

ENGROSSED SENATE
JOINT
RESOLUTION NO. 23

By: Corn and Garrison of the
Senate

and

Smithson of the House

[joint resolution - constitutional amendment - sale
of salvage alcoholic beverages in retail salvage
package stores -

ballot title]

BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE
1ST SESSION OF THE 50TH OKLAHOMA LEGISLATURE:

SECTION 1. The Secretary of State shall refer to the people for
their approval or rejection, as and in the manner provided by law,
the following proposed amendment to Article XXVIII of the
Constitution of the State of Oklahoma by adding a new Section 4.1 to
read as follows:

Section 4.1 Except as hereinafter provided, retail sales of
salvage alcoholic beverages shall be limited to the original sealed
package, by privately owned and operated retail salvage package
stores, in cities and towns having a population in excess of two
hundred (200) persons. As used in the Oklahoma Constitution and any
laws enacted pursuant to the provisions of this section, "salvage
alcoholic beverage" shall mean alcohol, spirits, beer and wine as
defined by law and every substance capable of being ingested or
consumed as a beverage by a human being, containing more than three
and two-tenths percent (3.2%) alcohol by weight, and which is:

1. Purchased for resale at a price less than the average price
charged by licensed wholesale distributors due to bankruptcy,

foreclosure, business liquidation, insurance loss or other similar circumstances; and

2. Still contained in the original sealed container at the time of sale. Only salvage alcoholic beverages shall be sold in a salvage package store at prices below the price of the original container. Salvage alcoholic beverages may be acquired from entities other than wholesale distributors licensed by this state. No goods, wares, or merchandise shall be sold and no services shall be rendered on the same premises on which retail salvage alcoholic beverages are sold. Said premises are herein defined to be the entire space in which retail salvage alcoholic beverages are sold or displayed and said premises must be separated from any premises on which any other goods, wares, or merchandise are sold or services rendered by walls which may only be broken by a passageway to which the public is not admitted.

Not more than one salvage package license shall be issued to any person or general or limited partnership.

The Legislature shall enact laws providing for the strict regulation, control, licensing, and taxation of the acquisition, sale, distribution, possession, and transportation of salvage alcoholic beverages, consistent with the provisions of this Amendment.

SECTION 2. The Secretary of State shall refer to the people for their approval or rejection, as and in the manner provided by law, the following proposed amendment to Section 6 of Article XXVIII of the Constitution of the State of Oklahoma to read as follows:

Section 6. (a) It shall be unlawful for any retail package store or retail salvage package store to sell, at retail, any alcoholic beverage:

On the first day of the week, commonly called Sunday;

On the day of any National, State, County or City Election, including primary elections, during the hours the polls are open; and

On Decoration or Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

(b) The voters of any county electing to authorize sales of alcoholic beverages by the individual drink for on-premises consumption under Section 4 hereof may designate as days on which such sales are not authorized, any or all of those days listed in subsection (a) of this section. It shall be unlawful for any licensee or person to make any such sale within any such county on days so designated.

(c) Any licensee or person violating the provisions of this section shall be deemed guilty of a misdemeanor and any license issued pursuant to provisions of this act shall be revoked upon conviction for such sale in violation of this section.

SECTION 3. The Secretary of State shall refer to the people for their approval or rejection, as and in the manner provided by law, the following proposed amendment to Section 7 of Article XXVIII of the Constitution of the State of Oklahoma to read as follows:

Section 7. The retail sale of alcoholic beverages shall be subject to the sales tax statutes enacted by the Legislature and in addition thereto the Legislature may levy taxes upon the manufacture, possession and/or all sales of alcoholic beverages, including sales by retail package stores, retail salvage package stores and sales by the individual drink for on-premises consumption, the proceeds of which, except sales tax, shall be distributed as follows:

(a) The Oklahoma Tax Commission shall collect and distribute the taxes collected under the terms of this Article and shall distribute ninety-seven percent (97%) of such taxes as are levied

and as are attributable to retail sales by package stores or salvage package stores as follows:

(1) One-third (1/3) of taxes attributable to sales by retail package stores or retail salvage package stores shall be allocated to the counties of the State of Oklahoma on the basis of area and population (giving equal weight to area and population) and all of said funds shall be appropriated by the Board of County Commissioners in each county to all incorporated cities and towns in said county on the basis of population within each city and town on a per capita basis based on the last preceding Federal Decennial Census.

(2) Two-thirds (2/3) of taxes attributable to sales by retail package stores or retail salvage package stores shall be credited to the General Revenue Fund of the State of Oklahoma.

(b) The remaining three percent (3%) of taxes attributable to sales of alcoholic beverages by retail package stores and retail salvage package stores; and up to (3%) of taxes attributable to sales of alcoholic beverages by the individual drink for on-premises consumption, as shall be determined by the State Legislature; shall be paid to the State Treasurer and placed to the credit of the Oklahoma Tax Commission Fund, to be paid out of said fund pursuant to appropriations made by the State Legislature.

(c) The remaining taxes attributable to sales of alcoholic beverages by the individual drink for on-premises consumption, shall be credited to the General Revenue Fund of the State of Oklahoma. The State Legislature shall appropriate to the Oklahoma Alcoholic Beverage Laws Enforcement Commission from all available taxes collected under this Article, whatever funds are necessary to provide for full enforcement of the alcoholic beverage laws of the State.

(d) All State license fees shall be collected by the Oklahoma Alcoholic Beverage Laws Enforcement Commission and deposited in the

State Treasury and after the expenses of the Commission, as approved by the Legislature, have been deducted, the balance shall be credited to the General Fund.

SECTION 4. The Secretary of State shall refer to the people for their approval or rejection, as and in the manner provided by law, the following proposed amendment to Section 10 of Article XXVIII of the Constitution of the State of Oklahoma to read as follows:

Section 10. No retail package store, retail salvage package store or wholesale distributor's license shall be issued to:

(a) A corporation, business trust or secret partnership.

(b) A person or partnership unless such person or all of the copartners including limited partners shall have been residents of the State of Oklahoma for at least ten (10) years immediately preceding the date of application for such license.

(c) A person or a general or limited partnership containing a partner who has been convicted of a violation of a prohibitory law relating to the sale, manufacture, or the transportation of alcoholic beverages which constituted a felony or misdemeanor.

(d) A person or a general or limited partnership containing a partner who has been convicted of a felony.

No license to sell alcoholic beverages by the individual drink for on-premises consumption shall be issued to:

(a) A person or a general or limited partnership containing a partner who has been convicted of a violation of a prohibitory law relating to the sale, manufacture, or the transportation of alcoholic beverages which constituted a felony.

(b) A person or a general or limited partnership containing a partner who has been convicted of a felony.

(c) A corporation which has an officer or director who has been convicted of a violation of a prohibitory law relating to the sale, manufacture, or the transportation of alcoholic beverages which constituted a felony.

(d) A corporation which has an officer or director who has been convicted of a felony.

SECTION 5. The Ballot Title for the proposed Constitutional amendments as set forth in SECTIONS 1, 2, 3 and 4 of this resolution shall be in the following form:

BALLOT TITLE

Legislative Referendum No. _____ State Question No. _____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure adds a new section of law to the State Constitution. It adds Section 4.1 to Article 28. Presently, retail alcoholic beverages may only be sold in retail package stores. This measure would allow for the sale of salvage alcoholic beverages. They would be bought at a price less than the average price charged by a licensed wholesale distributor. They would be bought at sales for bankruptcy, foreclosure, business liquidation, insurance loss or other sales. They would be in the original sealed container. They would be sold in retail salvage package stores. These stores would be the same as retail package stores. These beverages would not have to be acquired from licensed wholesale dealers. They would be sold at discount prices. The Legislature would pass laws to regulate these beverages. These stores would be subject to the same laws of operation as retail package stores. This measure also amends Sections 6, 7 and 10 of Article 28 of the State Constitution. These measures would not allow the sale of these beverages on certain days. They would make the sale of these beverages subject to tax laws passed by the Legislature. They would restrict who could have a license.

SHALL THIS AMENDMENT BE APPROVED BY THE PEOPLE?

- YES, FOR THE AMENDMENT
- NO, AGAINST THE AMENDMENT

SECTION 6. The President Pro Tempore of the Senate shall, immediately after the passage of this resolution, prepare and file one copy thereof, including the Ballot Title set forth in SECTION 5 hereof, with the Secretary of State and one copy with the Attorney General.

Passed the Senate the 14th day of March, 2005.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2005.

Presiding Officer of the House
of Representatives