

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE JOINT
4 RESOLUTION 1011

By: Peters

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 proposed amendments to Sections 3 and 4 of
10 Article XXVIII of the Constitution of the State of
11 Oklahoma; allowing brewers to sell certain beer;
12 restricting sales to the brewery premises; providing
13 ballot title; and directing filing.

14 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE
15 1ST SESSION OF THE 53RD OKLAHOMA LEGISLATURE:

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

21 Section 3. A. The Legislature shall enact laws providing for
22 the strict regulation, control, licensing, and taxation of the
23 manufacture, sale, distribution, possession, and transportation of
24 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 Brewers either within or without this state shall be required to
12 sell beer they produce to every licensed wholesale distributor who
13 desires to purchase the beer, but brewers shall not be required to
14 sell the beer they produce only to licensed wholesale distributors.

15 Brewers either within or without this state may sell beer produced
16 at the brewery to adult consumers who are at least twenty-one (21)
17 years of age and are physically present on the premises of the
18 brewery. Winemakers either within or without this state shall be
19 required to sell wine they produce to every licensed wholesale
20 distributor who desires to purchase the wine, but winemakers shall
21 not be required to sell the wine they produce only to licensed
22 wholesale distributors. Winemakers either within or without this
23 state may sell wine produced at the winery to adult consumers who
24 are at least twenty-one (21) years of age and are physically present

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

16 B. Any winemaker within or without this state that annually
17 produces no more than ten thousand (10,000) gallons of wine and
18 elects to directly sell its wine to retail package stores and
19 restaurants in this state must self-distribute the wine using only
20 vehicle(s) owned or leased by the winemaker, and without the use of
21 a common or private contract 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. Except as hereinafter provided, retail sales of
6 alcoholic beverages shall be limited to the original sealed package,
7 by privately owned and operated package stores, in cities and towns
8 having a population in excess of two hundred (200) persons or by
9 wineries and breweries; provided that wineries shall be able to sell
10 only wine which has been produced on the winery premises and
11 breweries shall be able to sell only beer which has been produced on
12 the brewery premises. No goods, wares, or merchandise shall be sold
13 and no services shall be rendered on the same premises on which
14 retail package alcoholic beverages are sold. Said premises are
15 herein defined to be the entire space in which retail package
16 alcoholic beverages are sold or displayed and said premises must be
17 separated from any premises on which any other goods, wares, or
18 merchandise are sold or services rendered by walls which may only be
19 broken by a passageway to which the public is not admitted;
20 provided, the restriction on the sale of merchandise and rendering
21 of services shall not apply to the premises of a winery or brewery.

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

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1 Retail sale of alcoholic beverages by the individual drink for
2 on-premises consumption is hereby authorized within a county if the
3 voters of such county have previously approved such retail sale at
4 an election.

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

8 BALLOT TITLE

9 Legislative Referendum No. _____ State Question No. _____

10 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

11 This measure amends the Oklahoma Constitution. The changes
12 would allow brewers to sell their own beer to the public. The
13 changes would only allow breweries to sell beer on the premises
14 of their own brewery.

15 SHALL THE PROPOSAL BE APPROVED?

16 FOR THE PROPOSAL - YES _____

17 AGAINST THE PROPOSAL - NO _____

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

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24 53-1-6018 CJB 01/07/11