

SUPREME COURT OF OHIO

Diehl, Inc. v. Ohio Department of Agriculture

102 Ohio St. 3d 50 (Ohio 2004) · Decided April 28, 2004

SUMMARY

The Ohio Supreme Court held that fees assessed by the Ohio Department of Agriculture against milk processors based on the total amount of milk received, including out-of-state milk, did not violate the dormant Commerce Clause. Applying the Pike balancing test, the court concluded that the fee was imposed evenhandedly, served the legitimate local interest of funding dairy-safety inspections, and imposed no clearly excessive burden on interstate commerce.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Francis E. Sweeney, Sr., J.; Moyer, C.J.; Resnick, J.; Pfeifer, J.; Lundberg Stratton, J.; O'Connor, J.; O'Donnell, J.
JURISDICTION	Ohio
DECIDED	April 28, 2004
DISPOSITION	affirmed
PROCEDURAL POSTURE	Diehl appealed the revocation of its milk-processing license after refusing to pay monthly regulatory fees calculated on all milk received, including out-of-state milk. The common pleas court held that the assessment unconstitutionally burdened interstate commerce and reversed the revocation. The court of appeals reversed, and the Supreme Court of Ohio accepted a discretionary appeal.
STANDARD OF REVIEW	The court reviewed the constitutionality of the fee schedule under the dormant Commerce Clause, applying the Pike balancing test to an evenhanded regulation with incidental effects on interstate commerce.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Ohio
PARTIES	Diehl, Inc. v. Ohio Department of Agriculture

TOPICS

- dormant commerce clause
- constitutional law
- administrative law
- commercial litigation

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Ohio's monthly assessment on milk processors, calculated on the total amount of milk received including out-of-state milk, violated the dormant Commerce Clause.
2. Whether the assessment was a regulatory fee rather than an unconstitutional tax.

HOLDINGS

1. The fee schedule did not violate the dormant Commerce Clause because it applied evenhandedly without favoring Ohio milk over out-of-state milk, served the legitimate local interest of funding milk-safety regulation and inspections, and imposed at most incidental and nonexcessive effects on interstate commerce.
2. The assessment was a fee because it was a charge imposed by the government in return for a service it provided, namely milk-safety inspections and related regulation.

KEY QUOTATIONS

“Where the statute regulates even-handedly to effectuate a legitimate local public interest, and its effects on interstate commerce are only incidental, it will be upheld unless the burden imposed on such commerce is clearly excessive in relation to the putative local benefits.” (53)

“In conclusion, we find that the fee is not an unconstitutional burden on interstate commerce.” (54)

FACTUAL BACKGROUND

Diehl, an Ohio milk processor, purchased approximately 50 to 60 percent of its milk from out-of-state producers. The Ohio Department of Agriculture assessed monthly fees based on the total amount of milk Diehl received, including out-of-state milk, to fund the Dairy Division's regulatory and inspection activities. Diehl recalculated the fees to exclude out-of-state milk, leading the Department to revoke its license; the parties stayed the revocation and placed the disputed fees in escrow.

PROCEDURAL HISTORY

The Ohio Department of Agriculture revoked Diehl's license after Diehl paid fees calculated only on milk purchased from Ohio producers. The Defiance County Court of Common Pleas reversed the revocation, finding the fees unconstitutional under the Commerce Clause. The court of appeals reversed that judgment. The Supreme Court of Ohio affirmed the court of appeals.

DISPOSITION

affirmed

CASES CITED

- Dayton Power & Light Co. v. Lindley, 58 Ohio St. 2d 465, 467, 391 N.E.2d 716 (1979)

- Baldwin v. G.A.F. Seelig, Inc., 294 U.S. 511, 523 (1935)
- Pike v. Bruce Church, Inc., 397 U.S. 137, 142 (1970)
- West Lynn Creamery, Inc. v. Healy, 512 U.S. 186 (1994)
- State ex rel. Petroleum Underground Storage Tank Release Compensation Board v. Withrow, 62 Ohio St. 3d 111, 113, 579 N.E.2d 705 (1991)

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