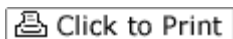




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Court says states can't bar out-of-state wine shipments

WASHINGTON (AP) -- Wine lovers can't be barred from shipping home bottles purchased from out-of-state vineyards they visit in person or on the Internet, the Supreme Court said Monday in a decision toasted by the wine industry.

The 5-4 ruling struck down laws in New York and Michigan as discriminatory because they allow in-state wineries, but not out-of-state businesses, to ship directly to consumers. It means that as many as 24 states that currently bar out-of-state shipments will have to revise their laws so wineries are treated equally.

The decision was cheered by wine lovers who said it would promote Internet sales around the country, leading to lower prices and more choices.

"This is the best day for wine lovers since the invention of the corkscrew," said Clint Bolick, counsel for the Institute for Justice, which represented local wineries in the dispute.

Critics said the ruling usurped a state's right to control alcohol within its borders and could promote underage drinking because proof of age would not be required for Internet purchases.

Ultimately it will be up to state legislatures to decide how best to put wineries on equal footing -- either by loosening restrictions to let all wineries sell directly to consumers, or by tightening laws to bar all businesses from doing so.

Justice Anthony Kennedy, writing for the majority, said that while states have broad authority under the Constitution to regulate alcohol, they may not discriminate against out-of-state wineries simply to protect local economic interests.

"It is evident that the object and design of the Michigan and New York statutes is to grant in-state wineries a competitive advantage over wineries located beyond the states' borders," Kennedy wrote in an opinion joined by Justices Antonin Scalia, David H. Souter, Ruth Bader Ginsburg and Stephen G. Breyer.

The wine industry is booming, with an estimated \$21.6 billion in sales and tourists flocking to wineries for tastings and tours. The recent hit movie "Sideways" took a lighthearted look at California's love affair with the grape.

While wineries have proliferated, there also has been consolidation. Smaller wineries say they can't compete with huge companies unless they can sell directly to customers over the Internet or by letting visitors to their wineries ship bottles home.

The ruling does not affect international wineries; to buy from them, U.S. consumers typically must go through importers or pay duties when bringing bottles into the United States.

The case centered on the 21st Amendment, which ended Prohibition in 1933 and granted states authority to regulate alcohol sales. Nearly half the states subsequently passed laws requiring outside wineries to sell their products through licensed wholesalers within the state, enabling state governments to collect millions in alcohol taxes.

But the Constitution also prohibits states from discriminating against out-of-state businesses. That led to a challenge to the Michigan and New York laws by winemakers who want to cater to Internet customers.

In a dissent, Justice Clarence Thomas argued the ruling needlessly overturns long-established regulations aimed partly at protecting minors. State regulators under the 21st Amendment have clear authority to regulate alcohol as they see fit, he wrote.

"The court does this nation no service by ignoring the textual commands of the Constitution and acts of Congress," Thomas wrote. He was joined by Chief Justice William H. Rehnquist and Justices Sandra Day O'Connor and John Paul Stevens.

Internet and telephone sales by wineries currently account for just 1 percent to 2 percent of domestic wine sales, a figure that advocates say will grow as states loosen alcohol sales restrictions.

Juanita Swedenburg, the Middleburg, Virginia, vintner who sued to overturn New York's laws so she could sell her brand there, called the ruling "a boon for America's wine-loving consumers."

Nida Samona, chairwoman of the Michigan Liquor Control Commission, called the decision a setback for state efforts to battle underage drinking. She said her commission will urge lawmakers to bar direct shipments for both local and out-of-state wineries.

While the ruling only involves wine sales, industry groups expect it will soon apply to beer and other alcoholic beverages now regulated through state-licensed wholesalers and retailers.

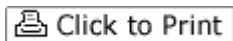
The Washington-based Institute for Justice says the 24 states that ban direct shipments from out-of-state wineries are Alabama, Arizona, Arkansas, Connecticut, Delaware, Florida, Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, Montana, Ohio, Oklahoma, Pennsylvania, New Jersey, New York, South Dakota, Tennessee, Utah and Vermont.

The cases are *Granholt v. Heald*, 03-1116; *Michigan Beer & Wine Wholesalers Association v. Heald*, 03-1120; and *Swedenburg v. Kelly*, 03-1274.

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