

THE
MUNICIPAL
LIQUOR STORE

Volume 69, Number 2, 2010

OFFICIAL PUBLICATION OF THE
MINNESOTA MUNICIPAL BEVERAGE ASSOCIATION
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Volume 69, Number 2, 2010

Official publication of the Minnesota Municipal Beverage Association. Published six times annually: September/October, November/December, January/February, March/April, May/June, July/August. For advertising and editorial inquiry contact Paul Kaspszak, Editor, Box 32966, Fridley, MN 55432. Phone 763-572-0222 or 866-938-3925. Advertising rates available upon request. Change of address: List both old and new address.

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On The Cover

At the recent MMBA Annual Conference, Hawley Liquor was presented with the 2010 MMBA Facility of the Year award.

The purpose of the award is to encourage and promote the positive roles of municipal liquor facilities and recognize the team effort required for a successful operation.

Award criteria includes, but is not limited to: Excellence in facility operational techniques, financial contributions to the city budget, community, legislative and Minnesota Municipal Beverage Association (MMBA) involvement and city council / community support.

Award recipients receive a plaque stating the facility name and current liquor manager. In addition, \$1,000 will be presented to the city to be utilized toward the purchase of a city asset or need. The \$1,000 award cannot be placed into the city's general fund.

This is a statewide award. There are no award categories or divisions.

The award may or may not be given on an annual basis, depending on the identification of qualified candidates.

Pictured on the cover is MMBA president Tom Agnes (right) and Hawley Liquor manager Michael Friesen.

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MMBA President's Message



Tom Agnes
President

Who "Owns" your municipal liquor operation?

For a municipal liquor operation, the business is actually "owned" by all the citizens of that city. In my case I am a manager who does not live in the city for which I work, so many of my employees have an actual stake in the ownership of the business in a way that I do not. So the question may arise, "How can we operate like an owner of a business, when the rest of the citizens own the business?"

I heard a phrase a while back "Do you ever wash the rental car?" Many of us have rented a car over the years for different reasons. That car probably was used by hundreds of different people over its life. So the concept of giving that car any extra attention such as a wash job, vacuuming the carpet or even waxing it would be out of the question!!

The idea of "Ownership" is a concept based on how you view and operate your life and work environment. I encourage you to learn more about how it fits into your personal and work life.

To practice ownership over something you do not physically own you must:

- Find personal value
- Take pride in its success
- Care about what you do
- Help others to practice it

- Always strive to make it better
- Invest in it
- Take responsibility

People who have a hard time practicing these ideas in their life with things they physically do own may have a very hard time with the concept of going the extra mile to take care of something they do not own. If the positive side of this concept is called "Taking Ownership" the negative side would be called "Being a victim".

How many times have you heard these victim statements:

- It's not my job
- They are making me do this
- I am stuck here
- I have to. . . I have to. . . I have to. . .
- Not my responsibility
- Not my fault

So how do you move from Victim to Ownership?

It is simply a choice you must make on your own. Your boss, your city

manager or your mayor cannot make you do it and will not succeed at forcing you to do it.

The choice you need to make is simple:

Do I clean it if I didn't make the mess?

Do I stock those items or will someone else do it?

Do I put a price on that shelf or display or will the customer figure it out?

Do I ring up this customer or will the other cashier get around to it?

Do I buy this deal because we move it or because there is a cool dealer loader?

Do I go the extra mile or just put in my time?

So please look at your life and your organization and try to see where you can put into practice some of these concepts of ownership.

As usual call us with any questions you may have. MMBA directors and staff are here to serve our membership!

Tom Agnes
MMBA President

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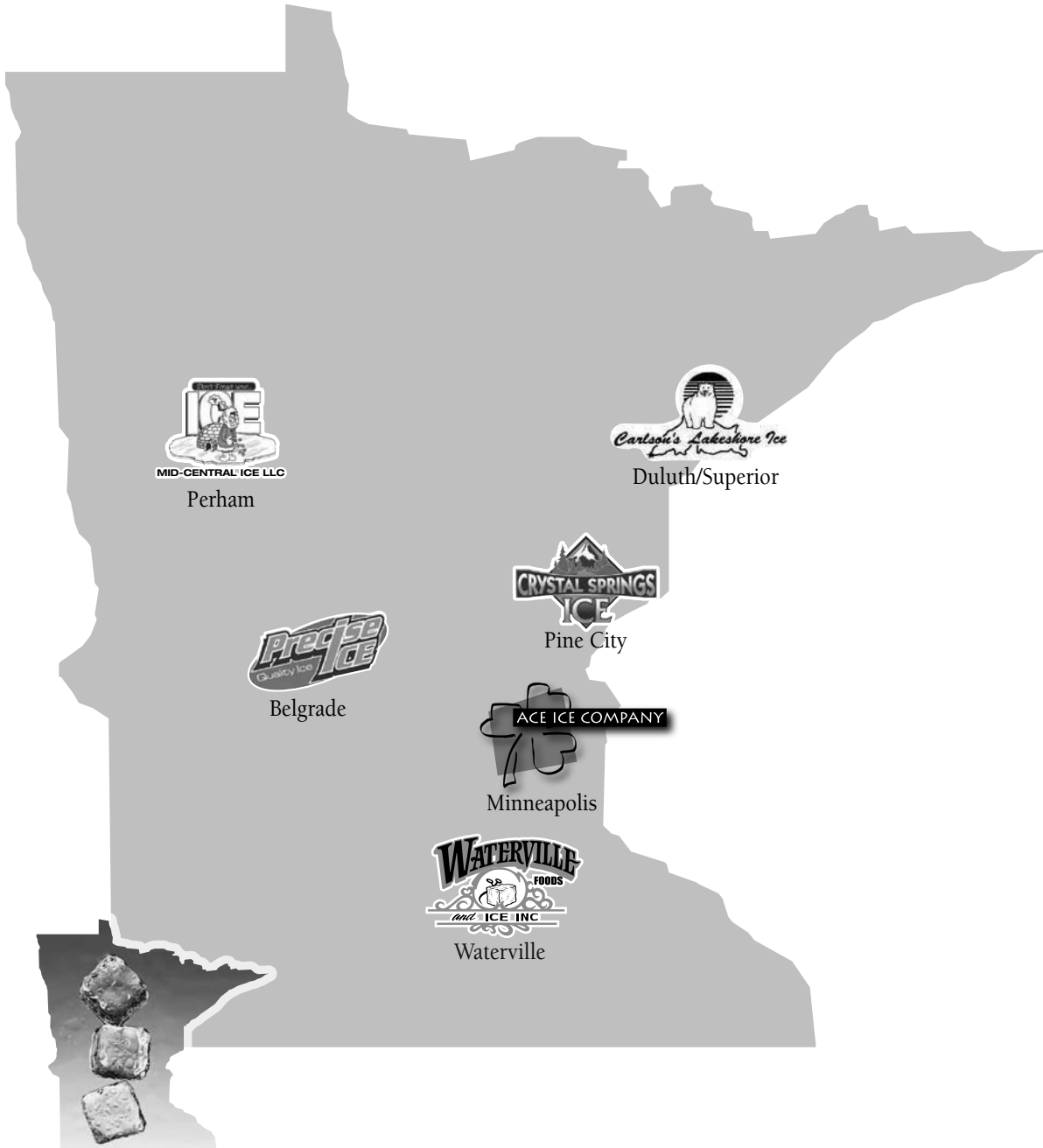
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2010 MMBA College Scholarship Winners



Kelsey Brandon

My high school career has been filled with multiple school, community and church activities.

My involvement in school activities have included: Target Team, Art Club, Varsity Boys Basketball manager, member of Student Government, participant in the close-up program to learn about our US government through a trip to Washington DC, a journalist and editor for my school's month newspaper and also work on designing the annual yearbook.

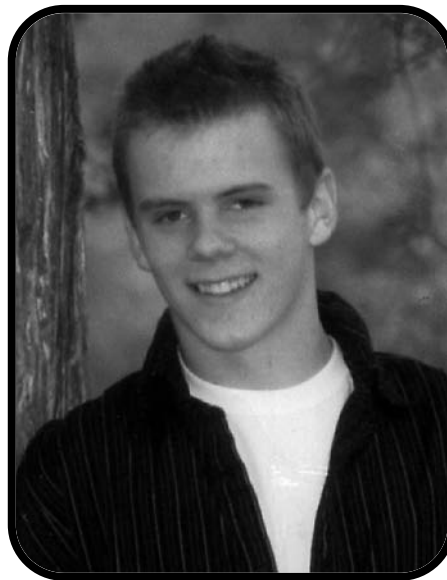
My involvement in community activities have included: Visited with the elderly of the Greenbush nursing home as part of my English class, took part in volunteering and organizing a "Think Pink!" breast cancer walk to raise money for local victims of breast cancer, deliver senior meals to local elderly at the Middle River manor, participated in the local annual service learning day doing various cleanup projects for the elderly and also was a contestant of the Miss Middle River scholarship pageant.

My involvement in church activities includes: various activities with the youth group, traveled to New Orleans for the national Youth Gathering,

volunteered by organizing a book fair for under-privileged youth and was a teacher for Vacation Bible School for elementary grades.

My objectives for my post high school course of study are to attend Bemidji State University for four years to major in design technology or graphic design. While attending BSU, I hope to participate with the student government to help voice the opinion of students on campus. I believe my education received at Greenbush-Middle River High School has readied me to do well at BSU.

Kelsey's father Dean is a supervisor at Falls Liquor in Thief River Falls.



Anders Dahlberg

As I entered the "big bad" high school, I was very intimidated. I thought all of the upperclassmen were going to beat me up every day, and all of the classes were going to be very difficult. I came to find out the upperclassmen weren't all that mean, and the classes were not that hard at all. I thought to myself, "high school is going to be a piece of cake!" I have enjoyed my high school experience and I can't wait to further my education in college.

While in high school, I began to realize how important my success here would be. High school is what will form a student into an adult, a well-rounded, dedicated man or woman, who works hard for his or her money. Whenever I would have doubts about how well I was going to do, I would tell myself I could not give up, and had to keep working hard in order to have any success in school.

My junior year was a struggle. My personal life definitely got the better of me, causing my grades to suffer. My oldest brother, Justin, passes away within the first two months of school. He was the biggest role model in my life and when I found out I wasn't going to be able to see him again, I nearly died myself. Justin was always looking out for his brothers and made sure we were staying out of trouble. It has been very difficult getting over his death, but time will heal. He is my motivation in everything and I hope to fulfill all of my dreams for him. My goal in life is to make him proud and be as great of person as he was.

I believe I am ready to further my education. I plan to go to Cambridge Community College to get my generals and hopefully figure out what I want to do in the future.

My high school experience has molded me into a dedicated, hard-working, educated student. I cannot wait to move on with not only my education, but also my life. I have the mindset that I will graduate from college and get a good job in something I love to do.

Anders mother Deb is manager of North Branch Liquor.

(Continued on next page)



2010 MMBA College Scholarship Winners



Katie Grausam

Thank you for the opportunity to apply for this scholarship. This will help me further my post high school education.

During my high school career, I always believed getting good grades was very important. I have received high honors or above (a GPA of 3.6667 and higher) each trimester at Academy of Holy Angels. I also played sports throughout high school. My parents never pressured me to be a straight "A" student. They always told me to do my best. I love to feel the sense of accomplishment when I do get good grades. As part of getting good grades, I wanted to be in the National Honor Society at my school. Before I started at AHA, I never thought I would be the kind of student that would get into the NHS chapter at my school. I never did well enough. I didn't think I was a good student, grade wise. That changed when I came to AHA. I began getting great grades and that gave me a lot of confidence in myself. I learned that you have to work hard to feel the sense of accomplishment, I have also learned new study habits that will transfer to college and medical school in the future.

Before high school I didn't like any science classes. I struggled a lot with

those classes until I came to the Academy of Holy Angels. Mrs. Refuss, my first science teacher at AHA, made learning science a lot of fun. She sparked my interest to become a doctor. She was always there before or after school when I needed help. Also, she explained topics in a manner that pertained to us. She is now my Anatomy and Physiology teacher. She made sure we understood the topic before moving on. She has prepared me for future science classes that I will be taking in college and medical school.

My faith is important to me so I took a class called Campus Ministry Team (CMT). We plan prayer services, masses, and retreats for the younger students. I love being able to get to know the underclassmen in my school. We were assigned to a freshmen homeroom and to certain kids in that particular homeroom. We mentor them and make sure they are having a good time at AHA. Many of them have become friends to me.

I have been involved with Girls Basketball through my four years at AHA. I played for the freshmen and sophomore teams. My friend and I became the varsity team managers our junior year. It has been a huge responsibility, especially this past year. We had a new coach this past year. So while he was learning new things about AHA, we were also learning new things about him, managing the team, and the sport. We had to transfer the game film from the cassette to a DVD. Our coach helped us a lot. He made sure we were comfortable doing certain jobs. He wanted us to succeed, even though we didn't win many games. It was his first year so it was hard on everyone to adjust to a new style of coaching. We had a lot of fun during the season.

I work for the Park and Recreation Department for the City of Edina as a Playground Leader. I love working with the children. It is a lot of fun. They can always put a smile on my face. This will be my third year

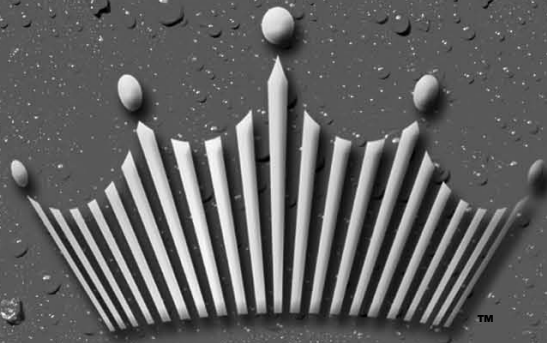
working there. I have learned the ropes and what is expected of me. It has taught me a lot about responsibility, leadership, and confidence. My co-workers and I are responsible for looking after the kids for about three hours. What they do reflects upon us. I have learned a lot about leadership. I have to lead games for those three hours and make sure the kids are not getting into trouble. It has taught me about my confidence level too. The children can tell when you're not confident while explaining a game or rules of the playground. I needed to learn very quickly my first year how to be confident.

That confidence has transferred to my school work. I am more confident in giving presentations in any of my classes. I am very grateful to have that job. It has taught me a lot about myself and others. The job gave me the opportunity to work with children and learn different behaviors of each age level. This will transfer to my career when I take care of children. I have learned how to talk to different ages. It has given me a new perspective on what I want to do with my life.

Once I set my mind to something, I become very dedicated to it. I have dedicated myself to helping others when I graduate from college. I want to become a doctor, specifically a Pediatrician. I want to help children. Children are supposed to be having fun and be happy. They shouldn't be sick. When I was younger I was constantly sick. I want to help children feel better when they are sick. What better way is there than to become a doctor. I love working with children. They always put a smile on my face. They don't have to worry about the complexities of adult life. They just have to play and have fun. I want to make sure the future children of the world can do that.

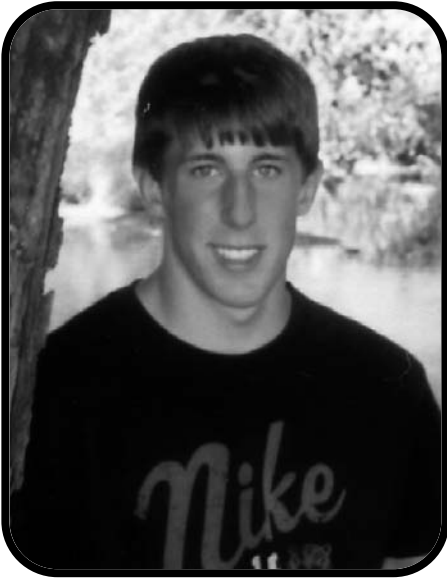
Katie's father Steve is manager of Edina Liquor

(Continued on page 10)



BUDWEISER®

2010 MMBA College Scholarship Winners



Tom Leininger

I went to high school at Kasson-Mantorville. I have really enjoyed my high school career. I maintained high grades in all of my classes while playing in a sport.

My freshman year was my hardest year. I only had troubles adjusting to the new schedule that high school had. However, all year long I was on the honor roll. I played football, baseball and basketball that year and participated in choir as well.

My sophomore year was the toughest year for grades. I had knee surgery so it made it difficult to stay caught up in school work with all of the appointments. However, I was still able to stay on the honor roll and also made it onto the high honors. I participated in football, basketball and choir.

In my junior year I began to take the harder classes that will prepare me for college. My grades also began to improve and I was on the high honors more often than the honor roll. I participated in choir, basketball and baseball. I also received an outstanding academic achievement award.

When I signed up for my senior classes, I signed up for classes that would give me college credit. I took college courses in chemistry, algebra

and trigonometry. I continued to work hard during those classes and was able to make the honor roll for the 15th straight quarter at the end of third quarter. I played soccer in the fall and was one of the few people from my school to graduate with four varsity letters in four different sports. I also played basketball and baseball. I received one more outstanding academic achievement award and one distinguish academic achievement award.

In the fall I am attending Iowa State University. I will be majoring in civil engineering. I am interested in roads and buildings the most. I hope to be designing bridges at some point after graduation. I know the importance bridges make these days. I want to

make sure nobody has to go through what Minnesotans went through with the I-35W collapse.

I am also interested in baseball stadiums and a goal of mine is to be one of the engineers for a major league baseball stadium. With the opening of Target Field for the Minnesota Twins, I really wanted to reach that goal. I was able to go to a game there and walk around and see the different engineering and architecture techniques that went into the stadium.

I plan on working hard and someday reach my goal.

Tom's father Steve is a clerk at Kasson Liquor.

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Ladies Night Not All Right?

By ABBY SIMONS and MARY LYNN SMITH, Star Tribune

It's a bastion of bar culture: "Ladies' Night," staged to attract female customers by cutting their drink prices and cover charges.

It's also illegal gender discrimination, according to the Minnesota Department of Human Rights.

The department charged that by having ladies' nights, five Twin Cities establishments denied men the right to "full and equal enjoyment" of their businesses.

"Gender-based pricing violates the [state] Human Rights Act," Commissioner James Kirkpatrick said in a statement. But even though this marks at least the second time in 16 years that the department has cracked down on the practice, it apparently has continued because bar owners aren't sure it's illegal, and enforcement clearly has been spotty.

In 1994, Gators, a now-defunct Mall of America club, resolved a human rights case by paying less than \$500 to Steve Horner of Apple Valley. He had complained of having to pay a cover charge on ladies' night, and the department said the club discriminated against him.

At the time, the department's deputy commissioner, Dolores Fridge, said, "We will pursue any and all individual complaints of gender discrimination concerning ladies' nights."

The Minnesota Licensed Beverage Association notified its membership, and the association's then-director predicted that half of them would stop having ladies' nights and the rest would continue until a complaint was filed against them.

Since then, many bar owners apparently have forgotten about the dust-up, don't know the law or have decided the

popular events are worth the relatively small risk.

'Kind of old school'

With free drinks in hand, University of Minnesota student Missy Austin gathered this week with her friends for a ladies' night at Sally's Saloon and Eatery. "I guess ladies' nights are kind of old school, especially in this day and age," she said, when told about the discrimination complaint.

But she and her friends are OK with that: "We're all in college and we don't have much money."

And University of Minnesota student Ross Reynolds doesn't begrudge the ladies free or reduced-price drinks, pointing out that some bars, including Sally's, offer guys drink deals on other nights. "For the most part, a lot of guys end up buying girls drinks. So ladies' nights saves us money," he said.

Even a former head of the Human Rights Department, Minneapolis employment and civil rights lawyer

Steve Cooper, doesn't seem offended.

"If you use gender as the reason for a decision, then it is on its face discriminatory," he said. "But on a practical level, it's a little bit of 'Who cares?' ... It's not like they're depriving people of a job, education or something else that's important."

The Human Rights Department acknowledges that Minnesota bars might continue to flout the law.

"Whether establishments would continue to have ladies' night is nothing that we can control," said the department's communications director, Jeff Holman.

But he added that the department will keep on responding to complaints that individuals make when they feel a bar's promotion has discriminated against them.

(Editor's Note: After the first go-around, many changed the name of their promotion to "Skirts & Bras night. If men wanted to wear these items, they could.

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Lone Crusader Against Ladies Nights

By ABBY SIMONS, Star Tribune

For nearly two decades, Minnesota native Steve Horner has crusaded against what he considers a monumental injustice: Ladies' night.

The complaints he filed with Human Rights Departments in several states have earned him at least \$6,000 in damages for being denied ladies' special prices at bars.

He's also garnered public support, derision, and a lampooning on Comedy Central's hit "The Daily Show," where the white, balding, bespectacled Horner compared his quest to Rosa Parks' refusal to go to the back of the bus.

Horner, who now lives in Utah, revealed that he made the complaints that triggered charges by the Minnesota Department of Human Rights against five Twin Cities bars for ladies' night gender discrimination in pricing.

"I believe that to be vigilantly in defense of the constitution, one needs to speak up about these issues," Horner said in an interview.

The department said it won't reveal the bars' names until the cases are concluded, possibly with a monetary settlement. But according to documents provided by Horner, they are Jersey's Bar and Grill in Inver Grove Heights, Dive Bar in Maplewood, the Wild Onion Bar and Restaurant in St. Paul, Sally's Saloon and Eatery in Minneapolis, and Bogart's Nightclub in Apple Valley.

Horner, 62, who works in advertising and marketing sales, admits he hadn't set foot in any of the bars. Their owners complain they've been jerked around not only by Horner, who they say filed frivolous complaints, but also by the Human Rights Department, which charged their bars while ignoring hundreds doing the same thing.

"The [department] is pretty much discriminating against our bar,

because they're not going after every bar," said Dive Bar manager Mat Phelps, who said the bar ended ladies' night specials as soon as it was charged last June. "It's costing us a lot of business."

The department admits it has charged bars only when someone complains. In 18 years, it charged just six establishments -- the five last year, and one in 1992. In every case, the person who complained was the same: Steve Horner.

Picked bars at random

Horner, brother to Minnesota gubernatorial candidate Tom Horner, got a \$500 settlement in 1995 as a result of his 1992 complaint against now-defunct Gators bar in the Mall of America. In 1999, he moved to the West, where he filed a total of 22 complaints against bars in Arizona, Oregon, Idaho and Colorado. He has netted about \$6,000, though he says money isn't his objective.

He was living last summer in North Mankato when friends alerted him to an article listing dozens of ladies' nights in the Twin Cities. He randomly called five bars from the list and asked if he could get their ladies' night discount. Each said no. He filed complaints.

"I knew that the law, because of my '90s activism, said that you didn't have to be present," Horner said.

The department's commissioner, James Kirkpatrick, declined to be interviewed, but Velma Korbek agreed to comment. She was commissioner last summer, when the charges were filed, and is now director of the Minneapolis Department of Civil Rights.

"I know there is a mixed feeling about the finding [of discrimination] from the department," she said. "[But] the finding is proper. ... Those who disagree with it [would have to] change the law."

Kirkpatrick said in a statement that special prices for women violate the state Human Rights Act, which calls it an "unfair discriminatory practice" to deny the "full and equal enjoyment" of the benefits of a "public accommodation" because of race, color, creed, religion, disability, national origin, marital status, sexual orientation or gender.

The department originally charged the bars with Horner as complainant, but then the department refiled them as "commissioner's charges." Korbek said that because all the complaints were from one person, bundling the charges under the commissioner's signature was more efficient.

One effect of that is that Horner is no longer eligible to receive any money from the settlements. "They circumvented my activism and ... just wiped me out of the picture," Horner said. He accused the department of trying to avoid the criticism it got when it took up his 1992 complaint.

"Back then it was, 'Why are you standing up for this guy? This is trivial. This guy's just a troublemaker,'" he said. "...They knew ladies' nights had bounced back a month after my [settlement] in 1995. But nobody enforced it. They slept on the job all the way until last June when I filed on this."

Phelps and Dive Bar owner Brian Meyer said they'll soon meet with state officials to discuss settlements. They say that by ending their ladies' nights as soon as they were charged, they've lost at least tens of thousands of dollars. And, they say, they have counted 60 other bars in the metro that continued to have ladies' nights.

But those bars could be playing human rights roulette, because Horner says he's watching. "I guess I'll always be on the prowl," he said, "for a good ladies' night fight."

In many forums MMBA has been promoting the concept of ending shelf prices in either .49 or .99.

Recently an analysis of beer pricing for a member facility's first quarter sales indicated the additional revenue that could have been generated with this system.

Below is that analysis.

Current Price	Suggested Price	Difference	Sold YTD	Additional Income
\$8.90	\$8.99	\$0.09	65	\$5.85
\$18.79	\$18.99	\$0.20	172	\$34.40
\$21.95	\$21.99	\$0.04	123	\$4.92
\$2.59	\$2.99	\$0.40	1334	\$533.60
\$12.40	\$12.49	\$0.09	91	\$8.19
\$16.40	\$16.49	\$0.09	25	\$2.25
\$16.40	\$16.49	\$0.09	49	\$4.41
\$9.85	\$9.99	\$0.14	126	\$17.64
\$8.69	\$8.99	\$0.30	11	\$3.30
\$8.69	\$8.99	\$0.30	64	\$19.20
\$8.69	\$8.99	\$0.30	54	\$16.20
\$8.69	\$8.99	\$0.30	34	\$10.20
\$8.69	\$8.99	\$0.30	44	\$13.20
\$9.20	\$9.49	\$0.29	766	\$222.14
\$16.45	\$16.49	\$0.04	291	\$11.64
\$9.85	\$9.99	\$0.14	206	\$28.84
\$7.15	\$7.49	\$0.34	290	\$98.60
\$10.15	\$10.49	\$0.34	647	\$219.98
\$8.20	\$8.49	\$0.29	109	\$31.61
\$15.79	\$15.99	\$0.20	15.33	\$3.07
\$9.20	\$9.49	\$0.29	380	\$110.20
\$9.39	\$9.49	\$0.10	761	\$76.10
\$17.60	\$17.99	\$0.39	660	\$257.40
\$9.39	\$9.49	\$0.10	149	\$14.90
\$17.90	\$17.99	\$0.09	231	\$20.79
\$9.20	\$9.49	\$0.29	187	\$54.23
\$9.35	\$9.49	\$0.14	1139	\$159.46
\$9.35	\$9.49	\$0.14	365	\$51.10
\$7.29	\$7.49	\$0.20	158	\$31.60

Current Price	Suggested Price	Difference	Sold YTD	Additional Income
\$14.45	\$14.49	\$0.04	151	\$6.04
\$7.29	\$7.49	\$0.20	904	\$180.80
\$7.29	\$7.49	\$0.20	439	\$87.80
\$14.45	\$14.49	\$0.04	786	\$31.44
\$9.35	\$9.49	\$0.14	712	\$99.68
\$18.75	\$18.99	\$0.24	492	\$118.08
\$9.00	\$8.99	-\$0.01	36	-\$0.36
\$6.29	\$6.49	\$0.20	533	\$106.60
\$6.29	\$6.49	\$0.20	82	\$16.40
\$10.20	\$10.49	\$0.29	14	\$4.06
\$8.20	\$8.49	\$0.29	27	\$7.83
\$8.20	\$8.49	\$0.29	220	\$63.80
\$8.20	\$8.49	\$0.29	207	\$60.03
\$8.20	\$8.49	\$0.29	164	\$47.56
\$8.20	\$8.49	\$0.29	159	\$46.11
\$8.20	\$8.49	\$0.29	52	\$15.08
\$8.20	\$8.49	\$0.29	59	\$17.11
\$19.45	\$19.49	\$0.04	397	\$15.88
\$5.75	\$5.99	\$0.24	963	\$231.12
\$7.40	\$7.49	\$0.09	93	\$8.37
\$1.60	\$1.99	\$0.39	7228	\$2,818.92
\$1.60	\$1.99	\$0.39	7178	\$2,799.42
\$1.60	\$1.99	\$0.39	546	\$212.94
\$6.55	\$6.99	\$0.44	67	\$29.48
\$9.00	\$8.99	-\$0.01	176	-\$1.76
\$5.35	\$5.49	\$0.14	235	\$32.90
\$16.40	\$16.49	\$0.09	34	\$3.06
\$8.30	\$8.49	\$0.19	81	\$15.39
Total Additional Income Year to Date				\$9,148.37

Loss to Profit

An MMBA member recently moved from financial loss to profitability. In fact, the facility was very close to closing.

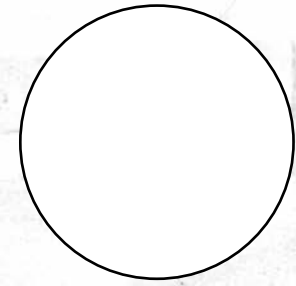
According to the manager, the reason for the dramatic positive shift....

Getting rid of sticky finger employees & make it really hard for other employees to steal; plus not buying product that just doesn't sell.

Quick Tip

If your facility is participating in a wine tasting event, in your off-sale create and place tags on the bottles being tasted.

Pictured right is an example from Lakeville Liquor.



This wine will be featured at the Taste of Lakeville Thursday, May 24th, 2007

5 PM – 9 PM

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Downtown Lakeville

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(\$35.00 at the door)

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Wine Tastings by an Exclusive Liquor Store Law **Now Includes Spirits & Beer**

The 2010 Omnibus Liquor Bill included language that now makes it legal for an exclusive liquor store to conduct off-site spirit and beer tastings, in addition to wine tastings.

Here is the new language:

340A.419 TASTINGS CONDUCTED BY EXCLUSIVE LIQUOR STORE.

Subdivision 1. Definition. For purposes of this section, a “tasting” is an event of not more than four hours’ duration at which persons pay a fee to participate and are allowed to consume wine, malt liquor, or spirits by the glass without paying a separate charge for each glass.

Subd. 2. Tastings. (a) Notwithstanding any other law, an exclusive liquor store may conduct a wine, malt liquor, or spirits tasting on the premises of a holder of an on-sale intoxicating liquor license that is not a temporary license or on the premises of a holder of a wine license under section 340A.404, subdivision 5, if the exclusive liquor store complies with this section.

(b) No wine, malt liquor, or spirits authorized for use under this section may be sold for off-premises consumption. A participant in the tasting may fill out a form indicating preferences for wine, malt liquor, or spirits. The form may be held on the premises of the exclusive liquor store to assist the participant in making an off-sale purchase at a later date.

(c) Notwithstanding any other law, an exclusive liquor store may purchase or otherwise obtain wine or spirits for a tasting conducted under this section from a wholesaler licensed to sell wine or spirits. The wholesaler may sell or give wine or spirits to an exclusive liquor store for a tasting conducted under this section and may provide personnel to assist in the tasting.

(d) An exclusive liquor store that conducts a tasting under this section must use any fees collected from participants in the tasting only to defray the cost of conducting the tasting.

(e) Notwithstanding section 340A.409, subdivision 4, the premises on which a tasting is conducted must be insured as required by section 340A.409, subdivision 1.

Subd. 3. Malt liquor tastings. An exclusive liquor store conducting a malt liquor tasting under this section must also comply with the requirements of section 340A.510, subdivision 2.

Here is 340A.510, subdivision 2 as a reference

Subd. 2. Malt liquor samples authorized.

(a) Notwithstanding section 340A.308, a brewer may purchase from or furnish at no cost to a licensed retailer malt liquor the brewer manufactures if:

(1) the malt liquor is dispensed by the retailer only for samples in a quantity of less than 100 milliliters of malt liquor per variety per customer;

(2) where the brewer furnishes the malt liquor, the retailer makes available for return to the brewer any unused malt liquor and empty containers;

(3) the samples are dispensed by an employee of the retailer or brewer or by a sampling service retained by the retailer or brewer and not affiliated directly or indirectly with a malt liquor wholesaler;

(4) not more than three cases of malt liquor are purchased from or furnished to the retailer by the brewer for each sampling;

(5) each sampling continues for not more than eight hours;

(6) the brewer has furnished malt liquor for not more than five samplings for any retailer in any calendar year;

(7) where the brewer furnishes the malt liquor, the brewer delivers the malt liquor for the sampling to its exclusive wholesaler for that malt liquor;

(8) the brewer has at least seven days before the sampling filed with the commissioner, on a form the commissioner prescribes, written notice of intent to furnish malt liquor for the sampling, which contains (i) the name and address of the retailer conducting the sampling, (ii) the maximum amount of malt liquor to be furnished or purchased by the brewer, (iii) the number of times the brewer has furnished malt liquor to the retailer in the calendar year in which the notice is filed, (iv) the date and time of the sampling, (v) where the brewer furnishes the malt liquor, the exclusive wholesaler to whom the brewer will deliver the malt liquor, and (vi) a statement by the brewer to the effect that to the brewer's knowledge all requirements of this section have been or will be complied with; and

(9) the commissioner has not notified the brewer filing the notice under clause (8) that the commissioner disapproves the notice.

(b) For purposes of this subdivision, “licensed retailer” means a licensed on-sale or off-sale retailer of alcoholic beverages and a municipal liquor store.

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