

Sixth Circuit Rejects Michigan's Bottle Law With Help from Wiley Rein *Amicus* Brief

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Wiley Rein helped persuade a federal appeals court to reject a Michigan law that requires beverage makers to put a unique mark on returnable cans and bottles sold in the state. The law illegally interferes with interstate commerce, the U.S. Court of Appeals for the Sixth Circuit said in a November 29 ruling, in *American Beverage Association v. Snyder, et al.*

Wiley Rein founding partner Bert W. Rein, Appellate Practice Co-Chair Helgi C. Walker, and Appellate Practice partner John E. Barry represented the U.S. Chamber of Commerce as *amicus curiae* in support of the American Beverage Association's appeal of a 2011 district court ruling. The Michigan law violates the Commerce Clause of the U.S. Constitution because it attempts to regulate the marks that beverage makers place on containers manufactured, distributed and sold in other states, the Chamber said in an *amicus* brief filed by Mr. Rein, Ms. Walker and Mr. Barry.

Michigan is among 10 states that require certain beverages to be sold in returnable containers that are subject to a 10-cent deposit at the time of purchase. The deposit is refunded to consumers who return the empty containers. The state amended its bottle law in 2008 to prevent "overredemption," in which refunds are fraudulently obtained for empty bottles that were purchased outside of Michigan and weren't subject to a deposit.

The amended law requires manufacturers to put a unique mark on returnable bottles and cans sold in Michigan, and prohibits manufacturers from using those containers in states that don't have similar bottle laws.

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Wiley Rein's *amicus* brief argued that Michigan's attempt to regulate the marks that beverage manufacturers place on containers manufactured, distributed and sold in other states compels the conclusion that the 2008 law violates the Commerce Clause. Wiley Rein's *amicus* brief can be found [here](#).

The appeals court agreed with the argument elaborated upon in Wiley Rein's brief, stating in its opinion that "Michigan's unique-mark requirement has an impermissible extraterritorial effect." The court's decision can be found [here](#).

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