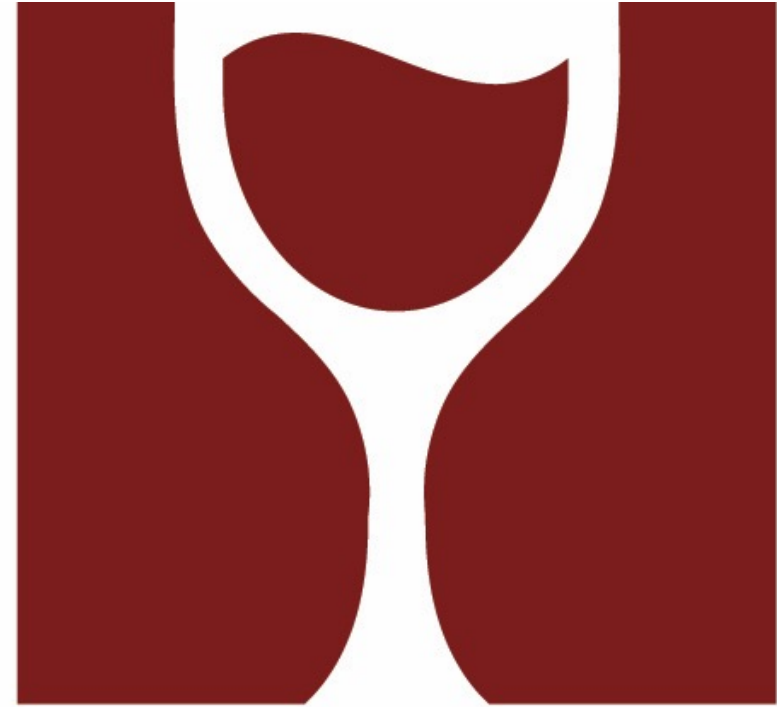


The State of Wine Retailer Shipping and NAWR's Work

- Tom Wark
- Executive Director— NAWR



NAWR

NATIONAL ASSOCIATION OF WINE RETAILERS

- Leveling the playing field for wine retailers
- Expanding opportunities for wine retailers
- Providing NAWR members with better tools to operate their businesses

OPENING MORE STATES FOR DIRECT SHIPMENT OF ALCOHOL

THE WORK OF NAWR

- Increase membership
- Service members' needs
- Instigate and shepherd wine shipping legislation
- Work with attorneys to help move forward wine retailer litigation
 - Promote NAWR goals and principles with media and industry
 - Liaison with the larger alcohol industry
- Administer the business and financial aspects of the Association





WSWA
Statement of Financial Position
For the Eight Months Ending Tuesday, August 31, 2021

	<u>Current Year</u> <u>2021</u>	<u>Prior Year End</u> <u>2020</u>
ASSETS		
Current Assets		
Operating		
WSWA Main Operating Cash Account	\$3,274,614	\$2,522,828
ML Operating #7WD-04098	1,063,381	1,063,542
Total Cash & Cash Equivalents	4,337,995	3,586,370
Accounts Receivable	584,533	99,294
Prepays	76,729	215,979
Due from/(to) WSWA Services	3,400,532	3,400,532
Due from/(to) Sip Source	113,328	260,725
Total Current Assets	8,513,117	7,562,900
Investment Accounts - Merrill Lynch		
Reserve A Fixed #749-07051	3,607,512	3,606,907
Reserve B Equity #749-07C29	5,568,503	4,725,063
Reserve C Alternative #7WD-02462	494,285	447,558
Total Investment Accounts ML	9,670,300	8,779,528
Fixed Assets		
Furniture, Equipment & Leasehold Improvement	2,399,367	2,390,897
Accumulated Depreciation	(1,707,577)	(1,623,730)
Total Fixed Assets	691,790	767,167
Other Assets		
Deferred Comp - 457B	1,335,642	1,335,642
TOTAL ASSETS	<u><u>20,210,849</u></u>	<u><u>18,445,237</u></u>
LIABILITIES & EQUITY		
Liabilities		
Current Liabilities		
Accounts Payable	(12,151)	73,855
Due to/(from) Foundation	52,455	148,932
Accrued Employee Benefits	221,224	272,214



MEMORANDUM

To: WSWA Board of Directors
From: Michelle Korsmo and WSWA Executive Team
Date: September 21, 2021
RE: State of Association

It is the beginning of a new era of governance for the Wine & Spirits Wholesalers of America. On September 15, 2021, the WSWA membership officially elected the newly created 14-person Board of Directors—a significant change from the 150+ person board of the past. I am confident it will be a cohesive, strategic governing body for the



Postal Shipping of Alcohol

The push to allow the U.S. Postal Service to carry alcohol continues on Capitol Hill. Over the summer, Rep. Jackie Spier (D-CA) attempted to add the measure to a postal reform bill in committee but withdrew the amendment due to lack of support. Supporters of the policy are making a renewed push including an aggressive media strategy.

WSWA has regular calls to compare notes and discuss strategy to oppose the legislation with NBWA, ABL, and ADSA. At this point, the heavy congressional agenda works in our favor as it allows little time for other matters. Our chief concern is that the



Producer Direct-to-Consumer Shipping of Alcohol

While DTC fights have been on the front burner for the last 20 years, the issue has even more urgency as distillers have made DTC shipping a top priority and are using COVID restrictions as wedge to achieve change.

In 2021, 22 states considered legislation that would expand or create winery DTC privileges and 18 states considered legislation that would do the same for spirits producers. Only Alabama passed a new law for wine shipping—and in that case the law is among the most robust in the nation when it comes to reporting requirements and enforcement mechanisms, entirely due to the work of wholesalers in the state.

Opposing DTC measures is a top WSWA priority, and we have worked closely with our members companies and Advisory Council members everywhere that these changes



Legal Action Opposing Interstate Shipping of Alcohol

There are currently seven active cases pushing for interstate retailer shipping—the newest one filed in July in Arizona. The same plaintiffs’ attorneys are behind all the cases, and their goal is to obtain conflicting decisions from the federal circuit (appellate) courts. Thus far, the 6th and 8th Circuits have upheld the state law that allows in-state wine retailers to deliver/ship to in-state consumers but prohibits out-of-state wine retailers from shipping into the state.

There are now two additional appeals in the 7th and 4th Circuits, and WSWA’s Legal Strategy Task Force recommends WSWA file an amicus brief in each case this fall.



WSWA's Near-Term Priorities

Our success in the next year centers on four key areas:

1. Building a redesigned convention event that provides value for all attendees.
2. Ensuring any tax increases minimize excessive burden based on how a business is organized. (This will be difficult as congressional leadership intends to disincentives particular type of business organization.)
3. Executing a public relations strategy that increases the visibility of supporters of a well-regulated alcohol marketplace (opposition to direct-to-consumer sales and interstate shipping).
4. Being the policy hub with valuable resources for state and legal battles against direct-to-consumer shipping.



America's Beer, Wine & Spirits Retailers



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ABL Statement on Fourth Circuit Court of Appeals Upholding North Carolina Alcohol Shipping Law

Posted on [June 1, 2022](#) by [abladmin](#)

June 1, 2022 – Bethesda, MD – American Beverage Licensees (ABL) issued the following statement in response to an [opinion](#) by the Fourth Circuit Court of Appeals upholding North Carolina's alcohol shipping law:

"With its ruling today, the Fourth Circuit Court of Appeals joined the Sixth Circuit, Eight Circuit, and most of the beverage alcohol industry in recognizing the primacy of the 21st Amendment in Constitutional challenges to state alcohol laws.

"The 4th Circuit's thorough and considered opinion made clear that differences between states' three-tier systems are acceptable, as is a state's 'interest in preserving its three-tier system for alcohol distribution.'

"As the court points out: 'the Twenty-first Amendment is not an either-or proposition. Rather, it 'gives each State leeway in choosing the alcohol-related public health and safety measures that its citizens find desirable.' Put simply, there is no single 'one size fits all' three-tier system that a state must either adhere to or abandon entirely.'

"This ruling should encourage state alcohol regulators and attorneys general to respectively enforce and defend legitimate state alcohol laws that advance public health and safety or other legitimate grounds. It is also another rejection of repeatedly failed and vexatious alcohol shipping litigation that wastes precious public resources."

Posted in [Press Releases](#)

Beverage Alcohol Retailers Alert State Legislators & Regulators of Liquor Supplier Direct-To-Consumer Push

Posted on [March 31, 2022](#) by [abladmin](#)

Public Safety, Competition and Vibrant Alcohol Marketplace Hang in the Balance

BETHESDA, MD – March 31, 2022 – As the 2022 legislative season continues in state capitals across the country, America's beer, wine and spirits retailers are alerting state legislators about a growing push to unnecessarily and fundamentally change state-based beverage alcohol markets that are already meeting consumer needs and the public safety standards of communities.

Campaigns to rapidly implement Direct-To-Consumer (DTC) liquor sales – a liquor supplier shipping alcohol that has not gone through a three-tier system of checks and balances, across state lines via common carrier directly to an end user – are becoming more prevalent.

Retail beverage licensees are speaking up to educate and inform their state legislators of the problems that would come with changing these laws and creating a virtually unregulated alcohol market, ripe for dangerous illegal alcohol and counterfeiting, problems that would be poised to grow should global supplier DTC shipping come to pass.

These campaigns are often accompanied by claims that the COVID-19 crisis has made expanded supplier DTC access a necessity. But data show that alcohol suppliers – and liquor manufacturers in particular – have enjoyed record profits and growth for years. Current liquor licensing and sales regulations have not impeded the significant growth of the liquor industry, which has seen [supplier gross revenues soar from \\$18.2 billion in 2007 to \\$31.2 billion in 2020](#) and the number of new craft distilleries in the U.S. grow to more than 2,000. That success has been possible because of the very system threatened by supplier DTC sales.

"For the past few years, traditional beverage licensees have seen an increasing push by some alcohol suppliers to subvert existing alcohol sales and distribution systems in order to move sales away from local small beverage businesses," said John Bodnovich, Executive Director of American Beverage Licensees (ABL).

"These efforts threaten the existence of thousands of brick-and-mortar beverage retailers and the broader American alcohol ecosystem that brings choice and value to consumers. They also jeopardize revenue to businesses and government, and compliance with state laws designed for the



Browse All Topics

- All
- 21st Amendment
- Alcohol Regulation
- Antitrust
- Equal Protection
- Guest Columns
- Preemption
- Supreme Court

United States Supreme Court Upholds 6th Circuit and Strikes Tennessee's Retail Residency Case

June 26, 2019

admin

Reinforcing the law school adage of “bad facts make bad law,” the U.S. Supreme Court **upheld** the 6th Circuit decision that struck down Tennessee state law that imposes a durational residency requirement for establishing and renewing a retail liquor license. Justice Alito wrote the majority opinion in the 7-2 decision, while Justice Gorsuch authored the dissent. A link to the amicus briefs and previous commentary can be accessed [here](#).

The majority opinion included Justice Alito's view on the history and purpose of the 21st Amendment and stated that section 2 “*gives each State leeway in choosing the alcohol-related public health and safety measures that its citizens find desirable. §2 is not a license to impose all manner of protectionist restrictions on commerce in alcoholic beverages. Because Tennessee's 2-year residency requirement for retail license applicants blatantly favors the State's residents and has little relationship to public health and safety, it is unconstitutional.*”

The word “protectionist” was used at least a dozen times in the

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Resources

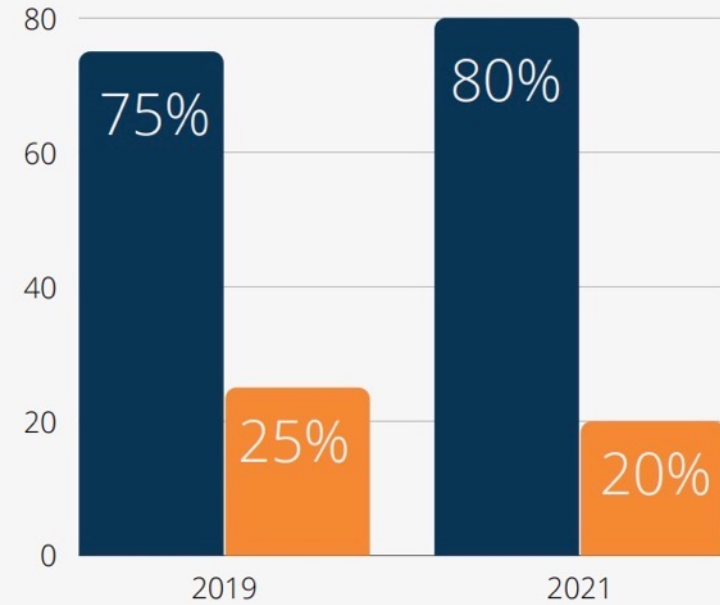
Alcohol Policy Information System

Center for Alcohol Policy

Four-fifths of Americans (80 percent) agree that the three-tier system works well, an increase of 5 percentage points since 2019.

Would you say that this system is generally...

- Working well
- Not working well



CENTER FOR ALCOHOL POLICY

APRIL 2021

NATIONAL ALCOHOL REGULATION SENTIMENT SURVEY





"The recent U.S. Supreme Court decision in Tennessee Wine and Spirits Retailers Association v. Thomas is cited by proponents of DTC retail sales as a green light to allow for the opening of e-commerce and online ordering world to alcohol beverages. The Supreme Court's holding that a two-year durational residence requirement and other onerous requirements for Tennessee retailers violates the dormant commerce clause because the state failed to prove public health and safety grounds has little to no bearing on whether the state may protect its citizens from the risks of fake or counterfeit alcohol beverages. The deaths reported from incidents around the world from fake alcohol clearly evidences the public health dangers of these products."



Working Together – We're More Than OK!

2023 Annual Conference

Oklahoma City, Oklahoma

BUSINESS AGENDA



Stephanie Strauss
President

Conference Host:
Oklahoma ABE Commission

Moderator: ANNE JUNIA, Partner, Powell Junia P.C. (IL)
Panelists: CHRISTOPHER THIEMANN, Distilled Spirits Program Manager, Alcohol and Tobacco Tax and Trade Bureau (TTB)

11:35 A.M. – 1:00 P.M. **LUNCH: Oklahoma Station 5-8**

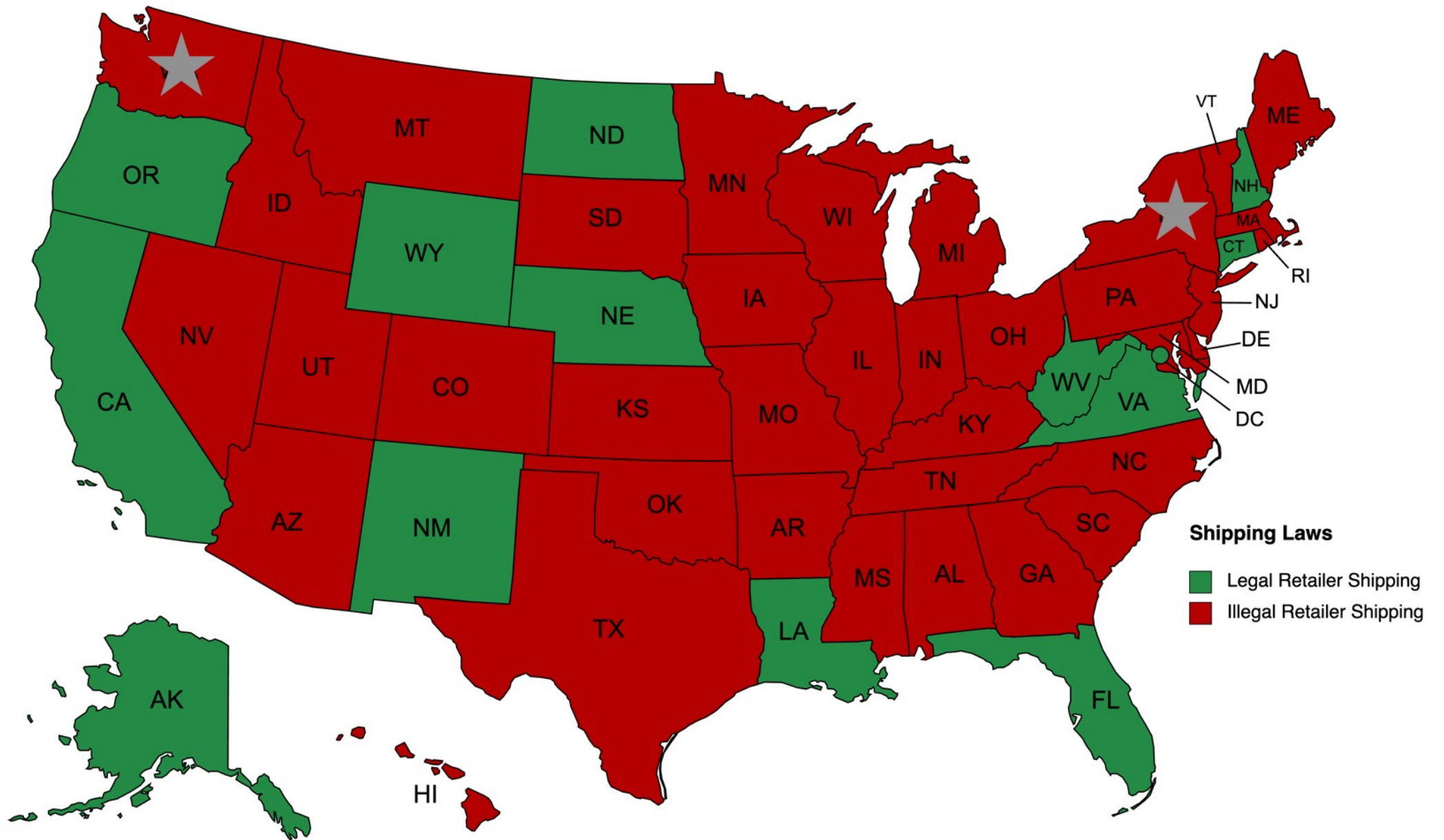
1:00 P.M. – 2:00 P.M. **PANEL #3: Regulatory Perspectives on Illegal Interstate Shipping of Beverage Alcohol**
State regulators to provide insights as to their enforcement efforts aimed at the illegal interstate shipping of beverage alcohol. Discussion topics will include: revenue implications, enforcement efforts, best practices, e-commerce success state stories, and counterfeit products.

Moderator: RANDY BARNHART, VP Gov. Affairs/Compliance, Southern Glazers Wine & Spirits
Panelists: TED MAHONY, Chief Investigator, Massachusetts Alcoholic Beverage Control Commission
DON MCGEHEE, Michigan Attorney General, Division Chief Alcohol Enforcement
THOMAS GRAHAM, Executive Director, Texas Alcoholic Beverage Commission

2:05 P.M. – 3:05 P.M. **PANEL #4: Industry Perspectives on Direct-to-Consumer Shipping of Beverage Alcohol**
Industry members will provide answers to questions raised by the state regulators in the preceding panel and a counter-perspective. Additional discussion topics will include: the Uniform Law Commission, and pros/cons of the DTC Compliance Act.

Moderator: STEPHEN HUMPHRESS, Assistant Attorney General, Kentucky Office of Attorney General
Panelists: STEVE GROSS, Vice President, State Relations, Wine Institute
MARGIE LEHRMAN, Chief Executive Officer, American Craft Spirits Association
CHRIS O'ROURKE, Vice President Legal and General Counsel, Moet Hennessey USA

The Playing Field





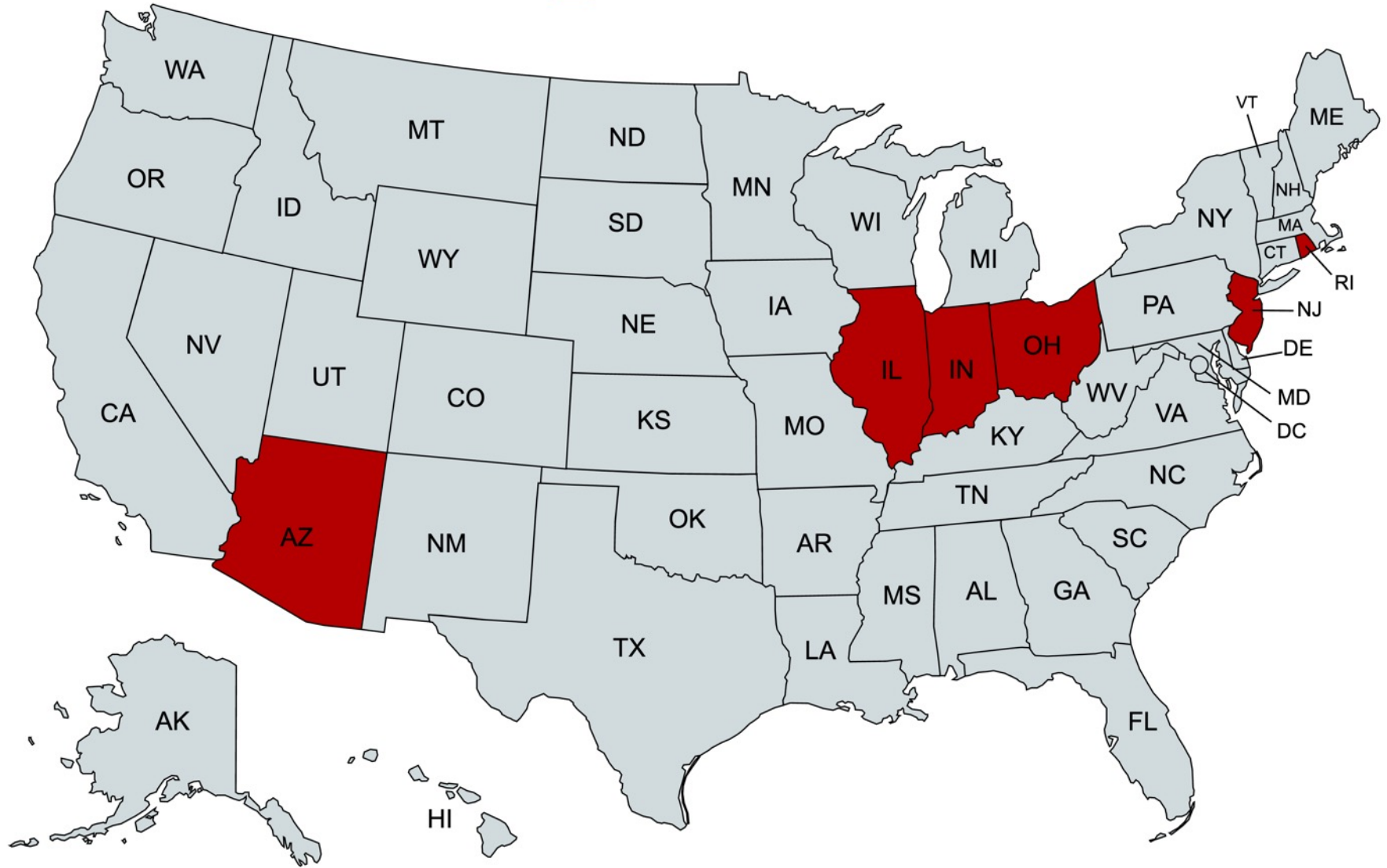
Monday, 09 January 2023 02:51:33 PM

House Regulated Substances & Gaming

January 9, 2023, 1:30 pm - House Hearing Rm E and Virtual



■ Retailer Litigation



THE FOUNDATION OF THE LAWSUITS

GRANHOLM v HEALD (2005)

The power of the states to regulate alcohol was limited by Constitution's Dormant Commerce Clause. Its alcohol regulations may not discriminate against the out-of-state wineries in favor of in-state wineries. Importantly, reasonable nondiscriminatory alternatives were available to address state concerns about the purchase of wine by minors and the states' ability to collect taxes, and the state officials failed to show any legitimate local purpose that could not have been advanced by evenhanded, non discriminatory alternatives.

TENNESSEE WINE v THOMAS (2019)

"Granholm never said that its reading of history or its Commerce Clause analysis was limited to discrimination against products or producers. On the contrary, the Court stated that the Clause prohibits state discrimination against all "out-of-state economic interests."



In the
Supreme Court of the United States

TENNESSEE WINE AND SPIRITS RETAILERS
ASSOCIATION,

Petitioner,

v.

ZACKARY W. BLAIR, Interim Director of the
Tennessee Alcoholic Beverage Commission, et al.,

Respondents.

**On Writ of Certiorari to the United States
Court of Appeals for the Sixth Circuit**

**BRIEF FOR *AMICUS CURIAE* NATIONAL
ASSOCIATION OF WINE RETAILERS IN
SUPPORT OF RESPONDENTS**

PAUL D. CLEMENT

Counsel of Record

ERIN E. MURPHY

MATTHEW D. ROWEN

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Counsel for Amicus Curiae

December 20, 2018



In the
Supreme Court of the United States

TENNESSEE WINE AND SPIRITS
RETAILERS ASSOCIATION,
Petitioner,

v.

ZACKARY W. BLAIR, *ET AL*,
Respondents.

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Sixth Circuit

**BRIEF OF 81 WINE CONSUMERS
AS *AMICI CURIAE*
IN SUPPORT OF RESPONDENTS**

James A. Tanford
Counsel of Record
Robert D. Epstein
Epstein Cohen Seif
& Porter LLP
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Indianapolis, IN 46204
(812) 332-4966
tanford@indiana.edu
Attorneys for Amici Curiae



**In The
Supreme Court of the United States**

◆

SARASOTA WINE MARKET, LLC, et al.,

Petitioners,

v.

ERIC S. SCHMITT,
ATTORNEY GENERAL OF MISSOURI, et al.,

Respondents.

◆

**On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Eighth Circuit**

◆

**BRIEF OF AMICUS CURIAE
NATIONAL ASSOCIATION OF WINE RETAILERS
IN SUPPORT OF PETITIONERS**

◆

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(312) 535-8380
Counsel for Amicus Curiae



No. 22-285

**In the
Supreme Court of the United States**

**B-21 WINES, INC., et al.,
Petitioners,**

v.

**HANK BAUER, CHAIR OF THE
N.C. ALCOHOLIC BEVERAGE COMMISSION,
Respondents.**

**On Petition for Writ of Certiorari to the
United States Court of Appeals for the Fourth Circuit**

**BRIEF OF AMICUS CURIAE
NATIONAL ASSOCIATION OF WINE RETAILERS
IN SUPPORT OF PETITIONERS**

**SEAN M. O'LEARY
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205 N. Michigan Ave. Ste. 810 Chicago, IL 60601
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Counsel for Amicus Curiae**

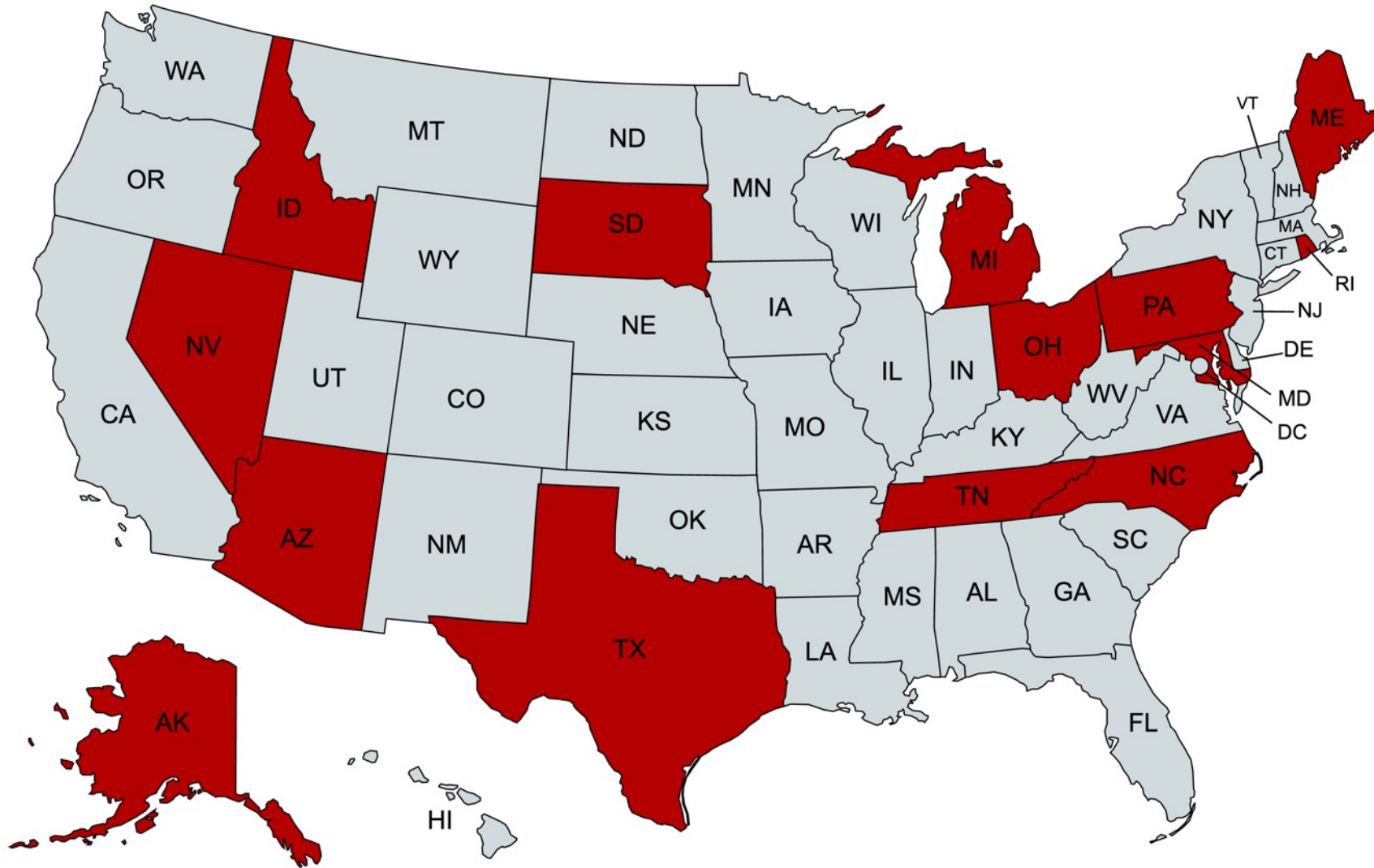
STATEMENT OF INTEREST¹

The National Association of Wine Retailers (NAWR) is an association that represents and promotes the unique interests of wine sellers nationwide. Through

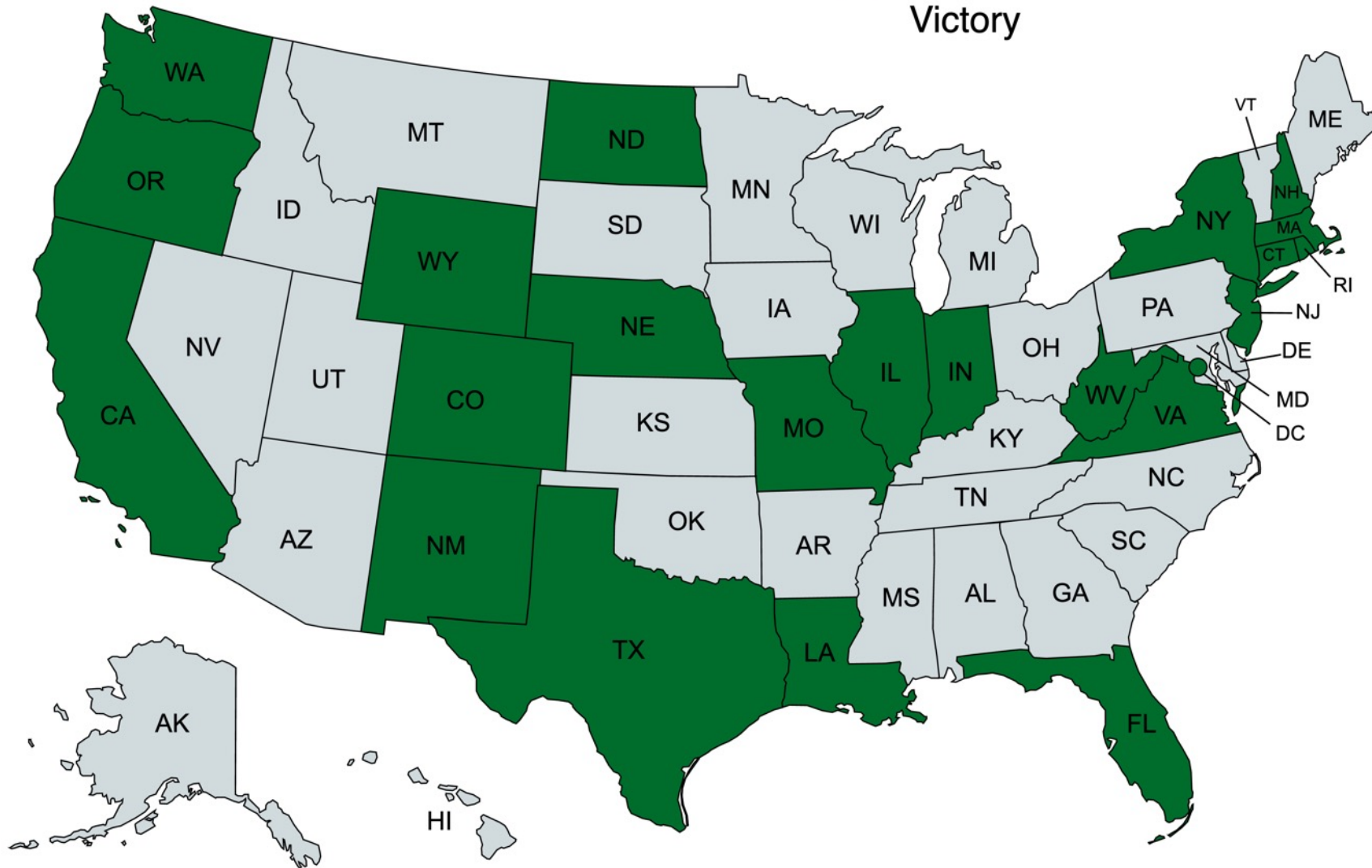


NAWR
NATIONAL ASSOCIATION OF WINE RETAILERS

THREAT TO LEVEL DOWN

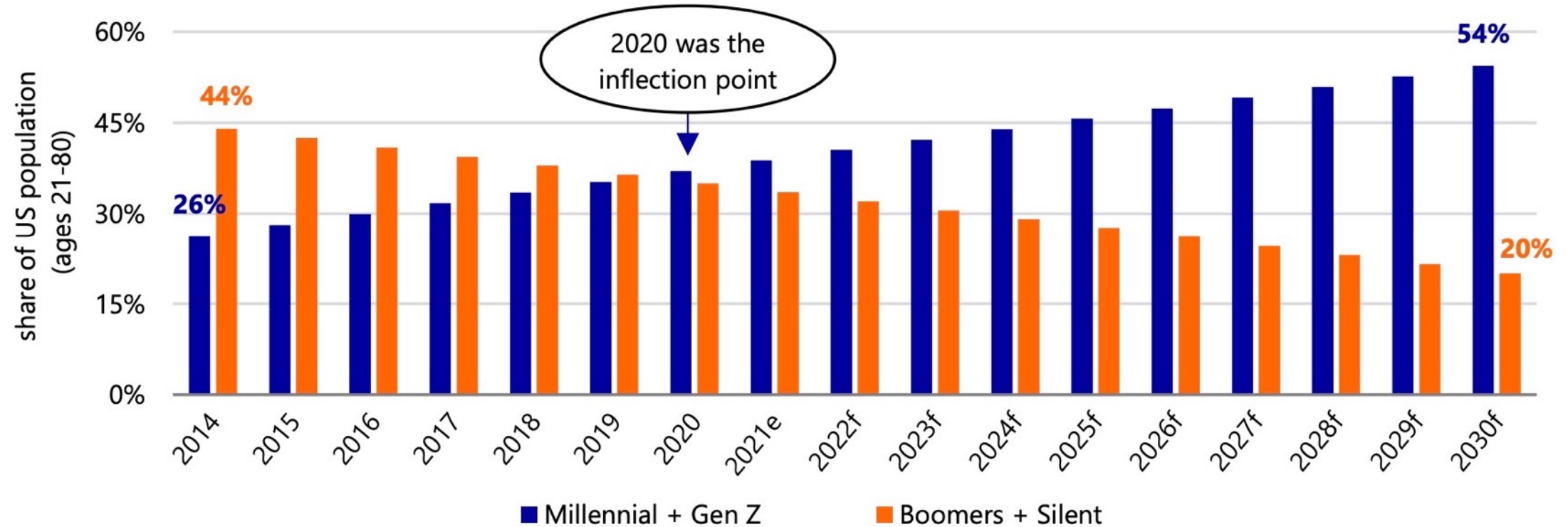


■ After a Supreme Court Victory



WHY THIS ASSOCIATION AND ITS EFFORTS ARE IMPORTANT

Figure 23: By 2030, millennials and Gen Z will represent 54% of individuals between 21 and 80 years old



Source: US Census, Rabobank 2019

WHY THIS ASSOCIATION AND ITS EFFORTS ARE IMPORTANT

Wine
amazon

The Amazon logo, featuring the word "amazon" in a bold, dark grey sans-serif font. Above the "amazon" text, the word "Wine" is written in a purple, italicized serif font. Below the "amazon" text is a thick, orange curved arrow that starts under the "a" and points towards the "n", resembling a smile.

NAWR
NATIONAL ASSOCIATION OF WINE RETAILERS

Thank You

Questions?



NAWR
NATIONAL ASSOCIATION OF WINE RETAILERS