

WINE INDUSTRY
TECHNOLOGY
SYMPOSIUM

How Will the Supreme Court Ruling Affect Your Online DTC Strategy?



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Recent SCOTUS decision

(Skip Opinion)

OCTOBER TERM, 2018

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Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 821, 887.

SUPREME COURT OF THE UNITED STATES

Syllabus

TENNESSEE WINE AND SPIRITS RETAILERS ASSN.
v. RUSSELL F. THOMAS, EXECUTIVE DIRECTOR OF
THE TENNESSEE ALCOHOLIC BEVERAGE
COMMISSION, ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE SIXTH CIRCUIT

No. 18–96. Argued January 16, 2019—Decided June 26, 2019

- **Question Presented:** Does a state law that imposes a two-year residency requirement for retail liquor store applicants violate the commerce clause because it discriminates against out-of-state retailers?
- **Majority Opinion (7-2 decision):** Yes, and such discrimination is not saved by the 21st Amendment.
 - *Granholm* is not just limited to wineries, products, or producers.
 - “Section 2 [of the 21st Amendment] is not a license to impose all manner of protectionist restrictions on commerce in alcoholic beverages.”
- ***Million Dollar Question:*** *What does this mean for state laws that allow in-state retailers to ship to consumers, but prohibit out-of-state retailers from doing so?*

The Next Frontier?

Retailer Direct-To-Consumer



Source: National Association of Wine Retailers

Retailer DTC Wine Shipping

States that allow intrastate shipment by in-state retailers:

- ☐ Arizona
- ☐ Colorado
- ☐ Illinois
- ☐ Indiana
- ☐ Maine
- ☐ Massachusetts

- ☐ Michigan
- ☐ Minnesota
- ☐ Missouri
- ☐ New Jersey
- ☐ New York
- ☐ North Carolina

- ☐ Ohio
- ☐ Rhode Island
- ☐ South Carolina
- ☐ Texas
- ☐ Washington

Retailer DTC Wine Shipping

States that prohibit retailer shipping all together

☐ Alabama

☐ Arkansas

☐ Delaware

☐ Georgia

☐ Hawaii

☐ Iowa

☐ Kansas

☐ Kentucky

☐ Maryland

☐ Mississippi

☐ Montana

☐ Pennsylvania

☐ South Dakota

☐ Tennessee

☐ Utah

☐ Vermont

☐ Wisconsin

WSWA Response



“Although WSWA disagrees with the outcome of today’s Supreme Court ruling, we agree with the Court **that the promotion of public health and safety is a primary function of alcohol regulation**, with the three-tier system being paramount to the creation of the safest alcohol market in the world. America’s system of beverage alcohol regulation continues to be a global standard – offering consumers **unparalleled safety and selection, ensuring cost-effective and efficient tax collection, guarding against counterfeit alcohol and illegal markets, fostering competition, and promoting social responsibility.**”

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