

## TX ABC Sued for “Arbitrarily” Picking Winners and Losers

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The Texas Association of Business (TAB) and member company McLane Company Inc. filed suit against the Texas Alcoholic Beverage Commission (TABC) in federal court today in attempt to eliminate the One Share Rule and create a “level playing field” amongst Texas businesses.

DOZENS OF RULE BREAKERS IN TX. You may recall, the Texas One Share Rule states that just one overlapping share of stock ownership across alcohol tiers, whether direct or indirect, violates the state’s tied-house laws. TAB and McLane believe this prohibition is an “absurd extreme.”

But even more offensive to the parties is how the rule is being capriciously applied. According to the TAB, roughly 40 manufacturers, distributors and retailers with overlapping ownership had more than 2,500 permits approved or renewed by the TABC. Some of those listed in the court document include: a US Cabinet Member investing in Costco (a retailer) and Constellation Brands (a manufacturer); a US Congressman from Texas holding stock in Chevron, Kroger, and ConocoPhillips (retailers) and Molson Coors (a manufacturer) among several others, per official court documents.

INTERWOVEN AGENDAS. But, you’ll recall, the TABC is withholding permits for McLane because its parent company, Warren Buffet’s Berkshire Hathaway, owns a small stake in an alcohol retailer [see WSD 05-24-2016]. But the plot thickens in this story as it turns out the retailer is Wal-mart. The same Wal-mart that is suing the TABC for prohibiting it from owning a package store permit to sell spirits because it is a public company [see WSD 01-22-2016].

The suit also cites OXXO, a chain of convenience stores from Mexico that was denied a permit to sell alcohol due to overlapping ownership between its parent company, FEMSA, and Heineken.

TAB CHIEF: ENFORCEMENT IS ARBITRARY. “Regrettably, the TABC’s policies do not reflect the vision and philosophy of the state, and through its absurd interpretation of the Alcoholic Beverage Code, it is discouraging business expansion,” says TAB ceo Bill Hammond, adding, “The TABC is arbitrarily picking winners and losers, and that is simply not how we operate in Texas.”

We’ll have more in tomorrow’s WSD after we dig through the relevant court cases and reach out to representatives on both sides.