

Big Win: Arkansas Grocers See Wine Sales Expansion After Change In Law

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by **Terrie Ellerbee**/editor-Southwest

Charlie Spakes is the 27-year-old lobbyist turned lawyer turned governor's legal advisor who now has the helm of the **Arkansas Grocers & Retail Merchants Association** (AGRMA). He marked his one-year anniversary on July 15. Spakes previously worked as a lobbyist for a nursing home association. Then after law school, the Beebe native went to work for Arkansas Gov. Asa

Hutchinson as legal advisor for the boards and commission office. In that role, he worked with legislators and their constituents to help appoint qualified applicants to serve.

His expertise, "if you can call it expertise," he humbly adds, is in the government relations side, so he's still learning all things grocery. The AGRMA had great successes for grocers on the state level this year no doubt in part because of Spakes' connections.

Spakes spoke to *The Shelby Report* in July about those successes and what the association may tackle next session. The interview question-and-answer has been edited for length and clarity.

The Shelby Report: Since you worked for the governor, it's safe to say you've got an "in" at the capital.

Charlie Spakes: I do have some very good connections. And I got lucky. The state flipped to about 92 percent Republican.

Shelby: Is that a recent flip?

Spakes: Yes, it was. We never had a Republican majority in either house until 2012. (*Editor's note: Democrats had controlled the Arkansas legislature since 1874.*) All of our U.S. senators and congressmen are Republican. In the state House, we have 76 Republicans and 24 Democrats. In the Senate, we have 11 Democrats and 24 Republicans. We flipped pretty strong, and with me working for one of the first Republican governors in Arkansas, I got a little bit of capital street cred.

Shelby: So, with Republican control, was it smooth sailing for this year's state legislature?



Charlie Spakes

Spakes: There were a lot of bills that we—surprisingly—stopped with a Republican majority. With the efforts of my great members, we were able to stop a SNAP (Supplemental Nutrition Assistance Program) restriction bill from going through, which is not always easy. That was a pretty big win for us.

Shelby: Republican legislators wanted to restrict what could be purchased with SNAP benefits.

Spakes: Yes, they wanted to specifically take off candy and soda.

Shelby: You have a list of accomplishments on your website. Let's talk about some others. One was the SNAP bill, obviously, but there also was legislation that changed the laws in the state about wine sales. The law formerly only allowed grocery stores to sell wines from small wineries.

Spakes: The big one was wine. It was very, very contentious here. If we ran it again in 10 simulations, we might only pass it three times. Unlike a lot of states, we have wet and dry counties. There are people on the one hand who are against alcohol. But a lot of times, local stores are the cornerstone of life in smaller towns and counties, so it was tough.

Shelby: How did the change come about?

Spakes: We came to an agreement. All of my big grocery chains came to an agreement with all of the county line liquor stores in the state. And the agreement was they would not fight and they would actually help try to pass this expanded wine in grocery store bill if we had a memorandum that said that we wouldn't contribute to any wet or dry elections for eight years. Because they had been putting a lot of money into it. They're very good at stopping those. Obviously how they make money is being on the county line of a dry county. The expanded wine didn't really impact them because if you can't get any kind of wine at your grocery store, you have to go to them anyway. But also, they've been putting so much money into fighting wet and dry elections that it was a good compromise from both sides. We didn't pass it the first time in the House. If it doesn't pass, you can do a notice of reconsideration where you get to hold the bill for two days and bring it back. We did that, and we got it passed—barely. We had to take it back to the Senate, and it barely passed. But it becomes law if you get 35 votes or if you get 19, so we'll take it.

Shelby: When does that take effect?

Spakes: It will take effect Oct. 1.

Shelby: Are some of your members liquor store owners, and were you caught in the middle of this debate?

Spakes: I have a lot of county line liquor store members, so luckily on this one, we were all on the same side. So, it worked out great.

Shelby: There was one accomplishment listed that isn't familiar: the discount protection bill. What is that?

Spakes: There's an old, old law, 1920s, that's still on the books, and it's under 'coal and manufacturing.' What it says is that you cannot charge someone differently than you would charge someone else for anything that is produced or manufactured. You have to offer the same price. And there were reasons for that back then, but a

smart attorney in Arkansas found this law and found some clients and filed a big lawsuit against Kroger and Walgreens specifically for their cards. It could have potentially cost Kroger and Walgreens \$150 anytime anyone swiped that card and got a discount on whatever item. So, it had the potential to be huge. There also would have been questions about senior discounts, veteran discounts, school discounts, all of that. So, we filed a bill that cleaned that up, and we also were lucky enough that it was applied retroactively. The lawsuit was in the middle of being adjudicated, so we made that lawsuit null and void and also have the protection from here on out for it.

Shelby: Another accomplishment listed separately from the wine bill refers to restrictive alcohol bills.

Spakes: Yes, a lot of the city liquor stores formed a coalition and all sorts of bills were filed in retaliation (for the wine expansion bill), from making it illegal for grocery members to stock either from wine or liquor stores or liquor distributors, to who would be allowed to stock shelves. They also tried to put in new restrictions on permits. You can only get so many permits based on population essentially for liquor, and then wine and beer is a different permit. So, these were going to be new permits. They were trying to restrict the number there because the liquor stores already have that permit and are able to do that, where essentially no grocery store would be able to get a permit because all of the liquor permits are gone in Arkansas. We were able to successfully block all of those moves. We didn't have any retaliatory bills come out against us.

Shelby: Arkansas taxes food.

Spakes: Yes, yes. We were Democrat-controlled forever, so that's one of their deals. From what I hear, the Republicans here like consumption taxes and they don't like income taxes. So, I do think some of that will be cut, but I think they are going to knock some sales taxes down in places, hopefully food. There is a bill that was passed two years with a provision saying that when we get to a certain financial level, then taxes on food will go down to zero percent. So, there is some hope there.

Shelby: What are grocers in Arkansas saying about the Amazon-Whole Foods merger?

Spakes: I haven't gotten very much insight from my members. Whole Foods is not huge here. It doesn't brand well with Arkansas consumers, I don't believe. Arkansas residents, for the most part, are low income or medium income. Also, we're a farm state. From personal experience, and anecdotal is not always the best but it's all I have in this instance, farmers and people in farm towns and friends of farmers don't buy organic. They think it's a scam. The non-GMO they think is a big scam. So, they don't shop there, so I don't think it's a huge deal for my members. I'm sure Walmart, maybe not in Arkansas, but on a national level is very interested in that purchase.

Shelby: Do you see a lot of construction in the state? Does the economy seem depressed, steady, booming?

Spakes: It's doing pretty well, actually. We are at an all-time low for unemployment, 3.4 percent. I think, economically, the state is doing very well. More people are getting jobs. The governor wants to bring more businesses here, and a lot of those would be manufacturing with higher-paying jobs. So, I would like to think that we're trending in the right direction. I think the only thing right now is that we have a very bad tax environment in Arkansas for businesses, for individuals, all of it. I think they'll fix a lot of what they need to fix, but as far as the economy, I think it's rising pretty steadily.

Shelby: You wrote a column for *The Examiner* about the border tax.

Spakes: Yes, I wrote for the border tax and debit reform.

Shelby: Debit swipe fee reform worked out well.

Spakes: Yes, it did.

Shelby: We don't know about the border tax yet.

Spakes: I think it's dead essentially. I really do. It's not dead until it's dead, but I've talked to all of my delegation. They all told me, 'Charlie, don't' worry about it. We're not for it, but that's not going anywhere.' They have to know that if it ever by chance made it out of the House—I don't think it will because Paul Ryan knows that it would end his tax reform plan—I don't think there are any senators in support of it. The best-selling product at Walmart is bananas, which are obviously imported from Mexico, so it is a huge deal for Walmart. But yes, I think it's going to end up falling by the wayside. It's not a consumer bill. It hurts all consumers, so there's no one really going to be advocating for it.

Shelby: Anything else you would like to add?

Spakes: We're working on something that is not huge, but it should and it could be with all these Hello Freshes and Blue Apron-type companies that don't get taxed for sales tax. We narrowly missed passing a bill last session. We have a lot of support for it now. I think that will end up helping grocers because that can be a disadvantage of up to about 10 percent right off the top. These Hello Freshes are able to offer food products right to your door, and you don't have to pay tax on it, which is ludicrous. We're working on that. I think that will be a big issue.