

A Resolution

ENROLLED SENATE JOINT
RESOLUTION NO. 2.

BY: MISKOVSKY, CARTWRIGHT (Bryan),
WILSON (Beckham) and PAYNE of
the SENATE,
and
ANDREWS, HUSER, LOLLAR and
HAWORTH of the HOUSE.

A JOINT RESOLUTION DIRECTING THE SECRETARY OF STATE TO REFER TO THE PEOPLE FOR THEIR APPROVAL OR REJECTION A PROPOSED AMENDMENT TO THE CONSTITUTION OF THE STATE OF OKLAHOMA, ADDING ARTICLE XXVIII THERETO, DEFINING TERMS, AND PROVIDING: FOR ELECTIONS IN COUNTIES UPON THE PROPOSITION OF WHETHER THE MANUFACTURE, SALE AND DISTRIBUTION OF ALCOHOLIC BEVERAGES SHALL BE LEGAL THEREIN AND PROCEDURES RELATED THERETO; LIMITATIONS ON THE FREQUENCY OF SUCH ELECTIONS; THAT WITH CERTAIN EXCEPTIONS EXISTING PROHIBITORY STATUTES CONCERNING ALCOHOLIC BEVERAGES SHALL BE IN EFFECT IN DRY COUNTIES; PENALTIES; THAT SAID ARTICLE SHALL BE SELF EXECUTING AND FULLY OPERATIVE ON THE DATE ARTICLES XXVII AND XXVIII, OKLAHOMA CONSTITUTION, PROPOSED BY THE TWENTY-SEVENTH OKLAHOMA LEGISLATURE, ARE APPROVED; PROVIDING A BALLOT TITLE; AND ORDERING A SPECIAL ELECTION.

Correctly Enrolled
(In accordance with Senate Bill No. 116 of the Twenty-seventh Legislature)

Robert H. Ross
Chairman, COMMITTEE ON ENCLOSED AND ENROLLED BILLS

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9 OKLAHOMA, ADDING ARTICLE XXVIII THERETO, DEFINING TERMS,
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11 OSITION OF WHETHER THE MANUFACTURE, SALE AND DISTRIBUTION
12 OF ALCOHOLIC BEVERAGES SHALL BE LEGAL THEREIN AND
13 PROCEDURES RELATED THERETO; LIMITATIONS ON THE FREQUENCY
14 OF SUCH ELECTIONS; THAT WITH CERTAIN EXCEPTIONS EXISTING
15 PROHIBITORY STATUTES CONCERNING ALCOHOLIC BEVERAGES SHALL
16 BE IN EFFECT IN DRY COUNTIES; PENALTIES; THAT SAID ARTICLE
17 SHALL BE SELF EXECUTING AND FULLY OPERATIVE ON THE DATE
18 ARTICLES XXVII AND XXVIII, OKLAHOMA CONSTITUTION, PROPOSED
19 BY THE TWENTY-SEVENTH OKLAHOMA LEGISLATURE, ARE APPROVED;
20 PROVIDING A BALLOT TITLE; AND ORDERING A SPECIAL ELECTION.

21
22
23 BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE
24 TWENTY-SEVENTH LEGISLATURE OF THE STATE OF OKLAHOMA:

25
26 SECTION 1. The Secretary of State shall refer to the people for
27 their approval or rejection, as and in the manner provided by law, the
28 following proposed amendment to the Constitution of Oklahoma, said
29 amendment to be a new article, to be numbered Article XXVIII, as
30 follows:

31
32 ARTICLE XXVIII

33
34 Section 1. As used herein: (a) "Article XXVII of the Oklahoma
35 Constitution" shall mean and refer to the amendment of the Oklahoma
36 Constitution proposed by the Twenty-seventh Oklahoma Legislature, re-
pealing the Prohibition Ordinance and Article I, Section 7 of the Okla-
homa Constitution, and providing generally for the sale and regulation
of alcoholic beverages;

(b) "Alcoholic Beverage" means and includes alcohol, and any
spirituous, vinous, fermented or malt liquor, or any imitation thereof
or substitute therefor, and any liquor, or compound of any kind or
description whatsoever, natural or synthetic, whether medicated or not,
which contains as much as one-half of one per cent (0.5%) of alcohol,
measured by volume, and which is capable of being used as a beverage,
except preparations compounded by any licensed pharmacist, the sale of
which would not subject him to the payment of the special tax required

2 of liquor dealers by the laws of the United States, but shall not in-
3 clude any beer or cereal malt beverage containing not more than three
4 and two-tenths per cent (3.2%) of alcohol by weight.

5 Section 2. The terms and provisions of this Article and laws
6 enacted by the Legislature pursuant thereto shall not include or apply
7 to any beer or cereal malt beverage containing not more than three and
8 two-tenths per cent (3.2%) of alcohol by weight.

9 Section 3. A "dry county" is a county in which, after the date
10 upon which Articles XXVII and XXVIII of the Oklahoma Constitution are
11 approved by the people, a majority of the votes cast in said county
12 upon the proposition set out in Section 7 hereof, at the most recent
13 election held in said county as provided for herein, shall have been
14 cast in the negative; provided, however, that if a majority of the votes
15 cast upon such proposition, in such election, in a wet county, shall
16 have been cast in the negative, such county shall become a dry county
17 on, but not before, the thirty-first day following such election.

18 Section 4. A "wet county" is a county which, on or after the date
19 upon which Article XXVII of the Oklahoma Constitution is approved by the
20 people, is not a dry county as set out in Section 3 hereof; provided,
21 however, that if a majority of the votes cast upon the proposition set
22 out in Section 7 hereof, at an election held as provided herein, in a
23 dry county, shall have been cast in the affirmative, such county shall
24 become a wet county on, but not before, the thirty-first day following
25 such election.

26 Section 5. Unless otherwise provided by law:

27 (a) All elections provided for herein shall be held in accordance
28 with the provisions of the general election laws relating to the elec-
29 tion of county officers, provided, that costs and expenses of all elec-
30 tions hereby provided after the election provided by Section 6 hereof
31 and not held at the same time as a statewide election shall be borne by
32 said county.

33 (b) The County Election Board shall forthwith certify the results
34 of such elections to the County Clerk of the County and to the Secretary
35 of the State Election Board.
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2 Section 6. An election shall be held in every county of this State
3 upon the fifth Tuesday after the date upon which Articles XXVII and XXVIII
4 of the Oklahoma Constitution are approved by the people, at which elec-
5 tion the proposition set out in Section 7 hereof shall be submitted to
6 the voters of the county. The holding of the election provided for by
7 this Section is hereby declared to be mandatory.

8 Section 7. After the date upon which Articles XXVII and XXVIII of
9 the Oklahoma Constitution are approved by the people, a change of class-
10 ification of any county from a dry county to a wet county, or from a wet
11 county to a dry county, may be accomplished pursuant to an election held
12 as provided by this Section; provided, however, that no petitions shall
13 be circulated or election held under this Section within the two (2)
14 years next succeeding the date of the election provided for by Section
15 6 hereof, and no petitions shall be circulated or election held under
16 this Section within the two (2) years next succeeding the date of any
17 election held under the provisions of this Section.

18 (a) Upon timely application by written petition containing no
19 signatures signed within the prohibited time after an election and filed
20 with the County Clerk of any county in this State, signed by a number of
21 legal voters of such county equal to fifteen percent (15%) of the total
22 number of votes cast at the last general election for the state office
23 receiving the highest number of votes at such election in such county,
24 it shall be the duty of the Board of County Commissioners of said county,
25 at the next regular session of said board after twenty (20) days from the
26 filing of the petition, to make an order directing a special election
27 to be held in said county on a day not less than thirty (30) nor more
28 than sixty (60) days after the making of such order, for the purpose of
29 submitting to the legal voters of said county the proposition whether
30 the manufacture, sale and distribution of alcoholic liquors shall be
31 prohibited in said county, provided however a pending judicial proceed-
32 ing to determine the validity of said petition shall toll such time
33 limitation.

34 (b) Each sheet for signatures shall be attached to a copy of the
35 petition. Any person signing such petition with any name other than
36 his own or signing his name more than once to the same petition or

2 duplicate thereof, or signing such petition when he is not a legal voter
3 of the county involved, shall be guilty of a felony.

4 (c) Each sheet of any such petition containing signatures shall
5 be verified on the back thereof in substantially the following form
6 by the person who circulated said sheet or petition by his or her
7 affidavit thereon and as a part thereof:

8 State of Oklahoma)
9 County of _____) ss

10 I, _____, being first duly sworn, say:

11 (here shall be legibly written or typewritten the names of the
12 signers of the sheet), signed this sheet of the foregoing
13 petition, and each of them signed his name thereto in my presence
14 more than two (2) years after the last preceding county option
15 election in this county; I believe that each has stated his name,
16 county, post-office address and residence correctly and that
17 each signer is a legal voter of the State of Oklahoma and
18 County of _____.

19 _____
20 Signature and post office of affiant

21 Subscribed and sworn to before me this _____ day of _____
22 19____.

23 _____
24 Signature and title of the officer

25 before whom the oath is made, and his post-office address.

26 (d) Each petition when filed with the county clerk shall be stamped
27 with the date of filing and shall not be used as a basis for the calling
28 of any election after the first election called pursuant thereto. No
29 person signing a petition shall be permitted to withdraw his name or
30 have it taken from such petition after same shall have been filed as
31 aforesaid. Provided that any name proven not to be the signature of the
32 person purporting to sign the same and any name proven not to be that
33 of a legal voter of said county shall not be counted as a petitioner.

34 (e) The election shall not be held within ten (10) days next
35 preceding or following a primary or general election.

36 (f) When an order has been made by the Board of County Commissioners

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[Handwritten signature]

2 for the holding of an election, it shall be the duty of the county
 3 clerk to cause a copy of said order to be published once a week for
 4 three (3) consecutive weeks in some weekly or daily newspaper published
 5 and of general circulation in said county, the first of said publica-
 6 tions being not less than twenty (20) days prior to the date of such
 7 election. If there be no such newspaper published in the county, or
 8 the proprietor of such newspaper refuses to publish said advertisement,
 9 notice shall be given by posting a copy of such order in not less than
 10 five conspicuous places in each precinct of the county at least twenty
 11 (20) days prior to the date of said election. Proof of said publication
 12 or posting shall be filed with the county clerk.

13 (g) The proposition to be voted upon shall be stated on the ballot
 14 without emblems and two spaces left upon the right side thereof, one for
 15 votes favoring the proposition to be designated by the word "yes" and
 16 one for votes opposing it to be designated by the word "no". The
 17 elector shall designate his vote by a cross mark placed opposite the
 18 said yes or no.

19 The form of the proposition shall be thus stated:

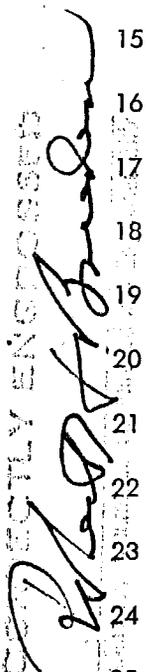
20 Do you favor the legal manufacture, sale and dis- YES
 21 tribution of alcoholic beverages in this county? NO

22 Section 8. (a) Until otherwise provided by law, the provisions
 23 of 37 O. S. 1951, Chapter 1, as amended, hereinafter referred to as
 24 the existing prohibitory statutes, insofar as the same may be applicable
 25 to alcoholic beverages as defined in this Article, shall be in full
 26 force and effect in all dry counties, except as otherwise provided
 27 herein.

28 (b) The existing prohibitory statutes shall not be applicable to
 29 the continuous transportation of alcoholic beverages across a dry county
 30 from a point beyond the limits of a dry county, where the sale of such
 31 beverages is legal, to a point beyond the limits of said county, where
 32 such sale is also legal; provided, that the Legislature may enact laws
 33 regulating such transportation.

34 (c) Nothing in this Article shall affect the power of the Legis-
 35 lature to enact laws relating to alcoholic beverages in and as to wet
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2 counties as and to the extent authorized by article XXVII of the Okla-
3 homa Constitution.

4 (d) Except as made lawful by existing prohibitory statutes, it
5 shall be unlawful in any dry county: (1) for any person to manufacture,
6 sell, barter, give away, procure for, or otherwise furnish to another,
7 or keep for sale, barter, distribution or otherwise furnishing, directly
8 or indirectly in such county, any alcoholic beverages; (2) for any
9 person representing either the buyer or seller to distribute, solicit
10 or receive contracts, proposals or orders for the purchase, sale or
11 delivery in such county of any alcoholic beverage; or (3) for any person
12 in such county to knowingly receive or accept any such beverage from a
13 common carrier, or from any other person who has transported such bev-
14 erage into such county. Until otherwise provided by law, a violation
15 of this subsection shall be a misdemeanor, punishable by imprisonment in
16 the county jail for not longer than one (1) year, or by a fine of not to
17 exceed One Thousand Dollars (\$1,000.00), or by both such fine and
18 imprisonment. Provided, that if any act made unlawful by this subsection
19 is also made unlawful by any law or laws, then this subsection, and the
20 penalty herein provided for, shall be cumulative and alternative to such
21 law or laws.

22 Section 9. Any act which is lawful under existing prohibitory
23 statutes, as defined in Section 8 hereof, shall continue to be lawful
24 until otherwise provided by the Legislature, provided, that the Legisla-
25 ture shall not have power to make any act relating to alcoholic beverages
26 lawful in a dry county which is unlawful under this Article, except such
27 acts as are lawful under existing prohibitory laws.

28 Section 10. This Article shall be self executing and shall become
29 fully operative only on the date Articles XXVII and XXVIII of the Okla-
30 homa Constitution are approved by the people.

31 SECTION 2. The ballot title for said proposed amendment shall be
32 in the following form:

33 BALLOT TITLE

COUNTY OPTION

34 Legislative Referendum No. _____

35 State Question No. _____

36 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

CORRECTLY ENGROSSED
R. J. ...

-----Passed the Senate the 12th day of February, 1959, and correctly enrolled, in accordance with Senate Bill No. 116 on the 26th day of February, 1959.

Harold T. Herwin
President *pro tempore* of the Senate

-----Passed the House of Representatives the 26th day of February, 1959.

Cliff B. Lyle
Speaker of the House of Representatives

OFFICE OF THE GOVERNOR

Received by the Governor this

3rd day of March,
1959, at 2:50 o'clock P. M.

BY: Pat Strahan

APPROVED by the Governor of the State of Oklahoma the 3rd
day of March, 1959. 2:55 p.m.

Howard Edmondson
Governor of the State of Oklahoma

OFFICE OF SECRETARY OF STATE

Received by the Secretary of State

this 3 day of March,
1959, at 3:30 o'clock P. M.

John D. Connor
BY: A. Jones

Correctly Enrolled
(In accordance with Senate Bill No. 116 of the Twenty-Seventh Legislature)
Chairman, COMMITTEE ON ENGROSSED AND ENROLLED BILLS



MAC Q. WILLIAMSON
ATTORNEY GENERAL

STATE OF OKLAHOMA
OFFICE OF THE ATTORNEY GENERAL
OKLAHOMA CITY

March 4, 1959

Honorable John D. Conner
Secretary of State
State Capitol
Oklahoma City, Oklahoma

Dear Sir:

You are hereby notified that pursuant to the discretion and duty lodged in and imposed upon the Attorney General by 34 O. S. 1951 § 9, he has examined the proposed ballot title of Senate Joint Resolution No. 2 of the Regular Session of the Twenty-seventh Legislature of the State of Oklahoma, which, together with a copy of said resolution, was delivered to him on March 3, 1959, by the Honorable Harold T. Garvin, President Pro Tempore of the Senate, and from said examination finds that said ballot title is substantially in legal form and in harmony with the law.

Therefore, pursuant to the provisions of the above section, the Attorney General is submitting herewith, same to be filed in your office, the ballot title above referred to, same being as follows:

BALLOT TITLE	COUNTY OPTION
Legislative Referendum No. 122	State Question No. 387

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

COUNTY OPTION.

Shall a Constitutional Amendment

adding a new Article XXVIII to the Oklahoma Constitution providing COUNTY OPTION upon alcoholic beverages, defining terms and providing: for elections in counties upon the proposition of whether the manufacture, sale and distribution of alcoholic beverages shall be legal therein; limitations on the frequency of such elections;

Hon. John D. Conner

3-4-59

2

that with certain exceptions existing prohibitory statutes concerning alcoholic beverages shall be in effect in dry counties; penalties; that said Article shall be self executing and fully operative on the date Article XXVII, Oklahoma Constitution, proposed by the Twenty-Seventh Oklahoma Legislature, is approved,

be approved by the people?

....
.: YES
....

SHALL THE PROPOSED AMENDMENT BE APPROVED?

....
.: NO.
....

Inasmuch as 34 O. S. 1951 § 9, supra, expressly provides that

"no appeal shall be allowed as to ballot titles of constitutional or legislative enactments proposed by the Legislature which ballot titles have been approved or revised by the Attorney General.",

it is your duty, under the provisions of said section, to immediately

"transmit to the Secretary of the State Election Board an attested copy of the pending proposition, including such approved title."

Yours very truly

FOR THE ATTORNEY GENERAL

APPROVED BY ATTORNEY GENERAL

3-4-1959

Fred Hansen

Fred Hansen
First Assistant Attorney General

FH:LW