What to Make of the Sixth Circuit Overturning Ohio's Out-of-State Wine Retailer Shipping Ban

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On May 7, 2026, the U.S. Court of Appeals for the Sixth Circuit reversed the district court in *Block v. Canepa* and struck down Ohio's prohibition on out-of-state retailers shipping wine directly to Ohio consumers and its limitation as to the number of wine bottles Ohio residents can lawfully transport from out of state. The Sixth Circuit reasoned that the limitations placed on interstate commerce were not justified under the Twenty-First Amendment as being essential to maintaining Ohio's three-tier system regulating alcohol sales, and therefore these limitations are unconstitutional under the Dormant Commerce Clause.

After the initial decision by the district court in *Block v. Canepa*, the Sixth Circuit reviewed the decision and sent it back to the district court for further evidentiary proceedings, perhaps making it an attractive ruling for the U.S. Supreme Court to consider. The district court then reconsidered and upheld the restrictions.

In the second-round decision, the district court found that the Ohio laws once again met constitutional muster, but on appeal the Sixth Circuit determined that the local physical presence requirement to obtain a license to direct ship to Ohio consumers was not required to substantially promote public health and safety. Local Ohio retailers are allowed to direct ship wine to Ohio customers with an in-state permit, but out-of-state retailers may not obtain a similar permit. Likewise, the Sixth Circuit determined that the restrictions on transporting wine into Ohio by Ohio consumers, as compared to a larger maximum transportation allowance within the state from Ohio wineries, also did not promote a legitimate public interest.

In response, the Ohio Division of Liquor Control is expected to ask for an *en banc* review from the Sixth Circuit, and if accepted, the ruling may be clarified as the official position of the Sixth Circuit, teeing it up for consideration by the U. S. Supreme Court. The Sixth Circuit decision is in stark contrast with other rulings by the First,

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Third, Fourth, Eighth, and Ninth Circuits, which upheld similar prohibitions. The pressure to expand consumer delivery options accelerated during the COVID-19 pandemic, and many states, including Ohio, have expanded their delivery and shipping options to safely meet the demand, while some regulators are trying to hold the line by strictly enforcing the boundaries of the three-tier system.

At the time of the *Block v. Canepa* decision, there were two separate petitions before the U. S. Supreme Court which, if accepted, could also potentially resolve similar prohibitions in *Day vs. Henry* and *Chicago Wine Company vs. Braun*. However, these petitions were both denied on May 18, 2026.

Given the increasing importance of direct shipping in alcohol sales and the demand for this option by consumers, we can expect that the *Block v. Canepa* decision and the current split of opinions will likely be resolved ultimately by that the Supreme Court. Some commentators have predicted that *Block vs. Canepa* would strike a deadly blow to the three-tier system for wine retailers in Ohio. However, such a strong reaction may not be merited since the Sixth Circuit allowed that Ohio regulators can still impose a regulatory framework upon direct shipping so long it is not primarily discriminatory in impact.

From the consumer standpoint, direct shipping of wine from out-of-state suppliers is here to stay. Direct shipping cases related to wine, beer, and spirits should be separately analyzed and not generalized across these classes even though the constitutional principles remain the same since state regulators often regulate the distinct classes differently.

For example, Tennessee previously imposed residency requirements upon the receipt of a license to direct ship wine, leading to the *Tennessee Wine and Spirits Retailers* case. At the same time, Tennessee does not permit any direct shipment of distilled spirits for both in-state and out-of-state shippers, leading to a different result in *State of Tennessee v. Bottle Buzz, Inc.*

On the other hand, limitations on the direct shipment of beer in Pennsylvania by out-of-state brewers was challenged by Urban

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Artifact along similar lines as the Ohio and Tennessee wine shipping cases. The Urban Artifacts case is proceeding to trial in July after concluding discovery, and there are no public reports as to a settlement in the offing.

The bottom line for manufacturers and distributors alike is to evaluate their direct shipping options with care considering the patchwork of state laws and decisions, and to seek legal advice as to the propriety of workaround solutions posed by the industry. Savvy regulators that want to regulate direct shipping are likely to find creative ways to regulate direct shipping while avoiding a discriminatory impact so as to pass constitutional muster. Meanwhile, given the huge opportunity to expand markets and sales for manufacturers and for retail direct shippers, all eyes are peeled for the next decision related to direct shipping from the Sixth Circuit and beyond.

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