

# The Eighteenth Amendment and National Prohibition, Part 6: Supreme Court Cases

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This Legal Sidebar post is the sixth 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](#).

## The Eighteenth Amendment and the Supreme Court

Prohibition took effect throughout the United States on January 17, 1920, which was one year after the states [ratified](#) the Eighteenth Amendment. Beginning with the consolidated [National Prohibition Cases](#) in 1920, the Supreme Court outlined the Eighteenth Amendment’s scope and the federal and state governments’ “concurrent” powers to enforce it. The Court also confronted questions about whether the circumstances of the Eighteenth Amendment’s proposal and ratification violated the requirements of [Article V](#) of the Constitution. The Court rejected these Article V challenges, [determining](#) that the Amendment had “become a part of the Constitution” and was to “be respected and given effect the same as other provisions of that instrument.”

## Scope of the Eighteenth Amendment’s Prohibition

A few months after Prohibition took effect, the Supreme Court confirmed its sweeping scope. In the *National Prohibition Cases*, the Court upheld the Eighteenth Amendment and provisions of the Volstead Act against various legal challenges. The Court determined that Section 1 of the Amendment, which barred the manufacture, sale, or transportation of alcohol for beverage purposes, established Prohibition

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throughout the “entire territorial limits of the United States.” The Amendment’s prohibitions [applied](#) to interstate, intrastate, and foreign transactions subject to U.S. jurisdiction.

In addition to possessing a broad territorial and transactional scope, the Eighteenth Amendment [bound](#) both private entities and government actors, including Congress, the state legislatures, federal and state courts, and public officers. Section 1’s prohibitions were self-executing and invalidated any legislative act—by Congress, the states, or territorial assemblies—that authorized the use of alcohol contrary to Prohibition. Nonetheless, the Eighteenth Amendment did not establish any mechanism for its enforcement but instead [relied on Congress and the states](#) to implement its commands.

## Federal and State Enforcement Powers

Despite its broad scope, the Eighteenth Amendment [did not](#) “prescribe any penalties, forfeitures, or mode of enforcement.” Instead, [Section 2](#) of the Amendment authorized Congress and the state legislatures to enact legislation to implement Prohibition. To enforce Prohibition nationwide and regulate beverage and non-beverage uses of alcohol, Congress enacted the [Volstead Act](#) on October 28, 1919.

The Supreme Court interpreted the scope of Congress’s power to enforce the Eighteenth Amendment in several cases, applying a deferential standard of review to federal enforcement legislation. For instance, the Court [determined](#) that Congress had reasonably exercised its enforcement power by enacting controversial provisions of the Volstead Act prohibiting traffic in beverage “liquors” containing 0.5% alcohol by volume, which included beer and light wines.

The Court also confronted questions about the “concurrent power” of Congress and the states to enforce Prohibition under Section 2 of the Eighteenth Amendment. The Court determined that “concurrent power” did not mean “joint power,” and thus federal enforcement legislation could become effective without the states’ approval. According to the Court, the Eighteenth Amendment also did not neatly divide federal and state power to enforce Prohibition along the lines separating interstate from intrastate commerce. Consequently, the federal government could enforce Prohibition against intrastate activities involving alcoholic beverages, such as their manufacture and sale. In addition, state legislatures [could restrict](#) the importation of alcoholic beverages without violating the [dormant Commerce Clause doctrine](#).

The Supreme Court’s Eighteenth Amendment jurisprudence [thus confirmed](#) the states’ powers to augment federal enforcement efforts. However, state laws that authorized conduct prohibited under the Eighteenth Amendment or other federal law [were preempted](#).

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