, as the license holder, would be primarily responsible for ensuring regulatory compliance of the permittees.

As originally proposed, the bill raised concerns that similar special permits could be issued in other large-scale development projects, thus diluting the value of licenses in those municipalities. However, concerns over "too much too fast" may have been quelled for the short term. The original version of the bill was so broadly written that several prominent developments, including the Meadowlands 'Xanadu' pro-

ject, would have qualified under it. However, by December 2005, the bill's application had been narrowed to the point that the Mountain Creek development was the only property in New Jersey that would have qualified.

Nevertheless, it is unlikely that developers will view the current revision as a total defeat. Rather, it appears to demonstrate the State's willingness to work with developers to assist them in meeting their goals where those goals are perceived to have real economic benefits to New Jersey. During the legislative process, according to published reports, State Senator Ray Lesniak stated that he had been contacted by others seeking similar consideration for entertainment complexes and malls in development throughout the State. For those current license holders who fear New Jersey's laws will be eventually expanded to the extent originally proposed, while Pandora's box has not yet been opened, they should recognize that it easily could be.

On January 10, 2006 the bill was reintroduced into Senate and was referred to the Senate Economic Growth Committee that Senator Lesniak chairs for additional consideration.

BATTLE OF THE BARS GOLF OUTING

May 16th has been chosen as the date for the Battle of the Bars golf outing at the Shore Gate Golf Club, Ocean View, in historic Cape May County.

Described by Golf Digest as a "Top 10 New Upscale Course", this premiere championship course is one course you must play. The inherent beauty of the golf course is highlighted by enchanting forest vistas, unspoiled by the encroachments of housing developments or incursions from the outside world.

Trophies will be awarded to the bar team that scores the low net and low gross scores. Get your Bar Team together and start practicing to win the trophies!

The format will be a 12:00 noon shotgun start. Prizes will be awarded all afternoon for the longest drive, closest to the pin and other special contests. There are chances to win big for all players.

Golf Course amenities include a fully stocked Pro Shop, practice putting and chipping greens, practice bunkers and multiple target greens.

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Behind the Bar

by David T. Kratt

THE ROLE WE MUST PLAY



What drains you behind the bar?

I've got a couple things. Okay, there's more than that.

For example, I call her the Margarita Lady. No matter how exact I prepare her margarita to her specifications she complains – usually because there's not enough tequila. So I add more tequila. Then later she'll want more Triple Sec. It never fails. Then she'll nurse the drink forever, need something every time I walk by her and want "a fluff" so she doesn't have to pay for a second drink. And then, need I say it, she leaves a terrible tip.

Customers like that will bleed you.

But what can you do about it. You have to be polite.

The other day I told a bartender coworker, "I can't believe how nice you were to that guy." He asked why. I said, "Because the last time he was in the bar he went totally ballistic on you." My coworker laughed and said, "Oh yeah, I thought he looked familiar."

Recently, a couple of regular bartender customers were at the bar. The younger bartender complained, "I can't take the drunks anymore." The older bartender responded, "Really? I consider them good customers."

So how do you reconcile the difference between how you think you should be treated and how you are treated or how about between what you really want to say or do and what you have to say or do?

Is having a short memory or sense of humor the key?

It doesn't hurt. But that's not it.

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Your professional persona –

Both the bartender with the short memory and the sense of humor have been around long enough to know who the regular annoying pains in the neck are and, maybe more important, know the annoying behaviors that cause the bleeding. They don't let it sink in. It's evident; one doesn't remember the insignificant incidents without being reminded and the other doesn't lose her sense of humor over it all. In short, when it's needed, these bartenders project their professional persona to keep their inner self safe and sound.

I don't know the younger bartender very well but have seen him get frazzled. In short, he may never quite figure this one out.

Have you?

Savoring those moments –

Remember, all customers are not created equal!

If you want to widen that gap instead of reconciling your differences, then keep giving those customers who bleed you the same special treatment you give your good customers. Don't turn on the charm, either. That will bleed you even more and reinforce their behavior. And when you're busy, those customers will just have to wait while you're servicing that good customer.

See if that helps.

Oh, and if you have a customer like my Margarita Lady, tell the customer something like, "The boss said we can't give out 'fluffs' or sell half-drinks anymore. But would you like to buy another drink?"

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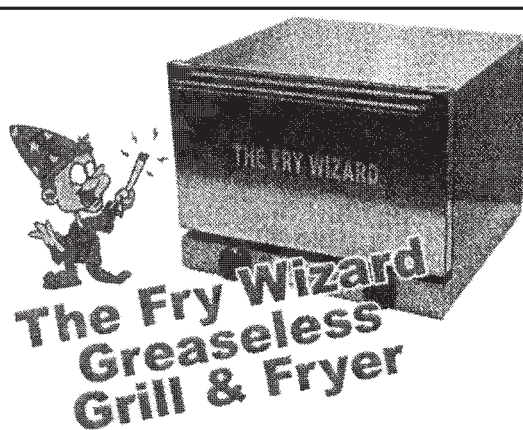
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LOOKING AHEAD TO UPCOMING EVENTS

- May 16, 2006 BATTLE OF THE BARS
GOLF OUTING
Shore Gate Golf Course,
Ocean View, New Jersey
- June 2006 Wellhofer/Wilinski Picnic/
Pool Party
Oak Tree Lodge,
Wall Township, New Jersey
- October 9-11, 2006 74th Alcohol Beverage Retailer
Annual Convention
Tropicana Casino & Resort,
Atlantic City, New Jersey

Monthly Board Meetings
2nd Wednesday of each month



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- Does not effect your fire insurance
- Rebates & profits will pay for your system
- Bars are ideal if they don't have a kitchen
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