

Union Calendar No. 158

106TH CONGRESS
1ST SESSION

H. R. 2031

[Report No. 106-265]

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

JULY 27, 1999

Additional sponsors: Mr. BARR of Georgia, Mr. GILMAN, Mr. BLAGOJEVICH, Mr. GREEN of Texas, Mr. BARRETT of Wisconsin, Ms. KILPATRICK, Mr. BACHUS, Mr. SHOWS, Mr. KLECZKA, Mr. DUNCAN, Mr. GOODE, Mr. LUCAS of Kentucky, Mr. PICKETT, Mr. STUMP, Mr. RAHALL, Mr. DICKEY, Mr. EHRLICH, Mr. ETHERIDGE, Mr. MCINTYRE, Mr. SANDLIN, Mr. MEEHAN, Mr. BARCIA, Mr. TURNER, Mr. GILLMOR, Mr. GARY MILLER of California, Mr. SKELTON, Mr. BAKER, Mr. KILDEE, Mr. GUTKNECHT, Mr. HILLIARD, Mr. BALDACCI, Mr. LUCAS of Oklahoma, Mr. BOYD, Mr. GRAHAM, Mr. HOEKSTRA, Mr. LIPINSKI, Mr. BONIOR, Mr. PETERSON of Pennsylvania, Mr. KENNEDY of Rhode Island, Mr. NUSSLE, and Mr. CAPUANO

JULY 27, 1999

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on June 7, 1999]

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 liquors*
9 *of their interstate character in certain cases”, approved*
10 *March 1, 1913 (commonly known as the “Webb-Kenyon*
11 *Act”) (27 U.S.C. 122) is amended by adding at the end*
12 *the following:*

13 **“SEC. 2. INJUNCTIVE RELIEF IN FEDERAL DISTRICT COURT.**

14 “(a) *DEFINITIONS.—In this section—*

15 “(1) *the term ‘attorney general’ means the attor-*
16 *ney general or other chief law enforcement officer of*
17 *a State, or the designee thereof;*

1 “(2) the term ‘intoxicating liquor’ means any
2 spirituous, vinous, malted, fermented, or other intoxi-
3 cating liquor of any kind;

4 “(3) the term ‘person’ means any individual and
5 any partnership, corporation, company, firm, society,
6 association, joint stock company, trust, or other entity
7 capable of holding a legal or beneficial interest in
8 property, but does not include a State or agency
9 thereof; and

10 “(4) the term ‘State’ means any State of the
11 United States, the District of Columbia, the Common-
12 wealth of Puerto Rico, or any territory or possession
13 of the United States.

14 “(b) ACTION BY STATE ATTORNEY GENERAL.—If the
15 attorney general has reasonable cause to believe that a per-
16 son is engaged in, or has engaged in, any act that would
17 constitute a violation of a State law regulating the importa-
18 tion or transportation of any intoxicating liquor, the attor-
19 ney general may bring a civil action in accordance with
20 this section for injunctive relief (including a preliminary
21 or permanent injunction or other order) against the person,
22 as the attorney general determines to be necessary to—

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

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

1 “(c) *FEDERAL JURISDICTION.*—

2 “(1) *IN GENERAL.*—*The district courts of the*
3 *United States shall have jurisdiction over any action*
4 *brought under this section by an attorney general*
5 *against any person, except one licensed or otherwise*
6 *authorized to produce, sell, or store intoxicating liq-*
7 *uor in such State.*

8 “(2) *VENUE.*—*An action under this section may*
9 *be brought only in accordance with section 1391 of*
10 *title 28, United States Code, or in the district in*
11 *which the recipient of the intoxicating liquor resides*
12 *or is found.*

13 “(d) *REQUIREMENTS FOR INJUNCTIONS AND OR-*
14 *DERS.*—

15 “(1) *IN GENERAL.*—*In any action brought under*
16 *this section, upon a proper showing by the attorney*
17 *general of the State, the court may issue a prelimi-*
18 *nary or permanent injunction or other order to re-*
19 *strain a violation of this section. A proper showing*
20 *under this paragraph shall require clear and con-*
21 *vincing evidence that a violation of State law as de-*
22 *scribed in subsection (b) has taken place. In addition,*
23 *no temporary restraining order or preliminary in-*
24 *junction may be granted except upon—*

1 “(A) evidence demonstrating the probability
2 of irreparable injury if injunctive relief is not
3 granted; and

4 “(B) evidence supporting the probability of
5 success on the merits.

6 “(2) NOTICE.—No preliminary injunction or
7 permanent injunction or other order may be issued
8 under paragraph (1) without notice to the adverse
9 party and an opportunity for a hearing.

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

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

15 “(B) be specific in its terms;

16 “(C) describe in reasonable detail, and not
17 by reference to the complaint or other document,
18 the act or acts sought to be restrained;

19 “(D) be binding upon—

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

23 “(ii) persons in active concert or par-
24 ticipation with the parties to the action who

1 *receive actual notice of the order by per-*
2 *sonal service or otherwise.*

3 “(e) *ADDITIONAL REMEDIES.*—

4 “(1) *IN GENERAL.*—*A remedy under this section*
5 *is in addition to any other remedies provided by law.*

6 “(2) *STATE COURT PROCEEDINGS.*—*Nothing in*
7 *this section may be construed to prohibit an author-*
8 *ized State official from proceeding in State court on*
9 *the basis of an alleged violation of any State law.”.*

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

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

14 (b) *APPLICATION OF AMENDMENT.*—*The amendment*
15 *made by this Act shall apply only with respect to the impor-*
16 *tation or transportation of any intoxicating liquor occur-*
17 *ring after—*

18 (1) *October 31, 1999, or the expiration of the 90-*
19 *day period beginning on the date of the enactment of*
20 *this Act, whichever is earlier, if this Act is enacted be-*
21 *fore November 1, 1999; or*

22 (2) *the date of the enactment of this Act if this*
23 *Act is enacted after October 31, 1999.*

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