

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE JOINT  
4 RESOLUTION 1019

By: McAffrey

5  
6 AS INTRODUCED

7 A Joint Resolution directing the Secretary of State  
8 to refer to the people for their approval or  
9 rejection a proposed amendment to Sections 3 and 4 of  
10 Article XXVIII of the Constitution of the State of  
11 Oklahoma; authorizing the sale of wine in certain  
12 establishments; authorizing sale of certain  
13 nonalcoholic beverages; allowing certain alcoholic  
14 beverages to be refrigerated; providing ballot title;  
15 and directing filing.

16 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE  
17 2ND SESSION OF THE 51ST OKLAHOMA LEGISLATURE:

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

23 Section 3. A. The Legislature shall enact laws providing for  
24 the strict regulation, control, licensing, and taxation of the  
manufacture, sale, distribution, possession, and transportation of  
alcoholic beverages, consistent with the provisions of this

1 Amendment. Provided, that any manufacturer, or subsidiary of any  
2 manufacturer, who markets his or her product solely through a  
3 subsidiary or subsidiaries, a distiller, rectifier, bottler,  
4 winemaker, brewer, or importer of alcoholic beverages, bottled or  
5 made in a foreign country, either within or without this state,  
6 shall be required to sell such brands or kinds of alcoholic  
7 beverages to every licensed wholesale distributor who desires to  
8 purchase the same, on the same price basis and without  
9 discrimination, and shall further be required to sell such beverages  
10 only to those distributors licensed as wholesale distributors.  
11 Winemakers either within or without this state shall be required to  
12 sell wine they produce to every licensed wholesale distributor who  
13 desires to purchase the wine, but winemakers shall not be required  
14 to sell the wine they produce only to licensed wholesale  
15 distributors. Winemakers either within or without this state may  
16 sell wine produced at the winery to adult consumers who are at least  
17 twenty-one (21) years of age and are physically present on the  
18 premises of the winery or at a festival or trade show. Winemakers  
19 either within or without this state that annually produce no more  
20 than ten thousand (10,000) gallons of wine may sell and ship only  
21 the wine they produce directly to licensed retail package stores,  
22 establishments whose primary business is the retail sale of food for  
23 off-premises human consumption pursuant to laws passed by the  
24 Legislature and restaurants in this state; provided, however, that

1 any such winemaker which elects to directly sell its wine to package  
2 stores, establishments whose primary business is the retail sale of  
3 food for off-premises human consumption and restaurants shall not  
4 also use a licensed wholesale distributor as a means of  
5 distribution, and shall be required to sell its wines to every  
6 package store, establishment whose primary business is the retail  
7 sale of food for off-premises human consumption and restaurant  
8 licensee who desires to purchase the same, as supplies allow, on the  
9 same price basis and without discrimination. As used in this  
10 section, "restaurant" means an establishment that is licensed to  
11 sell alcoholic beverages by the individual drink for on-premises  
12 consumption and where food is prepared and sold for immediate  
13 consumption on the premises.

14 B. Any winemaker within or without this state that annually  
15 produces no more than ten thousand (10,000) gallons of wine and  
16 elects to directly sell its wine to retail package stores,  
17 establishments whose primary business is the retail sale of food for  
18 off-premises human consumption and restaurants in this state must  
19 self-distribute the wine using only vehicle(s) owned or leased by  
20 the winemaker, and without the use of a common or private contract  
21 carrier.

22 C. All laws passed by the Legislature under the authority of  
23 the Article shall be consistent with this provision. All provisions  
24 of this amendment are declared to be interdependent. If any

1 provision of this amendment applicable to winemakers is ruled to be  
2 unconstitutional by a court of competent jurisdiction, then no  
3 winemaker shall be permitted to directly sell its wine to retail  
4 package stores or restaurants in this state.

5 Section 4. A. Except as hereinafter provided, retail sales of  
6 alcoholic beverages shall be limited to the original sealed package,  
7 by:

8 1. Privately owned and operated package stores, in cities and  
9 towns having a population in excess of two hundred (200) persons ~~or~~  
10 ~~by, wineries;~~

11 2. Wineries, provided that wineries shall be able to sell only  
12 wine which has been produced on the winery premises ~~or~~ and

13 3. Establishments whose primary business is the retail sale of  
14 food for off-premises human consumption. The Legislature shall  
15 enact laws for the implementation and regulation of sales authorized  
16 by this paragraph.

17 B. Nonalcoholic beverages designed to be mixed with alcoholic  
18 beverages may be sold on the premises of retail package stores but  
19 no other goods, wares, or merchandise shall be sold and no services  
20 shall be rendered on the same premises ~~on which~~ of retail package  
21 ~~alcoholic beverages are sold~~ stores. Package stores may sell  
22 refrigerated wine, beer, and mixed beverage coolers. Said premises  
23 are herein defined to be the entire space in which retail package  
24 alcoholic beverages are sold or displayed and said premises must be

1 separated from any premises on which any other goods, wares, or  
2 merchandise are sold or services rendered by walls which may only be  
3 broken by a passageway to which the public is not admitted;  
4 provided, the restriction on the sale of merchandise and rendering  
5 of services shall not apply to the premises of a winery or an  
6 establishment provided for in paragraph 3 of subsection A of this  
7 section.

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

10 Retail sale of alcoholic beverages by the individual drink for  
11 on-premises consumption is hereby authorized within a county if the  
12 voters of such county have previously approved such retail sale at  
13 an election.

14 SECTION 2. The Ballot Title for the proposed Constitutional  
15 amendment as set forth in SECTION 1 of this resolution shall be in  
16 the following form:

17 BALLOT TITLE

18 Legislative Referendum No. \_\_\_\_\_ State Question No. \_\_\_\_\_

19 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

20 This measure amends the Oklahoma Constitution. The changes  
21 would let stores that sell food sell wine. This would mean that  
22 grocery stores could sell wine. The changes would let liquor  
23 stores sell wine, beer, and mixed beverage coolers cold. It  
24 would also allow liquor stores to sell nonalcoholic beverages

1 designed to be mixed with alcoholic beverages. The Legislature  
2 would write laws on this.

3 SHALL THE PROPOSAL BE APPROVED?

4 FOR THE PROPOSAL - YES \_\_\_\_\_

5 AGAINST THE PROPOSAL - NO \_\_\_\_\_

6 SECTION 3. The Chief Clerk of the House of Representatives,  
7 immediately after the passage of this resolution, shall prepare and  
8 file one copy thereof, including the Ballot Title set forth in  
9 SECTION 2 hereof, with the Secretary of State and one copy with the  
10 Attorney General.

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12 52-1-5127 CJB 12/09/08  
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