

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

Douglas Furlong, Varietal Beer Company, and Vortex Brewing Co.,
LLC v. The Hon. Anthony G. Brown and Jeffrey A. Kelly

Furlong · No. Civil Action No. RDB-23-2045 · Decided December 23, 2025

SUMMARY

The document contains trial findings of fact and conclusions of law in a federal constitutional challenge to Maryland's direct-to-consumer beer delivery laws. The court concludes that the laws discriminate against out-of-state breweries in violation of the dormant Commerce Clause and are not justified by public health, safety, or another legitimate nonprotectionist interest. Judgment is to be entered for the plaintiffs, and Maryland is enjoined from enforcing the Direct Delivery Law against out-of-state breweries.

CASE DETAILS

COURT	United States District Court for the District of Maryland
WRITING FOR THE COURT	Richard D. Bennett, Senior District Judge
JURISDICTION	United States District Court for the District of Maryland
DECIDED	December 23, 2025
DOCKET	Civil Action No. RDB-23-2045
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs brought a federal constitutional challenge to Maryland laws governing direct-to-consumer beer delivery. After the court denied the parties' cross-motions for summary judgment because of an inadequate evidentiary record, the case proceeded to a two-day bench trial under Federal Rule of Civil Procedure 52(a).
STANDARD OF REVIEW	The court applied the two-step framework for discriminatory state alcohol regulations under the dormant Commerce Clause and Section Two of the Twenty-First Amendment. Plaintiffs bore the burden to show discrimination; the State then bore the burden to justify the discrimination as essential to the three-tier system or as actually serving public health, safety, or another legitimate nonprotectionist interest, and to show that nondiscriminatory alternatives were insufficient.
PRECEDENTIAL VALUE	unknown

PARTIES

Douglas J. Furlong, Varietal Beer Company, Vortex Brewing Co., LLC
v. The Hon. Anthony G. Brown, Attorney General of Maryland,
Jeffrey A. Kelly, Executive Director, Maryland Alcohol, Tobacco, and
Cannabis Commission

TOPICS

dormant commerce clause interstate disputes federalism declaratory judgment equitable relief

PRACTICE AREAS

constitutional law federalism administrative law remedies commercial litigation

QUESTIONS PRESENTED

1. Whether Plaintiffs had Article III standing to challenge Maryland's Direct Delivery Law.
2. Whether the Direct Delivery Law's residency requirement, which limited direct-delivery permits to in-state beer manufacturers, discriminated against interstate commerce.
3. Whether the requirement that direct beer delivery occur through a brewery's own employees rather than a common carrier discriminated in effect against out-of-state breweries.
4. Whether Maryland justified the discriminatory requirements under Section Two of the Twenty-First Amendment as essential to its three-tier alcohol-regulation system or as measures that actually promoted public health, safety, tax collection, or another legitimate nonprotectionist interest.
5. Whether reasonable nondiscriminatory alternatives were available to address Maryland's asserted interests.

HOLDINGS

1. Plaintiffs had Article III standing because the challenged law caused cognizable present or future injuries to the consumer and out-of-state breweries, those injuries were traceable to the law, and declaratory and injunctive relief would redress them.
2. Maryland's residency requirement for direct beer delivery permits facially discriminated against interstate commerce and was unconstitutional because it was not essential to Maryland's three-tier system and was not supported by concrete evidence that it actually promoted public health, safety, tax collection, or another legitimate nonprotectionist interest.
3. The requirement that direct beer delivery be made by a brewery's own employees, rather than by a common carrier, discriminated in effect against out-of-state breweries and was unconstitutional.
4. Maryland did not meet its burden to justify either discriminatory requirement under Section Two of the Twenty-First Amendment.

KEY QUOTATIONS

“Out-of-state beer producers should be permitted to do the same.” (at 1)

“it does not license the States to adopt protectionist measures with no demonstrable connection to those interests.” (at 32)

“Section Two of the Twenty-First Amendment does not “immunize[] discriminatory direct-shipment laws from Commerce Clause scrutiny.”” (at 43)

“A law that authorizes in-state manufacturers to bypass the three-tier system cannot be essential to that system” (at 51)

“Absent evidence, this Court is left with Defendants’ “unsupported assertions,” which are insufficient to justify a discriminatory alcohol regulation.” (at 60)

FACTUAL BACKGROUND

Maryland's Direct Delivery Law allowed eligible in-state breweries to deliver beer directly to Maryland consumers through their own trained employees, while excluding out-of-state breweries from obtaining direct-delivery permits. The law also prohibited use of common carriers for direct beer delivery. Maryland already allowed in-state and out-of-state wineries to ship wine directly to consumers through common carriers and allowed some out-of-state beer producers to sell directly to Maryland retailers. Plaintiffs included a Maryland consumer and breweries located in Pennsylvania and Washington that sought to deliver beer directly to Maryland consumers.

PROCEDURAL HISTORY

Plaintiffs initially filed a one-count Commerce Clause complaint on July 31, 2023, against Maryland's Attorney General, the Executive Director of the Maryland Alcohol, Tobacco, and Cannabis Commission, and Commission members. The court dismissed the Commission members but denied dismissal as to Brown and Kelly. Plaintiffs filed an amended two-count complaint challenging the 2024 Direct Delivery Law; Mirage Beer Company was dismissed by stipulation. The court denied cross-motions for summary judgment, held a bench trial on December 8 and 9, 2025, and entered judgment for Plaintiffs with declaratory and injunctive relief.

DISPOSITION

other

CASES CITED

- Lujan v. Defenders of Wildlife, 504 U.S. 555, 560-61 (1992)
- Spokeo, Inc. v. Robins, 578 U.S. 330, 338 (2016)
- Bostic v. Schaefer, 760 F.3d 352, 370 (4th Cir. 2014)
- Overbey v. Mayor of Baltimore, 930 F.3d 215, 230 (4th Cir. 2019)
- Granholm v. Heald, 544 U.S. 460 (2005)
- Tennessee Wine & Spirits Retailers Ass'n v. Thomas, 588 U.S. 504 (2019)
- B-21 Wines, Inc. v. Bauer, 36 F.4th 214 (4th Cir. 2022)
- Beskind v. Easley, 325 F.3d 506 (4th Cir. 2003)

- Hughes v. Oklahoma, 441 U.S. 322, 336 (1979)
- Colon Health Centers of America, LLC v. Hagel, 813 F.3d 145, 153 (4th Cir. 2016)
- Cherry Hill Vineyards, LLC v. Lilly, 553 F.3d 423, 433 (6th Cir. 2008)
- North Dakota v. United States, 495 U.S. 423, 432 (1990)
- Lebamoff Enterprises, Inc. v. Whitmer, 956 F.3d 863, 872 (6th Cir. 2020)
- Sarasota Wine Market, LLC v. Schmitt, 987 F.3d 1171, 1180-82 (8th Cir. 2021)
- Wine Country Baskets v. Steen, 612 F.3d 809, 815 (8th Cir. 2010)
- Jensen v. Maryland Cannabis Administration, 719 F. Supp. 3d 466, 476 (D. Md. 2024), aff'd, 151 F.4th 169 (4th Cir. 2025)
- Rumsfeld v. Forum for Academic & Institutional Rights, Inc., 547 U.S. 47, 52 n.2 (2006)
- Whitmore v. Arkansas, 495 U.S. 149, 155 (1990)
- Simon v. Eastern Kentucky Welfare Rights Organization, 426 U.S. 26, 41-42 (1976)

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