

106TH CONGRESS
1ST SESSION

H. R. 2031

AN ACT

To provide for injunctive relief in Federal district court to enforce State laws relating to the interstate transportation of intoxicating liquor.

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To provide for injunctive relief in Federal district court to enforce State laws relating to the interstate transportation of intoxicating liquor.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Twenty-First Amend-
3 ment Enforcement Act”.

4 **SEC. 2. SHIPMENT OF INTOXICATING LIQUOR INTO STATE**
5 **IN VIOLATION OF STATE LAW.**

6 The Act entitled “An Act divesting intoxicating liq-
7 uors of their interstate character in certain cases”, ap-
8 proved March 1, 1913 (commonly known as the “Webb-
9 Kenyon Act”) (27 U.S.C. 122) is amended by adding at
10 the end the following:

11 **“SEC. 2. INJUNCTIVE RELIEF IN FEDERAL DISTRICT**
12 **COURT.**

13 “(a) DEFINITIONS.—In this section—

14 “(1) the term ‘attorney general’ means the at-
15 torney general or other chief law enforcement officer
16 of a State, or the designee thereof;

17 “(2) the term ‘intoxicating liquor’ means any
18 spirituous, vinous, malted, fermented, or other in-
19 toxicating liquor of any kind;

20 “(3) the term ‘person’ means any individual
21 and any partnership, corporation, company, firm, so-
22 ciety, association, joint stock company, trust, or
23 other entity capable of holding a legal or beneficial
24 interest in property, but does not include a State or
25 agency thereof; and

1 “(4) the term ‘State’ means any State of the
2 United States, the District of Columbia, the Com-
3 monwealth of Puerto Rico, or any territory or pos-
4 session of the United States.

5 “(b) ACTION BY STATE ATTORNEY GENERAL.—If
6 the attorney general has reasonable cause to believe that
7 a person is engaged in, or has engaged in, any act that
8 would constitute a violation of a State law regulating the
9 importation or transportation of any intoxicating liquor,
10 the attorney general may bring a civil action in accordance
11 with this section for injunctive relief (including a prelimi-
12 nary or permanent injunction or other order) against the
13 person, as the attorney general determines to be necessary
14 to—

15 “(1) restrain the person from engaging, or con-
16 tinuing to engage, in the violation; and

17 “(2) enforce compliance with the State law.

18 “(c) FEDERAL JURISDICTION.—

19 “(1) IN GENERAL.—The district courts of the
20 United States shall have jurisdiction over any action
21 brought under this section by an attorney general
22 against any person, except one licensed or otherwise
23 authorized to produce, sell, or store intoxicating liq-
24 uor in such State.

1 “(2) VENUE.—An action under this section
2 may be brought only in accordance with section
3 1391 of title 28, United States Code, or in the dis-
4 trict in which the recipient of the intoxicating liquor
5 resides or is found.

6 “(d) REQUIREMENTS FOR INJUNCTIONS AND OR-
7 DERS.—

8 “(1) IN GENERAL.—In any action brought
9 under this section, upon a proper showing by the at-
10 torney general of the State, the court may issue a
11 preliminary or permanent injunction or other order
12 to restrain a violation of this section. A proper show-
13 ing under this paragraph shall require clear and con-
14 vincing evidence that a violation of State law as de-
15 scribed in subsection (b) has taken place. In addi-
16 tion, no temporary restraining order or preliminary
17 injunction may be granted except upon—

18 “(A) evidence demonstrating the prob-
19 ability of irreparable injury if injunctive relief is
20 not granted; and

21 “(B) evidence supporting the probability of
22 success on the merits.

23 “(2) NOTICE.—No preliminary injunction or
24 permanent injunction or other order may be issued

1 under paragraph (1) without notice to the adverse
2 party and an opportunity for a hearing.

3 “(3) FORM AND SCOPE OF ORDER.—Any pre-
4 liminary or permanent injunction or other order en-
5 tered in an action brought under this section shall—

6 “(A) set forth the reasons for the issuance
7 of the order;

8 “(B) be specific in its terms;

9 “(C) describe in reasonable detail, and not
10 by reference to the complaint or other docu-
11 ment, the act or acts sought to be restrained;
12 and

13 “(D) be binding upon—

14 “(i) the parties to the action and the
15 officers, agents, employees, and attorneys
16 of those parties; and

17 “(ii) persons in active concert or par-
18 ticipation with the parties to the action
19 who receive actual notice of the order by
20 personal service or otherwise.

21 “(e) ADDITIONAL REMEDIES.—

22 “(1) IN GENERAL.—A remedy under this sec-
23 tion is in addition to any other remedies provided by
24 law.

1 “(2) STATE COURT PROCEEDINGS.—Nothing in
2 this section may be construed to prohibit an author-
3 ized State official from proceeding in State court on
4 the basis of an alleged violation of any State law.

5 **“SEC. 3. GENERAL PROVISIONS.**

6 “(a) EFFECT ON INTERNET TAX FREEDOM ACT.—
7 Nothing in this Act may be construed to modify or super-
8 sede the operation of the Internet Tax Freedom Act (47
9 U.S.C. 151 note).

10 “(b) ENFORCEMENT OF TWENTY-FIRST AMEND-
11 MENT.—It is the purpose of this Act to assist the States
12 in the enforcement of section 2 of the twenty-first article
13 of amendment to the Constitution of the United States,
14 and not to impose an unconstitutional burden on inter-
15 state commerce in violation of article I, section 8, of the
16 Constitution of the United States. No State may enforce
17 under this Act a law regulating the importation or trans-
18 portation of any intoxicating liquor that unconstitutionally
19 discriminates against interstate commerce by out-of-State
20 sellers by favoring local industries, erecting barriers to
21 competition, and constituting mere economic protec-
22 tionism.

23 “(c) SUPPORT FOR INTERNET AND OTHER INTER-
24 STATE COMMERCE.—Nothing in this Act may be
25 construed—

1 “(1) to permit State regulation or taxation of
2 Internet services or any other related interstate tele-
3 communications services; or

4 “(2) to authorize any injunction against—

5 “(A) an interactive computer service (as
6 defined in section 230(f) of the Communica-
7 tions Act of 1934 (47 U.S.C. 230(f)); or

8 “(B) electronic communication service (as
9 defined in section 2510(15) of title 18, United
10 States Code) used by another person to engage
11 in any activity that is subject to this Act.”.

12 **SEC. 3. EFFECTIVE DATE; APPLICATION OF AMENDMENT.**

13 (a) EFFECTIVE DATE.—Except as provided in sub-
14 section (b), this Act and the amendment made by this Act
15 shall take effect on the date of the enactment of this Act.

16 (b) APPLICATION OF AMENDMENT.—The amendment
17 made by this Act shall apply only with respect to the im-
18 portation or transportation of any intoxicating liquor oc-
19 ccurring after—

20 (1) October 31, 1999, or the expiration of the
21 90-day period beginning on the date of the enact-
22 ment of this Act, whichever is earlier, if this Act is
23 enacted before November 1, 1999; or

24 (2) the date of the enactment of this Act if this
25 Act is enacted after October 31, 1999.

1 **SEC. 4. STUDY.**

2 The Attorney General shall submit to the Congress
3 the results of a study to determine the impact of this Act.
4 The Attorney General shall carry out the study required
5 by subsection (a) and shall submit the results of such
6 study not later than 180 days after the date of the enact-
7 ment of this Act.

 Passed the House of Representatives August 3,
1999.

Attest:

Clerk.