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## Diageo Leads Booze Brawl in Missouri

### Distillers Fighting To Overturn 1930s Wholesaler Rules



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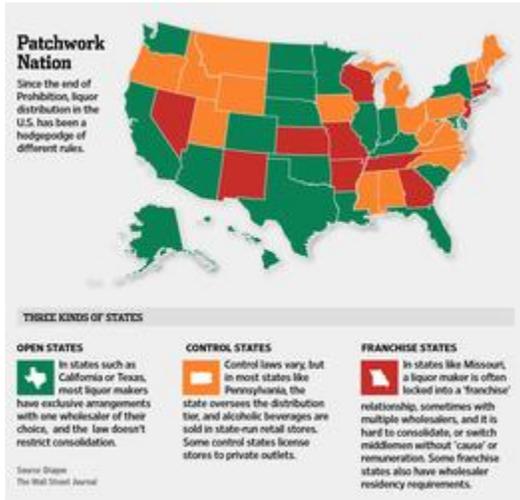
Revelers celebrated the repeal of Prohibition in 1933. Afterward, states were allowed to set up their own rules, and some opted for a franchise system that protects small or independent wholesalers.

The "Missouri Liquor Wars"—a raging battle between the world's largest liquor makers and a family-owned wholesaler—could change the way spirits are sold in the U.S. and undo one of the last vestiges of Prohibition.

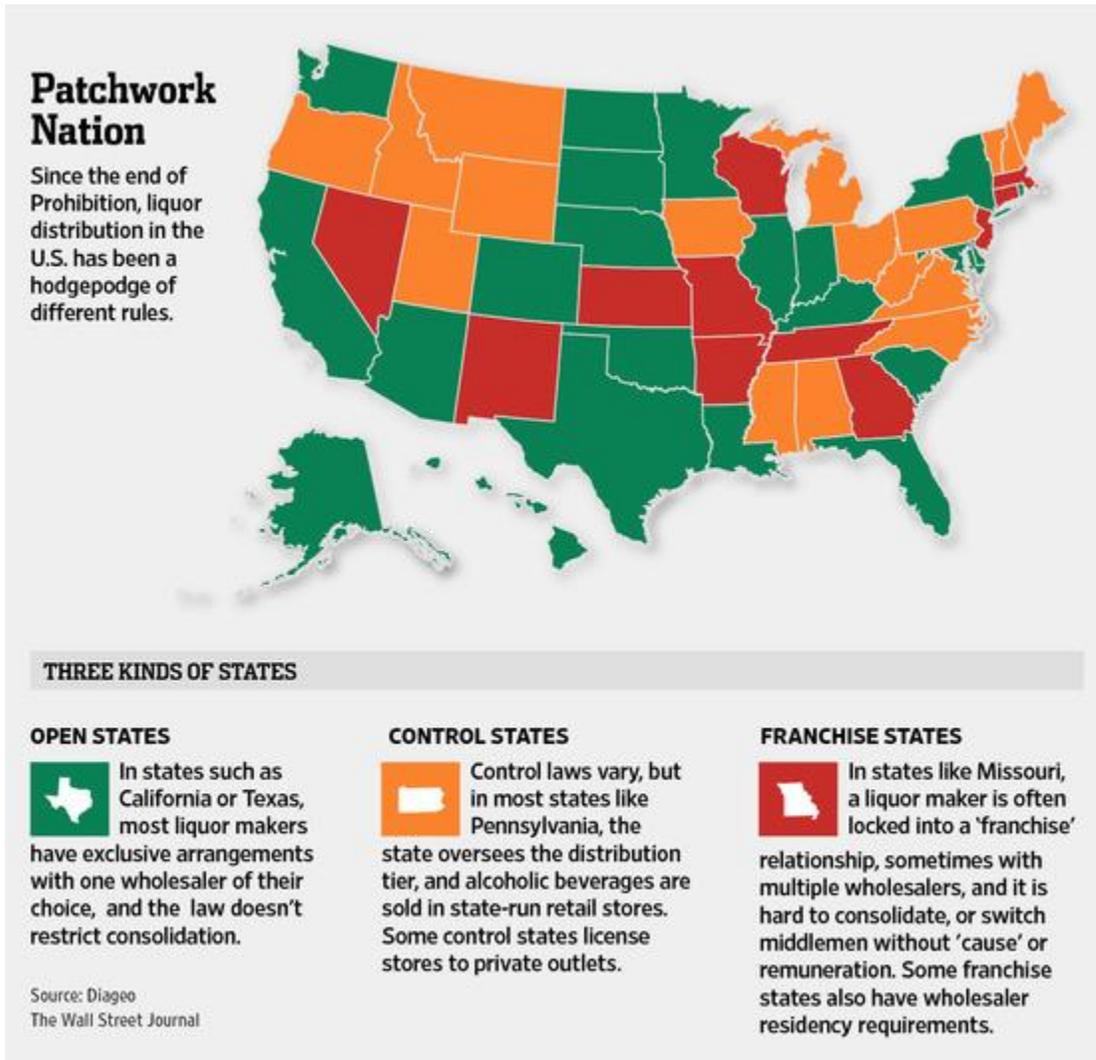
At issue are post-Prohibition-era regulations in about a dozen U.S. states that can lock in liquor producers with specific wholesalers, making it hard to consolidate the number of middlemen or switch distributors. These "franchise" laws were designed to get wholesalers to help states collect sales taxes and keep a single player from dominating alcohol sales as gangsters did during Prohibition.

[Diageo DGE.LN -1.29%](#) PLC, [Bacardi Ltd.](#), [Pernod Ricard SA RI.FR -0.76%](#) and their Washington lobby complain that the franchise laws artificially prop up local wholesalers and drive up distribution costs. They want the right to consolidate their wholesalers.

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Last November, a group of wholesalers and their allies began drawing up legislation that might protect Missouri's franchise laws. The major distillers and the Distilled Spirits Council of the U.S., the liquor makers' lobbyist, known as Discus, began lining up lawmakers to oppose the legislation.

That bill brought 71 lobbyists to the state capital, Jefferson City, this spring. They swarmed the legislature corridor amid whispers of alleged threats over breakfast at the St. Louis Four Seasons and of double dealing.

"This is the biggest fire I've ever seen in Jeff City," said Republican state Sen. Mike Parson, who supports the small wholesaler. "I've never known a bill to bring in so much outside money and so many lobbyists."

Meantime, suits and countersuits between the large liquor makers and the family-owned wholesaler, Major Brands, were wending their way through federal and Missouri state courts.

Amid the fighting, almost everybody agrees on one thing: Missouri is a national test case for the future of the franchise system. Diageo, the world's largest distiller by sales and owner of brands including Johnnie Walker and Smirnoff, has wanted to restructure its wholesaler relationship in the U.S. to lower costs. Other distillers feel the same way. Industry lobbyists say, if a liquor producer could dump a wholesaler and successfully challenge a franchise law, it might be able to transfer that strategy to other remaining franchise states.

If distillers win in this state, "they want to "Missouri" the rest of the country," says U.S. Sen. Claire McCaskill (D., Mo.), who supports the local wholesaler.

Major Brands, an independent wholesaler based in St. Louis, was vulnerable because of a federal court ruling muddying Missouri's concept of "franchise," and because its owner, a popular civic figure, had recently died. The company, which has annual sales of \$450 million and 700 employees, was now in the hands of the owner's widow, Sue McCollum, who had vowed to keep the business going.

A St. Louis court ruling this week did little but set the stage for a prolonged fight. On Tuesday, Circuit Court Judge Robert Dierker upheld Missouri's franchise law and said Diageo had broken a contractual relationship with Major Brands. The judge, however, didn't force Diageo to continue supplying Major Brands.

The 21st Amendment marked the end of Prohibition in 1933. It also allowed states to set their own rules. Most set up a three-tier system with wholesalers handed the job of monitoring alcohol sale, but many states also set a franchise system, which has for decades protected small or independent wholesalers like Major Brands, which itself was founded in 1934 with the end of Prohibition.

There are others besides wholesalers who want to keep the status quo. The conservative Missouri Eagle Forum, an arm of activist Phyllis Schlafly's advocacy group, said only local wholesalers can protect family values.

The Schlafly craft brewery in St. Louis, begun by Ms. Schlafly's nephew, also supports local wholesalers, said its co-founder Dan Kopman.

Discus says the laws are out of date. "Where is the free market there?" said Ben Jenkins, Discus vice president in Washington, D.C.

Last summer, Todd Epsten, the grandson of Major Brands's founder, died of brain cancer at the age of 52. Several months later, over breakfast at the Four Seasons in St. Louis, Ms. McCollum, Mr. Epsten's widow, says she was told by Diageo North America vice president Jeff Ivey to either sell to a competitor, partner with one, or face unspecified consequences.

"He said they wanted to consolidate their wholesalers down to one, and suggested I was in the way," Ms. McCollum said.

Mr. Ivey, who declined to comment, testified in state court in May he didn't threaten Ms. McCollum, and was responding to her request for advice. Neither he nor Diageo would comment on their broader consolidation plans.

Diageo is Major Brands's most important supplier. Its products, which include Tanqueray gin, Captain Morgan rum and Ketel One vodka, are responsible for 42% of Major Brands' spirits revenue, Ms. McCollum said.

This past March, within 24 hours, Bacardi and Diageo both filed suit in federal courts to terminate Major Brands. Major Brands countersued both companies and asked for an injunction to prevent Diageo from cutting off supplies June 30.

Major Brands' suit against Diageo also names Glazer's Distributors Inc., a multistate wholesaler that in February had suddenly changed allegiances and started attacking the pro-franchise legislation it helped write, just as the bill was due to be introduced in state legislature.

The counsel for Glazer's Distributors said the wholesaler had concerns about the final version.

It later emerged in court that Glazer's was negotiating with Diageo to take over Major Brands' share of business.

The bill passed the Missouri House, but was filibustered in the Senate before the legislature adjourned May 17.

While the battle was preoccupying the industry, Rocky Wirtz, owner of Wirtz Beverage Group distributors and the Chicago Blackhawks hockey team, announced he had teamed with [Warren Buffett's](#) trucking empire to buy a small Missouri wholesaler—one of a string of Buffett purchases in the business.

"While they're all fighting with each other in Missouri, they could all be passed by Buffett," said George Randall, who runs a large chain of retail liquor outlets in Illinois. "He'd have enough size to push back on the distillers and to swallow up smaller wholesalers."