UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Alexis Bailly Vineyard, Inc.; and The Next Chapter Winery, LLC,

Plaintiffs,

v.

Mona Dohman, in her official capacity as Commissioner of the Minnesota Department of Public Safety,

Defendant.

Case No. 17-cv-0913 (WMW/HB)

ORDER ON CROSS-MOTIONS FOR SUMMARY JUDGMENT

Plaintiffs Alexis Bailly Vineyards, Inc. (Alexis Bailly), and The Next Chapter Winery, LLC (Next Chapter) (collectively, Plaintiffs), initiated this lawsuit against Defendant Mona Dohman in her official capacity as Commissioner of the Minnesota Department of Public Safety. Plaintiffs allege that Minnesota's farm winery licensure statute restricts interstate and foreign commerce in violation of the dormant Commerce Clause. Plaintiffs and Dohman each move for summary judgment. (Dkts. 19, 27.) For the reasons addressed below, the Court denies Plaintiffs' motion for summary judgment and grants Dohman's motion for summary judgment.

BACKGROUND

The state of Minnesota employs a three-tier alcohol distribution system. Under this system, separate licenses are required for the manufacture, wholesale distribution,

and retail sale of alcoholic beverages, including wine. *See* Minn. Stat. § 340A.301. This system prevents businesses from holding multiple types of licenses,[1] limiting each business's operations to either manufacturing, wholesale, or retail. *See id.* For example, a wine manufacturer must sell its product to wholesalers and cannot sell its product directly to retailers or consumers. *See id.*, subds. 8(a), 10. An exception to this limitation is available for wine made with 51% grapes or grape juice (hereinafter, components) from Minnesota. *Id.*, subd. 10. The exception permits wine manufacturers to sell such wine directly to consumers on the manufacturer's premises, without involving wholesalers and retailers. *Id.* No other sales to consumers are permitted.

Farm wineries are exempt from the requirements of the three-tier system. A farm winery is "a winery operated by the owner of a Minnesota farm and producing table, sparkling, or fortified wines from grapes, grape juice, other fruit bases, or honey with a majority of the ingredients grown or produced in Minnesota." Minn. Stat. § 340A.101, subd. 11. A farm winery can sell its products to wholesalers, to retailers, and directly to consumers. Minn. Stat. § 340A.315, subd. 2. But a farm winery must obtain from within the state of Minnesota at least 51% of the components used to make all its products (the in-state requirement). *See* Minn. Stat. § 340A.101, subd. 11; Minn. Stat. § 340A.315, subd. 4. If a farm winery cannot obtain sufficient in-state components to meet its needs in a given year, it may apply for an exemption from the requirement by submitting an affidavit to the Commissioner of the Minnesota Department of Public Safety

[1] There are limited exceptions to the multiple-license prohibition, none of which is relevant to this lawsuit.

(Commissioner). Minn. Stat. § 340A.315, subd. 4. Acceptable reasons for seeking an exemption might include, but are not limited to, weather-related crop loss or the desire to produce varietals that require grapes not grown in Minnesota. As of the commencement of this litigation, no exemption request submitted by a licensed farm winery has ever been denied.

Plaintiffs are Minnesota farm wineries that seek to expand their business operations. Plaintiffs allege that they cannot consistently obtain the necessary quantity and quality of components to support expanding operations if 51% of the components must originate in Minnesota. Although the Commissioner has never denied Alexis Bailly or Next Chapter a requested exemption, both wineries maintain that the in-state requirement affects their business planning and wine production. For example, Next Chapter contends that, absent the in-state requirement, it would immediately double the amount of grapes and grape juices it purchases from outside Minnesota. Plaintiffs initiated this lawsuit, seeking a declaration that the in-state requirement restricts interstate and foreign commerce in violation of the dormant Commerce Clause.[2] The parties now move for summary judgment.

ANALYSIS

Plaintiffs assert that they are entitled to judgment as a matter of law that the in-state requirement is unconstitutional. Dohman counters that Plaintiffs lack standing to challenge the in-state requirement and maintains that the requirement is constitutional.

[2] Plaintiffs initially asserted an additional claim under the Import-Export Clause of the United States Constitution, U.S. Const. art. I, § 10, cl. 2, but Plaintiffs withdrew this claim before these motions came under advisement.

Standing is a jurisdictional prerequisite that must be established before a court reaches the merits of a lawsuit. *City of Clarkson Valley v. Mineta*, 495 F.3d 567, 569 (8th Cir. 2007). Dohman seeks dismissal, arguing that Plaintiffs lack standing to challenge the in-state requirement. Article III of the United States Constitution limits federal courts' subject-matter jurisdiction to actual cases or controversies. U.S. Const. art. III, § 2, cl. 1; *accord Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560 (1992); *Hargis v. Access Capital Funding, LLC*, 674 F.3d 783, 790 (8th Cir. 2012). If a federal district court determines at any time that it lacks subject-matter jurisdiction, it must dismiss the action. Fed. R. Civ. P. 12(h)(3). When standing is challenged, the burden rests with the party invoking federal jurisdiction to establish that the requirements of standing have been satisfied. *Mineta*, 495 F.3d at 569. To do so here, Plaintiffs must set forth that (1) they have suffered an injury in fact, (2) there exists a causal relationship between Dohman's conduct and that injury, and (3) a favorable decision likely would provide redress. *See Lujan*, 504 U.S. at 560-61; *Mineta*, 495 F.3d at 569. Dohman argues that Plaintiffs have neither established an injury in fact nor demonstrated that any injury is traceable to the in-state requirement.

I. Injury in Fact

Dohman contends that Plaintiffs fail to set forth an injury in fact because Plaintiffs concede that the Commissioner has never denied an exemption request by a farm winery and Plaintiffs cannot establish that the Commissioner will deny any future request. In response, Plaintiffs argue that the in-state requirement prevents them from expanding their business operations and this constraint is an injury in fact.

An injury in fact must be "concrete, particularized, and either actual or imminent." *United States v. Metro. St. Louis Sewer Dist.*, 569 F.3d 829, 833-34 (8th Cir. 2009) (internal quotation marks omitted). An injury in fact may arise from either a direct or indirect economic injury. *See Ben Oehrleins & Sons & Daughter, Inc. v. Hennepin Cty.*, 115 F.3d 1372, 1379 (8th Cir. 1997) (concluding that class of plaintiffs suffered injury in fact because challenged regulation indirectly resulted in heightened fees, even though class was not subject of alleged discrimination). The Eighth Circuit has determined that a plaintiff has standing to "challenge the constitutionality of a law that has a direct negative effect on [the plaintiff's] borrowing power, financial strength, and fiscal planning." *Jones v. Gale*, 470 F.3d 1261, 1267 (8th Cir. 2006) (internal quotation marks omitted).

The only harm that Plaintiffs identify is a speculative future harm arising from the possibility that an exemption request could be denied, Dohman argues. But Plaintiffs assert that they have been injured by the in-state requirement because the requirement prevents them from using the desired proportion of out-of-state components. As a result, Plaintiffs contend, they cannot expand their operations, which negatively affects their financial strength and fiscal planning. For example, if the in-state requirement were eliminated, Next Chapter would expand its operations by immediately doubling the amount of grapes and grape juices it purchases outside Minnesota. Plaintiffs argue that this restriction on the plans and operations of their businesses presents the requisite injury in fact for standing purposes.

Dohman counters that Plaintiffs can obtain exemptions that authorize them to purchase additional out-of-state components. As a result, the in-state requirement does

not prevent Plaintiffs from pursuing their business plans. Because Plaintiffs cannot show that any future request is likely to be denied, Dohman argues, Plaintiffs cannot establish that their operations are constrained.

Dohman's argument is unavailing. The Court is persuaded that it is economically imprudent to base substantial business investments on the mere *likelihood* of receiving future exemptions from state law. Although the Commissioner has never denied an exemption request, Plaintiffs would assume considerable financial risk by implementing investment plans or business expansions that depend on the hope of receiving yearly authorization from the Commissioner to use out-of-state components. The state's assertion that the Commissioner is *unlikely* to deny exemption requests from farm wineries is not compelling. *See North Dakota v. Heydinger*, 825 F.3d 912, 917 (8th Cir. 2016) (rejecting state's assertion that it would not enforce challenged provision and determining that plaintiff established sufficient injury for standing). Plaintiffs allege that they cannot expand their business operations as desired because of the in-state requirement. Because the in-state requirement directly affects Plaintiffs' fiscal planning, *see Jones*, 470 F.3d at 1267, Plaintiffs satisfy the injury-in-fact requirement of the standing analysis.

II. Traceability

Dohman next argues that Plaintiffs' injury is not traceable to the in-state requirement because Plaintiffs can obtain wine-manufacturer licenses, which do not impose component-sourcing restrictions, instead of farm-winery licenses. Plaintiffs counter that the wine manufacturer licensure statute also is unconstitutional.

"A plaintiff must show that its injury is 'fairly traceable to the challenged action of the defendant . . . .' " *ABF Freight Sys., Inc. v. Int'l Bhd. of Teamsters*, 645 F.3d 954, 961 (8th Cir. 2011) (quoting *Bennett v. Spear*, 520 U.S. 154, 167 (1997)). If a plaintiff causes its own injury, the traceability requirement is not satisfied. *Id.* In *McConnell v. Federal Election Commission*, the Supreme Court of the United States considered a challenge to a statute that raised campaign contribution limits. 540 U.S. 93, 226 (2003), *overruled on other grounds by Citizens United v. Fed. Election Comm'n*, 130 S. Ct. 876 (2010). Several political candidates declined to solicit or accept large donations authorized by the statute at issue, even as their competitors accepted such donations. *Id.* at 228. The Court determined that the resultant disadvantages to these candidates in their political races did not confer standing on them. *Id.* Because the candidates' "alleged inability to compete stems not from the operation of [the challenged statute]," but from the candidates' personal choice not to solicit or accept large contributions, the candidates failed to establish an injury in fact that was fairly traceable to the challenged statute. *Id.* The plaintiffs lacked standing to challenge the statute because the injury was attributable to their personal choice. *Id.*

Dohman argues that Plaintiffs' injury—the inability to expand their business operations—is not traceable to the in-state requirement. According to Dohman, Plaintiffs' injury is traceable to each winery's choice to obtain one type of license instead of another. Plaintiffs could have obtained either a wine-manufacturer license, which does not impose an in-state requirement unless the manufacturer sells directly to consumers on its own premises, or a farm-winery license. Had each Plaintiff chosen to obtain a wine-

manufacturer license, Dohman argues, Plaintiffs could use out-of-state components without restriction and expand their business operations accordingly.

Plaintiffs reject the argument that the wine-manufacturer license is a viable alternative to the farm-winery license, however, because the manufacturer license imposes an in-state requirement on products sold directly to consumers. It is true that, no matter which license a Minnesota winemaker holds, direct sales to the public are allowed only if the winemaker uses a majority of in-state components. There is no *right* to sell wine directly to the public, and the state of Minnesota is not required to configure its licensure statutes to allow Plaintiffs to conduct business in any fashion they choose.[3] *See Granholm v. Heald*, 544 U.S. 460, 488-89 (2005) ("The Twenty-first Amendment grants the States virtually complete control over whether to permit . . . sale of liquor and how to structure the liquor distribution system." (Internal quotation marks omitted)). That the wine-manufacturer license prevents Plaintiffs from selling directly to the public is immaterial to the question of whether Plaintiffs' injury, namely, their inability to expand their business operations, is traceable to the in-state requirement or whether it stems from Plaintiffs' personal choice. When presented with the choice between a license that allows

[3] The Third Circuit applied this reasoning when it rejected a dormant Commerce Clause challenge to New Jersey's ban on direct shipments of wine: "[T]he choice by certain producers to conduct sales only by direct shipment is irrelevant to the constitutionality of the [challenged law], because the Commerce Clause does not place New Jersey under an obligation to cater to the preferred marketing practices of out-of-state businesses." *Freeman v. Corzine*, 629 F.3d 146, 162-63 (3d Cir. 2010).

unfettered use of out-of-state components and a license that imposes an in-state requirement,[4] Plaintiffs chose the latter.

The cases addressing state alcohol regulation and the dormant Commerce Clause on which Plaintiffs rely provide scant support for Plaintiffs' position that the inability to expand their business operations is fairly traceable to the in-state requirement. In *Granholm*, out-of-state wineries successfully challenged Michigan and New York laws that allowed in-state wineries to ship products directly to consumers but severely restricted direct shipment by out-of-state wineries. 544 U.S. at 493. Under Michigan's law, no license available to an out-of-state winery allowed for direct shipment; and the New York law imposed onerous requirements on any winery seeking interstate shipment to New York customers, including maintaining a branch office within the state of New York. *Id.* at 473-74. Under both laws, the harm to out-of-state wineries arose simply from their location; and, crucially, it was the out-of-state wineries that initiated the lawsuits challenging the laws.[5] *Id.* at 468, 473-76. Here, in contrast, Plaintiffs have a clear alternative to the in-state requirement imposed by the farm-winery license. Plaintiffs can obtain wine-manufacturer licenses, with which they can produce wine free of the in-state requirement and avoid their asserted injury. Plaintiffs' injury stems from

[4] There are other differences between the two licenses such as the annual license fee, which is $500 for a wine-manufacturer license and $50 for a farm-winery license. Minn. Stat. § 340A.301, subd. 6; Minn. Stat. § 340A.315, subd. 1. However, as Plaintiffs' injury is the inability to expand their businesses due to the in-state requirement, fee disparities and other differences are immaterial to the standing inquiry.

[5] Plaintiffs in the Michigan and New York lawsuits included out-of-state wineries and in-state consumers who sought to purchase wine directly from out-of-state wineries.

Plaintiffs' choice and is not fairly traceable to the in-state requirement. *See McConnell*, 540 U.S. at 228.

In summary, because Plaintiffs' injury is not traceable to the Minnesota statute that Plaintiffs allege is unconstitutional, Plaintiffs lack standing to challenge that statute. *See Mineta*, 495 F.3d at 569. The Court denies Plaintiffs' motion for summary judgment and grants Dohman's motion for summary judgment.[6]

ORDER

Based on the foregoing analysis and all the files, records and proceedings herein, **IT IS HEREBY ORDERED**:

1. The motion for summary judgment by Plaintiffs Alexis Bailly Vineyards, Inc., and The Next Chapter Winery, LLC, (Dkt. 19), is **DENIED**.

2. The motion for summary judgment by Defendant Mona Dohman in her official capacity as Commissioner of the Minnesota Department of Public Safety, (Dkt. 27), is **GRANTED**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: April 9, 2018

s/Wilhelmina M. Wright
Wilhelmina M. Wright
United States District Judge

[6] In light of this conclusion, the Court cannot address the parties' arguments regarding the constitutionality of the in-state requirement. *See Mineta*, 495 F.3d at 569.