

The Eighteenth Amendment and National Prohibition, Part 1: Introduction

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This Legal Sidebar post is the first in a seven-part series that discusses the [Eighteenth Amendment to the Constitution](#). Prior to its [repeal](#), the Eighteenth Amendment prohibited the manufacture, sale, or transportation of “intoxicating liquors” for “beverage purposes” within the United States. Section 2 of the Amendment granted Congress and the state legislatures “concurrent power” to enforce nationwide Prohibition by enacting “appropriate legislation.” The Eighteenth Amendment was partly a response to the Supreme Court’s pre-Prohibition Era Commerce Clause jurisprudence, which limited [the federal](#) and [state governments’](#) power over the liquor traffic. As such, the Eighteenth Amendment’s history provides insight into the judicial evolution of the [Commerce Clause](#), which operates as both a positive grant of legislative power to Congress and a [limit on state authority](#) to regulate commerce. Additional information on this topic will be published in the [Constitution Annotated: Analysis and Interpretation of the U.S. Constitution](#).

Historical Background

Prior to its repeal, the Eighteenth Amendment prohibited the manufacture, sale, or transportation of “intoxicating liquors” for “beverage purposes” within the United States. To enforce Prohibition, Congress enacted the National Prohibition Act or “[Volstead Act](#).” The Eighteenth Amendment and Volstead Act were controversial in part because they empowered the federal government to [police activities](#) that implicated individual social habits and morality—a role traditionally led by state and local governments. Difficult to enforce and [widely disobeyed](#), Prohibition lasted almost 14 years before the Twenty-First Amendment repealed it.

The Eighteenth Amendment was the product of nationwide temperance movements that first emerged in the decades after the Founding and steadily grew in influence during the [Progressive Era](#). From the Colonial Era to the early 1800s, many Americans [viewed](#) moderate alcohol consumption as a normal aspect of life. Early Americans, including many of the Founders, drank, purchased, or manufactured large quantities of alcoholic beverages. However, as Americans’ consumption of hard liquor increased significantly from the 1790s to the 1830s, Protestant Christians, concerned about alcoholism’s effects on society, formed some of the first [temperance groups](#).

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In the decades leading up to the Civil War, temperance groups adopted an [increasingly stringent](#) attitude toward alcohol consumption and successfully pressured [some states](#) to enact laws prohibiting the liquor trade. However, as the nation became embroiled in disagreements over the issue of slavery, Americans' interest in the temperance movement waned, and many state legislatures repealed or weakened their prohibition laws.

After the Civil War, the temperance movement again [surged in popularity](#) as the nation grappled with rapid industrialization and urbanization. The organization most responsible for the Eighteenth Amendment's proposal and ratification was the Anti-Saloon League. [Founded in 1893](#), the League engaged strategically with Protestant churches and both of the major political parties, publishing political pamphlets and giving speeches in support of Prohibition. One of the League's most prominent leaders, Wayne B. Wheeler, directed the organization's lobbying and fundraising efforts, which targeted politicians at all levels of government throughout the United States.

By 1917, the widespread proliferation of state prohibition laws and Congress's enactment of wartime restrictions on the production and sale of alcoholic beverages had [laid the foundation](#) for nationwide Prohibition. With the Anti-Saloon League's political influence at its peak, a wave of "dry" candidates swept into Congress in 1916. On December 18, 1917, Congress proposed the Eighteenth Amendment. Although Congress imposed a seven-year deadline on the Amendment's ratification, the requisite three-fourths of the states approved it in little more than a year. On January 29, 1919, Acting Secretary of State Frank L. Polk certified that the Amendment had been ratified on January 16. By its terms, the Amendment did not become effective until January 17, 1920, which was one year after the states ratified it.

The Eighteenth Amendment and nationwide Prohibition [quickly fell out of favor](#) with the American public because of ineffective enforcement, harsh enforcement techniques, crime related to the illegal liquor traffic, a need for tax revenue during the Great Depression, and widespread defiance of the law. The Twenty-First Amendment [repealed](#) Prohibition but recognized that the states could regulate or prohibit alcoholic beverages within their jurisdictions for legitimate, [nonprotectionist purposes](#), such as health or safety. In addition, the federal government continued to [regulate](#) or [tax](#) activities involving alcoholic beverages, including aspects of beverage production, wholesale distribution, importation, labeling, and advertising.

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Author Information

Brandon J. Murrill
Legislative Attorney

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