



6th Circuit Rules in Favor of Michigan's Wine Retailer Shipping Law

May 04, 2020

May 04, 2020 - PRESSADVANTAGE -

Recently, the Sixth Circuit Court of Appeals in *Lebamoff Enterprises Inc. v. Whitmer*, reversed a Lower Court's ruling which held Michigan's ban on out of-state wine retailer shipping was unconstitutional. Michigan's wine retailer shipping law allows in-state retailers to ship to Michigan consumers but denies this same privilege to out-of-state retailers. Sean O'Leary, of the liquor blog irishliquorlawyer.com indicated that this is the first major decision dealing with the constitutionality of the wine retailer shipping laws, since the United States Supreme Court's ruling in *Tennessee Wine and Spirits Retailers Association v. Thomas*.

Lebmaoff challenged Michigan's ban on out-state wine retailer shipping and claimed that Michigan by denying retailer shipping privileges, while allowing its own in-state retailers shipping privileges, violated the Commerce Clause's nondiscrimination principle.

Judge Jeffrey Sutton ruled that because the Twenty-first Amendment permits Michigan to treat in-state retailers (who operate within the three-tier system) differently from out-of-state retailers (who do not),

Michigan's law is Constitutional.

According, to the Irish Liquor Lawyer, Sean O'Leary, "Judge Sutton's ruling ignores the Supreme Court's recent decision in the Tennessee Wine case and allows the state to discriminate against an out-of-state business in violation of the Commerce Clause."

O'Leary further states that: "What Judge Sutton leaves out in this analysis is that the state needs hard evidence to back up their statute's justification. As the Supreme Court stated in Tennessee Wine, "mere speculation" or "unsupported assertions" are insufficient to sustain a law that would otherwise violate the Commerce Clause. 544 U.S. at 490, 492. Judge Sutton attempts to ignore the strict scrutiny standard in Tennessee Wine and change it by forgetting about the evidence requirement. If Tennessee Wine's strict evidence requirement is ignored, then we enter a dangerous area where the states will have more power to discriminate against out-of-state economic interest."

As there are eight different wine retailer shipping cases going through the federal court system right now, this is not the end of these disputes.

Further, there is a high probability that there will be a request for a rehearing or an appeal to the Supreme Court on this issue.

###

For more information about Irish Liquor Lawyer, contact the company here: Irish Liquor Lawyer Sean O'Leary (312) 535-8380 sean.o@irishliquorlawyer.com Irish Liquor Lawyer 200 W Madison, Suite 2100 Chicago, IL 60606 (312) 535-8380

Irish Liquor Lawyer

Before beginning the O'Leary Law and Policy Group, LLC, Mr. O'Leary held the position of Senior Public Service Administrator with the Illinois Liquor Control Commission.

Website: <http://irishliquorlawyer.com>

Email: sean.o@irishliquorlawyer.com

Phone: (312) 535-8380



**Irish Liquor
Lawyer**