

106TH CONGRESS
1ST SESSION

H. R. 2031

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 7, 1999

Mr. SCARBOROUGH (for himself, Mr. SENSENBRENNER, Mr. DELAHUNT, and Mr. CANNON) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. SHIPMENT OF INTOXICATING LIQUOR INTO STATE**
7 **IN VIOLATION OF STATE LAW.**

8 The Act entitled “An Act divesting intoxicating liq-
9 uors of their interstate character in certain cases”, ap-

1 proved March 1, 1913 (commonly known as the “Webb-
2 Kenyon Act”) (27 U.S.C. 122) is amended by adding at
3 the end the following:

4 **“SEC. 2. INJUNCTIVE RELIEF IN FEDERAL DISTRICT**
5 **COURT.**

6 “(a) DEFINITIONS.—In this section—

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

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

13 “(3) the term ‘person’ means any individual
14 and any partnership, corporation, company, firm, so-
15 ciety, association, joint stock company, trust, or
16 other entity capable of holding a legal or beneficial
17 interest in property, but does not include a State or
18 agency thereof; and

19 “(4) the term ‘State’ means any State of the
20 United States, the District of Columbia, the Com-
21 monwealth of Puerto Rico, or any territory or pos-
22 session of the United States.

23 “(b) ACTION BY STATE ATTORNEY GENERAL.—If
24 the attorney general of a State has reasonable cause to
25 believe that a person is engaged in, is about to engage

1 in, or has engaged in, any act that would constitute a vio-
2 lation of a State law regulating the importation or trans-
3 portation of any intoxicating liquor, the attorney general
4 may bring a civil action in accordance with this section
5 for injunctive relief (including a preliminary or permanent
6 injunction or other order) against the person, as the attor-
7 ney general determines to be necessary to—

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

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

11 “(c) FEDERAL JURISDICTION.—

12 “(1) IN GENERAL.—The district courts of the
13 United States shall have jurisdiction over any action
14 brought under this section by an attorney general of
15 a State against any person, except one licensed or
16 otherwise authorized to produce, sell, or store intoxi-
17 cating liquor in such State.

18 “(2) VENUE.—An action under this section
19 may be brought only in accordance with section
20 1391 of title 28, United States Code, or in the dis-
21 trict in which the recipient of the intoxicating liquor
22 resides or is found.

23 “(d) REQUIREMENTS FOR INJUNCTIONS AND
24 ORDERS.—

1 “(1) IN GENERAL.—In any action brought
2 under this section, upon a proper showing by the at-
3 torney general of the State, the court shall issue a
4 preliminary or permanent injunction or other order
5 without requiring the posting of a bond.

6 “(2) NOTICE.—No preliminary or permanent
7 injunction or other order may be issued under para-
8 graph (1) without notice to the adverse party.

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

12 “(A) set forth the reasons for the issuance
13 of the order;

14 “(B) be specific in terms;

15 “(C) describe in reasonable detail, and not
16 by reference to the complaint or other docu-
17 ment, the act or acts to be restrained; and

18 “(D) be binding only upon—

19 “(i) the parties to the action and the
20 officers, agents, employees, and attorneys
21 of those parties; and

22 “(ii) persons in active cooperation or
23 participation with the parties to the action
24 who receive actual notice of the order by
25 personal service or otherwise.

1 “(e) CONSOLIDATION OF HEARING WITH TRIAL ON
2 MERITS.—

3 “(1) IN GENERAL.—Before or after the com-
4 mencement of a hearing on an application for a pre-
5 liminary or permanent injunction or other order
6 under this section, the court may order the trial of
7 the action on the merits to be advanced and consoli-
8 dated with the hearing on the application.

9 “(2) ADMISSIBILITY OF EVIDENCE.—If the
10 court does not order the consolidation of a trial on
11 the merits with a hearing on an application de-
12 scribed in paragraph (1), any evidence received upon
13 an application for a preliminary or permanent in-
14 junction or other order that would be admissible at
15 the trial on the merits shall become part of the
16 record of the trial and shall not be required to be
17 received again at the trial.

18 “(f) NO RIGHT TO TRIAL BY JURY.—An action
19 brought under this section shall be tried before the court.

20 “(g) ADDITIONAL REMEDIES.—

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

24 “(2) STATE COURT PROCEEDINGS.—Nothing in
25 this section may be construed to prohibit an author-

1 ized State official from proceeding in State court on
2 the basis of an alleged violation of any State law.”.

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