



UTAH FAITH BUSINESS

Mormon church, state and alcohol laws to mix in federal courtroom

By Dennis Romboy | @dennisromboy | Mar 25, 2012, 12:07am MDT



A Utah state liquor store photographed on Feb. 20, 2012. A judge will hear arguments Monday as part of a lawsuit challenging Utah liquor laws. The lawsuit claims lawmakers conspired with the LDS Church to craft new legislation. | Scott G Winterton, Deseret News

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SALT LAKE CITY — A federal judge will hear arguments Monday over a lawsuit challenging changes to Utah liquor laws that the Utah Hospitality Association says were made under pressure from the LDS Church.

State attorneys have asked U.S. District Judge Bruce Jenkins to dismiss the complaint, arguing that The Church of Jesus Christ of Latter-day Saints offering its views on alcohol policy to state lawmakers does not violate the state or federal constitution.

"The LDS Church did not dictate law," wrote assistant attorney general Kyle J. Kaiser. "And even if some of the legislators were acting from some sectarian dictate, that does not mean the statute is unconstitutional."

At issue is SB314, a law the Legislature passed last year that, among other things, provided for more restaurant liquor licenses but not social club licenses and banned establishments from selling discounted alcoholic drinks. It also ties the state's license quota system not only to population but the number of law enforcement officers.

More broadly, arguments Monday may center on whether the state has unfettered ability to regulate alcohol under the 21st Amendment and whether it has immunity from being sued over federal antitrust laws.

"We are such a control state, it's never been addressed how far they can go," said Lisa Marcy, an attorney for the hospitality association.

The group seeks a balance between commerce, legislation and collective community views. It contends doing away with drink specials amounts to price fixing, which violates antitrust laws.

"Utah is at a threshold of prominence, recognized for its vision and leadership," Marcy wrote in a motion opposing dismissal. "Yet it cannot maintain these qualities without recognizing that the religious views of some should never dominate the rights of others, especially when livelihoods are at stake."

The lawsuit says lawmakers conspired with the LDS Church to craft the legislation. It alleges two church representatives warned them that if they did not agree with the church's support of SB314, "there would be repercussions."

"It's a tough issue," Marcy said. "We're not saying the LDS Church did anything bad. What we're saying is we respectfully disagree with this marriage of church involvement and politics."

Sen. John Valentine, R-Orem, who sponsored the bill, said he doesn't recall anything about repercussions in his discussions with church officials.

"I have to tell you, I was at the center of 314 and I never heard that before these latest allegations," he said.

Valentine, an attorney, said everyone should have the right to seek redress from the government, including churches. "To try to bar a particular religion from being able to talk to the Legislature, I just cannot fathom the court even getting close to granting that kind of remedy," he said.

The LDS Church has said one of the functions of religious leaders in a democracy is to add their voice to issues of public importance. "That is why churches take positions on social issues," according to a 2008 church statement.

While the church teaches its members to avoid alcohol altogether, it acknowledges that alcoholic beverages are available to the public. It has called for reasonable regulations to limit overconsumption, reduce impaired driving and work to eliminate underage drinking.

State lawmakers, too, have used those principles as a guide to drafting alcohol policy.

Valentine said SB314 didn't increase the number of social club licenses because data indicate that more DUIs result from drinking in bars than restaurants. The Utah Department of Alcohol Beverage Control usually has restaurant licenses available, but the wait for a club license is months.

"A wetter environment means more DUIs, more underage drinking and more social costs from alcohol," he said.

Ken Wynn, a hospitality association board member and former DABC executive director, wants to see those numbers.

"They don't have the statistics to support that," he said. "They just spew that out of their mouths and everybody takes it as fact."

Valentine conceded many of the oft-cited studies were done nationally, not locally. He co-sponsored a bill this past legislative session that calls for the Utah Department of Public Safety to collect data about overconsumption, overserving, underage drinking, DUI rates and alcohol-related abuse.

"Where do you think they got that idea from?" Marcy said. "It's never been brought up before but it's brought up now because we throw it in the lawsuit. They need to have that in there because they were on the hook for that."

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