

1 STATE OF OKLAHOMA

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

3 HOUSE JOINT
4 RESOLUTION 1034

By: Peters

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6 AS INTRODUCED

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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 the Constitution of
11 the State of Oklahoma by adding new sections to
12 Article XXVIII to be designated as Sections 2a and 2b
13 and proposing amendments to Sections 3 and 4 and
14 repealing Section 2 of Article XXVIII of the
15 Constitution of the State of Oklahoma; defining
16 terms; authorizing the sale of wine and strong beer
17 in certain establishments; eliminating two-tier
18 system of beer regulation; providing ABLE Commission
19 authority over all alcoholic beverages; authorizing
20 certain sale of beer; providing ballot title; and
21 directing filing.

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24 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE
1ST SESSION OF THE 53RD 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 the Constitution of the State of
Oklahoma by adding new Sections 2a and 2b to Article XXVIII and the
following proposed amendments to Sections 3 and 4 of Article XXVIII
thereof, to read as follows:

1 Section 2a. Alcoholic beverages shall be classified and subject
2 to sale as follows:

3 1. Spirits shall include any beverage other than wine or beer
4 containing more than one-half of one percent (1/2 of 1%) of alcohol
5 measured by volume and obtained by distillation but not including
6 any alcohol liquid completely denatured in accordance with the Acts
7 of Congress and regulations pursuant thereto. The sale of spirits
8 shall be subject to the provisions of this Constitution.

9 2. Wine shall include any beverage containing more than one-
10 half of one percent (1/2 of 1%) of alcohol measured by volume and
11 not more than twenty-four percent (24%) alcohol by volume at sixty
12 (60) degrees Fahrenheit obtained by the fermentation of the natural
13 contents of fruits, vegetables, honey, milk or other products
14 containing sugar. The sale of wine shall be subject to the
15 provisions of this Constitution. Provided, however, nothing in this
16 Constitution or other law shall prevent the retail sale of wine,
17 refrigerated or unrefrigerated, for off-premises consumption in any
18 supermarket or other grocery store, retail store which sells
19 groceries, pharmacy, convenience store or gasoline station with
20 convenience store as those terms are defined by the 2007 North
21 American Industry Classification System, or in any package store as
22 provided hereafter.

23 3. Beer shall include any beverage containing more than one-
24 half of one percent (1/2 of 1%) of alcohol measured by volume and

1 obtained by the alcoholic fermentation of an infusion or decoction
2 of barley, or other grain, malt or similar products. The sale of
3 beer shall be subject to the provisions of this Constitution.
4 Provided, however, nothing in this Constitution or other law shall
5 prevent the retail sale of beer, refrigerated or unrefrigerated, for
6 off-premises consumption in any supermarket or other grocery store,
7 retail store which sells groceries, pharmacy, convenience store or
8 gasoline station with convenience store as those terms are defined
9 by the 2007 North American Industry Classification System, or in any
10 package store as provided hereafter.

11 4. The Legislature shall enact any laws necessary to implement
12 the provisions of this section.

13 Section 2b. The Alcoholic Beverage Laws Enforcement Commission
14 shall have authority to enforce laws, rules and regulations for the
15 sale of all alcoholic beverages, including spirits, wine and beer
16 and every liquid or solid, patented or not, containing spirits, wine
17 or beer and capable of being consumed as a beverage by humans.

18 Section 3. A. The Legislature shall enact laws providing for
19 the strict regulation, control, licensing, and taxation of the
20 manufacture, sale, distribution, possession, and transportation of
21 alcoholic beverages, consistent with the provisions of this
22 Amendment. Provided, that any manufacturer, or subsidiary of any
23 manufacturer, who markets his or her product solely through a
24 subsidiary or subsidiaries, a distiller, rectifier, bottler,

1 | winemaker, ~~brewer~~, or importer of alcoholic beverages, bottled or
2 | made in a foreign country, either within or without this state,
3 | shall be required to sell such brands or kinds of alcoholic
4 | beverages to every licensed wholesale distributor who desires to
5 | purchase the same, on the same price basis and without
6 | discrimination, and shall further be required to sell such beverages
7 | only to those distributors licensed as wholesale distributors.
8 | Winemakers either within or without this state shall be required to
9 | sell wine they produce to every licensed wholesale distributor who
10 | desires to purchase the wine, but winemakers shall not be required
11 | to sell the wine they produce only to licensed wholesale
12 | distributors. Winemakers either within or without this state may
13 | sell wine produced at the winery to adult consumers who are at least
14 | twenty-one (21) years of age and are physically present on the
15 | premises of the winery or at a festival or trade show. Winemakers
16 | either within or without this state that annually produce no more
17 | than ten thousand (10,000) gallons of wine may sell and ship only
18 | the wine they produce directly to licensed retail package stores and
19 | restaurants in this state; provided, however, that any such
20 | winemaker which elects to directly sell its wine to package stores
21 | and restaurants shall not also use a licensed wholesale distributor
22 | as a means of distribution, and shall be required to sell its wines
23 | to every package store and restaurant licensee who desires to
24 | purchase the same, as supplies allow, on the same price basis and

1 without discrimination. As used in this section, "restaurant" means
2 an establishment that is licensed to sell alcoholic beverages by the
3 individual drink for on-premises consumption and where food is
4 prepared and sold for immediate consumption on the premises.

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

11 C. All laws passed by the Legislature under the authority of
12 the Article shall be consistent with this provision. All provisions
13 of this amendment are declared to be interdependent. If any
14 provision of this amendment applicable to winemakers is ruled to be
15 unconstitutional by a court of competent jurisdiction, then no
16 winemaker shall be permitted to directly sell its wine to retail
17 package stores or restaurants in this state.

18 Section 4. A. Except as ~~hereinafter~~ otherwise provided by this
19 Constitution, retail sales of alcoholic beverages for off-premises
20 consumption shall be limited to the original sealed package, by
21 privately owned and operated package stores, in cities and towns
22 having a population in excess of two hundred (200) persons or by
23 wineries; provided that wineries shall be able to sell only wine
24 which has been produced on the winery premises.

1 ~~No~~ B. Except as otherwise provided by this Constitution, no
2 goods, wares, or merchandise shall be sold and no services shall be
3 rendered on the same premises on which retail package alcoholic
4 beverages are sold for off-premises consumption. Said premises are
5 herein defined to be the entire space in which retail package
6 alcoholic beverages are sold or displayed and said premises must be
7 separated from any premises on which any other goods, wares, or
8 merchandise are sold or services rendered by walls which may only be
9 broken by a passageway to which the public is not admitted;
10 provided, the restriction on the sale of merchandise and rendering
11 of services shall not apply to the premises of a winery.

12 C. Not more than one retail package license shall be issued to
13 any person or general or limited partnership.

14 D. Retail sale of ~~alcoholic beverages~~ spirits and wine by the
15 individual drink for on-premises consumption is hereby authorized
16 within a county if the voters of such county have previously
17 approved such retail sale at an election.

18 E. Retail sale of beer by the individual drink for on-premises
19 consumption is hereby authorized throughout this state, subject to
20 the provisions of this Constitution.

21 SECTION 2. The Secretary of State shall refer to the people for
22 their approval or rejection, as and in the manner provided by law,
23 the repeal of Section 2 of Article XXVIII of the Constitution of the
24 State of Oklahoma which relates to low-point beer.

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

4 BALLOT TITLE

5 Legislative Referendum No. _____ State Question No. _____

6 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

7 This measure amends the Oklahoma Constitution. It would do away
8 with the low-point beer system. The ABLE Commission would
9 regulate all beer. The changes would let stores that sell food
10 sell wine and beer. This would mean that grocery stores could
11 sell wine and beer of any strength. The Legislature would write
12 laws on this.

13 SHALL THE PROPOSAL BE APPROVED?

14 FOR THE PROPOSAL - YES _____

15 AGAINST THE PROPOSAL - NO _____

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

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