

REPEAL OF THE EIGHTEENTH AMENDMENT

TWENTY-FIRST AMENDMENT

SECTIONS 1–3. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

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.

This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

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Effect of Repeal

The operative effect of section 1, repealing the Eighteenth Amendment, is considered in the commentary dealing with that Amendment.

Scope of Regulatory Power Conferred upon the States

Discrimination Between Domestic and Imported Products.—In a series of decisions rendered shortly after ratification of the Twenty-first Amendment, the Court established the proposition that states are competent to adopt legislation discriminating against imported intoxicating liquors in favor of those of domestic origin and that such discrimination offends neither the Commerce Clause of Article I nor the Equal Protection and Due Process Clauses of the Fourteenth Amendment. Modern cases, however, have recognized that “state regulation of alcohol is limited by the nondiscrimination principle of the Commerce Clause.”¹

Initially, the Court upheld a California statute that exacted a \$500 annual license fee for the privilege of importing beer from other

¹ *Granholt v. Heald*, 544 U.S. 460, 487 (2005).