No. 25-3305
IN THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

DEREK BLOCK, Plaintiff, KENNETH M. MILLER, ET AL., Plaintiffs-Appellants, v. JAMES CANEPA, Defendant, DAVE YOST, Defendant-Appellee, WHOLESALE BEER & WINE ASSOCIATION OF OHIO, Intervenor-Defendant-Appellee.	:	On Appeal from the United States District Court for the Southern District of Ohio District Court Case No. 2:20-cv-03686

BRIEF OF APPELLEE DAVE YOST

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STATEMENT REGARDING ORAL ARGUMENT

Appellee Ohio Attorney General Dave Yost agrees that oral argument in this case would benefit the decision process. The case has already been argued to this Court in a previous appeal, and the judgment in that appeal and in *Lebamoff Enters. Inc. v. Whitmer*, 956 F.3d 863, 868 (6th Cir. 2020), send mixed signals to litigants and lower courts.

JURISDICTIONAL STATEMENT

The district court had jurisdiction under 28 U.S.C. §§1331, 1343. The district court entered its final judgment in this case on March 20, 2025. Judgment Entry, R.134, PageID#6829. Plaintiffs-Appellants timely appealed on April 17, 2025. Notice of Appeal, R.135, PageID#6830. This Court has jurisdiction under 28 U.S.C. §1291.

STATEMENT OF THE ISSUES

1. Do the plaintiffs challenging Ohio's alcohol-import laws have standing to pursue their claims?

2. If so, are Ohio's alcohol-import laws challenged here constitutional as exercises of powers granted by the Twenty-first Amendment?

INTRODUCTION

Alcohol is the only product whose regulation the Constitution addresses explicitly. When the people changed the Constitution by adding the Twenty-first amendment, the people gave the States "latitude with respect to the regulation of alcohol" that they lack for any "commodity other than alcohol." *Tennessee Wine & Spirits Retailers Ass'n v. Thomas*, 588 U.S. 504, 518, 533 (2019).

One way the States exercise that alcohol-specific latitude is by erecting and operating a three-tier system. "In a three-tier system, the State forbids alcohol producers (the first tier) to sell directly to retailers or consumers. To access the market, producers must sell to wholesalers located within the State (the second tier). After that, in-state wholesalers sell exclusively to in-state retailers (the third tier), who make final sales to consumers." *Lebamoff Enters. Inc. v. Whitmer*, 956 F.3d 863, 868 (6th Cir. 2020). Many States—including Ohio—employ similar three-tier systems.

The Supreme Court once declared, and later confirmed, that this form of alcohol regulation is "unquestionably legitimate." *North Dakota v. United States,* 495 U.S. 423, 432 (1990) (plurality op.); *see id.* at 447 (Scalia, J., concurring in judgment); *Granholm v. Heald*, 544 U.S. 460, 489 (2005); *cf. Tenn. Wine*, 588 U.S. at 535 (reviewing law not "essential" to three-tier system). These systems, the Court had noted, advance state interests such as "promoting temperance and controlling the

distribution of liquor." *North Dakota*, 495 U.S. at 439 (plurality op.). And the system does so by breaking up the vertically integrated tied-house system that promoted "excessive alcohol consumption" and its associated social ills. *Day v. Henry*, ___ F.4th ___, 2025 WL 2573046, at *2 (9th Cir. Sept. 5, 2025); *accord B-21 Wines, Inc. v. Bauer*, 36 F.4th 214, 218 (4th Cir. 2022).

This Court and many other circuits have held that a "core" provision of a three-tier system is barring out-of-state retailers from shipping alcohol to consumers. *Jean-Paul Weg LLC v. Director of New Jersey Division of Alcoholic Beverage Control*, 133 F.4th 227, 231 (3d Cir. 2025); *accord Day*, 2025 WL 2573046 at *9; *B-21 Wines*, 36 F.4th at 229; *Sarasota Wine Mkt., LLC v. Schmitt*, 987 F.3d 1171, 1183 (8th Cir. 2021); *Lebamoff*, 956 F.3d at 872; *Wine Country Gift Baskets.com v. Steen*, 612 F.3d 809, 821 (5th Cir. 2010); *Arnold's Wines, Inc. v. Boyle*, 571 F.3d 185, 192 (2d Cir. 2009). Consistent with these many holdings, the district court in this case found that Ohio proffered "concrete evidence" that its own restrictions on out-of-state retailers shipping to Ohio consumers are an "essential component[]" of its three-tier system of alcohol regulation, and therefore constitutional. Op., R.133, PageID#6827.

Yet, an Illinois wine retailer and an Ohio wine collector insist that Ohio law violates the Constitution. Despite a mountain of precedent and a concrete record in this case, they want the Court to enjoin two Ohio laws that limit unauthorized wine

imports into the State, allowing them to circumvent Ohio's three-tier system. Such an injunction would be a death-knell to Ohio's three-tier system. The precedent and the evidence here confirm this Court's insight that, generally, the "Twenty-first Amendment leaves … to the people of" the State, "not to federal judges" the choice about how much to allow out-of-state purveyors of alcohol to ship directly to Ohio consumers. *Lebamoff*, 956 F.3d at 875. The Court should affirm.

STATEMENT

Ohio, like most States, uses a three-tier system to regulate alcohol distribution and sales. *See, e.g.*, Dept. of the Treasury, *Competition in the Markets for Beer, Wine and Spirits* 10 & n.20 (2022), https://perma.cc/E9LH-7M9M. "Entities operating in each tier (first, suppliers; second, wholesalers; and third, retailers) must obtain a permit from the Ohio Division of Liquor Control. *See, e.g.,* Ohio Rev. Code §§ 4303.03, 4303.07, 4303.10, 4303.12. Generally, permitted suppliers must sell to permitted wholesalers (who may purchase only from permitted suppliers), *see* Ohio Rev. Code §§ 4303.07, 4303.10, 4301.58(C), and permitted wholesalers must sell to permitted retailers (who may purchase only from permitted wholesalers), *see* Ohio Rev. Code. §§ 4303.03(B)(1), 4303.35; Ohio Admin. Code 4301:1-1-46(B), (F)." Op., R.133, PageID#6807. Under this system, "[w]ith limited exception, wine must pass through each tier before reaching a consumer" and both "[w]holesalers and retailers

are required to maintain a physical presence within the state of Ohio, and all wine sold by those entities is required to 'come to rest' at that physical location." *Id.* Operating an Ohio alcohol wholesaler or retailer requires a license and these licenses entail extensive oversight, including regular physical inspections, by the Ohio Division of Liquor Control and the Ohio Department of Public Safety's Ohio Investigative Unit.

As part of this three-tier system, Ohio limits retail direct-to-consumer shipments of alcohol. Only licensed retailers with a physical presence in Ohio may ship (as relevant here) wine to an Ohio purchaser. *See*; Answer, R.37, PageID#362; *see also* Ohio Rev. Code §§4301.58(C), 4301.60, 4303.25. Ohio also limits individual citizens from (as relevant here) bringing wine into the State by capping at 4.5 liters per 30-day period any personal transportation of wine from out of state into Ohio. Ohio Rev. Code §4301.20(L); *see id.* §4303.25.

An Illinois wine retailer and an Ohio wine enthusiast challenge these laws. Compl., R.1, PageID#7, 8, 9. House of Glunz, Inc. is an Illinois wine retailer that does not hold any Ohio permits and does not plan to operate within Ohio's three-tier system by setting up an Ohio location. Donovan Decl., R.52-3, PageID#1274 (¶9). Kenneth Miller is "an active wine consumer who looks for good wines at good prices wherever [he] can find them." Miller Decl., R.52-2, PageID#1271 (¶2). House of

Glunz and Miller sought injunctions in two counts, which this brief will call the direct-ship claim and the transportation claim respectively. Compl., R.1, PageID#7–8.

The direct-ship claim challenges the laws that prevent an out-of-state wine retailer to ship directly to an Ohio consumer if that retailer has no Ohio storefront. The complaint requests an injunction against laws that "prohibit wine retailers located outside the state from selling and shipping wine from their premises directly to Ohio consumers." Compl., R.1, PageID#9. The transportation claim challenges an Ohio law that exempts up to 4.5 liters of wine from the general prohibition on transporting any alcohol without a license. On this count, the complaint asks the federal court to enjoin Ohio law that "prohibits Ohio residents from personally transporting more than 4.5 liters of wine" into the State. *Id.*

In previous rounds of this litigation, the district court dismissed the transportation claim for lack of standing, Op., R.36, PageID#339–56, and later granted summary judgment to Ohio (used in this brief to refer to the defendant officers) on the direct-ship claim, Op., R.91, PageID#5178–203. Miller and Glunz appealed, and this Court reversed as to the two claims.[1] In that decision, the Court reversed the

[1] Not relevant to this appeal, the Court also affirmed the dismissal of a defendant.

judgments terminating both claims, concluding that Miller had standing for the transportation claim because he faced a credible threat of enforcement and explaining that the district court had "failed to consider" the evidence. *Block v. Canepa*, 74 F.4th 400, 414 (6th Cir. 2023). The Court then instructed the following for remand: "the district court shall consider the facts and evidence presented in this case and determine whether the challenged statutes (1) 'can be justified as a public health or safety measure or on some other legitimate nonprotectionist ground', and whether (2) their 'predominant effect' is 'the protection of public health or safety,' rather than 'protectionism.'" *Id.* at 414 (quoting *Tenn. Wine*, 588 U.S. at 539).

Taking up that instruction, the district court invited additional summary-judgment evidence and briefing. The court then granted summary judgment to Ohio on both claims. The district court rested that judgment on three main findings: that Ohio's system enhanced health and safety oversight, promoted temperance, and did not serve protectionist goals.

Oversight. First, the court considered evidence about how Ohio's restrictions on alcohol imports empower its agencies to keep close watch over the products that ultimately reach Ohio consumers. The court, for example, reviewed evidence about the value to consumer health of in-person inspections. One illustration of these inspections in action arose in response to a consumer report about falling ill after

drinking "Saint Sadler" wine. Acting on that complaint, Ohio investigated the wine's provenance. Callahan Dec., R.116-3, PageID#6155–56 (¶15). The investigation ultimately revealed that Paul Sadler had purchased several make-your-own-wine kits and then sold the home-made wine to Ohio retailers. *Id.* at PageID#6157 (¶20). Investigators were able to trace the wine to its manufacturing source, a dingy Cleveland warehouse, and discovered problems such as uncovered wine jugs, tubes touching the floor, and restrooms without soap. Lockhart Dec. II, R.116-5, PageID#6165 (¶12); Boldin Decl., R.116-7, PageID#6471 (¶7). From that warehouse, investigators confiscated more than 600 intact bottles and "several gallons" more in various stages of fermentation. Lockhart Dec. II, R.116-5, PageID#6165 (¶13). Investigators also cleared store shelves of 437 bottles of the illicit wine from 18 licensed retailers throughout Ohio. Callahan Dec., R.116-3, PageID#6158 (¶22). The district court found this evidence "highlight[ed] the importance of physical access to information and premises" while finding that Ohio's restrictions on alcohol imports are "justified by public health and safety" concerns. Op., R.133, PageID#6822–23.

Temperence. The district court also reviewed evidence about Ohio's price controls over alcohol and those controls' relation to public health. Ohio controls alcohol prices through required markups and excise taxes. These laws, of course, raise alcohol prices. And the court reviewed two expert reports that explained the obvious

link between elevated alcohol prices and temperance. *See* Stevenson and Jones Report, R.114-1, PageID#5471–72 (¶90); Kerr Supp. Rep., R.116-1, PageID#6077 (¶25). One of those reports detailed how "the direct shipment of alcoholic beverages" by out-of-state retailers "would be expected to increase alcohol consumption, heavy drinking and the consequences associated with alcohol use and abuse through the expansion of alcohol suppliers" as those retailers "may be able to supply the alcohol to Ohio consumers at lower prices, which could increase price competition and lower prices." Kerr Supp. Rep., R. 116-1, PageID#6077 (¶25).

The district court also had before it, but did not cite explicitly, other evidence that links import restrictions with public health. For example, experts explained that Ohio's tax rates on wine are higher than large states, such as California, Texas, and New York. Kerr Report, R., 116-1, PageID#6026 (¶53). An expert report also explained that out-of-state retailers do not consistently collect taxes on wine shipped into Ohio. Donovan Dep., R.50, PageID#889; Miller Dep., R.48, PageID#440–42; Powers Dec., R.53-1, PageID#4117–18. This evidence reveals another reason out-of-state alcohol imports would lower alcohol prices, and therefore undermine the price point that Ohio law sets to promote temperance and its associated benefits.

Finally, the district court also heard evidence that Ohio's import laws are not paper tigers. The court learned, for example, that Ohio regulators enforce these safety,

price, and tax laws through thousands of in-person inspections of retailers' physical Ohio locations. Chung Decl., R.116-2, PageID#6121–22 (¶¶7, 10–11). These inspections uncover hundreds of infractions each year. *See id.*; *see also* Powers Decl., R.116-4, PageID#6159–62. The court further learned, along these lines, that Ohio's enforcement agency "does not have jurisdiction outside" Ohio. Lockhart Decl. II, R.116-5, PageID#6164 (¶4).

From all this evidence, the district court concluded that Ohio's shipping and transportation restrictions on out-of-state wine are "justified on public health and safety grounds." Op., R.133, PageID#6824.

Non-protectionism. As a last step, the district court compared all this evidence about Ohio's health-and-safety enforcement against Miller's and Glunz's claims that Ohio's restrictions are predominantly protectionist. For example, Miller and Glunz offered nationwide studies of drunk-driving and domestic-violence rates. But the court concluded that these studies—unaccompanied by any expert testimony—did not "show an obvious correlation between a state's decision to allow direct-to-consumer alcohol shipping and the outcomes they track[ed]." Op. R.133, PageID#6825–26. The district court also reviewed correspondence between Miller's and Glunz's counsel and officials in States that allow direct-to-customer shipping from out-of-state alcohol retailers. The court gave these responses little credit,

as they were then four years old, were "not sworn," and contained "little to no information about the responding employee—including whether that individual [was] authorized to respond or knowledgeable on the topic." *Id.* at PageID#6826.

After reviewing this evidence, the district court concluded that Ohio's alcohol-importation restrictions are "essential components" of its three-tier system and "operate with the predominant purpose and effect of promoting public health and safety." *Id.* at PageID#6827.

SUMMARY OF THE ARGUMENT

The challenge to Ohio laws here fails on jurisdictional and substantive grounds, and plaintiffs' arguments do not repair the cracks in their lawsuit.

I. Start with jurisdiction. This Court must assure itself that the plaintiffs have standing. They do not because the relief they asked the district court to provide will not remedy the harm they allege. That lack of redressability, this Court has said several times, destroys standing. *See, e.g.*, *Midwest Media Prop., LLC v. Symmes Twp.*, 503 F.3d 456, 461–62 (6th Cir. 2007) (collecting cases).

Both claims suffer this same redressability flaw. The direct-ship claim fails because the complaint never explicitly challenges a law that would equally prohibit out-of-state retailers from shipping to Ohio consumers. That law requires retailers who want to sell wine to Ohio consumers to first buy that wine from Ohio licensed

wholesalers. The retail plaintiff neither claims that it will comply with the wholesale-purchase requirement nor that the requirement violates the Constitution. As for the transportation claim relating to individual consumers, the complaint targets only an *exception* that allows Ohio consumers to bring a small amount of wine into Ohio despite the general ban prohibiting all such transportation. *See* Ohio Rev. Code §4303.25. Enjoining the exception would *fully* restrain plaintiffs from transporting even the *de minimis* amount permitted by that law.

The redressability shortcomings require an order vacating the district court's judgment and remanding with directions to dismiss.

II. If the Court reaches the substance, the claims face equally stout roadblocks.

A. Challenges to state regulation of alcohol sales and imports proceed under "a different inquiry," *Tenn. Wine*, 588 U.S. at 539, compared to regulations of all other goods. That inquiry recognizes, first, the general validity of a three-tier system that funnels alcohol from producers, to wholesalers, to retailers, and then to consumers. *See North Dakota,* 495 U.S. at 432 (plurality op.); *see id.* at 447 (Scalia, J., concurring in judgment). The inquiry does, however, evaluate a regulation used in such a three-tier system to assure that the regulation is not "unalloyed protectionism." *Tenn. Wine*, 588 U.S. at 539. A regulation avoids that label if it "can be justified as a public

health or safety measure or on some other legitimate nonprotectionist ground." *Id.* at 539.

Applying that test, the Third, Fourth, Seventh, Eighth, and Ninth circuits have upheld laws identical or nearly identical to Ohio's shipping restriction. *Chicago Wine Co. v. Braun*, 148 F.4th 530, 542–43 (7th Cir. 2025) (op. of Scudder, J.) (collecting cases). This Court also approved Michigan's similar law. *See Lebamoff*, 956 F.3d at 873. Along the same lines, but decided before *Tennessee Wine*, circuit courts have upheld laws like Ohio's transportation restriction. *See, e.g.*, *Brooks v. Vassar*, 462 F.3d 341, 352 (4th Cir. 2006).

B. Like the laws of its sister States, Ohio's laws challenged here are constitutional because they are "public health" and "safety measure[s]," *Tenn. Wine,* 588 U.S. at 539.

For one thing, Ohio's laws that channel alcohol through a licensed, in-state wholesaler and a licensed, in-state retailer ensure that the alcohol is safe for consumption. *See, e.g.*, Kerr Rep. & Sup., R.116-1, PageID#6023–24, 6075 (¶¶39–40; Supp. ¶17). This channeling lets Ohio assure product safety, as illustrated by an incident in which Ohio regulators discovered illegally produced wine on the shelves of 18 retailers after a consumer fell ill from drinking one of the bottles. Ohio's laws channeling wine through its three-tier system paved the way for regulators to find

the source of the tainted wine and remove bottles from all the store shelves it had reached. *See, e.g.*, Lockhart Decl. II, R.116-5, PageID#6165 (¶13); Callahan Decl., R.116-3, PageID#6157–58 (¶¶21–22).

For another thing, Ohio's laws promote temperance by setting a price floor for alcohol sales. That price floor has a predictable effect on total alcohol consumption, and the social ills that flow from too-high consumption rates. *See, e.g.*, Kerr Rep. & Supp., R.116-1, PageID#6020, 6027–28, 6076 (¶¶22, 57–60). Ohio implements these temperance-promoting price supports both through minimum markups and taxes. *See, e.g.*, Ohio Rev. Code §§4301.43, 4301.13. And Ohio's three-tier structure enables the price supports both by linking markups to the distinct tiers and by allowing more effective tax collection. *See, e.g.*, Powers Decl. II, R.116-4, PageID#6161 (¶¶7–8); Donovan Dep., R.50, PageID#889.

Without the power to enforce the laws challenged here, Ohio could not reap the health-and-safety benefits of its inspection and price-support law. Ohio has neither the resources nor the extraterritorial power to inspect out-of-state retailers. *See, e.g.*, Kerr Rep. R. 116-1, PageID#6022 (¶¶33–34); Lockhart Decl. I, R.53-6, PageID#4331 (¶29). Allowing unlimited sales and shipments from out-of-state retailers would, therefore, "leave[] too much room for out-of-state retailers" to upset Ohio's policies about product safety and alcohol consumption. *Lebamoff*, 956 F.3d at 872.

III. The plaintiffs (and the *amicus*) challenging Ohio's laws here have no answers for the legal and factual flaws with their lawsuit.

Legally, plaintiffs deviate from Supreme Court guidance and never answer the ever-larger consensus rejecting challenges to laws like those under attack here. Plaintiffs demand, for example, that Ohio prove "that nondiscriminatory alternatives would be insufficient to further" its health-and-safety interests. Apt. Br. 23–24. That argument fails on at least three levels. One, it is barred by law of the case. This case is on its second trip to the circuit. And in round one the panel, despite reversing, never directed the district court to evaluate such "nondiscriminatory alternatives." Two, the argument is barred by the law of the circuit. When this Court interpreted *Tennessee Wine* in 2020, it did not read that case to impose a "nondiscriminatory alternatives" burden on states defending their alcohol regulations. *Lebamoff*, 956 F.3d at 875. This panel cannot override that precedent. *See, e.g.*, *Salmi v. Sec'y of Health & Human Servs.*, 774 F.2d 685, 689 (6th Cir. 1985). Three, the Supreme Court has not directed lower courts to explore "nondiscriminatory alternatives" for laws that are justified as health and safety measures. Several circuits have said so explicitly. *See Day*, 2025 WL 2573046 at *10; *Anvar v. Dwyer*, 82 F.4th 1, 11 (1st Cir. 2023); *B-21 Wines*, 36 F.4th at 225. And the Attorney General is aware of no circuit concluding otherwise.

Plaintiffs fare no better on the evidentiary side of the equation. What little evidence they offered lacked expert support or statistical analysis. What is more, some of the evidence contained factual inaccuracies, such as counting States as allowing direct-to-consumer shipments by out-of-state retailers even when those States' laws do not allow such importation. *See, e.g.*, Nev. Rev. Stat. Ann. §§369.489–490. Finally, the evidence did not even support the plaintiffs' broad claim that states with less-restrictive import laws escape the social ills of overconsumption. *See, e.g.*, NHTSA Summary (with annotations), R.52-21, PageID#3873–74.

STANDARD OF REVIEW

A district court's grant of summary judgment is reviewed *de novo*. *See, e.g.*, *Pulsifer v. Westshore Christian Acad.,* 142 F.4th 859, 861 (6th Cir. 2025).

ARGUMENT

The claims against Ohio's laws fail for a procedural reason and a substantive reason. Procedurally, the plaintiffs do not have standing because they cannot show redressability. Substantively, they fail to overcome concrete evidence in this record that Ohio enforces its three-tier system to promote the health and safety of its citizens. Plaintiffs' counterarguments come up short.

I. Plaintiffs lack standing because they cannot prove redressability.

At the outset, the Court should remand with instructions to dismiss this case for

lack of standing. Before explaining why, an additional point. Because standing is jurisdictional, the Court is "under a continuing obligation to verify … jurisdiction over a particular case." *In Re Flint Water Cases*, 63 F.4th 486, 505 (6th Cir. 2023); *see Summers v. Earth Island Inst.*, 555 U.S. 488, 499 (2009); *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 94 (1998). So Ohio's not raising this argument below is no barrier to reviewing it now.

A. The familiar three-part inquiry for Article III standing requires a plaintiff to show "injury … fairly traceable to the challenged action" that is "redressable by a favorable ruling." *Murthy v. Missouri*, 603 U.S. 43, 57 (2024) (quotation omitted). The problem in this case is traceability or redressability, which are often "flip sides of the same coin." *Food & Drug Admin. v. All. for Hippocratic Med.*, 602 U.S. 367, 380 (2024) (quotation omitted).

Redressability is lacking if a litigant challenges only one of two independent laws that bar the conduct they want to perform. "[W]hen a plaintiff's activity is independently proscribed by two different laws," one law "alone does not cause the injury if the other law validly outlaws all the same activity." 13A *Wright & Miller's Federal Practice & Procedure* §3531.5 (3d ed. 2025). A plaintiff therefore faces "a serious standing problem" when an unchallenged law "prohibits all the same conduct as the" challenged law. *Kaspersky Lab, Inc. v. United States Dep't of Homeland Sec.*,

909 F.3d 446, 465 (D.C. Cir. 2018); *cf. Renne v. Geary*, 501 U.S. 312, 319 (1991); *id.* at 326–27 (Stevens, J., concurring).

This Court has repeatedly enforced this independent-law principle to hold that a plaintiff lacked standing when the plaintiff would not achieve its desired outcome because an unchallenged law that stood in the way "would remain in place notwithstanding any action [the Court] might take" through an injunction against the challenged law. *White v. United States*, 601 F.3d 545, 552 (6th Cir. 2010); *see also, e.g.*, *Midwest Media Prop.*, 503 F.3d at 461–62 (collecting cases); *Outdoor One Commc'ns, LLC v. Canton*, No. 21-1323, 2021 WL 5974157, at *3 (6th Cir. Dec. 16, 2021); *accord Harp Advert. Ill., Inc. v. Vill. of Chicago Ridge, Ill.*, 9 F.3d 1290, 1292 (7th Cir. 1993).

B. With these principles in mind, turn to what Miller and Glunz want from this lawsuit: the unrestricted import or transport of wine. What they have sought—to enjoin the transportation provision and direct-ship provisions—will not get them that for several reasons.

Start with the first reason. Miller's and Glunz's brief to this Court asks to enjoin the "interstate shipping prohibition," Apt. Br. 56, which they associate with two Ohio statutes, *see id.* at 5 & n.5 (citing Ohio Rev. Code §§4301.58, 4303.25). But even if Glunz obtained an injunction of the direct-ship provisions, it would still either have to obtain the wine it wishes to ship to Ohio consumers *exclusively* from an Ohio

wholesaler or seek an injunction against that law. *See* Ohio Rev. Code §4303.35. House of Glunz, located in Chicago, does not limit its "purchase" of wine to holders of Ohio wholesaler or manufacturer permits as required under Ohio law. *See* Ohio Rev. Code §4303.35. Nor has it alleged that it plans to do so. That makes sense. It would make little economic sense for an Illinois retailer to purchase all its wine in Ohio only to direct-ship that wine from its Illinois-based location back to consumers in Ohio. *See Arnold's Wines,* 571 F.3d at 192 n.3.

Glunz's injuries are not redressable in this lawsuit because it has neither sought injunctions against all the laws that will prohibit the wine shipments it proposes nor has it said that it would follow the wholesaler-source requirement that it has not sought to enjoin. The problem for Glunz is that the remedy it seeks only solves half of the problem. While it takes aim at laws that prevent it from obtaining a permit, *see Block*, 74 F.4th at 405, it does not discuss laws that restrain permitees and that would equally prevent it from making the shipments it proposes.

If Glunz does not go down the economically infeasible path of buying all of its wine from Ohio wholesalers, it must at least seek to enjoin the wholesale-purchase restriction to free itself of the shackles of Ohio's direct-ship restrictions. But the brief does not cite, let alone seek an injunction against, the Ohio statute that requires all licensed retailers to buy their wine from Ohio licensed wholesalers. *See* Ohio Rev.

Code §4303.35; *cf.* Donovan Depo., R.50, PageID#871 (acknowledging that House of Glunz buys its wine from Illinois wholesalers). That unchallenged sourcing restriction is something the Twenty-first Amendment "empowers" Ohio to require of its retailers. *See North Dakota*, 495 U.S. at 447 (Scalia, J., concurring in judgment). And it means that House of Glunz (or any similar retailer) could still not ship to Ohio consumers even if Ohio were barred from withholding licenses on account of Glunz having no Ohio location.

A judgment that Miller and Glunz lack standing would align with the result in the Rhode Island lawsuit that parallels this one. After the First Circuit remanded along the lines of this Court's remand in this case, the district court spotted a standing flaw in the plaintiffs' case. While describing the plaintiff's "purported injury … that they cannot have wine purchased from out-of-state alcohol retailers delivered or shipped to them," the court cited the "intact [Rhode Island] requirement … that licensed retailers purchase only from Rhode Island wholesalers" as a barrier that would "prevent the Court from redressing Plaintiffs' injury upon a favorable determination that the in-state presence requirement for alcohol retailers … [is] unconstitutional." *Anvar v. Dwyer*, No. 1:19-CV-00523, 2024 WL 4771357, at *1 (D.R.I. Nov. 13, 2024); *see Anvar*, 82 F.4th at 9 (noting that prior appeals did not challenge "Rhode Island's requirement that licensed retailers purchase alcohol only from licensed in-state

wholesalers"). The district court gave the plaintiffs a chance to explain how the court had jurisdiction to hear the suit, but the plaintiffs instead dismissed with prejudice. Stip. of Dismissal, R.149 in *Anvar v. Dwyer*, No. 1:19-cv-00523 (D.R.I. Nov. 22, 2024).

Miller and Glunz fare no better as to the personal-transportation claim. Their requested injunction against the "transportation restriction," Apt. Br. 56, aims at an *exception* permitting personal transport of 4.5 liters of wine per month. *See* Ohio Rev. Code §4301.20(L). If successful in obtaining that injunction, rather than being free of any restriction at all, they will lose the ability to carry in the few bottles that the transportation exception permits. To obtain their requested relief—of having *no* restriction on the personal transport of wine into the State—Miller and Glunz should have sought an injunction against the general ban on such personal transportation in Ohio Revised Code Section 4303.25. Yet, nowhere in their brief do they seek such an injunction for personal transportation. Again, an injunction against the law Miller and Glunz name would not remove all the restrictions in Ohio law prohibiting an individual from "transport[ing]" alcohol into Ohio for "use" here. Ohio Revised Code §4303.25.

In sum, Miller's and Glunz's requests are not redressable; they will still face legal barriers to unrestricted out-of-state wine transportation even with their requested

injunctions in hand. Those barriers are unchallenged laws that will block the interstate wine transportation they want to let flow. They thus lack standing because laws they elected "not to challenge" will "still … preclude" the activity they aim to conduct. *Midwest Media*, 503 F.3d at 461.

Some circuit courts explicitly addressed this sort of standing flaw. The Ninth Circuit recently observed that the challenge to Arizona's laws did not contain the "fatal flaw of failing to identify independent provisions." *Day*, 2025 WL 2573046 at *4. And in the earlier challenge to Missouri's laws, the plaintiffs "expressly" sought injunctions against laws that might have independently blocked the interstate shipments they proposed. *Sarasota*, 987 F.3d at 1179.

To be sure, the complaint in this case vaguely sought an injunction prohibiting Ohio from applying unspecified laws to "circumvent[]" a ruling enjoining the listed statutes. Compl., R.1, PageID#10. But that imprecise request should not band-aid the fatal flaw of never advancing arguments impugning the constitutionality of unchallenged Ohio statutes that independently block the relief sought. The Court should vacate and remand with instructions to dismiss the suit.

II. The Twenty-first Amendment authorizes Ohio to funnel alcohol imports through its three-tier structure for alcohol distribution.

Under current Supreme Court precedent, a State may regulate alcohol imports through a three-tier model. Any regulations that are essential to that model are

authorized by the Twenty-first Amendment so long as the State enforces the regulations to protect the health and safety of a State's residents. Ohio's bans on the import of alcohol outside the usual manufacturer-to-wholesales-to-retailer framework is one such essential feature to Ohio's three-tier system through which Ohio protects the health and safety of its citizens and promotes their temperance. The record evidence bears that out.

A. The Twenty-first Amendment authorizes laws essential to a three-tiered alcohol-distribution model.

Unlike all other articles of commerce, alcohol appears in the Constitution's text. Alcohol's direct treatment in the Twenty-first Amendment means that it stands alone for purposes of how a State may regulate it. The implied limits on States now located in the so-called dormant Commerce Clause that restrict state power to regulate all other products do not apply equally to alcohol. For alcohol, courts engage in "a different inquiry," *Tenn. Wine*, 588 U.S. at 539, compared to regulations of, say, "cabbages and candlesticks," *Carter v. Virginia*, 321 U.S. 131, 139 (1944) (Frankfurter, J., concurring).

On a read of the Twenty-first Amendment, that different inquiry might be thought to authorize all state laws restricting alcohol imports. Section 2 reads, "The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is

hereby prohibited." U.S. Const. amend XXI. This language, which authorizes States to "prohibit[]" alcohol "importation … in violation of" that State's law, reads as though it plainly authorizes laws regulating alcohol imports into a state. *See, e.g.*, *State Bd. of Equalization of Cal. v. Young's Market Co.*, 299 U.S. 59, 63–64 (1936), *abrogated by Granholm*, 533 U.S. 460; *Tenn. Wine*, 588 U.S. at 546 (Gorsuch, J., dissenting); *Granholm*, 544 U.S. at 497, 514 (Thomas, J., dissenting). "Given [this] plain meaning," the Twenty-first Amendment's section 2 "seems to stand in tension with the dormant Commerce Clause," *Anvar*, 82 F.4th at 8, which generally prohibits "economic barrier[s]" to interstate commerce, *Dean Milk Co. v. City of Madison, Wis.*, 340 U.S. 349, 354, (1951). Yet the Supreme Court has treated the dormant Commerce Clause as partially limiting the Twenty-first Amendment. Under that partial limit, state laws regulating alcohol imports are not automatically legitimate, but are assessed (1) for whether they are discriminatory and (2) for whether they serve health, safety, or other nonprotectionist goals. *Tenn. Wine*, 588 U.S. at 539–40. At this stage of the case, the only question is the second half of that inquiry.

What that part-two assessment looks like requires some unpacking. Start with the Court's refrain about the widely used three-tier system for regulating alcohol distribution. Decades ago, the Court described that system as "unquestionably legitimate." *North Dakota,* 495 U.S., at 432 (plurality op.); *see id.* at 447 (Scalia, J.,

concurring in judgment). The Court repeated that approval even as it invalidated Michigan's and New York's discriminatory *exceptions* to three-tier systems, commenting that States may "funnel" alcohol "sales through the three-tier system." *Granholm*, 544 U.S. at 469, 470, 489. Nor did it back away from that approval when it invalidated Tennessee's residency requirement for certain licenses. *Tenn. Wine*, 588 U.S. at 535. Indeed, both decisions disclaimed any broad retreat from approving States' power to enforce a three-tier alcohol-distribution system. *Granholm* noted that its "holding" did not "call into question the constitutionality of the three-tier system." 544 U.S. at 488. And *Tennessee Wine* noted that the regulation the case enjoined there was "not an essential feature of a three-tiered scheme." 588 U.S. at 535.

Granholm and *Tennessee Wine* have more to say than merely discussing three-tier systems in the abstract. The decisions recognize the States' "broad power to regulate liquor," *Granholm*, 544 U.S. at 493, including the power to "pursue their legitimate interests in" promoting "responsible sales and consumption practices," in line with the "preferences of [their] citizens," *Tenn. Wine,* 588 U.S. at 535, 542, 539. So while both *Granholm* and *Tennessee Wine* enjoined state laws, the rationales for doing so shed light on the kinds of laws that States' Twenty-first Amendment powers permit. In *Granholm,* although the Court enjoined laws that discriminated by exempting

only in-state wineries from the three-tier distribution model, the Court explained that federal regulation of wineries backstopped any concern about policing out-of-state entities. 544 U.S. at 492. And in *Tennessee Wine*, although the Court enjoined Tennessee's durational-residency requirement for retail licensees, the Court acknowledged Tennessee's authority both to "limit … the number of retail licenses" and "monitor" those licensees "through on-site inspections." 588 U.S. at 543, 541. In other words, despite both decisions' enjoining specific state laws, they reaffirmed that the Twenty-first Amendment's text empowers States "to address the public health and safety effects of alcohol use," a power that reaches its "apex" when regulating alcohol imports into a State. *Id.* at 538, 534.

All told, the Court's controlling legal test for laws that distinguish in-state and out-of-state sellers directs courts to "ask whether the challenged requirement can be justified as a public health or safety measure or on some other legitimate nonprotectionist ground" because, when "the predominant effect of a law is protectionism, not the protection of public health or safety, [the law] is not shielded by" the Twenty-first Amendment. *Id.* at 539–40. Framed another way, the Twenty-first Amendment "allows each State leeway to enact the measures that its citizens believe are appropriate to address the public health and safety effects of alcohol use and to

serve other legitimate interests, but it does not license the States to adopt protectionist measures with no demonstrable connection to those interests." *Id.* at 538.

After *Tennessee Wine*, wine sellers and consumers have challenged several States' laws requiring in-state presence for direct-to-consumer shipping. Yet "[e]very court of appeals to confront the issue has upheld physical-presence requirements" that prohibit retailers without an in-state location from shipping to customers in the regulating State. *Chicago Wine*, 148 F.4th at 542 (op. of Scudder, J.).

This Court issued the first post-*Tennessee Wine* circuit decision. A panel of this Court gave the green light to a Michigan law blocking direct shipment from out-of-state retailers. The panel explained that "Michigan could not maintain a three-tier system, and the public-health interests the system promotes, without barring direct deliveries from outside its borders." *Lebamoff*, 956 F.3d at 873. The Eighth and Fourth Circuits soon followed suit. The Eighth Circuit affirmed a decision upholding Missouri's direct-shipping law at the motion-to-dismiss stage. The panel held that it "should be no more invasive of the unquestionably legitimate three-tiered system than the Supreme Court has mandated." *Sarasota*, 987 F.3d at 1184 (quotation omitted). The next year, the Fourth Circuit upheld North Carolina's bar on out-of-state retail shipments. Its rationale: even though the bar "discriminate[d] against interstate commerce, it [was] nevertheless justified on the legitimate

nonprotectionist ground of preserving North Carolina's three-tier system." *B-21 Wines*, 36 F.4th at 229.

Three more circuits joined the consensus in 2025. The Third Circuit upheld New Jersey's law, reasoning that a physical-presence requirement for retailers served health and safety interests by "keeping retailers within [the State's] investigators' jurisdiction." *Jean-Paul Weg*, 133 F.4th at 239. Next, the Seventh Circuit upheld Indiana's law. *Chicago Wine*, 148 F.4th at 532. A concurring Judge (Judge Kanne's death reduced the panel to two; each wrote a separate opinion) explained that Indiana's retail-shipping restriction served the State's "non-protectionist interests in promoting temperance" and enforcing "alcohol regulations against those who sell to consumers." *Id.* at 544–45 (Scudder, J., concurring). Most recently, the Ninth Circuit affirmed summary judgment against challengers to Arizona's shipping restrictions, reasoning that "[w]ithout a physical-premise requirement, the" unquestionably legitimate "three-tier scheme falls apart, and so do some of the benefits that come with it." *Day*, 2025 WL 2573046 at *10.

Along similar lines, although less commonly litigated, circuit decisions post-*Granholm* reject challenges to States' personal-transport restrictions. *See Wine Country*, 612 F.3d at 821; *Brooks*, 462 F.3d at 352.

To be sure, two post-*Tennessee Wine* appellate decisions have directed district courts to take a harder look at shipping restrictions after district courts had granted the States summary judgment. In this case, a prior panel held that the district court needed to consider evidence about Ohio's specific laws rather than rely entirely on a holding about Michigan's similar laws. *Block*, 74 F.4th at 414. The panel remanded for the district court to consider the "facts and evidence presented in this case." *Id.* More recently, the First Circuit similarly sent a case back to a district court that had granted summary judgment in a lawsuit challenging an out-of-state shipping restriction. *Anvar*, 82 F.4th at 10; *cf. Lebamoff Enters., Inc. v. Rauner*, 909 F.3d 847, 857 (7th Cir. 2018) (reversing state win on motion to dismiss). The panel faulted the district court for failing to "engage with any concrete evidence" that Rhode Island's laws protected public safety. *Anvar*, 82 F.4th at 10 (quotation omitted). The panel noted, for example, that the district court "made no mention of whether" Rhode Island actually enforced its inspection laws, or whether such inspections "curtailed behavior deleterious to the public health." *Id.*

Collectively, these circuit decisions sharpen the inquiry the Supreme Court framed in *Tennessee Wine*. A State's shipping restriction survives a dormant Commerce Clause challenge if the State provides "historical evidence" about the restriction's "efficacy." *Jean-Paul Weg*, 133 F.4th at 238. On the other hand, a State

may not win summary judgment merely by pointing to another State's victory in a case about an analogous law, *Block*, 74 F.4th at 414, or prevail without offering some evidence that the State uses the restriction to promote public safety, *Anvar*, 82 F.4th at 10.

So sharpened, the precedent leaves a needle-eye-sized hole for any challenge to an alcohol-distribution regulation. A challenger might prove that a regulation embedded in a three-tier system is not an essential feature of that system. The Twenty-first Amendment, after all, does not permit "every discriminatory feature that a State may incorporate into its three-tiered scheme." *Tenn. Wine*, 588 U.S. at 535. Or, as the remand in this case suggests, a challenger may be able to prove that the State's three-tier system is a sham, that it is protectionism through-and-through and does nothing to advance citizen health and safety. Such evidence, though, must be overwhelming, as no circuit court after *Tennessee Wine* has even sent such a case to trial—they have all failed at either summary judgment or on a motion to dismiss.

The uniform success of these laws makes sense. Restrictions on out-of-state-shipments are "essential features" of a three-tier system, and are therefore "unquestionably legitimate and constitutional," *Jean-Paul Weg*, 133 F.4th at 239, if used to promote the public-safety goals of a three-tiered system such as product safety and temperance. In other words, when a lawsuit challenges "an essential feature of a

state's three-tier system," the court's role "does not entail an examination of the effectiveness of the three-tier system," itself, *B-21 Wines*, 36 F.4th at 227 n.8.; at most, the lawsuit probes whether the State actually enforces the restriction to promote public safety, *cf. Anvar*, 82 F.4th at 10. But if a State is enforcing a law that is an "inherent aspect" of a three-tier system, "*Granholm* already worked out the answer" to the analysis and approved such laws. *Wine Country*, 612 F.3d at 821. At the least, "the Supreme Court's flattering descriptions of the three-tier scheme" means that "a regulation's central place in such a scheme may be powerful evidence of its legitimacy." *Day*, 2025 WL 2573046 at *14 (Forrest, J., concurring in part and dissenting in part).

B. Ohio presented summary judgment evidence that it enforces its import limitations to protect its residents' health and safety.

Applying the lessons of the many post-*Tennessee Wine* cases addressing laws analogous to Ohio's shows why this Court should affirm the district court's judgment. The district court rested that judgment on concrete evidence that Ohio enforces its restrictions on out-of-state alcohol shipments to promote public health and safety, including temperance. These are goals the Supreme Court has said are legitimate aims for States' use of their Twenty-first Amendment powers. *See Tenn. Wine*, 588 U.S. at 541 (oversight through physical inspections); *North Dakota*, 495 U.S. at 438–39 (plurality op.) (temperance); *accord 44 Liquormart, Inc. v. Rhode Island,* 517 U.S.

484, 490 n.4, 504 (1996) (recognizing States' "interest in reducing alcohol consumption").

Product safety. Start with product safety. Before wine reaches an Ohio consumer, it must generally pass through an Ohio retailer with an Ohio physical location. *See, e.g.*, Ohio Rev. Code §4303.12. And Ohio retailers are required to purchase their products from Ohio wholesalers, who also must maintain an Ohio physical presence. *See, e.g.*, Ohio Rev. Code §4303.35.

One of the reasons that Ohio requires imported alcohol to pass through a licensed, in-state wholesaler and a licensed, in-state retailer is to ensure that the alcohol is safe for consumption. *See* Kerr Rep. & Sup., R.116-1, at PageID#6023–24, 6075 (¶¶39–40; Supp. ¶17). This system enables the State to conduct physical inspections of both the wholesaler and the retailer to ensure product safety, and to detect and correct violations of Ohio's liquor laws. *See* Powers Decl. I, R.53-1, PageID#4110–12 (¶¶15–17); Chung Decl. I, R.53-2, PageID#4125, 4130–32; (¶¶12, 17, 18); Chung Decl. II, R.116-2, PageID#6121–22 (¶¶7–11).

These inspections also allow Ohio regulators to trace the source of any problems back to an Ohio wholesaler or retailer, perform a site inspection, and initiate appropriate recalls. *See* Kerr Rep., R.116-1, PageID#6023 (¶¶39–40). In a recent span of just over two years, Ohio's liquor-control regulators conducted over 7,000 on-site

inspections. Chung Decl. II, R.116-2, PageID#6121 (¶¶7–9). Those inspections resulted in 935 Correction Notices and 46 formal citations to permit holders. *Id.* at PageID#6122 (¶¶10–11).

The district court heard a concrete illustration of this system in action. After a consumer reported falling ill after drinking "Saint Sadler Wine," Ohio's resulting investigation uncovered an illicit operation that managed to get unlicensed, warehouse-vinted wine onto retail shelves in Ohio. Callahan Decl., R.116-3, PageID#6155–57 (¶¶15, 19, 20); Powers Decl. II, R.116-4, PageID#6162 (¶9); Lockhart Decl. II, R.116-5, PageID#6165 (¶¶11–12); Boldin Decl., R.116-7, PageID#6471 (¶¶5–7). Ohio's investigation led to it seizing more than 600 intact bottles from the dirty production warehouse. *See* Boldin Decl., R.116-7, PageID#6471 (¶8). Ohio also tracked down and seized 437 bottles from the shelves of 18 retailers. *See* Callahan Decl., R.116-3, PageID#6157–58 (¶¶21–22); Powers Decl. II, R.116-4, PageID#6162 (¶10); Boldin Decl., R.116-7, PageID#6471–72 (¶¶5, 9).

As the district court found, this investigation "highlights the importance of physical access to information and premises in policing alcohol sales[,]" and "supports [the State's] position that the three-tier system—including the Direct Ship Restriction and Transportation Limit—can be justified by public health and safety." Op., R.133, PageID#6823. Ohio could not have removed similarly unsafe wine from

out-of-state retail shelves as it lacks the power and authority to inspect out-of-state retailers and to seize unsafe product from their inventory, even if the contaminated wine was intended for sale or shipment to Ohioans. *See* Kerr Rep., R.116-1, PageID#6023–24 (¶40); Callahan Decl., R.116-3, PageID#6158 (¶23); Chung Decl. I, R.53-2, PageID#4136 (¶30); Lockhart Decl. I, R.53-6, PageID#4331 (¶29).

The district court credited this evidence about inspections and enforcement as concrete proof that Ohio's laws serve health and safety goals, and are not "unalloyed protectionism." *Tenn. Wine*, 588 U.S. at 539; *see* Op., R.133, PageID#6823, 6827. Reviewing similar evidence, the Third Circuit affirmed summary judgment for New Jersey in a challenge to its restriction on out-of-state retailers shipping wine into the state. *Jean-Paul Weg*, 133 F.4th at 237. That court reasoned that such a law, "by keeping retailers within [the State's] investigators' jurisdiction," is "unquestionably legitimate and constitutional." *Id.* at 239. A Seventh Circuit Judge (operating on a two-judge panel) agreed when affirming summary judgment in a challenge to Indiana's law that prohibits out-of-state retailers from direct-to-customer shipping. Judge Scudder reasoned that Indiana's law furthered "legitimate interests in health and safety," in part, because the "State's ability to detect violations and enforce" its laws "lessens when it comes to out-of-state retailers." *Chicago Wine*, 148 F.4th at 542 (Op. of Scudder, J.); *accord Day*, 2025 WL 2573046 at *10.

Temperance. Beyond product safety, the district court also considered Ohio's strong interest in temperance. It found that Ohio's efforts to promote temperance by controlling alcohol prices is another legitimate public-safety measure, not protectionism. Op., R.133, PageID#6824. Price controls are an important feature of Ohio's three-tier system because these measures decrease alcohol demand by increasing its price. *See* Kerr Rep., R.116-1 at, PageID#6020 (¶¶21–22). And decreased demand (consumption) yields well-documented health benefits. Several studies have shown that higher alcohol prices lead to less consumption of alcohol, along with decreases in behaviors like binge drinking. *See id.* at PageID#6020, 6027–28 (¶¶22, 57–61). Studies also show, unsurprisingly, that higher alcohol prices correlate with lower traffic fatalities, lower domestic-violence rates, and lower rates of alcohol-related mortality. *Id.* at PageID#6028–29 (¶¶62–65). In the district court's words, "as availability increases, prices fall; as prices fall, consumption increases; and as consumption increases, so too do bad outcomes." Op., R.133, PageID#6824.

Ohio directly controls alcohol prices through minimum markups as alcohol passes through the three-tier system. Ohio law mandates that wholesalers sell to retailers at 33 and 1/3% above their costs, and that retailers sell to customers at 50% above their cost. *See* Ohio Admin. Code §4301:1-1-03(C)(2); Ohio Rev. Code §4301.13. To ensure retailers' compliance with price control laws, Ohio regulators conduct on-

site compliance checks. *See* Powers Decl. II, R.116-4, PageID#6161 (¶¶7–8). At these inspections, Ohio regulators are authorized "to ensure that the product pricing is immediately changed to comply with minimum markup requirements" while on-site. *Id.* (¶8).

Ohio also controls alcohol prices by taxing alcohol sales at both the wholesale and retail level and prohibiting alternative-pricing models like volume discounts and sales on credit. Ohio Rev. Code §§4301.43; 5739.02(A)(1), (B)(2); 5739.01(CCC)(1); 4301.24(D); Ohio Admin. Code §4301:1-1-43(A)(2), (G).

The three-tier system and its in-state presence requirement enables Ohio to effectively impose these markups and collect these taxes. For one thing, the excise taxes can be most efficiently collected at the wholesale tier, where roughly 130 wholesalers—all with physical presence in Ohio—operate. *See* Stevenson and Jones Supp. Rep., R.114-1, PageID#5571 (¶15). For another thing, Ohio struggles to collect sales tax on alcohol shipped from out of state to Ohio customers. *See* Donovan Dep., R.50, PageID#889; *see also* Miller Dep., R.48, PageID#440–42. Ohio's struggles in this area were on display in a 2020 undercover operation during which regulators purchased wine from several out-of-state retailers and were not assessed sales tax. Powers Decl., R.53-1, PageID#4117–18. Similarly, enforcing the markup laws is far easier when regulators can visit physical stores and warehouses. As with the evidence

about product safety, the district court appropriately concluded that the evidence about price controls justifies Ohio's alcohol laws on "public health and safety grounds." Op., R.133, PageID#6824.

Protecting Ohioans' health. Ohio's dual interests in product safety and temperance depend on limiting alcohol imports that circumvent the three-tier distribution model; enjoining these limits sabotages these goals. As this Court reasoned in the parallel Michigan case, enjoining importing restrictions "would create a sizeable hole in the three-tier system." *Lebamoff*, 956 F.3d at 872. The evidence in this case supports that insight. Nationwide, the number of wine retailers reaches hundreds of thousands. *See* Kerr Rep., R.116-1, PageID#6022, 6024 (¶¶33, 44); Stevenson and Jones Rep., R.51-2, PageID#1062 (¶87). If Ohio may not prohibit unregulated out-of-state retailers (or unregulated individuals) from shipping (or transporting) wine into Ohio, then Ohio ceases to have a three-tier system at all. Without those restrictions, wine would reach Ohio consumers without passing through either Ohio wholesalers or retailers. "There is no way for [Ohio] to effectively maintain its three-tier system while allowing out-of-state retailers to bypass the system completely and ship wine directly to … consumers." *B-21 Wines,* 36 F.4th at 229, n.10. In short, Ohio "could not maintain a three-tier system, and the public-health interests the

system promotes, without barring direct deliveries" and limitless personal transportation "from outside its borders." *Lebamoff*, 956 F.3d at 873.

The harm to Ohio's interests follows not merely from the insights in these appellate-court observations, but from Ohio's concrete inability to regulate if the challenged laws are enjoined. Enjoining the restrictions on direct deliveries and personal transportation undermines Ohio's public-health interests because Ohio's power to inspect and regulate retailers would evaporate as to retailers located out of state. Ohio lacks both the personnel and the extraterritorial power to inspect and regulate hundreds-of-thousands of potential out-of-state retailers that might ship to Ohio customers. *See* Kerr Rep., R. 116-1, PageID#6022 (¶¶33–34); Callahan Decl., R.116-3, PageID#6158 (¶23); Chung Decl. I, R.53-2, PageID#4136 (¶30); Lockhart Decl. I, R.53-6, PageID#4331 (¶29). In short, Ohio lacks "effective enforcement tools to use against out-of-state retailers who fail to abide by Ohio law." Kerr Rep., R. 116-1, PageID#6022 (¶34). That is because tools like fines, suspensions, and revocations would not only be administratively burdensome but "likely ineffective" against retailers with no in-Ohio presence. *Id.* Ohio, therefore, would not be able to "cut off the flow of alcohol to a non-compliant out-of-state retailer" or leave an out-of-state retailer "stranded with product it cannot sell once its license is revoked or suspended[.]" *Id.* at PageID#6023 (¶¶35–36). As to these out-of-staters, Ohio cannot

"monitor the stores' operations through on-site inspections, audits, and the like." *Tenn. Wine*, 588 U.S. at 541. Indeed, the impossibility of regulating retailers in Oklahoma or Oregon on the same terms as retailers in Ohio would "grant out-of-state retailers dramatically greater rights than [in state] ones." *Cf. Wine Country*, 612 F.3d at 820.

This regulatory impotence that flows from cutting off Ohio's ability to inspect out-of-state shippers defeats both interests the district court identified—protecting product safety and maintaining Ohio's chosen price-point for alcohol. Without the ability to physically monitor retailers' facilities, Ohio could not easily "revoke licenses (and even recall all products)." *Lebamoff*, 956 F.3d at 879 (McKeague, J., concurring). Ohio quickly and completely contained the dangerous Saint Sadler wine because it had control over all the retail locations at which it was for sale. Ohio could do nothing similar about a product that might ship from New York, California, or Texas. And the price floors Ohio imposes would collapse if Ohio had to permit out-of-state retailers to pour wine directly into the State through direct shipments or unlimited personal transportation. Allowing unlimited sales and shipments from out-of-state retailers would, therefore, "leave[] too much room for out-of-state retailers to undercut local prices and to escape the State's interests in limiting consumption." *Lebamoff*, 956 F.3d at 872; *see also id.* at 879 (McKeague, J., concurring)

(noting how three-tier structure promotes "temperance"). This loss of pricing discipline would be especially acute in this case. Illinois, in which House of Glunz is located, does not impose restrictions on credit sales or volume discounts like Ohio does. *See* Stevenson and Jones Rep., R.51-2, PageID#1072–75 (¶116); *see also* 235 Ill. Comp. Stat. §5/6-5 (permitting "merchandising credit"); 235 Ill. Comp. Stat. §§5/6-9.10, 5/6-9.15 (authorizing quantity discount programs). So opening up Ohio to Illinois shipments would directly undermine Ohio policy that diverges from Illinois policy.

*

All said, if "States have the power to control shipments of liquor during their passage through their territory and to take appropriate steps to prevent the unlawful diversion of liquor into their regulated intrastate markets," *North Dakota*, 495 U.S. at 431 (plurality op.), Ohio has the power to prevent two gaping holes in its intrastate markets by enforcing laws that channel most alcohol through the three-tier system.

III. Miller, House of Glunz, and their *amicus* poke no holes in the district court's judgment.

Miller and House of Glunz bobble the law and the facts in their attack on the district court's judgment.

The law. Miller and Glunz devote several pages to framing the legal test, but that discussion obscures more than it illuminates. Apt. Br. at 21–27. For example, in one

passage they insist that Ohio must prove "that nondiscriminatory alternatives would be insufficient to further" its health-and-safety interests. *Id.* at 23–24 (quotation omitted). The *amicus* devotes an entire brief to this same point, insisting that Ohio must offer "concrete evidence that there exist no nondiscriminatory alternatives" to the existing wine-distribution laws. Am. Br. at 6. These arguments run headlong into law-of-the-case, circuit precedent, and the right reading of Supreme Court caselaw.

Start with law-of-the-case. This dispute has been to the Circuit before. In 2023, a panel remanded for the district court to "consider the facts and evidence," *Block*, 74 F.4th 414, but not to apply a different legal standard. That legal standard, in the panel's words, asks whether a discriminatory state law (1) "can be justified as a public health or safety measure or on some other legitimate nonprotectionist ground," and (2) whether its "predominant effect" is the protection of public health or safety, rather than "protectionism." *Id.* at 413 (quotation omitted). The panel did not mention looking for "nondiscriminatory alternatives." Under law-of-the-case principles, disproving "nondiscriminatory alternatives" is off the table. *See, e.g.*, *In re Kenneth Allen Knight Tr.*, 303 F.3d 671, 677 (6th Cir. 2002).

Circuit precedent also closes the door on the argument that the district court erred by not requiring Ohio to show nondiscriminatory alternatives. The *amicus*

concedes that this Court's 2020 *Lebamoff* decision did not require this showing. Am. Br. at 10 (citing *Lebamoff*, 956 F.3d at 875). That should end the matter, law-of-the-case or not, under this Court's rule of panel precedent. *See, e.g.*, *Salmi*, 774 F.2d at 689.

Finally, the claim that Ohio must show nondiscriminatory alternatives misreads Supreme Court precedent. Other circuits have analyzed and rejected this exact argument. The First Circuit held that "the mere existence of possible alternatives does not, for purposes of a Twenty-first Amendment inquiry, necessarily invalidate a challenged law." *Anvar*, 82 F.4th at 11. And the Fourth Circuit specifically addressed language from *Granholm* and explained that the Supreme Court in that case only discussed nondiscriminatory alternatives "after it had already concluded that the discriminatory regimes contravened the dormant Commerce Clause and were not saved by the Twenty-first Amendment." *B-21 Wines*, 36 F.4th at 225. Adding to that chorus, the Ninth Circuit recently held that "no further consideration of nondiscriminatory alternatives [is] necessary" once a court concludes that a "physical-premise requirement is authorized by the Twenty-first Amendment as an essential feature of the state's three-tier scheme." *Day*, 2025 WL 2573046 at*10. As these courts noted, when the Supreme Court discussed hypothetical alternatives to the Tennessee law, it was commenting on the lack of evidence in a case in which

Tennessee "mounted no independent defense" of its law. *Tenn. Wine*, 588 U.S. at 540. When the Court instead described the legal test, it said that courts ask only (1) "whether the challenged requirement can be justified as a public health or safety measure or on some other legitimate nonprotectionist ground," and (2) whether the challenged law's "predominant effect … is protectionism, not the protection of public health or safety." *Id.* at 539–40. As explained above, Ohio's laws pass that test.

Miller and Glunz next spend several pages relating this Circuit's history judging state alcohol regulations with a punchline that the Circuit's most relevant precedent—*Lebamoff*—is wrong because it "declined to apply the Supreme Court's standards." Apt. Br. at 28. Miller and Glunz have it backwards. Their citations to other Sixth Circuit cases are irrelevant, as none of them evaluated—as *Lebamoff* did—a law that restricts retail direct wine shipment, and none of those cases evaluated such laws—as *Lebamoff* did—after the Supreme Court's *Tennessee Wine* decision. *Lebamoff's* discussion of the legal standard for the exact kinds of laws targeted here is the law of the Circuit. Miller and Glunz protest that *Lebamoff* misread Supreme Court precedent. But that is not a question this Panel can revisit. Indeed, Miller and Glunz cite several cases that affirm the Circuit's strong commitment to a rule of orderliness that prevents one panel from revisiting the legal holding of another. *See* Apt. Br. at 30. On that point, they are right.

Miller and Glunz itch to set up a clash between *Lebamoff* and the previous panel opinion in this very case. *See* Apt. Br. at 30–31. But those cases see eye-to-eye on the relevant *legal* standard, even if they differ about what *evidence* satisfies that legal standard. A side-by-side comparison of the two cases shows that they take the same view of the legal standard. The prior decision in this case said that a court must decide "whether the law can be justified as a public health or safety measure or on some other legitimate nonprotectionist ground," and whether "the predominant effect of the law is protectionism, rather than the promotion of legitimate state interests." *Block*, 74 F.4th at 413 (quotation marks omitted). Three years earlier, *Lebamoff* framed the question almost identically: courts "ask whether the law can be justified as a public health or safety measure or on some other legitimate nonprotectionist ground[,] … [b]ut if the predominant effect of the law is protectionism, rather than the promotion of legitimate state interests," the law cannot stand. *Lebamoff*, 956 F.3d at 869 (quotation omitted). Miller and Glunz travel a dead-end road in urging this Court to disregard two panel precedents about the proper legal framework.

Miller and Glunz next double down on the claim that courts are misreading the Supreme Court's cases when they cite several out-of-circuit cases. Apt. Br. at 34. Without discussion, this part of their brief (1) cites pre-*Tennessee Wine* caselaw about

dissimilar alcohol regulations, (2) disparages, without analysis, an incomplete list of circuit cases upholding laws on par with Ohio's, and (3) touts one post-*Tennessee Wine* case that remanded Rhode Island's summary-judgment victory exactly like this Court remanded Ohio's prior summary-judgment win. Nothing in this collection of cases supports the bare-bones assertion that Miller and Glunz stand alone in properly interpreting the Supreme Court's Twenty-first Amendment cases. Instead, the consistent result in the circuits shows that restrictions like Ohio's are fully consistent with the Supreme Court's teaching in this area. *See* above at 29–30.

Miller and Glunz again misstate the legal question when they frame the inquiry as whether enjoining the Ohio laws would pose "serious" or "great" public-safety risks. Apt. Br. at 37, 40. Those are not the tests. The Supreme Court directs that States can justify alcohol restrictions if they *are* health and safety measures (rather than protectionism). *Tenn. Wine*, 588 U.S. at 539–40. And the Court further recognizes that States enjoy "latitude with respect to the regulation of alcohol" that they enjoy for no other product. *Id.* at 533. Miller's and Glunz's intensifier-driven standard cannot be squared with the Supreme Court's holdings, which flunk laws only if they display "no demonstrable connection to" health or public safety. *Id.* at 538.

Finally, Miller and Glunz erect a strawman when they accuse Ohio of defending the three-tier system as an "end in itself." Apt. Br. at 49–53. Ohio does no such

thing. Ohio instead defends a component of the three-tier system whose absence would end the system entirely. Multiple courts, including a panel of this Court agree. *See Lebamoff,* 956 F.3d at 872; *accord Day*, 2025 WL 2573046 at*9–10; *Jean-Paul Weg*, 133 F.4th at 237; *B-21 Wines*, 36 F.4th at 229; *Sarasota*, 987 F.3d at 1183; *Wine Country*, 612 F.3d at 821; *Arnold's Wines*, 571 F.3d at 192.

Miller and Glunz deepen this analytical hole when they proclaim that the three-tier system regulates "supply chains" not alcohol consumption. Apr. Br. at 51. That flies in the face of what this Court and others have said. For example, one judge of this Court has noted that Ohio's defense of the three-tier system "can largely rely on what has already been found to inherently protect public health," such as "requiring retailers to be in-state to sell online." *Lebamoff*, 956 F.3d at 879 (McKeague, J., concurring). These restrictions, that judge noted, come with "baked-in public health justifications" like "temperance." *Id.* (McKeague, J., concurring). Other courts have gone even further. The Fifth Circuit held that "*Granholm* already worked out the answer" about these kinds of challenges by affirming the three-tier system itself. *Wine Country,* 612 F.3d at 821. And the Second Circuit earlier held that challenges to state direct-shipment restrictions are "foreclosed by the *Granholm* Court's express affirmation of the legality of the three-tier system." *Arnold's Wines*, 571 F.3d at 191; *see also Day*, 2025 WL 2573046 at *11.

As a last rejoinder about Ohio's three-tier system, Miller and Glunz contend that Ohio has already scrapped its three-tier system through exceptions. The implication is that Ohio cannot rely on the many precedents that validate state laws essential to such systems. *See* Apt. Br. at 50–51. Ohio, it is true, allows some wine to reach consumers without passing through the three tiers. But that is the exception, not the general rule. And this exception, as several courts hold, does not vitiate a State's power to enforce laws that serve its citizens by enforcing a three-tier system generally. *Lebamoff*, 956 F.3d at 875; *Day*, 2025 WL 2573046 at *10; *Jean-Paul Weg*, 133 F.4th at 230 n.1; *B-21 Wines*, 36 F.4th at 218.

The default in Ohio is that wine sold in the State must pass through the three-tier system before reaching a consumer. *See* Ohio Rev. Code §§4303.07, 4303.10; 4301.58(C), 4303.35, 4303.03(B)(1); Ohio Adm. Code §4301:1-1-46(F). The Ohio General Assembly's decision to "tolerate a limited exception" to the three-tier system allowing "for in-state and out-of-state wine producers. . . to sell wine directly to consumers . . . is within [Ohio's] constitutional power," *B-21 Wines*, 36 F.4th at 226, as it does little to undermine the benefits that flow from the three-tier system generally. That is so, first, because there are far fewer wineries nationwide than retailers. *See* Kerr Rep., R.116-1, PageID#6022, 6024 (¶¶33, 44) (estimating retailer numbers); Stevenson and Jones Report, R.114-1, PageID#5471 (¶87) (same). It is also so

because "provisions of federal law … supply incentives for wineries to comply with state regulations." *Granholm*, 544 U.S. at 492. Wineries must secure a federal license from the Tax and Trade Bureau to operate; a winery's failure to abide by state law puts that license in jeopardy, and "[w]ithout a federal license, a winery cannot operate in any State." *Id.* There is no such federal licensing requirement, nor attendant penalties, for retailers. *See* Stevenson and Jones Report, R.114-1, PageID#5479–80 (¶110).

The evidence. When Miller and Glunz turn to the evidence, they filter it through the wrong lens. Their errors take three forms.

First, Miller and Glunz gainsay the evidence in the summary-judgment record without ever engaging the district court's analysis. Recall the district court's three key findings about the evidence. One, as illustrated by an investigation after a consumer fell ill from bad wine, the court found that "physical access to information and premises" is important in "policing alcohol sales." Op., R.133, PageID#6823. Two, the district court found that routing most alcohol through the three-tier system "allows [Ohio] to control alcohol prices" and efficiently collect taxes on alcohol sales. *Id.* That control, the court explained, allows Ohio to reign-in the well-known "bad outcomes" associated with overconsumption. *Id.* at PageID#6824. Three, the district court explained why Ohio regulators' efforts to police out-of-state retailers

would be "likely ineffective" because those retailers operate outside of Ohio's three-tier system. *Id.* at PageID#6827 (quotation omitted).

Miller's and Glunz's evidentiary counterpoints trade in their misframed legal standard insisting that Ohio must show serious or substantial health-and-safety problems. For example, they posit that the safety of direct-from-winery shipments mandates that Ohio allow direct-from-retail shipments. Apt. Br. at 41. That is a false comparison, as wineries, but not wine retailers, must have a *federal* license. *Granholm*, 544 U.S. at 492. And the difference is vividly illustrated by Ohio's experience investigating tainted wine that harmed drinkers. *See* above at 35–36. That wine ended up on retail shelves, but did not originate from a federally licensed winery. Other arguments are of a piece. Miller and Glunz say, in another passage, that no evidence shows how interstate wine shipping "might cause problems in Ohio that have not occurred anywhere else." Apt. Br. at 43. That whistles by evidence that, when Illinois raised prices on wine and spirits, the change caused a "reduction in alcohol sold." Kerr Supp. Report, R.116-1, PageID#6076 (¶19). That reduction, of course, reduced the social ills that accompany alcohol sales. Miller and Glunz also sail past evidence that Ohio's response to the tainted-wine incident would have faced "jurisdictional and administrative difficulties" if the wine had been shipped from out-of-state retailers. *Id.* at PageID#6075 (¶17).

Second, Miller and Glunz apply their legal error about nondiscriminatory alternatives to imagined ways that Ohio could regulate alcohol. These arguments resemble the least-restrictive-means burden States may face, for example, when restricting speech, *see, e.g.*, *Free Speech Coal., Inc. v. Paxton*, 145 S. Ct. 2291, 2302 (2025), but have no bearing on whether a State has permissibly regulated alcohol in the face of the implied restriction in the Commerce Clause. As far as Ohio is aware, no appeals court has put a State through this kind of gantlet after *Tennessee Wine*. And at least three circuits have explicitly rejected this argument. *See Day*, 2025 WL 2573046 at *10; *Anvar*, 82 F.4th at 11; *B-21 Wines*, 36 F.4th at 225.

Under this erroneous view of the State's burden, Miller and Glunz argue, for example, that Ohio must prove that it could not implement a permit system for out-of-state retailers. Apt. Br. at 46–47. Ohio need not show that a permit system would fail; it need only show that its existing retail-shipment restrictions are health and safety regulations without a "predominant" protectionist "effect." *Tenn. Wine*, 588 U.S. at 539. Still, Ohio provided evidence, that the district court credited, showing that regulating out-of-state entities would be "likely ineffective." Op., R.133, PageID#6827 (quotation omitted). That rebuts any claim that Ohio's laws are "unalloyed protectionism." *Tenn. Wine*, 588 U.S. at 539.

Miller and Glunz are on no firmer ground when they claim that States allowing out-of-state retail shipments experience no "public health or safety risk." Apt. Br. 38; *see id.* at 10–12. The claim fails legally and factually. Legally, other States' experience is irrelevant. "That different states purportedly have not experienced problems with their own desired policy choices does not strip [Ohio] of its ability to select policies it can justify with concrete evidence of efficacy." *Jean-Paul Weg*, 133 F.4th at 238. Factually, as detailed below, the summary judgment evidence does not bear out the claim.

Third, Miller and Glunz fare no better when they cite their own summary-judgment evidence. They aim to paint Ohio's laws as predominantly protectionist by citing some nationwide studies about alcohol consumption and some correspondence between their counsel and regulators in states that allow out-of-state retail wine shipping. Apt. Br. 10–12. The district court found the information underwhelming.

Starting with the studies, it observed that they were "unaccompanied by expert testimony or statistical analysis." *See* Op., R.133, PageID#6826. What is more, these charts contain inaccuracies. Several incorrectly list Nevada and Idaho as states that allow direct shipments from out-of-state retailers. *See* NHTSA summary (with annotations), R.52-21, PageID#3877; National Institute on Alcohol Abuse and Alcoholism 2016 Consumption Rep. (with annotations), R.52-20, PageID#3866;

National Coalition Against Domestic Violence 2021 Summary (with annotations), R.52-23, PageID#3885. But neither currently does. *See* Nev. Rev. Stat. Ann. §§369.489–490; Idaho Code §23-1309A; Idaho Official Website of the Idaho State Police, *ABC Bulletin 25.01 – Direct-to-Consumer Shipments* (https://perma.cc/6CBH-UL2J) (only wine shipped from a *winery* can be shipped direct-to-consumers).

Even excusing these inaccuracies, these charts do Miller and Glunz no favors. Take the NHTSA exhibit, for example. It shows that several of the states that allow direct shipping from out-of-state retailers have higher alcohol-involved traffic fatality rates than the national average listed there. *See* NHTSA Summary (with annotations), R.52-21, PageID#3873–74. According to this exhibit, direct-ship states North Dakota, New Hampshire, and Oregon are all in the top 10 nationally on this metric.

As for the correspondence, the district court appropriately gave them little value. The court pointed out that the responses were over four years old, were not sworn, and did not indicate that the authors were either "knowledgeable" about the inquiries or "authorized" to speak for the respective States. Op., R.133, PageID#6826; *see* Counsel Correspondence, R.52-30, PageID#3948–4011.

* * *

At bottom, if Ohio's "decision to adhere to a three-tier distribution system is immune from direct challenge on Commerce Clause grounds," *Lebamoff*, 956 F.3d at 869–70 (quotation omitted), it is hard to see how a district court could fashion any remedy here that would not implode Ohio's three-tier system. If the challenges here succeed, the Twenty-first Amendment's section 2 "would be a dead letter" as "every statute limiting importation leaves intrastate commerce unaffected." *Bridenbaugh v. Freeman-Wilson*, 227 F.3d 848, 853–54 (7th Cir. 2000). And if the Supreme Court's "legitimizing of the tiers is to have meaning," it "must at least" permit discrimination "inherent in the three-tier system itself." *Wine Country*, 612 F.3d at 818. If Ohio's laws restricting importation cannot stand in light of the record in this case, no State can restrict out-of-state alcohol imports.

Some may view the three-tier distribution system as an artifact now that "the internet and e-commerce flatten the global marketplace. Yet the extraordinary constitutional status given to state alcoholic beverage laws in the Twenty-first Amendment was the compromise that allowed the repeal of Prohibition." *Lebamoff Ents., Inc. v. Huskey*, 666 F.3d 455, 472 (7th Cir. 2012) (Hamilton, J., concurring). If the three-tier system is a relic, though, the Twenty-first amendment leaves the choice to discard it to the people, not the courts, and "those seeking a more" consumer-oriented "organization of the industry" must "turn to state-by-state political action on behalf

of consumers." *Id.* "The Supreme Court has not yet struck such a blow to § 2, and neither" should this Court. *Day*, 2025 WL 2573046 at *11

CONCLUSION

For these reasons, the Court should either vacate and remand with instructions to dismiss or affirm the judgment for Ohio.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I hereby certify that, in accordance with Rule 32(g) of the Federal Rules of Appellate Procedure, this brief complies with the type-volume requirements for a principal brief and contains 11,895 words. *See* Fed. R. App. P. 32(a)(7)(B)(ii).

I further certify that this brief complies with the typeface requirements of Federal Rule 32(a)(5) and the type-style requirements of Federal Rule 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Equity font.

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CERTIFICATE OF SERVICE

I hereby certify that on September 19, 2025, this brief was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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DESIGNATION OF DISTRICT COURT RECORD

Appellants, pursuant to Sixth Circuit Rule 30(g), designate the following filings from the District Court's electronic records:

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Date Filed	R. No.; PageID#	Document Description
7/21/2020	R. 1; 7–10	Complaint
5/12/2021	R. 36; 339–56	Opinion & Order 5/12/2021
5/26/2021	R. 37; 362	Answer
1/21/2022	R. 48; 440–42	Miller Deposition
1/21/2022	R. 50; 871, 889	Donovan Deposition
1/27/2022	R. 51-2; 1062, 1072–75	Stevenson and Jones Report 12/7/2022
1/27/2022	R. 52-2; 1271	Miller Declaration 1/19/2022
1/27/2022	R. 52-3; 1274	Donovan Declaration 1/19/2022
1/27/2022	R. 52-20; 3866	National Institute on Alcohol Abuse and Alcoholism 2016 Consumption Rep.
1/27/2022	R. 52-21; 3873–77	NHTSA Summary
1/27/2022	R. 52-23; 3885	National Coalition Against Domestic Violence 2021 Summary
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9/12/2022	R. 91; 5178-203	Opinion & Order 9/12/2022

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3/15/2024	R. 114-1; 5467–72, 5479–80	Stevenson and Jones Report
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3/15/2024	R. 116-2; 6121–22	Chung Declaration 3/13/2024
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3/20/2025	R. 134; 6829	Judgment Entry
4/17/2025	R. 135; 6830	Notice of Appeal