



The Midnight Brewer

Official publication of the Midnight Homebrewers' League
Carroll County, Maryland since 1994

Year 2010
Issue No. 1

Safe & Legal Behind the Wheel

“Social Host” Liability in Maryland

DISCLAIMER: The following two articles represent the personal opinions of the author and do NOT constitute legal advice.

By Steve Kranz

As a homebrew club, our events involve the consumption of beer. The issue of our members driving home from club events under the influence has come up from time to time...as a matter of liability, and as a question of the safety of our friends and fellow club members.

Maryland law does not recognize a cause of action (i.e. you can't get sued) by an injured party against a “social host” if an adult gets drunk at your home, drives home and causes an accident. But as friends, we look out for each other. As a host of club events, I frequently ask people if they are OK to drive, and have heard most other event hosts do the same thing. But if someone seems too impaired to drive, the choices are few: let them leave drunk; try really hard to convince them to “wait it out” or stay overnight if feasible; or physically restrain the person and/or take the keys.

Personally, choice #3 is not my style. I prefer the subtler approach of convincing someone to wait it out. But I guess if I were the drunk trying to leave someone's home, having someone block the door or take my keys is better than getting arrested for DWI...or worse.

Here in Maryland the blood alcohol concentration (BAC) deal is:

- .08 or higher: you are “per se” intoxicated...you're going to jail if you get pulled over...period;
- .06 - .08: you are presumed to be intoxicated. You're still going to jail;
- .05 or below: you are presumed to be NOT intoxicated. That doesn't mean you won't get arrested, especially if your driving or other behavior gives the cop reasons to think you *are* under the influence. But, chances are better that you won't be prosecuted, or convicted.

So, how's a person with good intentions supposed to know what your BAC is? How can you tell if you are “over the limit”? While you might be absolutely convinced that you

(Continued on page 3)

By Steve Kranz

The Carroll County Times recently published a letter of mine having to do with the legal liability of a social host for damages caused by someone who gets drunk at your home. In case you missed it, is reproduced here:

The Times ran a submission by Susan Solo of the Carroll County Health Department on February 3 which advocated for a new "DUI is for Losers" campaign in Maryland. This was appropriately couched in the context of the upcoming Super Bowl, where many people either host, or attend, parties where alcohol is served. The article was accompanied by a chart of "Tips" provided by the National Highway Traffic Safety Administration. In general, they were right on point...except for the very first one, which was, "Remember that you can be held liable and prosecuted if someone you served alcohol to ends up in an impaired-driving crash."

This is untrue in Maryland. To the best of our knowledge, Maryland law does not recognize a cause of action for "social host liability". See Wright v. Sue & Charles, Inc., 131 Md.App. 466, 749 A.2d. 241, Md. App. 2000.

The officers and members of the Midnight Homebrewers' League wholeheartedly agree with the overall thrust of the article itself. That is why our events always feature lots of excellent food and the measured, experienced consumption of alcohol. Most of our club's events are member-hosted events at which alcohol is served and consumed. We have members who volunteer as designated drivers to and from certain events, and many of us have, on occasion, intervened if someone was unfit to drive home safely. We look out for each other and our guests, but we do it as a matter of friendship and decency rather than out of any fear of legal liability.

As adults consuming alcoholic beverages, our members are keenly aware of our individual responsibilities when it comes to safe and legal driving, and we take that responsibility seriously. But we want to correct the misinformation in this chart, and the public misconception it could create about who is responsible for someone else's drinking. In Maryland, responsibility for alcohol use resides with the individual consumer, and not a host at whose home alcohol was served and consumed. We believe this is as it should be.

(Continued on page 3)

Club Hoppenings

Mardi Gras Brunch Tasting

About 23 club members and friends attended the rescheduled brunch tasting hosted by Michelle and Steve Kranz. Melinda Byrd thoughtfully suggested that when people come to events hosted by another club member at which events the host's beer kegs usually take a pretty good hit, the guests should leave behind any left-over beers they brought. General murmurings of approval were heard. The next morning, sure enough, there were about two six-packs worth of left-over beers. Many thanks to the contributors!

The event started with brunch at 10 a.m.. At some point late in the afternoon, pizzas were ordered (thank you Debbie & Eric!), and I think the last guests left at around 10 p.m. All around it was one fun Sunday.

Club Brew @ Dog Brewing: April 17

The date is set, the recipe is being scaled up to a 10-barrel batch. Mash-in will be 7:00 a.m. on Saturday, April 17. Bring your fermenter(s), and a couple of homebrews to share. If you missed out and did not get yourself down for some 5-gallon shares of this big boy (Dunkelweizen), there's still time. Contact Steve Kranz i-m-m-e-d-i-a-t-e-l-y!.

National Homebrew Day = Big Brew!

Saturday, May 1 is this year's date for National Homebrew Day. Once again, Lydia and Gary Cress will host this annual event. As always, there are "official" Big Brew recipes which we can try, or just brew what you like. There are three official Big Brew recipes: an American Craft Wheat Beer, Scottish Export 80 Shilling Ale and an Oktoberfest. Each is available in extract and all-grain versions:

<http://www.homebrewersassociation.org/pages/events/national-homebrew-day>

We have had numerous new members get their start by coming to the Big Brew to learn the ropes. If you know of someone who might be interested in getting started, this is the perfect event to drag them to. Also, if you are an extract brewer interested in learning the ways of all-grain and sharing a big batch of all-grain beer with someone, please let Steve Kranz know and he'll try to pair you up with someone.

New home for BrewCamp 2010!

Mark your calendars for October 7-10 (Thursday through Sunday) for BrewCamp 2010. Our new home for BrewCamp is Granite Hill Camping Resort in Gettysburg, PA.

That weekend is the Adams County Apple Harvest, which we expect will sell out the campground. We have reserved a total of 12 sites for our club, which is two more than we occupied last year. If you plan to camp and want one of our sites, you need to advise Steve Kranz like immediately, and get a \$50 site deposit (PayPal or payable to Midnight Homebrewers' League) to us ASAP. First come, first served. The club has paid the deposit, but we will release the deposit on sites for which we do not receive your RSVP **and** a deposit by May 1, 2010.

If we run out of the 12 sites we have reserved, you might still be able to get another site nearby, but you'll have to make the reservation yourself and do it early. That's because that weekend is also the weekend of the National Apple Harvest Festival, about ten miles northwest of Gettysburg.

⇒ Clay Pipe Brewing...is no more

Gregg Norris confirms that Clay Pipe Brewing Company is done. He has no regrets, is happy about his decision to cease operations, and looks forward to his next brewing adventure. We raise a glass to Gregg and shout: Thanks for the fun, the memories, and the beers! We wish you the best of luck in whatever comes next, and hope to have a beer with you soon!

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(Continued from page 1)

are under control and fully able to drive safely, there is no way you can judge solely by the way you feel, whether you are within Maryland's 0 - .05 presumption of sobriety.

The safest option might be to test yourself. You have two options for personal BAC testing:

Electronic Testers

Personal, battery-operated, hand-held "breathalyzers" are affordable and can give you a good measure of confidence that you are heading out on the road safely and legally. Numerous models are available in the \$50—\$150 price range from online sellers, or at retail locations including Advance Auto Parts stores. They have the advantage of being able to do repeat tests within a few minutes of each other, and will give you an exact reading of your BAC.



Their disadvantage is that after a period of time (about a year) or a certain number of uses (like 300), they have to be sent back to the manufacturer for "recalibration". This costs about \$20-\$25 each time.

Disposable, Single-Use Testers

These testers are small tubes about the size of a cigarette. You blow through them, and the chemical inside changes color from yellow to blue/green in the presence of alcohol. In this photo, the top is a negative test (all yellow...no alcohol), the middle test is positive for alcohol but not up to the level tested for (i.e. no color change above the black line), and the bottom is a positive test. And yes, I did have fun doing these tests. They come in different "strengths", to test for different BAC levels. We would want the .05 model which shows you if you are at .05 or above...a negative test (i.e. no color change above the line) and you *should be* safe & legal to drive. Depending on where you get them and how many you buy, they cost \$4 - \$5 each.



I have some of these, and they really do work. It takes a few minutes after you blow, for the results to be visible.

For all BAC testers, electronic or disposable, in order to get accurate results you must wait 20 minutes after you last consume alcohol or food, or smoke, before you test.

(Continued from page 1)

My letter focused on adult consumers of alcohol being responsible for their own actions, and did not deal at all with criminal liability which arises from serving alcohol to minors, because that's not what we do. And so, a few days later, the following letter by Carroll County States' Attorney Jerry Barnes was published:

I am writing in response to a Feb. 27 letter submitted by Steve Kranz, secretary for the Midnight Homebrewers' League.

In that letter, Kranz was himself responding to a Carroll County Health Department article and he wrote that while he agreed with most everything in the Health Department's submission, he disagreed with the idea that a "host" can be prosecuted if someone to whom they serve alcohol ends up in an impaired driving crash.

While Kranz may be correct in his assertion that civil liability might not attach, there are certainly circumstances in which a host can, and will be prosecuted.

The following conduct is unlawful and will be vigorously prosecuted when sufficient evidence exists to show that an adult provided alcohol to a minor: Furnishing alcohol to a minor, penalty - \$2,500; contributing to a child in need of assistance, penalty - three years/\$2,500; reckless endangerment, penalty - five years/\$5,000; manslaughter (if the minor dies from alcohol intoxication), penalty n 10 years.

In Carroll County, and in other counties across the state, we are experiencing an alarming rate of underage alcohol abuse. This unlawful and potentially lethal situation is, in many instances, condoned and/or tolerated wherein adults and parents provide the alcohol or location for consumption. The aforesaid conduct is unlawful and potentially deadly.

We are experiencing too many tragic vehicular injuries and deaths as a direct result of underage alcohol consumption. This underage, unlawful alcohol consumption is clearly detrimental to our children, and far too often results in a tragedy affecting all segments of our community.

It is my hope that readers view this message seriously to ensure the safety of all children and the public at large.

Our club members have never "provided the alcohol or location for consumption" by minors, in the context of abuse which Mr. Barnes writes about. In addition, his letter is in fact overly broad, in that Maryland law **does** allow a parent to serve alcohol to the parent's own minor children in your own home, without criminal penalties.

But, I decided that writing a rebuttal letter on that issue would have served no purpose other than to sound like we all sit around at home getting hammered with our underage kids, which we all know is a ridiculous notion.



Brewers' Tips & Tricks

Easy-to-do ideas and hints to help you brew better, and easier, beers. Send your own tips & tricks to Steve Kranz for them to appear here.

Online Brewing Forums

If you can't get enough beer and brewing information, here are some online places where you can hang out. Some of them are better than others, both in organization as well as the quality of information to be found there.

In all of these forums, you can read to your heart's content. But in order to post a question, you have to register as a member.

- [American Homebrewers Association Forum](#) *
- [BrewBoard](#)
- [Brewers Roundtable](#)
- [HomeBrewChatter](#)
- [HomeBrewTalk.com](#) *
- [MoreBeer Forums](#)
- [Northern Brewer Forums](#) *
- [TheHomeBrewForum \(a U.K. site\)](#)

Those marked with an * are my personal favorites as far as getting reliable information from well-informed brewers.

Pub Discounts for A.H.A. members

If you are a card-carrying member of the [American Homebrewers' Association](#), and like to go to some of the area's better brewpubs and breweries, you can recover the cost of your annual membership in discounts alone if you take advantage of the pub discounts that are available to you. Currently available pub discounts are as follows:

Dogfish Head Alehouse

800 West Diamond Ave.
Gaithersburg, MD 20878
Discount: 15% off Food, Beverage & Merchandise.

Flying Dog Brewery

4607 Wedgewood Blvd
Frederick, MD 21703

Discount: 15% off Merchandise & Beer To Go

Gordon Biersch Brewery Restaurants - Annapolis and Rockville:

Annapolis Town Center, 2505 Riva Rd
Annapolis, MD 21401

-or-

200 E. Middle Lane, Suite A
Rockville, MD 20850

Both locations: Pub Discount: \$3 off with purchase of \$10 or more on Food and/or Merchandise

Rock Bottom Brewery - Bethesda

7900 Norfolk Ave
Bethesda, MD 20814
Pub Discount: 10% off Food & Beverage

White Marsh Brewing Co/Red Brick Station

8149 Honeygo Blvd, Ste A
Baltimore, MD 21236
Pub Discount: 10% of Food & Beverages / Whole Kernel Malt Available at Cost

And while on the subject of the A.H.A.

...the A.H.A. has revamped its entire web site, including the relatively new AHA brewing Forum which is the first link in the the Online Brewing Forums piece on this page.

Some of what I consider to be bonus content of this web site are the recipes, and "Online Extras", or web-only articles which do not appear in Zymurgy magazine but which I have found to be excellent resources. For example, you can read all about [Classical Lager Brewing](#) techniques which is a clear and well-written article that gives you concise information about how to brew a lager from mashing and boiling, to yeast preparation and fermentation. And, you don't have to be a member or register with the site to access this information.

Pub Review: Otto's Pub and Brewery - State College, PA

By Steve Kranz

Jimmy and I recently spent some time at Otto's during an audition trip to Penn State. The pub is a couple of miles outside the Penn State campus on a major thoroughfare. We went there three times for lunch or dinner. Parking is a major issue for this place, because they just don't have enough space to accommodate their patrons. So they tell you to park at one of several banks that are nearby (after hours only). That's fine if the weather is decent, but it really bites if the weather is freezing cold with a couple of feet of snow still on the ground.

Once inside, we waited about 30-40 minutes to be seated. It was packed all the time, because it seems we picked a bad time to visit State College... "State Patrick's Day", a fake holiday the kiddies up there contrived purely for the purpose of giving them yet another occasion to drink until they puke.

But the service after we were seated was fine...prompt and attentive. On my first visit, I got a beer sampler:

- Mt. Nittany Pale Ale. This is a solid, hoppy pale ale. Almost a clone of 60 Minute IPA. Very



- clean and drinkable with a bitter finish.
- Apricot Wheat that is very fruity, almost too much but not quite...oh yes too much apricot.
- Spring Creek Lager. Very nice clean flavor but a little thin on body and malt flavor. 5.2 abv does not seem that high.
- Slab Cabin Imperial IPA. Super hoppy IPA. Really bitter nose and going down but finishes clean. The best thing about this beer are the burps...they tasted awesome.
- Schwarzbier really roasty and bitter. That said, not too flavorful. The harsh roastiness seems to overwhelm.
- Red Mo. Very drinkable and not too light. Cool.
- Double D IPA. Between Slab Cabin and Nittany IPA. Not so much hops in the nose but big in flavor. A good 'un for sure.
- Nut Brown Ale. Tastes nice, but it seems very thin in body
- Old Fugget. This was my favorite, a big, malty and hoppy barleywine style beer with lots of rich flavors.

We thought the food at Otto's was good, standard brewpub food. I didn't take food notes since I was taking notes of the beers and I don't multitask very well. I do recall having a soup of the day...I didn't write it down but whatever it was, it was good. They serve a soft pretzel appetizer from a local bakery which is delicious and served with a sweet & hot (like right up to your brain stem hot similar to wasabi) mustard dipping sauce. The pulled pork sandwich was outstanding, as was the grilled salmon.

Nothing we had during our three stops at Otto's disappointed us. Some beers were not quite as good as the rest, but overall they get a B+ for both food and beers. That's a 4½ Hops rating.



Before thermometers were invented, brewers would dip a thumb or finger into the mix to find the right temperature for adding yeast. Too cold, and the yeast wouldn't grow. Too hot, and the yeast would die. This thumb in the beer is where we get the phrase "rule of thumb".



Beer & Brewing News

Philly bars raided for “unregistered” beer brands

More than a dozen armed State Police officers conducted simultaneous raids in early March on three popular Philadelphia bars known for their wide beer selections. The cops confiscated hundreds of bottles of expensive ales and lagers, now in State Police custody at an undisclosed location.

The alleged offense: Although the bar owners had bought the beer legally from licensed Pennsylvania distributors and had paid all the necessary taxes, the police claimed that nobody had registered the precise names of the beers with the state Liquor Control Board - a process that requires the brewers or their importers to pay a \$75 registration fee for each product they want to sell in Pennsylvania.

Based on a complaint from someone the State Police refuse to identify (*probably one of their competitors - Ed.*), three teams of officers converged last Thursday on the three bars, run by Leigh Maida and her husband, Brendan Hartranft. Checking their inventories against the state's official list of more than 2,800 brands, the cops seized four kegs and 317 bottles, totaling 60.9 gallons of beer, according to police calculations.

In fact, according to Maida, more than half the beer removed by the State Police was properly registered - but the cops couldn't find it on their lists because of "clerical errors" or "blatant ineptitude" between the police and the Liquor Control Board, with whom the officers were conferring by telephone. She estimated the total value of the confiscated stock at \$7,200, representing about 20 brands, some of which go by multiple names.

Maida said that the State Police also confiscated bottles of Duvel, a popular ale imported from Belgium that is widely advertised and available in at least 200 bars throughout the city and suburbs. The beer appears on the PLCB list as "Duvel Beer," while its label reads "Duvel Belgian Golden Ale."

"No actual investigating was done," Maida said. "The police sent a shoddily typed list to the PLCB, some drone fed it into the machine verbatim and returned what came back, without even trying to offer us the benefit of the doubt by double-checking on some of the so-called unregistered beers."

While acknowledging that it appears that some of the confiscated brands had not been properly registered, Maida

said that about half appeared on the state's registration list in some form.

"My main beef with this whole convoluted situation is that the PLCB is the sole regulator of a set of products that they do not even know the names of," she said. "The onus is on us to prove our innocence." She added: "It's McCarthy-like. They swarm in here and confiscate this product because they don't know what the product is."

State Police Sgt. William La Torre said that the beer would be kept in a secured location, as evidence, until the case is resolved, probably in six to eight months. If an administrative-law judge finds that the bars possessed unregistered brands, the State Police typically would seek a forfeiture order to destroy the beer, he said.

La Torre noted that Resurrection had been warned last year when it served an unregistered beer from Maryland - Resurrection Ale, made by Brewer's Art, in Baltimore. Maida acknowledged that violation - the beer had been a gift in honor of their new business, she said, but the resulting citation made the couple extra-careful about compliance with the Liquor Board's rules, she said.

Francesca Chapman, a PLCB spokeswoman, said that the registration requirement helps the state assure payment of state beer taxes and helps prosecutors identify alcoholic beverages in drunk-driving cases or any other type of prosecution.

Industry sources complain that brand registration is typical of the onerous regulations that make selling beer in Pennsylvania difficult. For example, while it is the responsibility of the brewer or importer to submit the necessary paperwork and registration fee, it is the tavern or restaurant licensee who may be liable for selling unregistered brands, they said.

Registration is further complicated by the growth of under-the-radar one-offs: unique, limited-production, highly sought-after draft beers that appear briefly on tavern taps. While they pay the necessary state and federal taxes, breweries sometimes do not bother to register the brands because they are produced in extremely small amounts.

But apparently not just small breweries have failed to register brands. Heineken-owned Hacker-Pschorr, one of the largest breweries in Munich, does not appear on Pennsylvania's registration list, though it is widely sold throughout the state.

Recipes: Lagers for summertime drinking

I am setting my sights on mastering the skill of brewing lagers. Both recipes below are very simple, but require the ability to ferment at controlled temperatures to get the proper result from the yeast. The first recipe came in first place in the Pilsener category in the 2009 National Homebrew Competition. The second recipe is a German Pilsner which Charlie Heaps and Steve Kranz brewed on the first day of Spring...hence the name Frühling (Springtime in German).

Classic American Pilsner 2009 AHA National Homebrew Competition Gold Medal Winner

Ingredients for 5 U.S. gallons:

- 9.0 lb. Weyermann Pils malt
- 0.5 lb. Weyermann Cara-Foam malt
- 0.5 lb. Weyermann Munich malt
- 1.25 oz. Hallertau pellet hops, 4.2% (60 min)
- 1.0 oz. Hallertauer pellet hops, 4.2% (1 min)
- White Labs Southern German lager yeast (4 L starter)
- 1.0 tsp. Irish moss in boil

Original Specific Gravity: [Unknown]

Final Specific Gravity: 1.008

Boiling Time: 75 minutes

Primary Fermentation: 35 days at 50° F (10° C)

Secondary Fermentation: 133 days at 33° F (1° C)

Directions:

Mash grains at 149° F (65° C) for 60 minutes. Mash out at 170° F (77° C).

Frühling German Pilsner Charlie Heaps & Steve Kranz

Ingredients for 11 gallons:

- 20.5 lbs. German Pilsner malt
- 2 oz. Perle leaf hops (8.2%) for 60 minutes
- 1 oz. Hallertau pellet hops (3.8%) for 15 minutes
- 1 oz. Hallertau pellet hops (3.8%) for 1 minute
- 5.2 pH Stabilizer (in mash)
- Irish moss (OK, we forgot to put it in)
- 4 pkg. Saflager S-23 dry lager yeast
- 2 vials WLP830 German Lager yeast

Original Gravity: 1.051

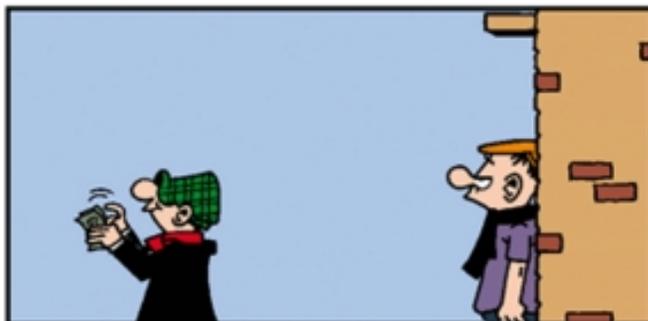
Primary Fermentation at 53° for three weeks.

Secondary Fermentation at 45° for 28 days.

Procedure:

We used a 50/50 mix of distilled water and charcoal filtered tap water for both mashing and sparging, to make the water a little softer. Mash at 147° for 90 minutes. Sparge 'til you get 13.5 gallons of wort. Boil 90 minutes; whirlpool 15 minutes; chill and pitch rehydrated yeast.

ANDY CAPP



Events Calendar

For all tastings, \$5 per member (\$7 for guests) covers the host's costs. RSVP directly to the host, or as otherwise indicated. If you wish to schedule an event, contact Event Coordinators Eric & Krista Custer.

April

17 Club Brew @ Dog Brewing Company

May

1 Annual Big Brew to celebrate National Homebrew Day, hosted by Lydia & Gary Cress

17-23 American Craft Beer Week

June

18-20 National Homebrewers Conference (Minneapolis)

July

10 Brew-Ha-Ha hosted by Lindy & Neil Mezebish

August

10 Mead Day

September

25 Maryland Microbrewery Festival @ Union Mills

Treasury Report

Diane Whitney & Steve Kranz

We haven't published a treasury report in awhile, and we hope to bring that regular feature back to the newsletter. In the fall, we did some treasury housekeeping...we visited the Bank to re-sign new signature cards, and also established a new PayPal account in the club's name. The PayPal account is also tied to our Bank account for easy transfers.

As you noticed, we have started using PayPal to send invoices for things such as club dues, camping deposits, etc. PayPal's invoicing tools are slick and easy to use, and receiving funds through PayPal gives us a very easy and reliable way to track and document who has paid, when, and for what.

But, we know that there some "flat-earthers" out there, who don't do PayPal, and who have an inexplicable, unnatural attachment to their paper checkbooks. We get that, and all invoices clearly provide you with directions on how to send a check to Diane instead of using PayPal.

So, let's recap the treasury for a bit:

- We started off January 2010 with \$503.97 in the bank.
- With Dues being the main income, a 50/50 raffle, and \$.04 in interest earned (yeah!), plus writing a check for our annual Guild Dues of \$20, the statement ending March 12 shows us with \$564.99.
- Also in March, we transferred dues payments into the bank from PayPal in the amount of \$409.36. The balance then came to about \$975 (I'm rounding up).
- We wrote a check for \$600 to Granite Hill Campground for twelve \$50 campsite deposits for BrewCamp. That

brought the balance down to \$375, but those funds will come back to the club quickly as campers reimburse us for their deposits.

Upcoming Expenses:

- The club has two members taking Les White's BJCP preparation class, and the club will reimburse them for part of that cost if they take and pass the test.
- The club will soon be invoicing members who are participating in the Club Brew @ Dog Brewing, for their 5-gallon shares. The total cost of this batch will probably exceed \$1,200 and we need to have those funds on hand on brewing day (April 17) so we can pay for it. That means, members will need to pay their invoices to the club promptly upon receipt. Thanks.
- The club will incur expenses to help offset the costs of members who are representing the Midnight Homebrewers' League on Club Night at the National Homebrewers' Conference. In the past, the club has either defrayed the cost of shipping beers, or reimbursed members for part of the cost of their batches.
- We will incur a registration fee to have the 2010 Maryland Microbrewery Festival Homebrew Competition sanctioned by the BJCP. We also expect to incur some expenses (i.e. pizzas, etc.) for several meetings we will need to schedule in the spring and summer to prepare for the festival and competition.
- The club pays for one camp site @ BrewCamp, to serve as a communal dining and brewing site.
- The club helps offset some of the expenses for our other large-scale events including Big Brew & Brew-Ha-Ha.

That's all for now. Any treasury questions, contact Diane at whitneydl@comcast.net