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THE STATE SENATE
Monday, February 21, 2005

Senate Joint
Resolution No. 23

SENATE JOINT RESOLUTION NO. 23 - By: CORN of the Senate and SMITHSON of the House.

A Joint Resolution directing the Secretary of State to refer to the people for their approval or rejection a proposed amendment to the Oklahoma Constitution by adding a new section to Article XXVIII to be designated as Section 4.1 and by amending Sections 6, 7 and 10 of Article XXVIII; providing for the sale of salvage alcoholic beverages in certain retail salvage package stores; limiting sales to cities and towns with certain population; requiring certain sales to be below original prices; allowing acquisition of certain alcoholic beverages from certain entities; prohibiting certain sales and service on certain premises; defining term; providing for separation of certain premises from certain sales or services; limiting the issuance of certain license; authorizing the Legislature to enact certain laws; prohibiting certain stores from selling certain alcoholic beverages on certain days; making the sale of certain alcoholic beverages subject to certain tax laws; providing for collection and distribution of certain taxes; restricting the issuance of certain licenses; providing ballot title; and directing filing.

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:

1 Section 4.1 Except as hereinafter provided, retail sales of
2 salvage alcoholic beverages shall be limited to the original sealed
3 package, by privately owned and operated retail salvage package
4 stores, in cities and towns having a population in excess of two
5 hundred (200) persons. Only salvage alcoholic beverages shall be
6 sold in a salvage package store at prices below the price of the
7 original container. Salvage alcoholic beverages may be acquired
8 from entities other than wholesale distributors licensed by this
9 state. No goods, wares, or merchandise shall be sold and no
10 services shall be rendered on the same premises on which retail
11 salvage alcoholic beverages are sold. Said premises are herein
12 defined to be the entire space in which retail salvage alcoholic
13 beverages are sold or displayed and said premises must be separated
14 from any premises on which any other goods, wares, or merchandise
15 are sold or services rendered by walls which may only be broken by a
16 passageway to which the public is not admitted.

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

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

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

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

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

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

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

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

21 (c) Any licensee or person violating the provisions of this
22 section shall be deemed guilty of a misdemeanor and any license

1 issued pursuant to provisions of this act shall be revoked upon
2 conviction for such sale in violation of this section.

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

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

15 (a) The Oklahoma Tax Commission shall collect and distribute
16 the taxes collected under the terms of this Article and shall
17 distribute ninety-seven percent (97%) of such taxes as are levied
18 and as are attributable to retail sales by package stores or salvage
19 package stores as follows:

20 (1) One-third (1/3) of taxes attributable to sales by retail
21 package stores or retail salvage package stores shall be allocated
22 to the counties of the State of Oklahoma on the basis of area and
23 population (giving equal weight to area and population) and all of

1 said funds shall be appropriated by the Board of County
2 Commissioners in each county to all incorporated cities and towns in
3 said county on the basis of population within each city and town on
4 a per capita basis based on the last preceding Federal Decennial
5 Census.

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

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

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

1 provide for full enforcement of the alcoholic beverage laws of the
2 State.

3 (d) All State license fees shall be collected by the Oklahoma
4 Alcoholic Beverage Laws Enforcement Commission and deposited in the
5 State Treasury and after the expenses of the Commission, as approved
6 by the Legislature, have been deducted, the balance shall be
7 credited to the General Fund.

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

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

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

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

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

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

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

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

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

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

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

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

20 BALLOT TITLE
21 Legislative Referendum No. _____ State Question No. _____

22 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

1 This measure adds a new section of law to the State
2 Constitution. It adds Section 4.1 to Article 28. Presently,
3 retail alcoholic beverages may only be sold in retail package
4 stores. This measure would allow for the sale of salvage
5 alcoholic beverages. They would be sold in retail salvage
6 package stores. These stores would be the same as retail
7 package stores. These beverages would not have to be acquired
8 from licensed wholesale dealers. They would be sold at discount
9 prices. The Legislature would pass laws to regulate these
10 beverages. These stores would be subject to the same laws of
11 operation as retail package stores. This measure also amends
12 Sections 6, 7 and 10 of Article 28 of the State Constitution.
13 These measures would not allow the sale of these beverages on
14 certain days. They would make the sale of these beverages
15 subject to tax laws passed by the Legislature. They would
16 restrict who could have a license.

17 SHALL THIS AMENDMENT BE APPROVED BY THE PEOPLE?

18 YES, FOR THE AMENDMENT

19 NO, AGAINST THE AMENDMENT

20 SECTION 6. The President Pro Tempore of the Senate shall,
21 immediately after the passage of this resolution, prepare and file
22 one copy thereof, including the Ballot Title set forth in SECTION 5

1 hereof, with the Secretary of State and one copy with the Attorney
2 General.
3 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND LABOR, dated 2-14-05
4 - DO PASS, As Coauthored.