

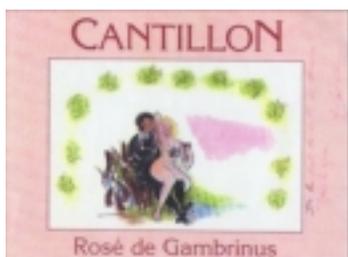
# Malted Barley Appreciation Society

March, 2000 Newsletter • Best of Brooklyn Winners!

## HOW WE BECAME THE LARRY FLYNT OF THE BEER BUSINESS (WITHOUT REALLY TRYING) II

By Dan Shelton, President, Shelton Broers

In the meantime, a bigger problem loomed. BATF approval, we soon found, was less than half the battle. Quite a few of the States do not follow the Feds on label approval. They apply their own, harsher standards. In Washington State, they would only let us use the “blue dress” label. The naked lady violated their rule against images on beer labels that are “undignified” and “not in good taste.” In Pennsylvania, the whizzing boy and the nude were both pronounced “in-



decent and obscene.” Missouri also vetoed both labels, under their statute prohibiting “indecent, profane, or obscene” languages or images.

North Carolina rejected them both too, because in Jesse Helms’s territory, you can’t put anything that “depicts nudity or is obscene or indecent” on a beer label.

Thinking quickly, I got out a black magic marker and went to work. A thick black line across the offending anatomy, and *Voilà!* Instant chastity. Missouri went for it. As long as we put the black line across every nipple on every bottle, we could sell the beer there. On the other hand, North Carolina wasn’t having any of it. Black line or no, the label was obscene in North Carolina. It was back to the blue dress. We dug out some old blue-dress labels and sent them down to the distributor in Durham, who had to paste them over the old labels by hand.

You would think that all of this would have scared us straight, but not so. Earlier this year we

were casting about for a new label for a classic *bière de garde* called “Les Sans Culottes,” from the La Choulette brewery in northern France. In case you didn’t know, the name “Sans Culottes” refers to the French Revolution. It has always caused titters among educated school kids because it translates literally as “lacking pants.” But if you know your European history, you are aware that the phrase has another meaning. As our new back label explained:

This beer, the brewer’s masterpiece, pays homage to the Sans Culottes – the ‘trouserless’ laborers who could not afford uniforms but unflinchingly did the handiwork of the French Revolution. Many brewers were counted in their ranks.

This Month’s Guest Speaker  
Garrett Oliver, Brewmaster



Brooklyn Brewery

Meetings are held at **Mugs Ale House**, Corner of 10<sup>th</sup> Street and Bedford Avenue in Brooklyn on the second Wednesday of each month. This month the meeting will be on the 8th.

It wasn’t that we specifically went looking for more female breasts. Not at all. We wanted something that would look distinctly, unmistakably *French*. Preferably something having to do with the French Revolution. And of course something attractive and tasteful. The obvious choice was the famous painting by Delacroix, “Liberty Leading the People, 1838.” Alain Dhaussy, the brewer at La Choulette and an amateur historian, quickly pointed out that this paint-

ing comes from the wrong French Revolution. (Yes, there was more than one.) The “Sans Culottes” turned up in the first Revolution, in the 1700’s.



They weren’t very popular then, as it turns out, and decided to stay home for the next round, which Delacroix depicts in his well-known work. We suggested politely that the painting nevertheless captures the revolutionary spirit of the French. Besides, how many beer-drinking Americans would know the difference between one French Revolution and the next? Mr. Dhaussy said O.K.

And so it was that the new Les Sans Culottes label showed an idealized Lady Liberty clutching the French flag and leading the rather smelly-looking “people” on to victory in the Revolution. The image is iconic in France. For many, Lady Liberty *is* France. Her visage appears on coins and bills. The original painting hangs in a special place in the Louvre. The only problem is that, somehow, in the heat of battle, Lady Liberty’s dress seems to have come unstrapped, revealing her ample bosom. And thus we came to lead the league in (please excuse the expression) tits on beer labels. But, honestly, it never occurred to us that a well-known work of art like Delacroix’s could be banned anywhere this side of the 1950’s. Wrong again.

Federal approval was a breeze. Obviously art lovers have worked there way into the ranks there and gained some decision-making power. When we got the new labels in from France, I called the Missouri label approval expert and told her we were sending more naked female breasts. But, I assured her, this particular pair shouldn’t be a problem, since they were taken straight from a famous painting that simply

couldn’t be considered obscene in any civilized society. These breasts are *art!* She just groaned. Sure enough, a couple weeks later, we got the rejection in the mail. I got out the black marker again, and fixed the problem.

Results in the other “hot spots” of artistic intolerance were mixed. For better or worse, North Carolina is so backward that they won’t allow beer over 6% alcohol, so we didn’t bother to submit the Les Sans Culottes label there at all. (The beer is 7%.) Washington State actually let it pass without a whimper. We haven’t tried Pennsylvania yet. But what really got us going was the reaction in Ohio.

I had not thought of Ohio as a backward state before. Sure, they do have a barbaric law prohibiting beer over 7.5% by volume. At least that’s not as bad as the 6% you see in a lot of other places. But they also have a law against images on beer labels that are “offensive or not in good taste.” Incredibly, the authorities found the Delacroix painting ran afoul of that standard. You might say it’s sexist (as my sister, the art student, maintains), but *tasteless?* To top it off, the authorities rejected our label for a Belgian beer, Père Noël (“Father Christmas”) that had a cute picture of Santa Claus on it, and a bunch of little Clauses floating around in space in the style of the Delirium Tremens label.

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**Malted Barley Appreciation Society**

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I got out the magic marker, thinking that Ohio would accept the black line treatment, the way Missouri did. Working with great delicacy, I gave Lady Liberty the black brassiere that she would have had if she had lived in a more prudish time and place. The results were good. But, unfortunately, by the time I got done with the Santa Claus label, there was nothing left but a large black blotch, awash in a sea of scruffy

black polka dots. I knew that this wouldn't do for marketing purposes, but I sent it off anyway thinking that it might show that our hearts were in the right place, and perhaps distract attention away from the black-lined Lady Liberty.

To our complete amazement, the Sans Culottes label came back two weeks later, with the following explanation from the state agency:

Notwithstanding the proposed censoring of the partially clothed woman, based on a review of the La Choulette Les Sans Culottes, it appears that the proposed label depicts a military scene and could not be approved by the Division.



It seems that we had not read the Ohio laws very carefully. They include a rare provision that “No advertising shall refer or portray any military subject or any picture or reference to Santa Claus.” Leaving aside the horrifyingly failed grammar of this little provision, and the unintentionally comic juxtaposition of military images and Santa Claus (“G.I. Joe and Santa, together for the first time on the big stage!”), you have to wonder: What possible rationale could there for this rule?

We had been content to use alternative labels for a while, but the decision in Ohio that even the black line wouldn't work, coupled with the state's gratuitous attack on our Main Man, Santa Claus, was the last straw. We called in the lawyers.

Through the ACLU of Colorado (which is currently litigating a First Amendment case over the label for Road Dog Ale) we made contact with ACLU branches in Washington, Missouri, North Carolina, and Ohio. Happily, it seems that many defenders of the First Amendment are also lovers of good beer.

The ACLU of Missouri has enthusiastically taken on our case, which they view – no kidding – as a particularly egregious example of government arbitrariness and encroachment on basic rights. The administrative hearing is now scheduled for February. The state's approval of the modified versions of the Rosé de Gambrinus and Sans Culottes labels, with the thin black line, puts the case in an interesting posture. At the hearing, lawyers for the state will be reduced to arguing that female nipples are *per se* obscene. Originally no one from Shelton Brothers was planning to attend the hearing, but now we're thinking it might well be worth the trip just to see government lawyers defending a “Just No Nipples” standard.

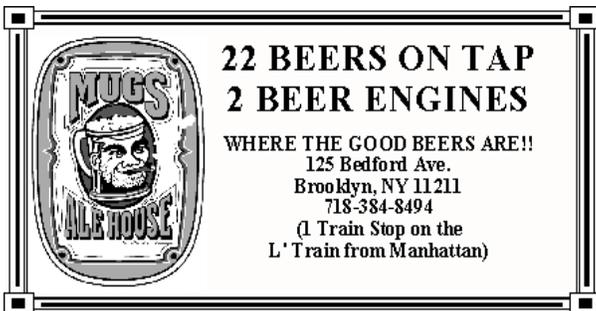
The Washington ACLU agreed to represent us before the State Liquor Control Board on the labeling issue. A hearing or trial may be avoided there, however, since the LCB is planning to revise some of its standards. The ACLU will be submitting comments on the issue of artwork censorship. The ACLU is raising other examples of censorship by the LCB, including the Dolle Brouwers labels, also from Belgium, that feature cartoonish depictions of a toucan, a snowman, and the Easter Bunny. These labels have been censored under a rule prohibiting advertising on beer labels that appeals to children. It looks, however, like conflict may be avoided. We just got notice that, on reconsideration,



the naked lady is O.K. Such quiet changes to the law are not so exciting. I have to admit that I was a little disappointed that we had none of the fireworks of a legal battle. I know that's not a healthy and constructive opinion to hold, but there you have it. What can you do if the authorities are suddenly going to turn around and be *reasonable*?!

The North Carolina and Ohio branches of the ACLU are now considering whether or not to take on the case. We haven't approached the branches in Pennsylvania yet, but plan to soon. We will be re-submitting the naked lady for approval in Pennsylvania this year, and there is no reason to think that the result will be any differ-

ent this time. We have heard that a suit has been filed in Pennsylvania over another label depicting the Manneken Pis that has been banned there. These cases are part of a mounting resistance to censorship of artwork on beer labels across the country. In addition to the still-ongoing Colorado Road Dog case, which concerns a Ralph Steadman drawing originally bearing the legend "Good Beer, No Shit," the Second Circuit in New York has recently overturned a lower court ruling upholding the state's ban on the infamous "Bad Frog" label. The frog on the label is shown raising its middle digit in a defiant gesture. Maybe you've seen it – or maybe not. Trouble is, the beer is so bad that no one bought it even after the courts allowed it onto the shelves.



Of course, causing all of this trouble doesn't make a lot of sense from a business point of view. There is no indication so far that the naked breasts on the Rosé de Gambrinus and Les Sans Culottes labels have created a rabid following for the beers. In fact, consumers might view the pissing boy as a very unflattering commentary on the nature of the Gueuze in the bottle. (But don't be put off, Consumer. This is great stuff!) The process also threatens to take up a lot of time that we could spend on more lucrative pursuits. But this is not about business. It's about principle.

It bothers us – and I hope it bothers you too – that a few people in the state liquor authorities are out there making their own free-wheeling interpretations of these vague regulations. They are making decisions about what kinds of beer labels you are allowed to see, without any concern for the fact that there are Constitutional rights at stake. Without delving into the matter too much, the basic rule is that any form of expression, including "commercial speech," such as labels and advertising, can only be prohibited if it is "obscene," or if there is some other good public policy reason for prohibiting it. The bottom line is that government regulation in the area

of speech has to make some sense.

Of course, the states will argue that our beer labels are obscene. The constitutional definition of obscenity encompasses only speech or images that appeal solely to prurient interests and are entirely lacking any artistic value. What is "prurient," you ask? According to the dictionary, material is "prurient" if it provokes lascivious or lustful urges. I'm not a lawyer – well, not anymore – but I like to think of this as the "jerk-off" standard. To my mind, the question is: Is there any real chance that, after the beer is gone, some guy, barely able to control his salivary glands, will sneak off with that empty Rosé de Gambrinus bottle, stash it under his bed, and then, late at night, when there's no one else around . . . ? Will a pack of young boys experience those first vague stirrings in their loins when by chance they dig an empty "Sans Culottes" bottles out of the recycling bins? And when it comes to the Manneken Pis inciting lust and lascivious thoughts, well, I don't want to go there.

Somehow I doubt that the ACLU will be raising these questions at trial, but in the back of her mind, these are the kinds of things that the judge has got to be thinking about.



### For Sale

Contact Rich Scholz  
at  
[rscholz@refco.com](mailto:rscholz@refco.com)

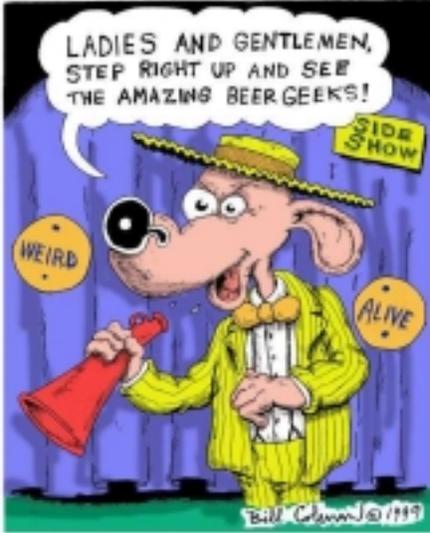


2 Used Pin-Lock Corney Kegs \$10 each  
2 "Bud" Sankey 1/2 Barrels (15.5 gals) \$30 each  
From a homebrewer who stored them full of Idofo.  
They have replacement O-rings and are in good condition.  
They have been used for homebrewing for many years.

The fact that the artwork under consideration is on a beer label does not change the standard, as state agencies in a few states apparently believe. One gets the sense that for some people, the combination of naked breasts and beer is explosive – a sort of double sin. But, just like there is nothing per se wrong with enjoying a good beer – or a few, even – there is nothing inherently "prurient" about the nude human form. That has been clear for decades, ever since state or city authorities first attempted to censor art exhibits in local galleries on the grounds that they depicted nudity that would corrupt youthful minds.

Maybe I'm out of touch, but I actually think both things – nakedness and beer – can be good. I like to think of ours as a small crusade to protect your right to enjoy both. I wonder what the courts will think . . .

## Best of Brooklyn 2000 Results



Once again, the Best of Brooklyn was a huge success. Thanks to all who judged, stewarded, volunteered, and donated prizes. Congratulations to the winners!



### 1 & 3 - American Lager and Light Ale (collapsed)

**1st place:** George Fix, Clemson, SC (Classic American Pilsner)

**2nd place:** Peter Baker, Locust Valley, NY (Cream Ale)

**3rd place:** Tom Cahalane, Marlboro, NJ New York City Homebrewers Guild (Light/Standard/Premium)



### 2 - European Pale Lager

**1st place:** William Breidenbach, Copiague, NY (North German Pilsner)

**2nd place:** Jeff Carlson, Grand Rapids, MI (Dortmunder Export)

**3rd place:** Paul Zocco, Andover, CT  
Hop River Brewers (Münchner Helles)



### 4 & 5 - Bitter & English Pale Ale & Scottish Ale (collapsed)

**1st place:** Jeff Carlson, Grand Rapids, MI (Ordinary Bitter)

**2nd place:** Paul Zocco, Andover, CT  
Hop River Brewers (Export 80/-)

**3rd place:** Tom Cahalane, Marlboro, NJ  
New York City Homebrewers Guild (Best Bitter)

### 6 - American Pale Ale

**1st place:** Peter Baker, Locust Valley, NY (American Amber)

**2nd place:** Chris Baas, Midland Park, NJ (American Pale Ale)

**3rd place:** James Thoms, Kings Park, NY  
Brewer's East End Revival (California Common)



### 7 - India Pale Ale

**1st place:** James Thoms, Kings Park, NY  
Brewer's East End Revival

**2nd place:** Mike Maimone, E. Northport, NY

**3rd place:** Chris Baas, Midland Park, NJ

### 8 & 9 Kölsch & Altbier and German Amber Lager (collapsed)

**1st place:** Chuck Coronato, Wyckoff, NJ (Kölsch)

**2nd place:** Rob Mariani, White Plains, NY  
Malted Barley Appreciation Society (Vienna Lager)

**3rd place:** Gerard Bellesheim, Bronxville, NY (Kölsch)

### 10 - Brown Ale

**1st place:** Peter Baker, Locust Valley, NY

(American Brown)

**2nd place:** Pete Czerpak, Albany, NY (American Brown)

**3rd place:** Jeff Carlson, Grand Rapids, MI (Mild)



### 11 & 12 - English & Scottish Strong Ale and Barleywine & Imperial Stout (collapsed)

**1st place:** Phil Clarke, Bronx, NY

New York City Homebrewers Guild (Strong Scotch)

**2nd place:** Bill Coleman, Brooklyn, NY

Malted Barley Appreciation Society (English-style Barleywine)

**3rd place:** Paul Zocco, Andover, CT Hop River Brewers (English-style Barleywine)

### 13 & 14 - European Dark Lager and Bock (collapsed)

**1st place:** Rob Mariani, White Plains, NY

Malted Barley Appreciation Society (Doppelbock)

**2nd place:** Mike Deinhardt, Centereach, NY

Brewer's East End Revival (Hellesbock/Maibock)

**3rd place:** Gustave Rappold, Inwood, NY (Traditional Bock)

### 15 - Porter

**1st place:** Paul Zocco, Andover, CT

Hop River Brewers (Robust)

**2nd place:** Bob Brotschol, Woodhaven, NY

Malted Barley Appreciation Society (Robust)

**3rd place:** Mark & Tess Szamatulski, Trumbull, CT (Robust)



### 16 - Stout

**1st place:** Bill Odendahl, Trumbull, CT

YAHOOs (Oatmeal)

**2nd place:** Von Bair, Milford, CT

Underground Brewers of Connecticut (Sweet)

**3rd place:** James Thoms, Kings Park, NY

Brewer's East End Revival (Dry)

### 17 - Wheat Beer

**1st place:** Jim Simpson, Ridgewood, NY

Malted Barley Appreciation Society (Berliner Weisse)

**2nd place:** John Halls, Trumbull, CT

(Bavarian Weizen)

**3rd place:** Kerry Blette, Valley Stream, NY

(Weizenbock)

### 18 - Strong Belgian Ale

**1st place:** Warren Becker, New York, NY

Malted Barley Appreciation Society (Belgian Strong Dark)

**2nd place:** Bill Odendahl, Trumbull, CT

YAHOOs (Tripel)

**3rd place:** Phil Clarke, Bronx, NY

New York City Homebrewers Guild (Belgian Strong Dark)

### 19 & 20 - Belgian & French Ale and Lambic & Belgian Sour Ale (collapsed)

**1st place:** Pete Algerio, Yaphank, NY (Gueuze)

**2nd place:** Kevin Winn, New Rochelle, NY

Malted Barley Appreciation Society (Bière de Garde)

**3rd place:** William Solomon, Albany, NY (Flanders Red)



### 21 - Fruit Beer

**1st place:** Bob Brotschol, Woodhaven, NY

Malted Barley Appreciation Society

**2nd place:** Von Bair, Milford, CT

Underground Brewers of Connecticut

**3rd place:** Phil Clarke, Bronx, NY

New York City Homebrewers Guild

### 22 & 23 - Spice/Herb/Vegetable and Smoke-Flavored Beer (collapsed)

**1st place:** Phil Clarke, Bronx, NY

New York City Homebrewers Guild (Rauchbier)

**2nd place:** Von Bair, Milford, CT

Underground Brewers of Connecticut

**3rd place:** Rocco Rizzo, New Paltz, NY

### 24 - Experimental

**1st place:** Allan Wallace, New York, NY

**2nd place:** Paul Zocco, Andover, CT Hop River Brewers

**3rd place:** Jeff Carlson, Grand Rapids, MI

### 25 & 26 - Mead and Cider (collapsed)

**1st place:** John Dittman, Annandale, VA (Cyser)

**2nd place:** John Dittman, Annandale, VA (Standard Cider & Perry)

**3rd place:** Eileen Tronolone, Glen Cove, NY (Melomel)

**Best of Show:**



BOS Judges: Kaplan, Bair, Cahalane, Oliver, Naegele



**1st place:** Chuck Coronato (Kölsch)

**2nd place:** John Dittman (Cyser)

**3rd place:** George Fix (Classic American Pilsner)

**First Time Contestants' Best of Show:**

Nathan Davies, Brooklyn, NY (IPA)

**Contests and Beer Events**

March 11, 2000 Mugs Ale House, Brooklyn, NY

**Split Thy Brooklyn Skull 2-6PM**

No Cover Charge.

Brooklyn Monster 1998 - NY

Victory Old Horizontal, cask-conditioned - PA

Smuttynose Barleywine - NH

Sierra Nevada Bigfoot 1998 - CA

J.W. Lee's Harvest Ale 1997,

Weyerbacher Blithering Idiot - PA

Longshore Leviathan 1998 cask-conditioned

Mar 12 2000 Willimantic, CT

**3rd Annual Eastern Conn Homebrew Competition**

\$6 entry fee; entries due 2/27-3/8/00

Contact: Paul T. Zocco

Phone: (860)742-7879 (h) - (860) 666-6951(w)

Email: [ptzocco@snet.net](mailto:ptzocco@snet.net)

URL: <http://www.geocities.com/southbeach/coast/1609>

March 16, 2000 Ludwig's Garden  
1315 Sansom St  
Philadelphia, PA

**German Doublebock Beer Dinner**

Phone: (215) 985-1525

Mar 19 2000 - Staten Island, NY

**Ninth Annual NYC Spring Regional Homebrew Competition**

Entries due March 16; \$5.00 Entry Fee; Awards Ceremony March 19

Contact: Ken Johnsen

Phone: 718-667-4459 -

Email: [kbjohns@peakaccess.net](mailto:kbjohns@peakaccess.net)

URL: <http://pbsbeer.com/hosi/hosimain.html>

March 24, 2000 Dock Street Brasserie  
Philadelphia, PA

**Real Ale Rendezvous**

Mar 25 2000 - Pine Plains, NY

**Hudson Valley Homebrew Club 10th Annual Competition**

Entries due 3/4/00-3/18/00 with \$5 each for 1 to 4 entries, \$4 each for 5 or more entries.

Contact: Steven Thomas

Phone: (914) 430-3758 -

Email: [drstrangebrew@mail.com](mailto:drstrangebrew@mail.com)

URL: <http://hbd.org/hvhb>

Mar 25 2000 - Pittsburgh, PA

**TRASH X**

Entry deadline 2/1-3/11; Entry fee \$6.00

Contact: Ralph Colaizzi

Phone: 412-331-8087 (h) -

Email: [rwc@pair.com](mailto:rwc@pair.com)

URL: <http://trashhomebrewers.org>

Apr 8 2000 - Albany, NY

### **Knickerbocker Battle of the Brews**

Entries due 4/1/00 with \$6 for first, \$4 for additional entries.

Contact: Jim Raimo  
Phone: (518) 884-8689 -  
Email: [jraimo@nycap.rr.com](mailto:jraimo@nycap.rr.com)  
URL: <http://www.moonbrew.com/kbotb>

April 8 2000 Mass

### **South Shore Brew Off**

Entry deadline is April 1<sup>st</sup>. Shipping and Drop-off locations: Please see web site Cost \$5 per entry, \$4 each for 5 or more entries

Contact: Francois Espourteille, Organizer  
Steve Rose, Judge Coord  
Phone: Rose: (508) 821-4152  
Email: [francois@ici.net](mailto:francois@ici.net)  
URL: <http://members.aol.com/brewclub/>

Apr 1 2000 - Syracuse, New York

### **Salt City Homebrew Competition**

\$7 first entry; \$4 additional entries. Entries due 3/17/00

Contact: Andrew Moon  
Phone: (315) 656-8917 -  
Email: [VAYELIRIVERA@Prodigy.net](mailto:VAYELIRIVERA@Prodigy.net)  
URL: <http://brew.oeone.com/clubs/scbc/public-html/>

Apr 16 2000 - Woodbridge, NJ

### **N. J. 2nd Gold Medal Homebrew Comp**

Entries due 3/20/00-4/7/00 with \$5 entry fee.

Contact: Keith Seguine  
Phone: (732) 636-0622 -  
Email: [keith042@aol.com](mailto:keith042@aol.com)  
URL: <http://www.njbrewpubs.com>

April 20, 2000 Ludwig's Garden  
1315 Sansom St, Philadelphia, PA

### **German Bock/Weizenbock Beer Dinner**

Phone: (215) 985-1525

Apr 21 - 30 2000 See site map for send-to locations  
**National Homebrew Competition 2000 1<sup>st</sup> Round**

Entries due 4/5/00 - 4/14/00 with \$8/entry for AHA members, \$12/entry for non-members. The top three entrants scoring 30 or better in each category will advance to the second round. See webpage for details.

Contact: Gary Glass  
Phone: (303) 447-0816 x 121 -  
Email: [gary@aob.org](mailto:gary@aob.org)  
URL: <http://www.beertown.org/AHA/NHC/aha2000.htm>

April 22, 2000 Sugar Mom's Church Street Lounge  
225 Church St, Philadelphia, PA

### **Split Thy Skull V**

Phone: (215) 928-8219

Apr 29 2000 - Neconset, NY

### **B.E.E.R. 4th Annual Homebrew Competition**

\$5 entry fee; entries due 4/15-22/00

Contact: James B. Thoms  
Phone: (631) 269-5833  
Email: [Thomsjam@email.msn.com](mailto:Thomsjam@email.msn.com)  
URL: <http://www.homebrewshop.com>

May 6 2000 - Buffalo, NY

### **4th Annual Western N. Y. Homebrew Competition**

Entries due 4/17/00 - 4/28/00; entry fees: \$7 for first, \$5 for additional entries.

Contact: Keith Curtachio  
Phone: (716) 877-8767 -  
Email: [goodbeer@niagarabrewers.org](mailto:goodbeer@niagarabrewers.org)  
URL: <http://www.niagarabrewers.org>

