

WHAT YOU NEED TO KNOW ABOUT THE TENNESSEE ALCOHOL SUPREME COURT CASE

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ALCOHOL POLICY 19

SEPTEMBER 16, 2022: 10:30AM - 12:00PM

As required by the Alcohol Policy 19 Conference,
I have signed a disclosure statement and note
the following conflict(s) of interest:

NONE



Evidence to Action: Building a Framework for Change
September 14-16, 2022 Arlington, VA

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**Top 10 questions (and
answers) to teach you
everything you need to
know about
TWSRA v. Thomas...**



QUESTION 1:

What is the 21st Amendment?



Amendment XXI

Section 1.

The eighteenth article of amendment to the Constitution of the United States is hereby **repealed**.

Section 2.

The transportation or importation into any state, territory, or possession of the United States for delivery or use therein of intoxicating liquors, **in violation of the laws thereof**, is hereby prohibited.



QUESTION 2:

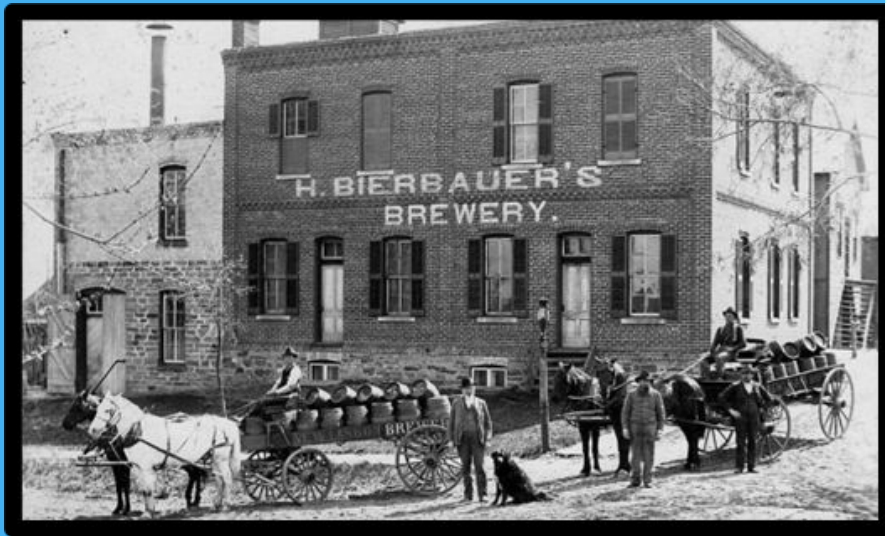
**What Led to the Enactment of
the 21st Amendment?**



Pre-Prohibition

- Alcohol consumption in the U.S. was on the rise
- As a result, drinkers and their families suffered many alcohol-related harms
- Saloons increased in number and in importance





Brewer



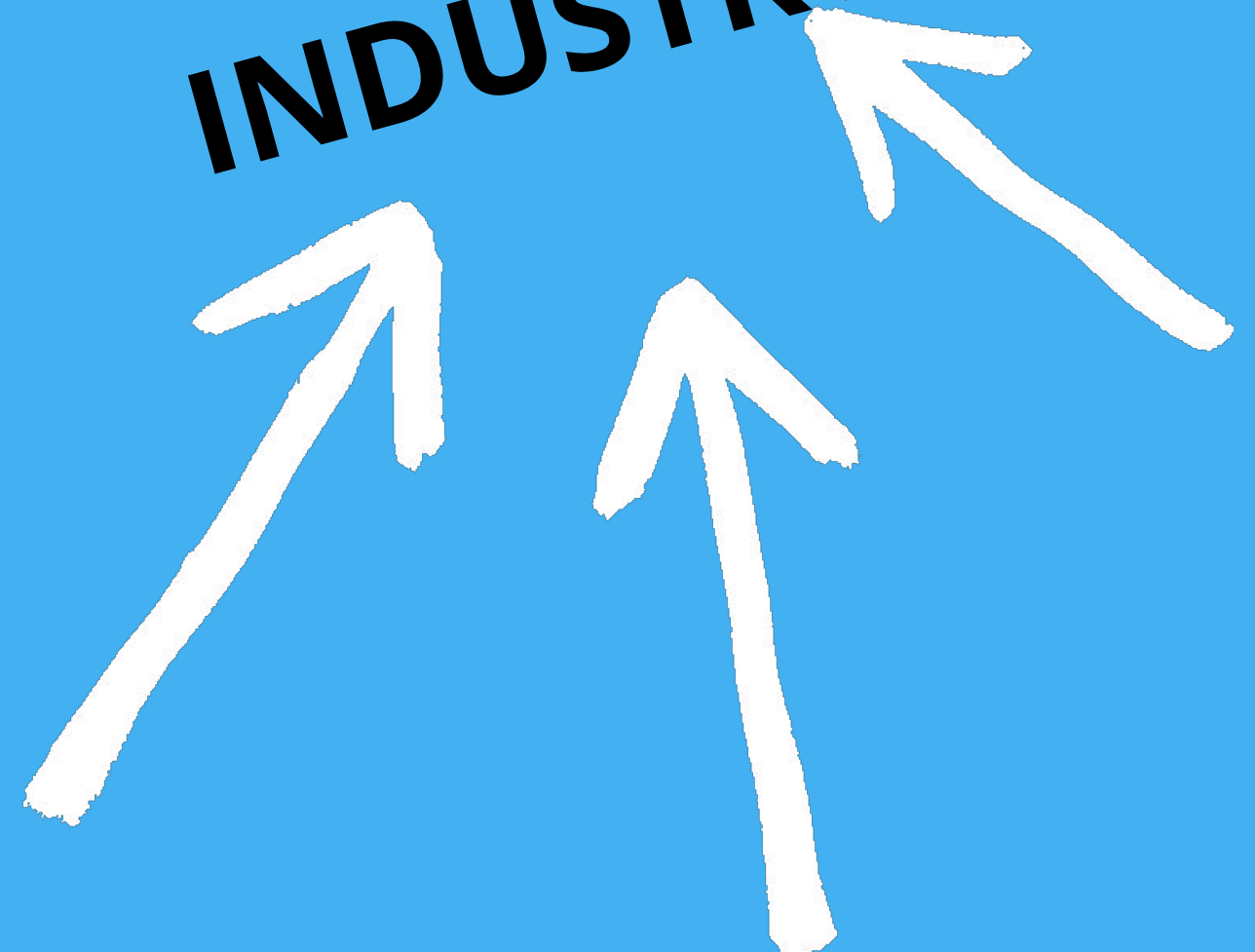
Distributors



Saloons



**VERTICAL
INTEGRATION OF
THE ALCOHOL
INDUSTRY**



Prohibition

- **1919 - Enacted 18th Amendment**
- **Prohibited the "...sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation therefore from the United States and all territory subject to the jurisdiction thereof..."**



QUESTION 3:

WHAT IS THE COMMERCE CLAUSE?



Commerce Clause

Language in the Constitution which gives Congress the power **“to regulate commerce** with foreign nations, and among the several states, and with the Indian tribes.”

Implicit in this Clause is the **prohibition against states** passing legislation that **discriminates against or excessively burdens interstate commerce.**

(Called the "Dormant Commerce Clause")



QUESTION 4:

**WHAT IS THE RELATION BETWEEN
THE 21ST AMENDMENT & THE
COMMERCE CLAUSE?**



The U.S. Supreme Court & State Alcohol Regulation



The 21st
Amendment

The Commerce
Clause



QUESTION 5:

**WHAT OTHER CASES LED TO THE
SUPREME COURT HEARING THE
TENNESSEE CASE?**



Granholm v. Heald

Supreme Court decided Granholm v. Heald in 2005

Overtaken state laws that permit in-state but prohibit out-of-state wineries from directly shipping to consumers





QUESTION 6:

**WHO WERE THE PARTIES IN THE
TENNESSEE CASE?**



Tennessee Wine & Spirits Retailers Association v. Thomas



v.



The logo for Total Wine is displayed within a dark blue rounded rectangle. It consists of the words "Total" and "Wine" in a bold, red, sans-serif font, separated by a small graphic of a bunch of purple grapes with green leaves. Below this, the words "SPIRITS • BEER & MORE" are written in a smaller, green, sans-serif font.





QUESTION 7:

**WHAT WERE THE PARTIES IN THE
TENNESSEE CASE ARGUING ABOUT?**



The Tennessee Case

- Whether the Tennessee "durational residency requirement" - requiring the Tennessee Alcoholic Beverage Commission to not grant licenses to retailers unless they had been a resident of Tennessee for at least two years - was constitutional
- The Tennessee Alcoholic Beverage Commission thought the durational residency requirement was unconstitutional so were planning to grant licenses to two out-of-state retailers
- Upon learning the requirement was not constitutional, the ABC refused to appeal the decision, so the Tennessee Wine & Spirits Retailers Association appealed instead



QUESTION 8:

**WHAT WAS THE SUPREME COURT
RULING IN THE TENNESSEE CASE?**




Supreme Court Ruling

- Decided on June 26, 2022
 - Justice Alito wrote the opinion of the Court, and was joined by Justices Roberts, Ginsburg, Breyer, Sotomayor, Kagan, & Kavanaugh
 - Justice Gorsuch wrote a dissent, and was joined by Justice Thomas
- Held that Tennessee's durational residency requirement was unconstitutional
 - Explained that while states have the power to regulate alcohol,



QUESTION 9:

**HOW MIGHT THE TENNESSEE CASE
IMPACT STATE LAWMAKING IN THE
FUTURE?**



Potential Consequences

1. In the immediate future, states will abandon durational residence requirements leading to an increase in out-of-state alcohol retailers offering alcohol at lower prices

2. State courts will have to decide how to interpret this decision and apply it to current alcohol shipping cases


3. Members of the alcohol industry will likely use this decision as the basis for challenging other alcohol-related public health laws

- This may lead to an erosion of the three-tier system



QUESTION 10:

**HOW CAN PUBLIC HEALTH/POLICY
PROFESSIONALS CONTINUE TO
REGULATE ALCOHOL AND PROTECT
PUBLIC HEALTH GIVEN THE CHANGING
LEGAL LANDSCAPE?**



TRAIN

TRACK

TEST

TRANSLATE

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