
Federal Judge Overturns Michigan's Interstate Retail Shipping Ban

Federal Judge Denise Page Hood has ordered the state of Michigan to allow wine retailers nationwide to ship directly to state residents.

Hood's ruling, dated September 30, comes from a case filed in U.S. District Court in Detroit that asserts Michigan beverage laws are unconstitutional because they let in-state wine retailers ship to state residents, but don't accord the same right to retailers in other states.

In granting the Plaintiffs' motion for Summary Judgment, Judge Hood ruled that "State regulations such as this are not authorized by the Twenty First Amendment if the regulations create an extra burden on out-of-state wine retailers."

Judge Hood's order specifically bars enforcement of Michigan's current law "which prohibits out-of-state wine retailers from selling, delivering and shipping wine through interstate commerce directly to consumers in Michigan."

Plaintiffs in the case are Siesta Village Market, a Florida wine retailer, and Michigan residents Terry Fowler and Joseph Chess. Defendants are Governor Jennifer Granholm, Attorney General Mike Cox, Liquor Control Commission Chair Nida Samona, and the Michigan Beer and Wine Wholesalers Association.

{xtypo_info}READ: [Judge Hood's full ruling](#) (will open in new tab or window)

READ: [Joel Goldberg's blog post: Don't place your order yet](#)
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Judge Hood cited the 2005 *Granholm v. Heald* landmark Supreme Court decision, which overturned wine-shipping laws nationwide based on the Constitution's Interstate Commerce clause. That case, which originated with Michigan wine writers Eleanor and Ray Heald, addressed shipping by wineries to consumers. The current case seeks to extend the logic of the *Granholm* decision to include wine retailers.

An appeal of Judge Hood's decision to the U.S. Sixth Circuit Court is

likely, along with a request by the State to postpone implementation of her order until the appeal is heard.

Even if the order is not stayed or appealed, implementation could take months. The Granholm decision led to a legislative battle over winery-direct shipping, followed by lengthy administrative delays until the Liquor Control Commission issued regulations to license and tax out-of-state winery shippers.

UPDATE: Major online retailer Wine.com announced it will immediately start taking orders to ship wine to Michigan.

"We support free trade and state laws against out-of-state wine retailers are anti-consumer," said Rich Bergsund, Wine.com CEO, in a press release dated October 3.

This action gets the jump on anticipated efforts by state officials to stay implementation of Judge Denise Hood's order that overturned Michigan's ban on wine shipments by out-of-state retailers, pending an appeal. (See full story below)

Wine.com's website now lists Michigan as one of 30 states to which the retailer ships wine. Attempts to reach company officials for comment were not immediately returned. We'll post updates as more information becomes available.

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UPDATE: Federal Judge Denise Page Hood, who on September 30 threw out Michigan's prohibition against wine shipments by out-of-state retailers, issued a temporary stay of her ruling to give defendants time to appeal.

The stay remains in effect during the 30 days that the defendants -- Governor Jennifer Granholm, Attorney General Mike Cox, Liquor Control Commission Chair Nida Samona, and the Michigan Beer and Wine Wholesalers Association -- can appeal Judge Hood's original decision. If an appeal is filed, the stay would continue during the appellate process, which could take years.

All parties agreed to the delay, standard procedure when an appeal is likely and the case involves "a longstanding statutory scheme which the State will be enjoined from enforcing" if a stay were not issued.

READ: Judge Hood's stay order (will open in new tab or window)

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