

# The Journal Gazette

## Campaign-finance, alcohol regulations make for uncomfortable pairing

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Freedom lovers will be delighted to learn the libertarian Cato Institute has declared Indiana the fourth freest state in the nation. That's based mostly on its regulatory environment (little regulation), campaign finance laws (few limits on contributions) and high personal freedom (gun rights and plentiful school vouchers and gambling).

But Indiana loses freedom points for regulation of alcohol – an issue that continues to vex the Hoosier state with continued bans on Sunday sales, restrictions on package store merchandise and more. A judge's ruling last week highlighted another example of Indiana's convoluted alcohol law. A Marion Superior Court judge overturned a decision from the Indiana Alcohol and Tobacco Commission, ruling that beer and wine wholesaler Monarch Beverage can sell liquor through a separate company.

Indiana is the only state that prohibits wholesalers from distributing beer and wine along with alcohol. Its three-tiered system dictates manufacturers, wholesalers and retailers must be separate business entities. Monarch sought a permit to distribute alcohol through a new company, Spirited Sales, after its largest wine supplier, E&J Gallo Winery, began selling spirits.

The Alcohol and Tobacco Commission, however, rejected the permit, noting Monarch and Spirited Sales had common ownership.

Judge Heather Welch ruled the ATC acted “in an arbitrary and capricious manner” in denying the wholesale permit. She cited nearly a dozen other companies with similar ownership connections and also noted the active role the governor's office took in the permit process.

“Through political appointees, the Commission is supposed to be an independent agency that grants permits on the basis of merit without any consideration of the applicant's politics,” the judge wrote. “The Commission must not have its judgment questioned by seeking advice on the issuance or denial of permits by having ex parte discussions with staffers of a government office or Remonstrators.”

Emails that came to light in the case showed those discussions were frequent. The policy director for regulatory and administrative affairs under Gov. Mitch Daniels wrote a 2009 memo in which she claimed to have told the ATC chairman the Spirited Sales permit “is not something we want to allow, so he will be denying the request unless you have additional concerns.”

In 2010, the same official, Jessica Norris, wrote an email to the governor's chief of staff celebrating the demise of legislation Monarch had supported to change the state's liquor laws.

“The Monarch/National bill as you’re aware is dead! Yeah! I’ll be watching to see if they will amend the language in the House,” she wrote.

Ironically, the General Assembly’s inability to clean up the state’s nonsensical alcohol laws is tied to one of those freedoms Cato celebrates: lax election finance laws. Monarch Beverage is among the Indiana companies taking advantage of a loophole allowing campaign contributions to be funneled through limited liability corporations. A complaint last year accused Monarch of making \$1.5 million in contributions through a LLC, Vision Concepts. The company has donated to both Republican and Democratic gubernatorial candidates over the past 15 years and to both House campaign caucuses.

If the judge’s ruling stands, Monarch won’t have to continue its determined push to change state law. But the ongoing battle over alcohol regulations will continue as long as Indiana’s election finance laws allow campaign cash to flow like, well – wine.