

106TH CONGRESS  
1ST SESSION

# S. 577

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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IN THE SENATE OF THE UNITED STATES

MARCH 10, 1999

Mr. HATCH (for himself and Mr. DEWINE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## 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-  
10      proved March 1, 1913 (commonly known as the “Webb-

1 Kenyon Act”) (27 U.S.C. 122) is amended by adding at  
2 the end the following:

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

5 “(a) DEFINITIONS.—In this section—

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

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

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

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

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

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

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

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

10          “(c) FEDERAL JURISDICTION.—

11           “(1) IN GENERAL.—The district courts of the  
 12 United States shall have jurisdiction over any action  
 13 brought under this section.

14           “(2) VENUE.—An action under this section  
 15 may be brought only in accordance with section  
 16 1391 of title 28, United States Code.

17          “(d) REQUIREMENTS FOR INJUNCTIONS AND OR-  
 18 DERS.—

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

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

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

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

9                   “(B) be specific in terms;

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

13                   “(D) be binding only 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 cooperation or  
18 participation with the parties to the action  
19 who receive actual notice of the order by  
20 personal service or otherwise.

21           “(e) CONSOLIDATION OF HEARING WITH TRIAL ON  
22 MERITS.—

23                   “(1) IN GENERAL.—Before or after the com-  
24 mencement of a hearing on an application for a pre-  
25 liminary or permanent injunction or other order

1 under this section, the court may order the trial of  
2 the action on the merits to be advanced and consoli-  
3 dated with the hearing on the application.

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

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

15 “(g) ADDITIONAL REMEDIES.—

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

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

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