

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2008)

3 HOUSE JOINT

4 RESOLUTION No.1043 _____

By: Morgan

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6 AS INTRODUCED

7
8 A Joint Resolution directing the Secretary of State
9 to refer to the people for their approval or
10 rejection a proposed amendment to Sections 3 and 4 of
11 Article XXVIII of the Constitution of the State of
12 Oklahoma; allowing winemakers to maintain tasting
13 rooms under certain limited circumstances; expanding
14 certain exception to include tasting rooms; providing
15 ballot title; and directing filing.

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1 manufacturer, who markets his or her product solely through a
2 subsidiary or subsidiaries, a distiller, rectifier, bottler,
3 winemaker, brewer, or importer of alcoholic beverages, bottled or
4 made in a foreign country, either within or without this state,
5 shall be required to sell such brands or kinds of alcoholic
6 beverages to every licensed wholesale distributor who desires to
7 purchase the same, on the same price basis and without
8 discrimination, and shall further be required to sell such beverages
9 only to those distributors licensed as wholesale distributors.

10 Winemakers either within or without this state shall be required to
11 sell wine they produce to every licensed wholesale distributor who
12 desires to purchase the wine, but winemakers shall not be required
13 to sell the wine they produce only to licensed wholesale
14 distributors. Winemakers either within or without this state may
15 sell wine produced at the winery to adult consumers who are at least
16 twenty-one (21) years of age and are physically present on the
17 premises of the winery or, at a festival or trade show, and any
18 winemaker meeting the production limitation provided for in
19 subsection B of this section may sell wine produced at a winery
20 owned by the winemaker in tasting rooms operated by the winemaker
21 that are not on the premises of the winery. Winemakers meeting the
22 production limitation provided for in subsection B of this section
23 may each maintain up to three tasting rooms in the state that the
24 winemaker operates that are not on the premises of the winery.

1 Winemakers operating tasting rooms pursuant to this section may
2 provide samples of wine produced at a winery owned by the winemaker
3 as well as sell unopened bottles of wine produced at a winery owned
4 by the winemaker in the tasting rooms. Winemakers either within or
5 without this state that annually produce no more than ten thousand
6 (10,000) gallons of wine may sell and ship only the wine they
7 produce directly to licensed retail package stores and restaurants
8 in this state; provided, however, that any such winemaker which
9 elects to directly sell its wine to package stores and restaurants
10 shall not also use a licensed wholesale distributor as a means of
11 distribution, and shall be required to sell its wines to every
12 package store and restaurant licensee who desires to purchase the
13 same, as supplies allow, on the same price basis and without
14 discrimination. As used in this section, "restaurant" means an
15 establishment that is licensed to sell alcoholic beverages by the
16 individual drink for on-premises consumption and where food is
17 prepared and sold for immediate consumption on the premises.

18 B. Any winemaker within or without this state that annually
19 produces no more than ten thousand (10,000) gallons of wine and
20 elects to directly sell its wine to retail package stores and
21 restaurants in this state must self-distribute the wine using only
22 vehicle(s) owned or leased by the winemaker, and without the use of
23 a common or private contract carrier.

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1 C. All laws passed by the Legislature under the authority of
2 the Article shall be consistent with this provision. All provisions
3 of this amendment are declared to be interdependent. If any
4 provision of this amendment applicable to winemakers is ruled to be
5 unconstitutional by a court of competent jurisdiction, then no
6 winemaker shall be permitted to directly sell its wine to retail
7 package stores or restaurants in this state.

8 SECTION 2. 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 4 of Article XXVIII of
11 the Constitution of the State of Oklahoma to read as follows:

12 Section 4. Except as hereinafter provided, retail sales of
13 alcoholic beverages shall be limited to the original sealed package,
14 by privately owned and operated package stores, in cities and towns
15 having a population in excess of two hundred (200) persons or by
16 wineries; provided that wineries shall be able to sell only wine
17 which has been produced on the winery premises. No goods, wares, or
18 merchandise shall be sold and no services shall be rendered on the
19 same premises on which retail package alcoholic beverages are sold.
20 Said premises are herein defined to be the entire space in which
21 retail package alcoholic beverages are sold or displayed and said
22 premises must be separated from any premises on which any other
23 goods, wares, or merchandise are sold or services rendered by walls
24 which may only be broken by a passageway to which the public is not

1 admitted; provided, the restriction on the sale of merchandise and
2 rendering of services directly related to the packaging of an
3 unopened bottle of wine with other items shall not apply to the
4 premises of a winery or to tasting rooms provided for in Section 3
5 of this article.

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

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

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

15 BALLLOT TITLE
16 Legislative Referendum No. _____ State Question No. _____

17 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

18 This measure amends the Oklahoma Constitution. It would amend
19 Sections 3 and 4 of Article 28. The changes would allow
20 winemakers to maintain up to three tasting rooms. The
21 winemakers would be able to give samples of their wine and sell
22 unopened bottles of their wine in the tasting rooms.

23 SHALL THE PROPOSAL BE APPROVED?

24 FOR THE PROPOSAL - YES _____

1 AGAINST THE PROPOSAL – NO _____

2 SECTION 4. The Chief Clerk of the House of Representatives,
3 immediately after the passage of this resolution, shall prepare and
4 file one copy thereof, including the Ballot Title set forth in
5 SECTION 3 hereof, with the Secretary of State and one copy with the
6 Attorney General.

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8 52-1-6592 CJB 01/14/09