

A pineapple with its green crown sits in a field of green grass. The background is a bright blue sky with soft white clouds. A white rectangular box with a dark teal border is centered over the image, containing the conference title and dates.

THE HOSPITALITY LAW CONFERENCE

April 24 - 26, 2017 • Houston, Texas

Estimating Blood Alcohol Concentrations at Given Time Points

2017 HOSPITALITY
LAW CONFERENCE

APRIL 24 - 26



Dallas Cowan, PhD CIH DABT

- **Master of Science in Industrial Hygiene** – San Diego State University
- **PhD in Toxicology** – Purdue University
- **Certified Industrial Hygienist (CIH)**
- **Diplomate of the American Board of Toxicology (DABT)**



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- **Bachelor of Arts in Kinesiology and Applied Physiology**
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- **Master of Science in Industrial Hygiene**
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Best-Practices Manuscript Published in 2016

- Highlights novel progress made in alcohol research
- Accurately determine BAC at any time point
- Characterize BAC and physiological response at given time point

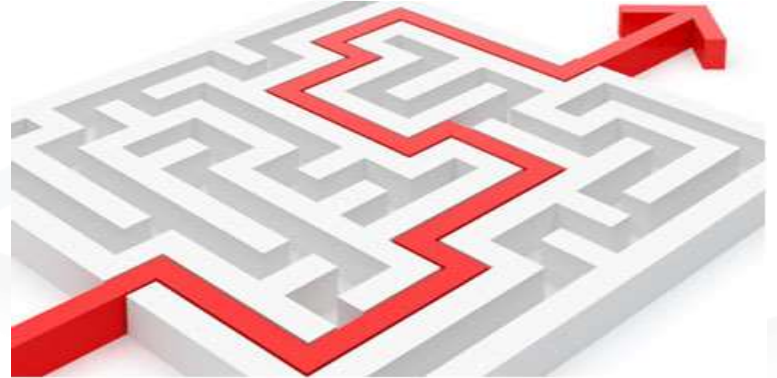


Behavioral Effects of Alcohol Use

BAC (%)	Physiological effect
0.01 - 0.05	<ul style="list-style-type: none">- Increased heart and respiration rates- Decreased functions in brain center- Slightly impaired judgment- Decreased inhibition- Mild euphoria- For some, effects are not apparent or obvious by ordinary observation- Inconsistent performance on special tests
0.06 - 0.10 (Legal limit = 0.08)	<ul style="list-style-type: none">- Euphoria- Sociability, increased self-confidence- Decreased attention and alertness- Slowed reactions, impaired coordination, and reduced muscle strength- Reduced ability to make rational decisions and exercise good judgment- Increased anxiety and depression- Decrease in patience
0.11-0.15	<ul style="list-style-type: none">- Emotional instability, loss of judgment- Dramatic slowing of reactions- Impairment of balance, movement, and some visual functions- Slurred speech- Vomiting- Drowsiness

Difficulty in Accurately Determining BAC

- Alcohol metabolism phase
 - Absorption vs. Excretion
- Sample collection and storage
 - Variability
 - Time after drinking
 - Storage conditions
- Variation in sampling media
 - Blood, vitreous humor, urine, etc.
- Putrefaction
 - Post-mortem alcohol formation

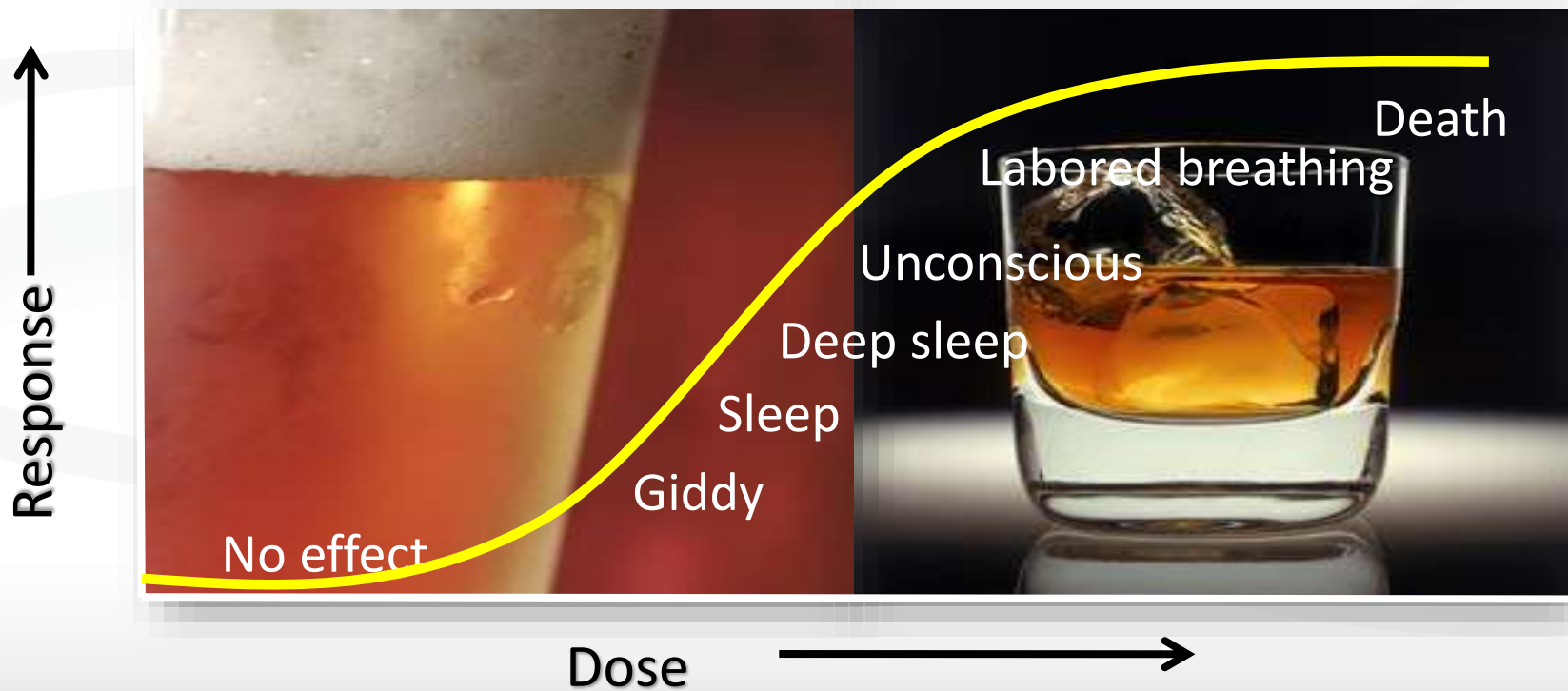


Factors That Affect Alcohol Metabolism

- Factors that affect alcohol metabolism
 - ✓ Alcohol metabolism phase
 - ✓ Person-specific parameters
 - ✓ Food consumption
 - ✓ Number of drinks or volume consumed



Dose-Response Curve for Alcohol



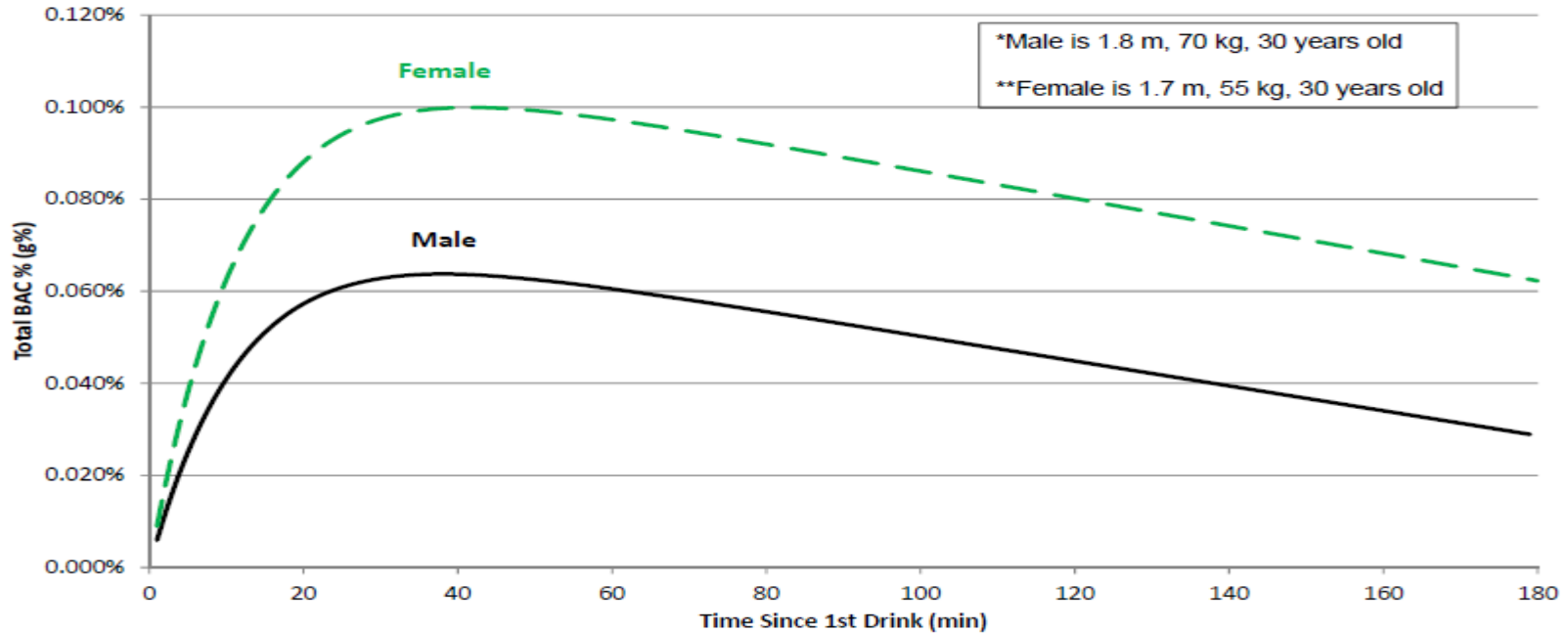
Post-mortem BAC determination

- Challenging because many additional factors must be considered
 - Cause of death and putrefaction
 - Time between death and sampling
 - Contamination of alcohol-generating bacteria
- Difference between matrices used for BAC determination
- Storage condition of biological matrices collected

Case Study 1

- Example of gender and body weight differences
- A 1.8m, 70kg, 30 year old male and a 1.7m, 55kg, 30 year old female
- Both consumed three shots of 80-proof liquor
- BAC modeled over a 180 min time period

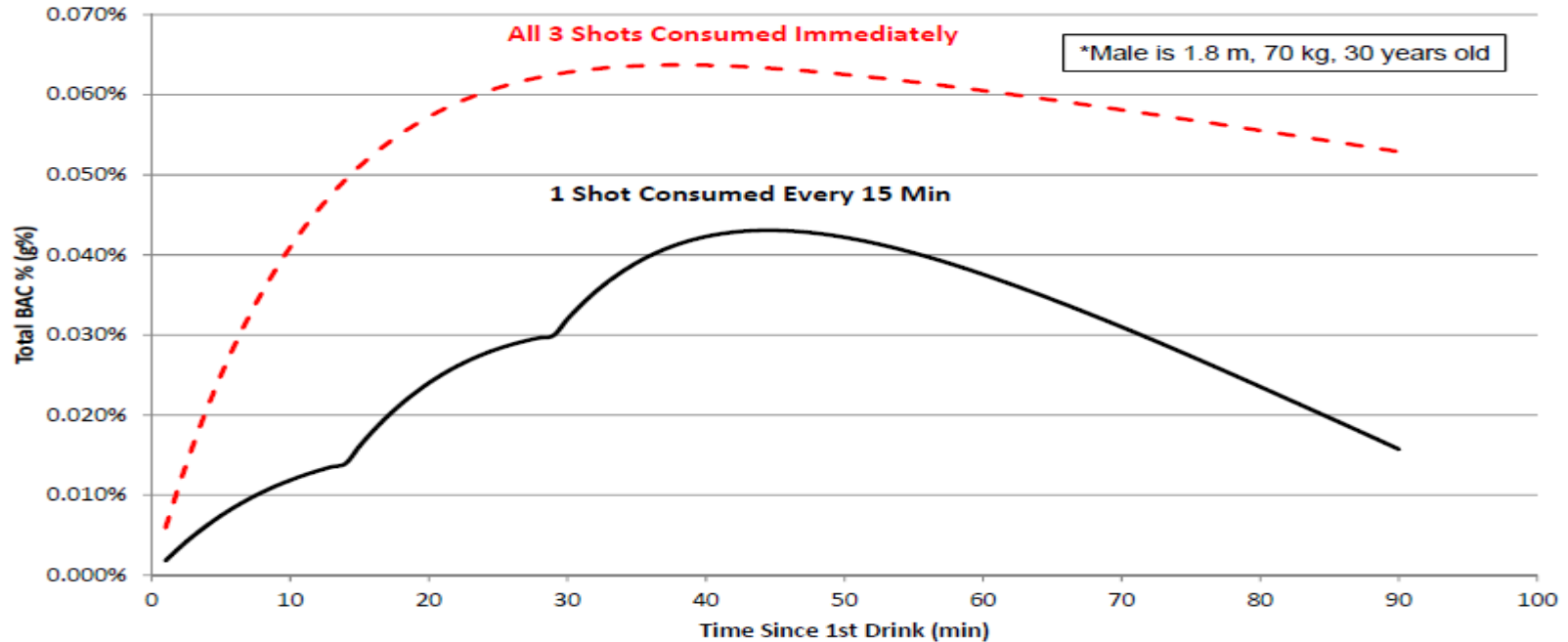
Case Study 1



Case Study 2

- Example of precise BAC determination when multiple drinks are consumed
- A 1.8m, 70kg, 30 year old male
- Consumes three shots of 80-proof liquor over a 45 minute period
- BAC modeled over a 90 min time period

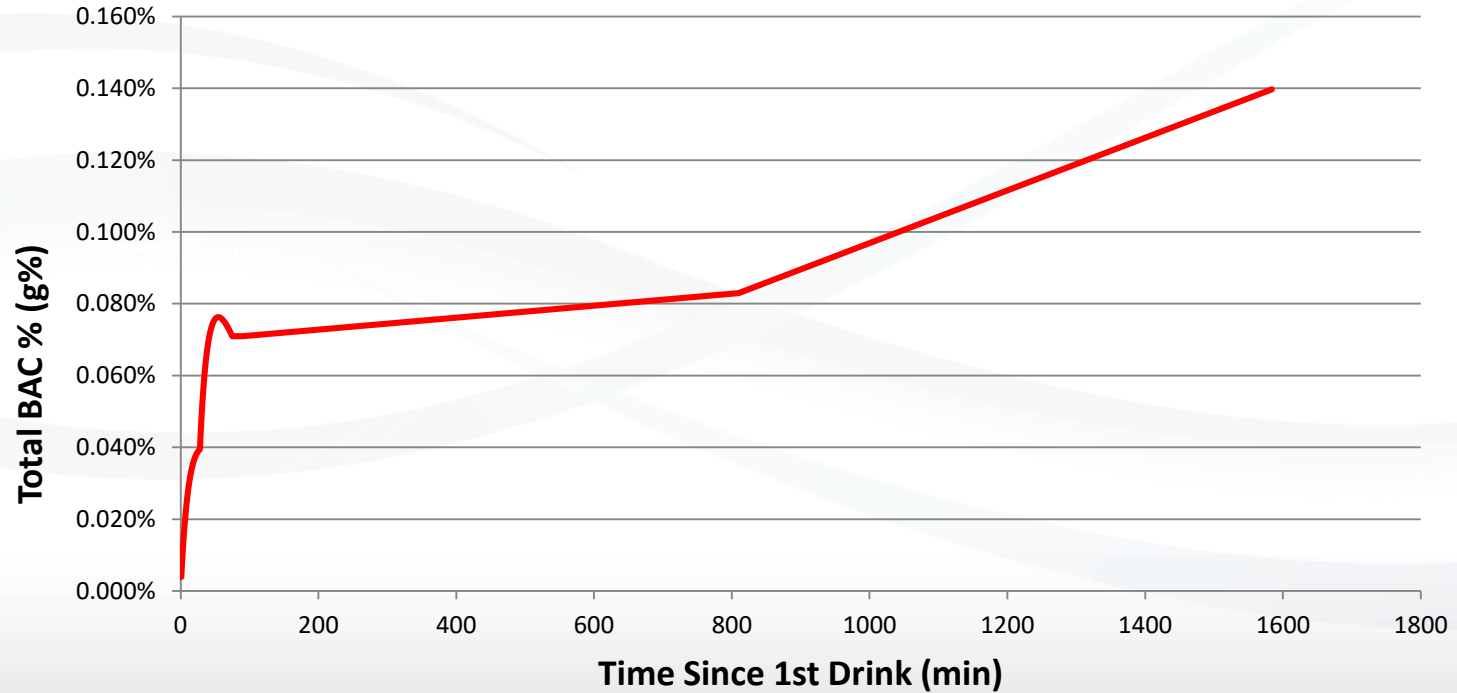
Case Study 2



Case Study 3

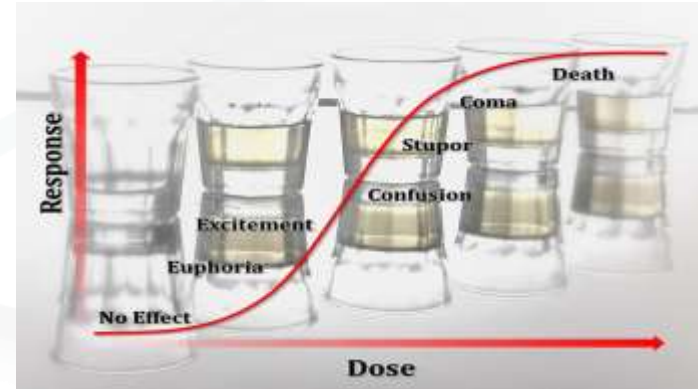
- Example of post-mortem alcohol generation
- Both ante- and post-mortem BAC was modeled
- A 1.8m, 70kg, 30 year old male
- Consumed three shots of 80-proof liquor 15 mins apart
- Died in an accident 75 mins after the first shot
- Microorganism generated alcohol post-mortem
- BAC modeled for 1, 7, and 14 days after death

Case Study 3

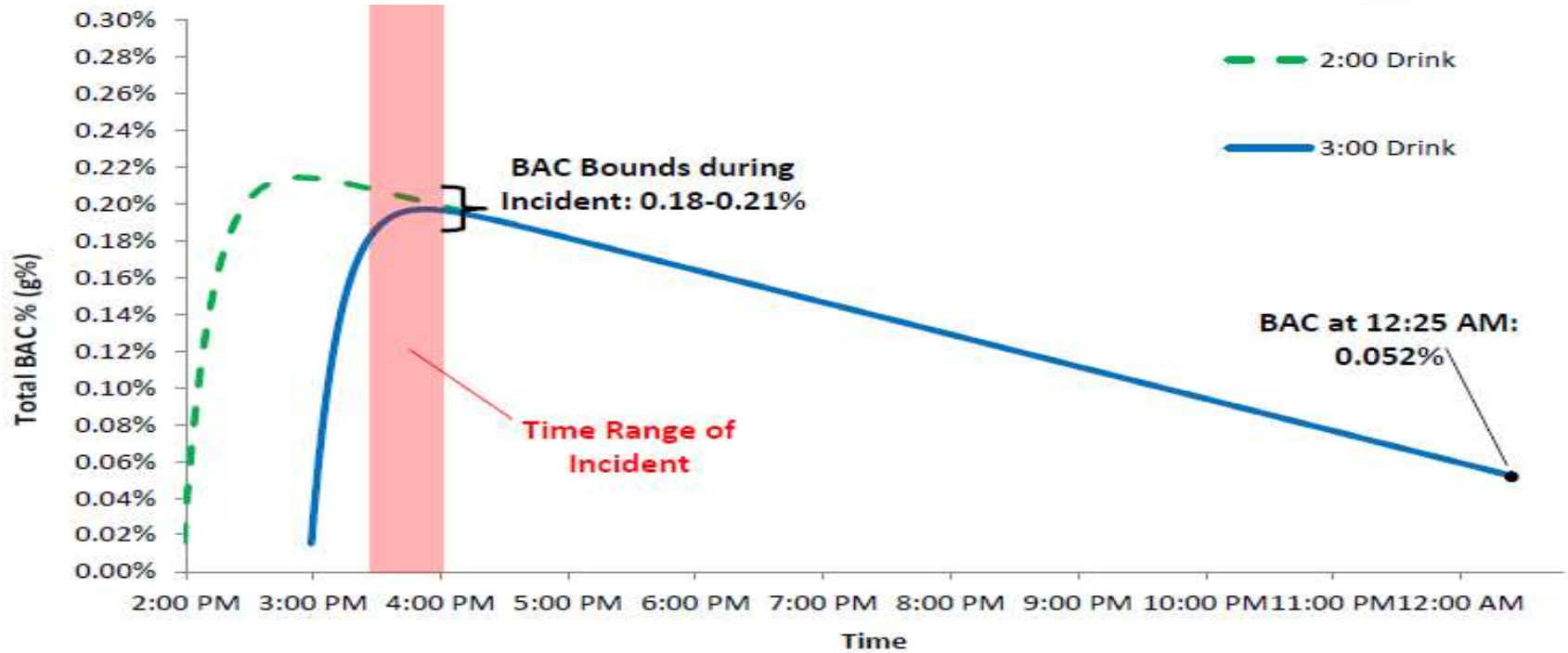


Applications of Our Research

- Determination of BAC for any person at any time point
- Assessment of inebriation state
- Modeling determination of BAC in:
 - Dram shop cases
 - Premises liability
 - Product liability
- Staff training
 - Recognize signs of intoxication
 - Understand the importance of duration in the metabolism of alcohol



One Last Example....



Thank You!

Dallas M. Cowan, PhD., CIH, DABT

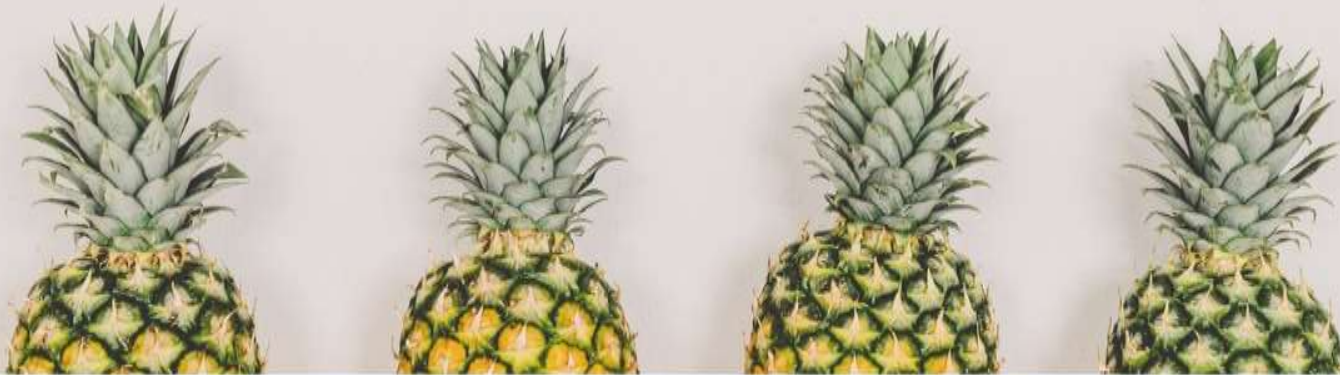
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Thank You For (Not) Smoking: Legal Considerations for the On-Premise Consumption of Marijuana in the Hospitality Industry

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- Member of GR's Medical Marijuana and Alcohol Beverage Industry Practice Groups
- Advises companies in heavily-regulated industries on licensing and compliance matters
- Helps conduct legal risk assessments for novel business models



Thank You For (Not) Smoking: Legal Considerations for the On-Premise Consumption of Marijuana in the Hospitality Industry

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Goals

- Brief History of Marijuana Legalization
- Implications for Hospitality Industry
- Marijuana Tourism
- Public vs. Private Consumption
- Best Practices
- Emerging Issues



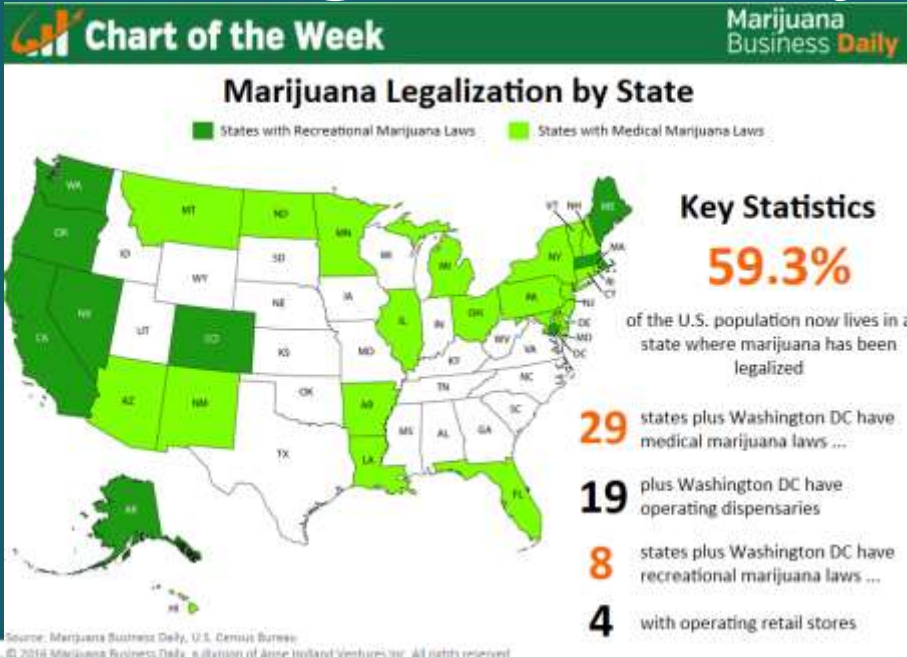
2016 Election Results



After the 2016 General Election, 7 states voted to legalize marijuana either for medical or recreational purposes.



Legalized Marijuana Landscape



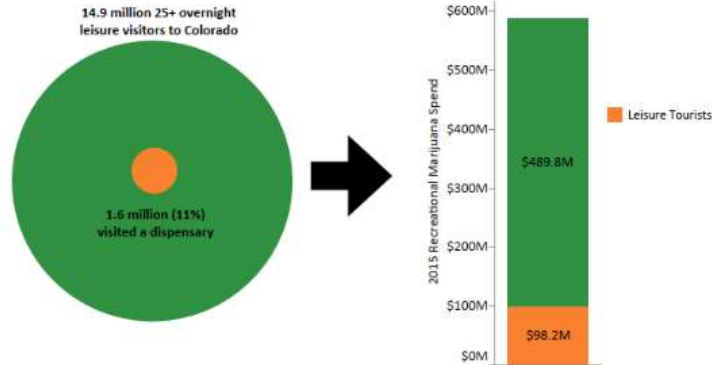
- 8 states have legalized marijuana for recreational use.
- 63 million people (20% of the U.S. population) live in one of these adult-use states.

Marijuana Tourism

Chart of the Week

Marijuana
Business Daily

Snapshot of Tourist Spending on Recreational Marijuana in Colorado: 2015



Source: Marijuana Business Daily, Longwoods International, Strategic Marketing & Research Insights (SMARI)
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A niche hospitality industry trend, known as marijuana tourism or “cannatourism,” has developed as consuming marijuana for recreational purposes has become a significant motivating factor to visit states that have legalized adult-use cannabis.

“[W]e are on the brink of a major new travel movement . . . Get ready for the era of marijuana—and marijuana tourism.”

– Arthur Frommer



The Question of Public vs. Private Use



Public Use of Marijuana

GOOD TO KNOW

KNOW BEFORE YOU GO

A GUIDE TO RETAIL MARIJUANA IN COLORADO



TIPS FOR
TOURISTS



FOLLOW THESE CUES
ON WHERE TO USE



LEARN
THE LAWS

PUBLIC SPACE IS
NOT THE PLACE



Clean Indoor Air Acts

- Typical law prohibits indoor smoking
- Definition of “smoking” or “vaping” as applied to marijuana
- Exemptions (designated smoking rooms in hotels/motels, private clubs, casinos)



Alternative Methods Of Consumption



Best Practices

- Ensure policies for marijuana-friendly accommodations are in compliance with applicable laws, regulations, and ordinances
- Communicate new policies to staff and advertise these policies to guests
- Educate staff to provide recommendations to guests about the local cannabis marketplace and industry



Additional Considerations



Delivery Services



Labor & Employment Law



Dram Shop Liability

Thank you!

Questions?

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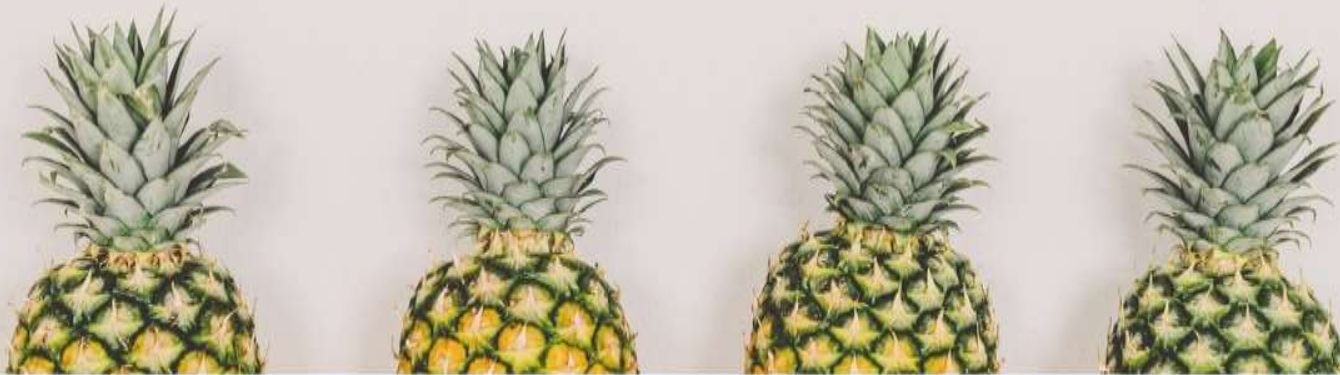


The Truth In Menu:

The Current State of Labeling Requirements
for Restaurant Menus

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Associate, GrayRobinson, P.A.

- Member of GrayRobinson's Nationwide Alcohol Beverage & Food Law Department.
- Handles licensing and regulatory compliance issues for members of the alcohol beverage industry, tobacco industry and food industry.
- Served as a Regulatory Counsel for FDA's Office of Regulatory Affairs prior to joining GrayRobinson.

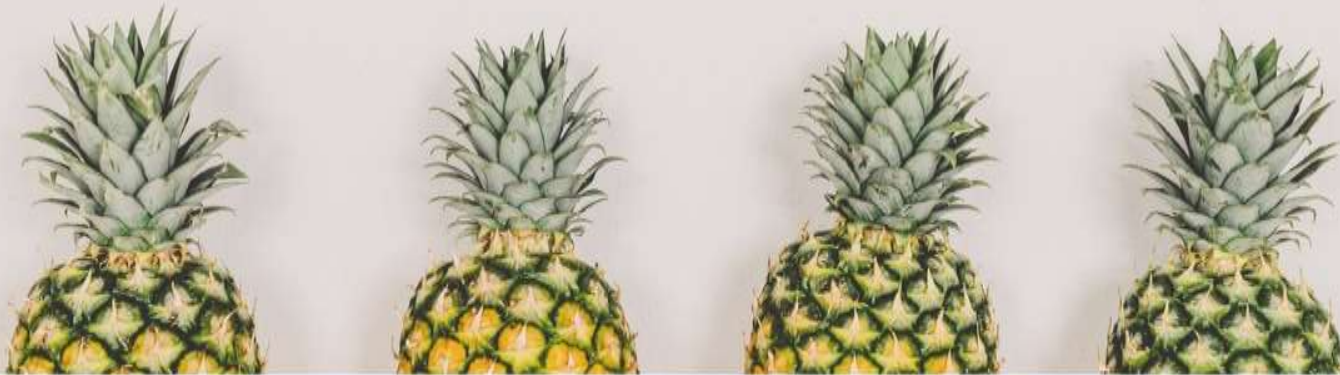


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How Did We Get Here?

History of Federal Food Labeling

- Federal Food and Drug Act of 1906
- Food, Drug, and Cosmetic Act (“FDCA”) (1938)
- Nutritional Labeling and Education Act of 1990

Restaurant Menu Labeling

- Growing Obesity Rates
- Increase in Consumption Outside of the Home
- State and Local Regulations



Federal Restaurant Menu Labeling Requirement

- On March 23, 2010 President Obama signed the Patient Protection and Affordable Care Act (“ACA”).
- Section 4205 of the ACA amended the FDCA to require menu labeling at “Covered Establishments”.



Federal Restaurant Menu Labeling Requirement

Compliance/Enforcement Date:

May 5, 2017



Covered Establishments

- Restaurants or similar retail food establishments;
- Part of a chain with 20 or more locations;
- Doing business under the same name; and
- Offering for sale substantially the same menu items.



Menu Items

Covered Food

- Standard menu items
- Combination meals
- Variable menu items
- Food on display
- Self-service food

Exempt Food

- Non-restaurant type foods
- Foods that are not on a menu/menu board and are not on display or self-serve
- Custom foods
- Daily special food items or meals
- Foods that are part of a customary market test
- Temporary menu items
- General use condiments



Menu

“Menu or menu board means’ the primary writing of the covered establishment from which a customer makes an order selection” 21 C.F.R. § 101.11(a).

Factors used to determine whether a writing is a “menu:”

- Does it list the name of a standard menu item (or an image depicting the standard menu item)?
- Does it list the price of the standard menu item?
- Can the writing be used by a customer to make an order selection at the time the customer is viewing the writing?



What Must Appear on the Menu?

1. Calorie content for each standard menu;
2. Statement regarding the recommended daily caloric intake;
and
3. Statement that additional nutritional information is available upon request.



Required Statements

- “2,000 calories a day is used for general nutrition advice, but calorie needs vary.”
- “Additional nutrition information available upon request.”



Where Does This Information Go?

- Calories must be displayed adjacent to the name or price of the menu item in a type size no smaller than that of the name or price of the menu item, whichever is smaller, 21 C.F.R. §101.11(b)(2)(A).
- Recommended daily caloric intake statement should appear on the bottom of each page of the menu. 21 C.F.R. §101.11(b)(2)(B).
- Statement regarding additional nutritional information should appear at the bottom of the first page of the menu. 21 C.F.R. §101.11(b)(2)(C).



Anna's Decadent Dining Experience

Chicken sandwich (grilled or fried) Chicken sandwich served two ways.	\$10.00	350/550 Cal
Fish sandwich (grilled/baked/fried) Fish sandwich that is even better than the chicken!	\$15.00	350-550 Cal
Burger with choice of fries or chips The burger might just beat them all!	\$20.00	450/550 Cal
Hotdog with choice of fries or chips We also have hotdogs!	\$5.00	450 -550 Cal
A platter of cookies Because one cookie is never enough.	\$20.00	80 Cal/cookie, 10 cookies

2,000 calories a day is used for general nutrition advice, but calorie needs vary Additional nutrition information available upon request.



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Determination of the Nutrition Content of Food

Covered establishments must have a reasonable basis
for nutrient content declarations.

21 C.F.R. §101.11(c).



Enforcement

“A standard menu item offered for sale in a covered establishment shall be deemed misbranded under ... the Federal Food, Drug, and Cosmetic Act if its label or labeling is not in conformity with paragraph (b) or (c) of this section.” 21 C.F.R. §101.11(c).

“FDA intends to work with state and local authorities, as appropriate, to ensure that implementation and enforcement of the menu labeling requirements are uniformly applied.”



FDA, Guidance for Industry: A Labeling Guide for Restaurants and Retail Establishments Selling Away From-Home Foods – Part II (Menu Labeling Requirements in Accordance with 21 CFR 101.11), <https://www.fda.gov/downloads/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/UCM461963.pdf>



Additional Considerations

- Preemption of Existing State and Local Menu Labeling Requirements
 - Voluntary Registration
- Catering Menus
- Online Ordering
- Alcoholic Beverages



Questions?

Thank you!

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