

ALCOHOL REGULATION AND THE 21st AMENDMENT OF THE U.S. CONSTITUTION

What the courts have said:

The 21st Amendment is unique in its constitutional scheme in that it represents the only express grant of power to the STATES, thereby creating a fundamental restructuring of the constitutional scheme as it relates to one product – INTOXICATING LIQUORS. – Castlewood Int'l Corp v Simon, 596 F.2d 638

Police power of states over intoxicating liquors was extremely broad prior to the 21st Amendment, and the broad sweep of that Amendment has been recognized as SOMETHING MORE than normal state authority over public health, welfare and morals. – AZ Liq. Control Board v Poulos, 112 Ariz 119

State may absolutely prohibit manufacture, transportation, sale or POSSESSION of intoxicants and may adopt measures reasonably appropriate to effectuate these inhibitions and EXERCISE FULL POLICE AUTHORITY in respect to them – Dickerson v Commonwealth, 181 VA 313

On account of inherent and POTENTIAL MENACE to public welfare caused by liquor business, police power to regulate it is of FAR GREATER scope and power that is directed toward ordinary business activity; 21st Amendment allows exercise of very broad police powers by STATES with respect to alcoholic liquors; under the 21st Amendment, STATES may either absolutely prohibit manufacture, sale or possession of such liquors within its borders or may permit these activities UNDER CONDITIONS PRESCRIBED BY THEIR LEGISLATURES. Ruppert v Liquor Control Commission, 138 Conn 669

In passing upon these contentions there are the applicable the well-established principles that the LEGISLATURES in their exercise of the police power may entirely prohibit traffic in intoxicating liquors for use as a beverage or may license such traffic conditionally by imposing such restraints or conditions as it considers necessary and reasonable in its judgement and discretion, even though the conditions coupled with the license may be so burdensome that the business cannot be conducted successfully thereunder. – Weinberg v Kluchesky, 236 Wis. 99; 294 N.W. 530

The justification for the exercise of the police power in restraining or prohibiting the sale of intoxicating liquor has been stated and restated by the courts time and again. It may be summed up as resting upon the FUNDAMENTAL PRINCIPLE that SOCIETY has an INHERENT RIGHT to protect itself; that the preservation of law and order is PARAMOUNT to the rights of individuals or property in the manufacturing or selling intoxicating liquors; that the sobriety, health, peace, comfort and happiness of society DEMAND REASONABLE REGULATION, if not the entire prohibition, of the liquor traffic. Unrestricted, it leads to drunkenness, poverty, lawlessness, vice and crime of almost every description. Against this result, society has the INHERENT RIGHT TO PROTECT ITSELF – a right which antedates ALL CONSTITUTIONS AND WRITTEN LAWS – a right which springs out of the very foundation upon which the societal organism rests; a right which needs no other justification for its existence or exercise than it is REASONABLY NECESSARY in order to promote the general welfare of the state. – Odelberg v City of Kenosha, 20 Wis. 2d 146; 122 N.W. 435

To serve these policy goals, the statutory scheme governing alcohol in Wisconsin is PERVASIVE, SWEEPING AND RESTRICTIVE. – Zodrow v State, 154 Wis. 551; 143 N.W. 693

Statutes regulating USE and sale of alcoholic beverages are intended to regulate and restrain or restrict, BUT NOT TO ENCOURAGE or PROMOTE the sale of liquor. They should be CONSTRUED LIBERALLY in order to effectuate their purposes. 48 C.J.S. Intoxicating Liquor, Sec. 191

Where the policy of the statute and intent of the Legislature is clear, the courts have been willing to imply provisions into our fermented malt beverage law. State v Fries, 246 Wis 521, 523

For the record, NOWHERE in the U.S. Constitution (the supreme law of the land) is the phrase, “Life, liberty and pursuit of happiness” used. It appears in the Declaration of Independence. The 21st Amendment to the Constitution gives the “rights” concerning alcohol beverages, not to the federal government nor to the individuals, but to the states. It is the only express grant of authority given exclusively to the states. As such, it is the RIGHT AND THE DUTY for state Legislators to enact such laws as they deem reasonable to regulate the sale, use and consumption of alcohol beverages for the health and safety of its citizens. When the “party barn lobby” says it is NOT about alcohol and that government has no right to “meddle” in this area, I have to strongly disagree – this is EXACTY where it should be addressed.