



# VIEW FROM THE BAR

by Marc Resiman, Esq.



## Keep an Eye on the Clock

**T**he Pennsylvania Liquor Code prohibits a restaurant licensee from selling or serving alcoholic beverages between the hours of 2 a.m. and 7 a.m. It also requires patrons to leave by 2:30 a.m. that part of the premises where alcoholic beverages are sold, nor may patrons possess or remove alcoholic beverages from such areas after 2:30 a.m. Licensees who fail to observe these provisions can face stiff penalties, as the case of *FYBO Management, Inc.* illustrates.

In *FYBO*, two undercover State Police Bureau of Liquor Control Enforcement officers visited the premises late one evening. They were still there when the bartender gave last call at 1:55 a.m., at which time they ordered two beers. With the beers they received two redeemable chips. Each of the officers then redeemed their chips for two more beers after 2:00 a.m. The officers were permitted to remain seated at the bar with their beers after 2:30 a.m. The State Police then cited the licensee for

serving after hours and for allowing the officers to remain on the premises and in possession of alcoholic beverages after 2:30 a.m.

At the hearing, the officers testified as to the above. The licensee's president offered that the rules of the house required last call to be made at 1:45 a.m. and everyone to be out of the premises by 2:20 a.m. The president also testified that the offending bartender had been fired.

However, the Administrative Law Judge noted that the provision prohibiting service after hours imposes strict liability on licensees, and based upon the officers' testimony, he sustained the other charges as well. The licensee's testimony and its clean prior history did, however, have an effect on the size of the penalty: the Judge imposed the minimum penalty of \$1,000 on the service after hours charge, and a combined penalty of \$100 on the other two charges.

(This column is brought to you as a public service by Marc Reisman, a partner in the law firm of Gelman & Reisman. If you have an issue you would like to see addressed, or if you would like a reprint of a previous column, write to him at 1701 Law & Finance Building, Pittsburgh, PA 15219, or call 1-800-883-1LAW. This column is intended for informational purposes only - consult Mr. Reisman for legal advice specific to your situation.)

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