

111th CONGRESS
2d Session
H. R. 5034

To support State based alcohol regulation, to clarify evidentiary rules for alcohol matters, to ensure the collection of all alcohol taxes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

April 15, 2010

Mr. DELAHUNT (for himself, Mr. COBLE, Mr. CHAFFETZ, and Mr. QUIGLEY) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To support State based alcohol regulation, to clarify evidentiary rules for alcohol matters, to ensure the collection of all alcohol taxes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Comprehensive Alcohol Regulatory Effectiveness (CARE) Act of 2010'.

SEC. 2. PURPOSES.

~~It is the purposes~~ of this Act ~~to are--~~

- (1) ~~to~~ recognize that alcohol is different from other consumer products and that it should be regulated effectively by the States ~~according to the laws thereof~~; and
- (2) ~~to~~ reaffirm and protect the primary authority of States to regulate alcoholic beverages.

SEC. 3. SUPPORT FOR STATE ALCOHOL REGULATION.

The Act entitled `An Act divesting intoxicating liquors of their interstate character in certain cases', approved March 1, 1913 (27 U.S.C. 122 et seq.), commonly known as the `Webb-Kenyon Act', is amended by adding at the end the following:

`SEC. 3. SUPPORT FOR STATE ALCOHOL REGULATION.

`(a) Declaration of Policy- It is the policy of Congress that each State or territory shall continue to have the primary authority to regulate alcoholic beverages.

(b) Construction of Congressional Silence- Silence on the part of Congress shall not be construed to impose any barrier under clause 3 of section 8 of article I of the Constitution (commonly referred to as the 'Commerce Clause') to the regulation by a State or territory of alcoholic beverages. However, State or territorial regulations may not intentionally or facially discriminate, ~~without justification,~~ against out-of-State or out-of-territory producers of alcoholic beverages in favor of in-State or in-territory producers unless the State or territory can demonstrate that the challenged law advances a legitimate local purpose that cannot be adequately served by reasonable nondiscriminatory alternatives.'

~~(e) Presumption of Validity and Burden of Proof The following shall apply in any legal action challenging, under the Commerce Clause or an Act of Congress, a State or territory law regarding the regulation of alcoholic beverages:~~

~~(1) The State or territorial law shall be accorded a strong presumption of validity.~~

~~(2) The party challenging the State or territorial law shall in all phases of any such legal action bear the burden of proving its invalidity by clear and convincing evidence.~~

~~(3) Notwithstanding that the State or territorial law may burden interstate commerce or may be inconsistent with an Act of the Congress, the State law shall be upheld unless the party challenging the State or territorial law establishes by clear and convincing evidence that the law has no effect on the promotion of temperance, the establishment or maintenance of orderly alcoholic beverage markets, the collection of alcoholic beverage taxes, the structure of the state alcoholic beverage distribution system, or the restriction of access to alcoholic beverages by those under the legal drinking age.'~~

SEC. 4. AMENDMENT TO WILSON ACT.

The Act entitled 'An Act to limit the effect of the regulations of commerce between the several States and with foreign countries in certain cases', approved August 8, 1890 (27 U.S.C. 121), commonly known as the 'Wilson Act', is amended by striking 'to the same extent' and all that follows through 'Territory,'.