

LOUISIANA COURT UPHOLDS STATE AUTHORITY TO REGULATE DISTRIBUTION OF ALCOHOL

Source: WSWA

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Wholesaler Industry Hails Decision that Cites STOP Act Championed by WSWA

In another victory for the 21st Amendment, the Louisiana Court of Appeals issued a lengthy opinion supporting the three-tier system and the ability of the states to determine how alcohol should be distributed in Manuel, et al. v. State of Louisiana, et al. The Louisiana State Supreme Court recently denied a writ of certiorari filed by the plaintiffs, so this decision is now final and binding.

"This decision underscores the critical role our industry plays in the responsible distribution of alcohol. The court's citation to the Sober Truth on Preventing Underage Drinking (STOP) Act that the Wine & Spirits Wholesalers of America (WSWA) helped spearhead through Congress only sweetens the victory and helps substantiate the importance of strong, state-based regulation," said WSWA President and CEO Craig Wolf.

The state Court of Appeals affirmed the "unquestionably legitimate" three-tier system in holding that the state's prohibitions against volume discounts, certain credit sales and central warehousing, among other things, were constitutional, and dismissed the plaintiffs' claims. The court noted that the challenged regulations "promote the separation, independence, and stability of the three tiers and are, in fact, integral components of Louisiana's three-tier system for the regulation of alcoholic beverages within the [s]tate. A central argument here is that, if [p]laintiffs prevail, there will be a functional collapse of the wholesale and retail tiers."

In an important discussion regarding the federal government's respect for state authority over alcohol regulation, the court cited to the Sober Truth on Preventing Underage Drinking (STOP) Act, which was enacted with the strong support of WSWA. The STOP Act states that continued

state regulation and licensing of the manufacture, importation, sale, distribution, transportation and storage of alcoholic beverages are clearly in the public interest and are critical to promoting responsible consumption, preventing illegal access to alcohol by persons under 21 years of age from commercial and non-commercial sources, maintaining industry integrity and an orderly marketplace, and furthering effective state tax collection.

Plaintiffs challenged six regulations as violating the Sherman Antitrust Act: 1) a ban on certain credit sales by a wholesaler to a retailer; 2) a ban on volume discounts; 3) a "delivered-pricing" requirement in sales by a wholesaler to a retailer; 4) a ban on central warehousing by retailers; 5) a ban on distribution by retailers; and 6) a ban on sales or delivery by a wholesaler to retailers located outside the wholesaler's territory.

The court held that each of those regulations fell "within the core of the [s]tate's power to regulate the transportation, distribution, sale, and consumption of alcoholic beverages under the 21st Amendment," and that far from finding any conflict between state and federal policies, they should be understood as compatible with one another and as running parallel.

Plaintiffs challenged two other regulations as violating the Interstate Commerce Clause of the U.S. Constitution: 1) a ban on direct shipping to Louisiana consumers by Louisiana retailers; and 2) a ban on direct shipping to Louisiana consumers in prohibition territory by Louisiana retailers. The Court indicated that "[t]hese kinds of transactions-and the prohibitions pertaining to them-do not affect interstate commerce and should be regarded as outside the scope of the Interstate Commerce Clause."

"This triumph amplifies the decisions of the Costco Case and other recent court victories for states. I applaud the growing consensus of the courts that individual states have the right to regulate alcohol distribution under the 21st Amendment," added Wolf.

To read the full decision or for more information, visit www.wswa.org.