

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 55th Legislature (2016)

4 HOUSE JOINT
5 RESOLUTION 1052

By: Derby

6
7 AS INTRODUCED

8 A Joint Resolution directing the Secretary of State
9 to refer to the people for their approval or
10 rejection the repeal of Sections 2, 3, 4 and 6 of
11 Article XXVIII of the Constitution of the State of
12 Oklahoma, proposed amendments to Sections 7, 8, 9 and
13 10 of Article XXVIII of the Constitution of the State
14 of Oklahoma and a proposed amendment to the
15 Constitution of the State of Oklahoma by adding a new
16 section to Article XXVIII to be designated as Section
17 2A, which relate to alcoholic beverages; modifying
18 regulation structure of sales and distribution of
19 alcoholic beverages in the state; eliminating
20 exclusion for low-point beer; eliminating certain
21 prohibitions and requirements for sales to and from
22 wholesale distributors; eliminating provisions
23 related to sales and distribution by winemakers;
24 eliminating prohibitions and requirements related to
 sales of alcoholic beverages and retail; eliminating
 sales prohibitions on certain days; modifying
 references and allocation of taxes related to
 alcoholic beverage sales; eliminating restrictions
 related to individual drink sales; modifying
 limitation on retail sales of alcoholic beverages at
 state lodges; clarifying language; requiring
 nondiscrimination in pricing on sales to and from the
 wholesale distributors; requiring manufacturers of
 alcoholic beverages only sell to licensed wholesale
 distributors; requiring wholesale distributors only
 sell to licensed alcoholic beverage retailers;
 requiring Legislature bring statutes into conformity;
 providing timeframe; providing for nullification of
 nonconforming law; providing ballot title; and
 directing filing.

1 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE
2 2ND SESSION OF THE 55TH OKLAHOMA LEGISLATURE:

3 SECTION 1. The Secretary of State shall refer to the people for
4 their approval or rejection, as and in the manner provided by law,
5 the following proposed amendment to the Constitution of the State of
6 Oklahoma, repealing Sections 2, 3, 4, and 6 of Article XXVIII of the
7 Oklahoma Constitution and amending Sections 7, 8, 9, and 10 of
8 Article XXVIII of the Constitution of the State of Oklahoma to read
9 as follows:

10 Section 7. The retail sale of alcoholic beverages shall be
11 subject to the sales tax statutes enacted by the Legislature and in
12 addition thereto the Legislature may levy taxes upon the
13 manufacture, possession and/or all sales of alcoholic beverages,
14 ~~including sales by retail package stores and sales by the individual~~
15 ~~drink for on-premises consumption,~~ the proceeds of which, except
16 sales tax, shall be distributed as follows:

17 (a) The Oklahoma Tax Commission shall collect and distribute
18 the taxes collected under the terms of this Article and shall
19 distribute ninety-seven percent (97%) of such taxes as are levied
20 and as are attributable to retail sales ~~by package stores~~ as
21 follows:

22 (1) One-third (1/3) of taxes attributable to retail sales ~~by~~
23 ~~retail package stores~~ shall be allocated to the counties of the
24 State of Oklahoma on the basis of area and population (giving equal

1 weight to area and population) and all of said funds shall be
2 appropriated by the Board of County Commissioners in each county to
3 all incorporated cities and towns in said county on the basis of
4 population within each city and town on a per capita basis based on
5 the last preceding Federal Decennial Census.

6 (2) Two-thirds (2/3) of taxes attributable to retail sales ~~by~~
7 ~~retail package stores~~ shall be credited to the General Revenue Fund
8 of the State of Oklahoma.

9 (b) The remaining three percent (3%) of taxes attributable to
10 retail sales of alcoholic beverages ~~by retail package stores; and up~~
11 ~~to (3%) of taxes attributable to sales of alcoholic beverages by the~~
12 ~~individual drink for on-premises consumption, as shall be determined~~
13 ~~by the State Legislature;~~ shall be paid to the State Treasurer and
14 placed to the credit of the Oklahoma Tax Commission Fund, to be paid
15 out of said fund pursuant to appropriations made by the State
16 Legislature.

17 (c) ~~The remaining taxes attributable to sales of alcoholic~~
18 ~~beverages by the individual drink for on-premises consumption, shall~~
19 ~~be credited to the General Revenue Fund of the State of Oklahoma.~~
20 The State Legislature shall appropriate to the Oklahoma Alcoholic
21 Beverage Laws Enforcement Commission from all available taxes
22 collected under this Article, whatever funds are necessary to
23 provide for full enforcement of the alcoholic beverage laws of the
24 State.

1 (d) All State license fees shall be collected by the Oklahoma
2 Alcoholic Beverage Laws Enforcement Commission and deposited in the
3 State Treasury and after the expenses of the Commission, as approved
4 by the Legislature, have been deducted, the balance shall be
5 credited to the General Fund.

6 Section 8. The State of Oklahoma, or any political subdivision
7 thereof, or any board, commission or agency thereof, is hereby
8 prohibited from engaging in any phase of the alcoholic beverage
9 business, including the manufacture, sale, transportation, or
10 distribution thereof, at wholesale or retail, and the maintenance,
11 ownership, or operation of warehouses or alcoholic beverage stores;
12 ~~except that if the voters of a county in which a state lodge is~~
13 ~~located approve retail sale of alcoholic beverages by the individual~~
14 ~~drink for on-premises consumption, and~~ retail sales of alcoholic
15 beverages at state lodges if the State Legislature enacts
16 legislation ~~approving~~ authorizing such retail sales in ~~any such~~
17 state lodges located in any such counties, then such sales are
18 ~~authorized~~. The Legislature may enact laws restricting the
19 involvement of officers and employees of the state and political
20 subdivisions thereof in the alcoholic beverage business.

21 Provided, that nothing herein shall prohibit the sale of
22 alcoholic beverages legally confiscated as provided by law.

23 Section 9. Incorporated cities and towns ~~wherein the sale of~~
24 ~~alcoholic beverages is lawful~~, may levy an occupation tax, not

1 exceeding the amount of the State license fees, for the manufacture,
2 distribution, or sale of alcoholic beverages.

3 Section 10. No retail ~~package store~~ or wholesale distributor's
4 license shall be issued to:

5 (a) A corporation, business trust or secret partnership.

6 (b) A person or partnership unless such person or all of the
7 copartners including limited partners shall have been residents of
8 the State of Oklahoma for at least ten (10) years immediately
9 preceding the date of application for such license.

10 (c) A person or a general or limited partnership containing a
11 partner who has been convicted of a violation of a prohibitory law
12 relating to the sale, manufacture, or the transportation of
13 alcoholic beverages which constituted a felony or misdemeanor.

14 (d) A person or a general or limited partnership containing a
15 partner who has been convicted of a felony.

16 ~~No license to sell alcoholic beverages by the individual drink~~
17 ~~for on-premises consumption shall be issued to:~~

18 ~~(a) A person or a general or limited partnership containing a~~
19 ~~partner who has been convicted of a violation of a prohibitory law~~
20 ~~relating to the sale, manufacture, or the transportation of~~
21 ~~alcoholic beverages which constituted a felony.~~

22 ~~(b) A person or a general or limited partnership containing a~~
23 ~~partner who has been convicted of a felony.~~

24

1 ~~(c) A corporation which has an officer or director who has been~~
2 ~~convicted of a violation of a prohibitory law relating to the sale,~~
3 ~~manufacture, or the transportation of alcoholic beverages which~~
4 ~~constituted a felony.~~

5 ~~(d) A corporation which has an officer or director who has been~~
6 ~~convicted of a felony.~~

7 SECTION 2. The Secretary of State shall refer to the people for
8 their approval or rejection, as and in the manner provided by law,
9 the following proposed amendment to the Constitution of the State of
10 Oklahoma by adding a new Section 2A to Article XXVIII thereof, to
11 read as follows:

12 Section 2A. A. The Legislature shall enact laws providing for
13 the strict regulation, control, licensing and taxation of the
14 manufacture, sale, distribution, possession and transportation of
15 alcoholic beverages, consistent with the provisions of this section.

16 B. 1. Any manufacturer, either within or without this state,
17 marketing for sale alcoholic beverage products within this state,
18 shall be required to provide the alcoholic beverage products offered
19 for sale to every licensed wholesale distributor who desires to
20 purchase such products, on the same price basis and without
21 discrimination, and shall further be required to sell such products
22 in this state only to licensed wholesale distributors.

23 2. Any wholesale distributor marketing for sale alcoholic
24 beverage products within this state shall be required to provide the

1 alcoholic beverage products offered for sale to every licensed
2 alcoholic beverage retailer who desires to purchase such products,
3 on the same price basis and without discrimination, and shall
4 further be required to sell such products in this state only to
5 licensed alcoholic beverage retailers.

6 C. All laws passed by the Legislature under the authority of
7 this Article shall be consistent with the provisions of this
8 section. The Legislature shall enact, amend and repeal laws as
9 needed, in order to bring laws in effect prior to the adoption of
10 this section, into conformity with this section. Any law that
11 conflicts with the provisions of this section shall be considered
12 null and void one (1) year after the adoption of this section.

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

16 BALLOT TITLE

17 Legislative Referendum No. _____ State Question No. _____

18 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

19 This measure amends the Oklahoma Constitution. It modifies
20 Article 28 which deals with alcoholic beverage regulation. The
21 modifications through amendment and repeal, as well as the
22 creation of a new section, simplify the marketing and sales of
23 alcoholic beverages in this state, creating a three-tier system
24 of manufacturers, wholesale distributors and alcoholic beverage

1 retailers. The measure gives the Legislature one year from the
2 adoption of the measure to bring statutes into compliance with
3 the measure. After one year any statute that is in conflict
4 with this measure shall be considered null and void.

5 SHALL THE PROPOSAL BE APPROVED?

6 FOR THE PROPOSAL - YES _____

7 AGAINST THE PROPOSAL - NO _____

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

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14 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 02/24/2016 - DO PASS.
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