

Trends, tips, and useful information . . .

eginning with this edition, the *ABC Debriefer* staff will establish a new section designed to provide our readers with insight into ABC enforcement. The "back-bar inspection" portion of our newsletter will provide law enforcement personnel and our stakeholders with up-to-date information on alcohol-related crime trends, enforcement tips, and additional information that may be useful in enhancing ABC investigations. Although this section will be specifically written for the propose of increasing officer awareness and reducing alcohol-related crimes, it will also enlighten all readers as to what is new in terms of our response to irresponsible alcoholic beverage sales, service, and consumption.

Bartender, Make It a Bottled Water

A new twist on an old violation

new trend involving a twist on illegal alcoholic beverage solicitation operations has developed in several parts of the City. Undercover officers have reported several incidents of female employees at on-sale licensed locations soliciting bottled water at inflated prices in lieu of the traditional alcoholic beverages. This trend first came to light during an undercover investigation at the Nuevo Sombrero bar (15334 San Fernando Mission Boulevard, Mission Hills) when a female working as a "bar-girl" asked an undercover officer to buy her a bottled water at a cost of \$10 with an additional charge for the Styrofoam cup. The ensuing conversation substantiated that the "bar-girl" was attempting to circumvent the law by soliciting non-alcoholic beverages.

Typical illegal solicitation investigations involve female employees soliciting alcoholic beverages from male patrons at inflated prices and splitting the commission with the bar staff or owner. As a means of enforcement, officers traditionally rely on Penal Code Section 303a and Business and Professions Code Section 25657(a) and (b) which prohibit soliciting or employing individuals for the purpose of soliciting *alcoholic beverages* inside any licensed on-sale premise. Since the solicitation of bottled water does not meet the elements necessary for a criminal violation, irresponsible operators who promote such activity believe they have discovered a loophole in the law.

Officers are reminded that even though the solicitation of a non-alcoholic beverage does not incur criminal liability, it is prohibited by the Business and Professions Code. ABC Rule 143 prohibits retail licensees from permitting any employee to solicit *any drink* in-side an on-sale licensed premise. It should be noted that this section is not intended to prohibit the long-established practice of a licensee or bartender accepting an incidental drink from a patron. In order to substantiate a violation, the investigation must establish a direct nexus between the individual involved in the solicitation and the licensee. For the purpose of obtaining an ABC administrative violation, a minimum of three solicitations during three separate visits must be obtained. It is not necessary to obtain the solicitations from the same individual. By obtaining three separate solicitations, officers can substantiate that the incidents are not random and establish a pattern of conduct on the part of employees.

Since the solicitation of a non-alcoholic beverage is not criminal, no arrest will be made for the violation. As a result, no arrest report will be completed. All elements of the violation will be documented on an Employee's Report (LAPD Form 15.07.0) and forwarded to the Department of ABC for administrative review. A separate report should be completed for each visit to a licensed location that results in a solicitation violation. Officers assigned to outside agencies will use their respective intradepartmental forms to document investigations. Officers should incorporate all elements of the violation including a detailed account of the involved suspects, method of operation, and means of establishing a nexus between the activity and licensee.

Through proper investigative techniques and detailed documentation, violations of ABC Rule 143 can result is substantial administrative sanctions and irresponsible licensees will be held accountable for this illegal activity.