

Bond Case Briefs

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MUNICIPAL ORDINANCE - KANSAS

Dwagfys Manufacturing, Inc. v. City of Topeka

Supreme Court of Kansas - June 28, 2019 - P.3d - 2019 WL 2694573

Stores sued city, seeking to prevent enforcement of city ordinance, making it unlawful for any person to sell, furnish or distribute cigarettes, electronic cigarettes, tobacco products or liquid nicotine to any person under 21 years of age.

The District Court issued a temporary restraining order and eventually a permanent injunction, and city appealed.

The Supreme Court held that:

- Cigarette and Tobacco Products Act does not show a clear manifestation of intent by the legislature to prohibit cities from enacting ordinances on the same subject;
- Act did not preempt city ordinance; disapproving *Blevins v. Hiebert*, 795 P.2d 325;
- Act coexisted, without conflict, with city ordinance; and
- City ordinance was constitutional exercise of city's home rule power.