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STATE OF OKLAHOMA

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

2 HOUSE JOINT

3 RESOLUTION 1034 By: Peters

4 AS INTRODUCED

5 A Joint Resolution directing the Secretary of State
6 to refer to the people for their approval or
7 rejection a proposed amendment to the Constitution of
8 the State of Oklahoma by adding new sections to
9 Article XXVIII to be designated as Sections 2a and 2b
10 and proposing amendments to Sections 3 and 4 and
11 repealing Section 2 of Article XXVIII of the
12 Constitution of the State of Oklahoma; defining
13 terms; authorizing the sale of wine and strong beer
14 in certain establishments; eliminating two-tier
15 system of beer regulation; providing ABLE Commission
16 authority over all alcoholic beverages; authorizing
17 certain sale of beer; providing ballot title; and
18 directing filing.

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

21 SECTION 1. The Secretary of State shall refer to the people
22 for their approval or rejection, as and in the manner provided by
23 law, the following proposed amendment to the Constitution of the
24 State of Oklahoma by adding new Sections 2a and 2b to Article

1 XXVIII and the following proposed amendments to Sections 3 and 4
2 of Article XXVIII thereof, to read as follows:

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

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

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

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

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

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

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

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

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

27 individual drink for on-premises consumption and where food is

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1 prepared and sold for immediate consumption on the premises.

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

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

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

23 [~~No~~] B. Except as otherwise provided by this Constitution,
24 no goods, wares, or merchandise shall be sold and no services
25 shall be rendered on the same premises on which retail package
26 alcoholic beverages are sold for off-premises consumption. Said

27 premises are herein defined to be the entire space in which retail

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1 package alcoholic beverages are sold or displayed and said
2 premises must be separated from any premises on which any other
3 goods, wares, or merchandise are sold or services rendered by
4 walls which may only be broken by a passageway to which the public
5 is not admitted; provided, the restriction on the sale of
6 merchandise and rendering of services shall not apply to the
7 premises of a winery.

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

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

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

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

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

24 BALLOT TITLE

25 Legislative Referendum No. ____ State Question No. ____

26

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

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This measure amends the Oklahoma Constitution. It would do

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away with the low-point beer system. The ABLE Commission would

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regulate all beer. The changes would let stores that sell food

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sell wine and beer. This would mean that grocery stores could

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sell wine and beer of any strength. The Legislature would write

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laws on this.

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SHALL THE PROPOSAL BE APPROVED?

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FOR THE PROPOSAL - YES _____

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AGAINST THE PROPOSAL - NO _____

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SECTION 1. The Chief Clerk of the House of Representatives,

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immediately after the passage of this resolution, shall prepare

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and file one copy thereof, including the Ballot Title set forth in

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SECTION 3 hereof, with the Secretary of State and one copy with

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the Attorney General.

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Req. No. 6461