It's legal to buy a drink for the road

It's a cold, windy Friday night with just enough hint of a freezing drizzle to make the evening unusually raw. Out on Johnston Street, traffic is picking up as early movie-goers spill out of theaters, date-night diners head home and shoppers begin to think of stopping at a favorite bar to unwind. As the traffic builds on Johnston Street, business starts perking at The Daiquiri Factory Ltd., Lafayette's newest offering for the drink 'n drive crowd. The freezing weather doesn't seem to affect patrons' appetites for frozen alcoholic concoctions. By 9:20 p.m. 20 cars already are bumper to bumper, inching along the shoulder of Johnston Street towards the Daiquiri Factory's drive-in window.

Before we get a chance to place our order, a man with a flashlight approaches. He's checking identification to make sure we're of age. We pass the test and head on to a microphone in front of a lighted "menu." Only this is unlike menus in other drive-in joints. No hamburgers or French fries here; the fare is strictly alcoholic.

What shall we order? The list is long, and all the offerings are frozen, even drinks that aren't normally served that way. Among more than a dozen drinks for sale are: pina coladas, strawberry coladas, peach daiquiri, margaritas, Tom Collins, jungle juice, Long Island tea, blue Hawaii, swamp water, amaretto sour, and tequila sunrisers and whiskey sours.

My companion and I order a strawberry colada and a peach daiquiri. "It definitely has alcohol in it," my companion comments after taking a sip.

The Daiquiri Factory is the brainchild of 25-year-old David Ervin, a Tallulah native. Ervin, owner of the business, says he first hatched the idea about two years ago. He originally planned to open a drive-in drinkery in Florida where a relative owned some beachfront property. But the property wasn't zoned for such activity, and the plans eventually fell through. Ervin worked in Lafayette a couple of years ago, and the area struck him as a good place to open a business. The Daiquiri Factory served its first round last Nov. 17.

Ervin says his business fluctuates widely during his noon to midnight hours. Business is heavy on weekend nights and during the lunch hour all week. And sometimes business is good when Ervin least expects it. "Believe it or not, I have done business as early as nine o'clock in the morning," he says remembering a morning he went to the factory to do other work and ended up dispensing drinks. "It was 17 degrees below, considering the chill factor, and I was selling daiquiris," he says in disbelief.

What is the Daiquiri Factory's drawing card? Ervin says it is a combination of novelty and low prices.

"There are a lot of drinks that would be as much as four times more expensive in a nicer place," he explains. "But I'm giving them the drink without the atmosphere."

While local residents have been flocking to the Daiquiri Factory, it has raised wary eyebrows among law enforcement officers. They are not too keen on this admittedly novel approach to popularizing drinking and driving. But there's not much they can do about it under the law.

"They're doing nothing against the law," says Lt. Mike Fincher of the Lafayette Parish Sheriff's Department. "There's no law that says you can't drink and drive. There is a law that says you can't be drunk and drive." And that's where the problem lies. Louisiana law enforcement officers cannot do anything about drinking drivers until they are certifiably drunk.

Louisiana does not have an open container law. Such a law would make it illegal to carry an open alcoholic beverage on public property. No doubt, New Orleans' party-party image has done a lot to make it unappealing to outlaw open containers. But the result is people can legally continue to drink and drive until they start to weave on the road.

"Actually, you can ride down the road with a fifth of whiskey in your hand and take a slug out of it as you pass a police officer," explains state police Troop I Commander Louis...
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Ackal. Ackal says state police cannot charge someone with driving while intoxicated unless alcohol shows up at .10 gram percent on a blood or breath test. And, by then, most people are pretty drunk. Ackal says the legal intoxication level is the equivalent of drinking 25 percent of a fifth of white whiskey on an empty stomach with a cold beer (for most average-sized adults).

Ackal is quick to point out the Daiquiri Factory is no different than gasoline stations legally selling alcohol every day, even though it serves hard liquor. Although mixed drinks are not sold at the gas 'n go stations, it's certainly not unheard of for someone to buy a six-pack at the gas station, drive off and much more relaxed on weekday nights and during off-hours. "If they are selling to minors, then we're going to move in on 'em," Ackal asserts.

But, admitting an alcohol license would result in a complaint filed against the Daiquiri Factory (or any other establishment) with the state board of Alcohol and Tobacco Control. The establishment's liquor license could be revoked if it was found guilty of serving liquor to underage patrons. In addition, any adult caught purchasing a drink from the factory would be contributing to the delinquency of a minor.

To date, Ackal says state police spot checks of Daiquiri Factory patrons have not turned up any violations of the state's drinking age. Fincher says the sheriff's department closed the place down last November for selling alcoholic beverages to minors. But, Fincher adds, he would not file a complaint with the district attorney's office, and there have been no reports of trouble since then.

In the meantime, Lafayette city councilmen are looking into drafting an open container ordinance for the city. The Daiquiri Factory would not be affected by such an ordinance unless the Daiquiri Factory remains annexed to the city. The Daiquiri Factory sits on a small island of parish land surrounded by the city. The police jury does not have the authority to enact an open container ordinance.

District Attorney Nathan Stanberry believes the Daiquiri Factory's business may taper off within six months. "They have already lost a lot of business that will be six months from now," he predicts. "The novelty will wear off."

"Others aren't so sure about that. They point out in six months it will be summer and it won't be as cold. Or they will wait in line for a frozen drink in sub-freezing temperatures, they are likely to find drive-in alcoholic refreshments even more appealing when the mercury soars."

Ervin is optimistic about his prospects. "I'm not a marketing specialist... but I think in six months the business will still justify its existence. I think the Daiquiri Factory and other retail business I could have opened down here."

-SUSAN WHITE