



Harper campaign

## Democratic AG candidate says Reyes could have prevented Brewvies lawsuit

By Dennis Romboy | Posted - Apr 26th, 2016 @ 6:02pm

SALT LAKE CITY — A Democratic attorney general candidate says the Utah Attorney General's Office could have prevented a lawsuit Brewvies Cinema Pub filed against the state alcohol control agency.

Jon Harper, a Salt Lake lawyer, told the Utah Department of Alcoholic Beverage Control Commission on Tuesday that Attorney General Sean Reyes failed to protect Utahns and businesses from an unconstitutional law.

"Since the attorney general, who swore to uphold the Constitution, apparently won't do his job and represent the people and businesses of Utah in this regard, I'll do it," he told the commission during the public comment period of its monthly meeting.

Harper is challenging Reyes, a Republican, for attorney general.

DABC has threatened to revoke Brewvies' liquor license for serving drinks while showing "Deadpool," which features simulated sex scenes. State alcohol regulators filed a complaint against Brewvies after three undercover officers attended a screening of the R-rated movie in February.

Investigators cited a state obscenity law that is generally used to regulate alcohol and nudity at strip clubs, which are required to have dancers wear G-strings and pasties if the club serves liquor. The law, which applies to businesses with liquor permits, also bans the showing of any film with sex acts or simulated sex acts, full-frontal nudity or the "caressing" of breasts or buttocks.

Attorney general's office spokesman Dan Burton reiterated an earlier statement that the issue is for the DABC to decide, though the office could offer legal advice.

Harper said Brewvies' lawyer asked the attorney general to advise DABC to hold off on enforcing the law, and when it didn't, the theater sued the state, claiming its free speech rights are being trampled.

"There was an opportunity not to have a lawsuit filed. That was blown," he told reporters after the meeting, adding that Utahns are tired of wasting money on lawsuits the state can't win.

Harper said the U.S. Supreme Court has held that liquor regulations can't be used to limit free speech. He said the attorney general should have referred the issue to the Legislature so it could eliminate the "unconstitutional" law.

Sen. Jerry Stevenson, R-Layton, who handles much of the state's alcohol legislation, said he hasn't looked into the law, but doesn't think there would be much appetite to change it.

"What we've been doing in the state seems to have served us quite well," he said. "Generally, if someone says its unconstitutional, it takes two to tango someplace before that's proven."

Stevenson also doesn't see the state budging on the law despite being sued.

"I think the state of Utah would stand on this, push it right to the limit, would be my guess," he said.

The state has yet to respond to the lawsuit in court.

DABC Commission Vice Chairman Jeff Wright opened Tuesday's meeting saying neither the commission nor the DABC administration would "engage in any dialog with the public" on issues in the lawsuit.

"The department and the commission collectively look forward to the legal process and clarification of the law we did not create but are bound to enforce," Wright said. "I would ask for civility in this debate and remind all that courtesy is the shortest distance between two people."

The commission could take up the notice of violation against Brewvies at its May meeting.