

IN THE SUPREME COURT OF THE UNITED STATES

No. A-____

CHICAGO WINE COMPANY, LLC; STAN SPRINGER; CYNTHIA SPRINGER;
DENNIS NEARY; AND DEVIN WARNER, APPLICANTS

v.

MIKE BRAUN, GOVERNOR OF INDIANA; THEODORE ROKITA, ATTORNEY
GENERAL OF INDIANA; AND JESSICA ALLEN, CHAIRWOMAN OF THE INDIANA
ALCOHOL AND TOBACCO COMMISSION

APPLICATION FOR AN EXTENSION OF TIME
WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

To the Honorable Amy Coney Barrett, Circuit Justice for the
United States Court of Appeals for the Seventh Circuit:

Pursuant to Rules 13.5 and 30.2 of this Court, Chicago Wine
Company, LLC; Stan Springer; Cynthia Springer; Dennis Neary; and
Devin Warner apply for a 45-day extension of time, to and including
January 12, 2026, within which to file a petition for a writ of
certiorari to review the judgment of the United States Court of
Appeals for the Seventh Circuit in this case.* The Seventh Circuit
entered its judgment on August 5, 2025. App., infra, 55a. It
denied applicants' petition for rehearing on August 29, 2025. Id.
at 57a. Unless extended, the time for filing a petition for a

*Applicant Chicago Wine Company, LLC, has no parent corporation,
and there is no publicly held company that owns 10% or more of its
stock.

writ of certiorari will expire on November 28, 2025. The jurisdiction of this Court would be invoked under 28 U.S.C. 1254(1).

1. This case presents important and recurring questions about the intersection of the dormant Commerce Clause and Section 2 of the Twenty-first Amendment. In Granholm v. Heald, 544 U.S. 460 (2005), this Court reaffirmed that “state regulation of alcohol is limited by the nondiscrimination principle of the Commerce Clause.” Id. at 487. And in Tennessee Wine & Spirits Retailers Association v. Thomas, 588 U.S. 504 (2019), the Court reiterated that state alcohol regulation violates the dormant Commerce Clause when it is “aimed at giving a competitive advantage to in-state businesses.” Id. at 531. The Court explained that a State’s regulation of in-state alcohol distribution will survive constitutional scrutiny only if it “can be justified as a public health or safety measure or on some other legitimate nonprotectionist ground.” Id. at 539. Applying those principles, the Court deemed unconstitutional a state law that required an applicant for a license to operate a liquor store to have resided in that State for the prior two years, holding that the provision “expressly discriminates against nonresidents and has at best a highly attenuated relationship to public health or safety” and therefore “violates the Commerce Clause and is not saved by the Twenty-first Amendment.” Id. at 540, 543.

The dissenting opinion observed that the Court’s decision left open various questions for lower courts, including whether “simple physical presence laws” are constitutional and “[h]ow much public health and safety benefit must there be” for a law to pass

muster under the dormant Commerce Clause. 588 U.S. at 556 (opinion of Gorsuch, J.). Since then, the courts of appeals -- including both judges on the Seventh Circuit panel in this case -- have divided on precisely those issues. This case presents an opportunity for the Court to clarify whether a requirement that a retailer establish an in-state physical presence before shipping alcoholic beverages to consumers within that State discriminates against interstate commerce and, if so, whether such a provision can be saved simply because it is a feature of the State's three-tier system for alcohol regulation even if lacks a close relationship to public health or safety.

2. Applicant Chicago Wine Company, LLC, is a retailer of fine wines licensed in Illinois that ships to customers in Illinois and other states. Chicago Wine seeks to ship wine to customers in Indiana using either its own trucks and employees or a common carrier, but it cannot do so under Indiana law. The individual applicants are prospective customers who allege that Indiana law impeded their ability to order wine from out-of-state retailers. App., infra, 3a, 8a-10a, 37a-38a.

Like many States, Indiana regulates the importation and distribution of alcoholic beverages through a three-tier system under which it issues different licenses to producers, wholesalers, and retailers. App., infra, 8a. Retailers must purchase alcoholic beverages from wholesalers and may sell those beverages to consumers only at retail locations or via home delivery. Ibid. In order to deliver to a customer's residence, a retailer is required to hold a permit. See Ind. Code § 7.1-3-15-3(d) (2025). Indiana

issues those permits only to retailers with physical premises in Indiana. App., infra, 5a, 9a. Indiana also prohibits retailers from shipping wine to Indiana consumers via common carriers. Id. at 29a. As a result of that scheme, out-of-state wine retailers such as Chicago Wine cannot deliver wine to Indiana consumers, but in-state wine retailers are permitted to do so.

3. Applicants filed suit under 42 U.S.C. 1983, challenging the constitutionality of Indiana's regulations under the Commerce Clause. App., infra, 37a-38a, 41a-42a. The parties filed cross-motions for summary judgment. Id. at 36a. The district court entered summary judgment for the State, taking the view that Indiana's regulatory scheme is not discriminatory. Id. at 50a, 52a.

4. The court of appeals affirmed in a per curiam opinion after Judge Kanne, a member of the panel at the time of argument, passed away. App., infra, 1a-35a. The court explained that the two remaining judges agreed that the regulations were constitutional, but based "on two different lines of reasoning." Id. at 2a.

Judge Easterbrook wrote one opinion, concluding that neither the common-carrier prohibition nor the physical-presence requirement discriminated against out-of-state citizens or products because the requirements applied "equally" to in-state and out-of-state retailers. App., infra, 3a, 5a-6a. In Judge Easterbrook's view, the majority of circuits agreed that a physical-presence requirement was not discriminatory. Id. at 6a (citing Jean-Paul Weg LLC v. New Jersey Division of Alcoholic Beverage Control, 133 F.4th 227 (3d Cir. 2025); Lebamoff Enterprises, Inc. v. Whitmer,

956 F.3d 863 (6th Cir. 2020); Sarasota Wine Market, LLC v. Schmitt, 987 F.3d 1171 (8th Cir. 2021); and Day v. Henry, 129 F.4th 1197 (9th Cir. 2025)). Judge Easterbrook acknowledged contrary authority from the Fourth Circuit. Id. at 6a-7a (citing B-21 Wines, Inc. v. Bauer, 36 F.4th 214 (4th Cir. 2022)). But he was "skeptical" of the Fourth Circuit's decision because it upheld the challenged physical-presence provision despite finding it was discriminatory. Ibid. That could not be correct, Judge Easterbrook reasoned, because "a trans-border delivery rule that discriminates against interstate commerce is forbidden" after Tennessee Wine. Id. at 7a.

Judge Scudder wrote a separate opinion, concluding that Indiana's physical-presence requirement was discriminatory because it "runs contrary to the principle that 'States cannot require an out-of-state firm to become a resident in order to compete on equal terms.'" App., infra, 15a-17a (quoting Granholm, 544 U.S. at 475). Judge Scudder explained that his conclusion followed from Granholm, Tennessee Wine, and the Seventh Circuit's own decision in Lebamoff Enterprises, Inc. v. Rauner, 909 F.3d 847, 852 (7th Cir. 2018). App., infra, 16a-17a. And he expressly disagreed with Judge Easterbrook's "different perspective" on that question. Id. at 16a.

Having found discriminatory treatment, Judge Scudder proceeded to consider whether Section 2 of the Twenty-first Amendment justified Indiana's law. App., infra, 17a. Judge Scudder observed that other circuits had upheld residency requirements simply because they were an "essential feature of a three-tiered scheme."

Id. at 18a-19a (citing B-21 Wines, 36 F.4th at 214, and Sarasota Wine Market, 987 F.3d at 1183-1184). In Judge Scudder's view, however, those decisions could not be reconciled with Tennessee Wine because they "read[] far too much into Granholm's discussion of the three-tiered model." Ibid. (quoting Tennessee Wine, 588 U.S. at 535). Judge Scudder instead reasoned that it is "necessary * * * to look at the specific regulation at issue and the State's evidentiary showing to support it." Id. at 18a. After considering that evidence, Judge Scudder ultimately concluded that Indiana's law was constitutional because, in his view, Indiana had offered sufficient evidence that its regulation's main effect was maintaining public health and safety. Id. at 18a, 23a.

As for the common-carrier prohibition, Judge Scudder agreed with Judge Easterbrook that that prohibition was not discriminatory, App., infra, 30a-31a, and constituted a reasonable exercise of State power, id. at 34a.

5. The undersigned counsel respectfully requests a 45-day extension of time, to and including January 12, 2026, within which to file a petition for a writ of certiorari. This case presents weighty and complex issues concerning the intersection of the dormant Commerce Clause and the Twenty-first Amendment. Counsel of record has a number of competing obligations, including oral arguments and briefing deadlines close to the current deadline for the petition for certiorari. See In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation, No. 24-2678 (2d Cir.) (oral argument on Nov. 20, 2025); Suncor Energy (USA) Inc. v. Board of Commissioners of Boulder County, No. 25-170 (U.S.)

(reply brief in support of petition for certiorari due Nov. 25, 2025); Stroble v. Oklahoma Tax Commission, No. 25-382 (U.S.) (brief in opposition to certiorari due Dec. 1, 2025); National Football League v. Gruden, No. A-21-844043-B (Nev. Dist. Ct.) (hearing on Dec. 3, 2025); In re National Football League Players' Concussion Injury Litigation, No. 25-2271 (3d Cir.) (brief of appellees due Dec. 8, 2025); and Zafirov v. Florida Medical Associates, No. 24-13581 (11th Cir.) (oral argument on Dec. 12, 2025). Moreover, additional time will allow counsel to assess this case alongside Day v. Henry, 152 F.4th 961 (9th Cir. 2025), which implicates similar questions and may likewise warrant a petition for a writ of certiorari. Additional time is therefore needed to prepare the petition in this case.

Respectfully submitted.

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