# Walmart Wins Over Texas Spirit Sales


© KUT | *Walmart fights to stir up competition amongst local Texan family brands such as Spec's.*

A historic ruling widening the sales of spirits in conservative Texas raises concerns among local firms.

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In a country that has long been beholden to numerous Prohibition-era liquor laws, Texas remains one of the most legislated states.

Given the state's strong wholesaler and retailer lobbyists – a patchwork of dry counties encouraged by conservative politicians – and a paper trail in which restaurants sometimes buy alcoholic beverages from retailers, it has long been one of the most challenging states for corporate chains to navigate.

On March 20th, Austin-based US District Judge Robert Pittman passed a historic ruling that opens a sales door for corporate entities seeking to sell spirits in the state of Texas. A handful of stores, and the Texas Package Store Association (TPSA), which represents them – are currently appealing the decision and a final verdict is likely to take several years.

However, legal analysts and Walmart see the ruling as a welcome victory. "We applaud Judge Pitman's order striking down Texas laws that have prevented us from fully serving our customers. Walmart filed suit because these laws are unfair … [and] violate the US

Constitution," shared Anne Hatfield, an Arkansas-based Walmart corporate communications executive.

The presumption is that by allowing multi-unit, non-Texas-based chains to sell spirits the overall cost of alcoholic beverages will be drastically reduced. The other assumption behind this case is that it will greatly help Walmart's wine sales and potentially hurt those of independent retailers and locally owned chains.

Walmart's decision to pursue it as a federal case was smart because the federal court system has a strong precedent of addressing economic discrimination, says Mary Keeney, a shareholder in the Austin-based law firm of Graves Dougherty Hearon & Moody.

"The ruling is great," adds John Hinman, a principal in the alcoholic beverage-focused San Francisco law firm of Hinman & Carmichael. "The prior system ... allowed the spirits market to be controlled by a few families [primarily related to Spec's] that have been gaming the Texas system for decades."

The more-than-100-location retail chain – which goes by the full name of Spec's Wine, Spirits & Finer Foods – that Hinman was referring to has long been one of the state's top, local chains. When asked to comment about the decision John Rydman, Spec's owner, only would share that the case "will be tied up in the courts for a few years".

**A bias against out-of-state entities**

The current laws that regulate spirits sales in Texas – and also affect wine sales under the same roof – have long favored local businesses, according to several attorneys and Hatfield.

Hinman says that legal legislation "in Texas discriminated against national retailers and raised consumer prices." Rob McMillan, the Napa-based founder and executive vice president of the Silicon Valley Bank Wine Division, goes on to note that the previous ban on public corporations – which has been temporarily struck down – had been "enacted with discriminatory intent: one of the legislature's primary purposes in passing the ban was to exclude out-of-state companies from participating in the Texas retail liquor market. "What is more," she adds, "the purpose of the public corporation ban is to discriminate against out-of-state retailers in order to protect locally owned package stores."

Large, non-Texas-based national chains have long been fighting the system, based on what they believe is their legal right to sell their customers all categories of alcoholic beverages. Other major entities that have been waging a legal battle include the Berkshire Hathaway-owned Temple, Texas-based McLane Food Distribution, which has long had its sights on getting its own alcohol-distribution license.


© Spec's | *Large family companies like Spec's have a monopoly over the Texan wine and spirits market.*

### A closer look at law and reality

Some of the current laws in place in Texas – and other parts of the country – while limiting free-market economics do favor the existence of a fine-wine market. Historically, the greater number of retailers permitted to sell the full range of alcoholic beverages the more limited the options in those marketplaces will be.

Consumers gravitate towards convenience, with the bulk of the non-fine-wine consumers buying meat, camping supplies and a bottle for dinner in one place. Wine selection in large, multi-purchase shopping Meccas often gravitates to the lowest wine common denominator in both price and quality. What is more, only the largest and most commercial of wine producers and importers can supply 100+ locations that feature similar wine selections.

While the laws that restrict where spirits can be sold and the number of store licenses an owner may have, may restrain a free market they can also provide some value. Some of the most-legislated markets – such as New York and Texas – also have the most vibrant wine markets because these laws have forced owners to specialise and have steered fine-wine buyers to wine-focused independents and chains.

So while these new rulings, if enacted in Texas, might free up the market and lower prices they could ultimately harm the overall quality of the Texas wine market by lessening the overall total wine selection.

A statement from the TPSA's (the association representing local retailers that lost the cas) executive director Lance Lively, said that the organization "is disappointed in the trial court's decision to overturn decades of Texas law in regulating the sale of liquor in Texas".

**A perspective on behalf of the chains**

"The ruling is clearly a big win for Texas consumers. Anytime there is a change in the environment that benefits consumer choice, we applaud those changes," says Neftalí J. García, an attorney and the vice president of government affairs at McLane and Company, which has long been seeking its own distribution license. "We believe that it will eventually lead to more robust wholesale market and the entire system improves."

A case like this was inevitable, shares Sean Beck, the sommelier and beverage director of several Houston-based restaurants including Backstreet Café, as "Texas was the only state to have a law on the books preventing publicly held companies from selling liquor. They were eventually going to challenge and win."

This legal change of tides is also probably natural, according to Stephen Rannekleiv, the New York-based global sector strategist for beverage at Rabobank's Food & Agribusiness. "It's a bit hard to justify laws that allow family-owned business to have almost unlimited licenses, but do not allow publicly held companies to hold any."

### The pricing issue and what lies ahead

Opening up the sales playing field is likely to drive pricing down and "will certainly make sales of alcoholic beverages more available, more convenient and quite likely more affordable", shares Rannekleiv. "Retailers carrying alcoholic beverages that will be able to offer variety and sustain much lower margins."

A downward spiral on pricing may also run the risk of pushing smaller operators out of business. If it is enforced, "likely a number of smaller shops will close down, and others will have to learn to survive with lower sales. It is an unfortunate consequence."

Looking towards the future, for many drinks industry analysts, these types of legal bumps in the road don't in any way represent the end of the three-tier system but simply represent a new way in which it will be enforced.

"Small premium package stores may actually thrive from a more competitive marketplace," says Hinman. He also doesn't think it is going to fundamentally change the way alcoholic beverages are sold in the United States. However this judgment, if enforced, will "bring Texas more in line with the majority of the major states that permit private sales of spirits".