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Federal Court Strikes Down Home Distilling Ban

The ruling says the 157-year-old law exceeds Congress’s taxing power, though hobbyists still need federal permits.

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A federal appeals court in Texas has struck down a 157-year-old federal ban on home distilling, ruling that the law goes beyond Congress’s taxing power and conflicts with the Constitution.

In a 23-page opinion issued Friday, a judge on the U.S. Court of Appeals for the Fifth Circuit upheld an earlier ruling in favor of four members of the Hobby Distillers Association, a group based north of Fort Worth. The case began in 2023 after the members asked federal regulators for permission to distill alcohol at home and were denied.

The decision does not create an open-ended right to make liquor at home. Hobbyists who want to distill in a house, garage or yard would still need a federal permit from the Alcohol and Tobacco Tax and Trade Bureau, known as the TTB, according to the association. They would also have to pay excise taxes and comply with state and local laws.

The association said the ruling gives hobby distillers a legal path forward similar to what homebrewers and winemakers already have under federal law. “This is a landmark step — but not the finish line,” the group said in a written statement.

The legal fight started when Rick Morris, Scott McNutt, John Prince and Thomas O. Cowdrey challenged the ban as unconstitutional after regulators refused to issue permits for home distilling. A Texas judge ruled last year that the ban exceeded Congress’s authority under the tax code and violated the Constitution’s Commerce Clause, according to Reuters.

The federal prohibition dates to 1868 and carries penalties that include fines and prison time. Court records show that McNutt had previously received a warning from the TTB in 2014 saying he could face civil and criminal penalties if caught distilling at home.

After their permit request was denied in November 2023, the four men sued the TTB and the Justice Department a month later. The Fifth Circuit’s ruling now opens what the association called “a lawful path forward for hobbyists,” though any broader change will still depend on how federal regulators respond and how state and local authorities enforce their own rules.