

ENROLLED SENATE JOINT RESOLUTION 29
ENACTED BY THE SECOND REGULAR SESSION OF THE
51ST LEGISLATURE OF THE STATE OF OKLAHOMA
NUMBERED BY THE SECRETARY OF STATE

STATE QUESTION NUMBER 743
LEGISLATIVE REFERENDUM NUMBER 346

RECEIVED: MAY 23, 2008

Resolution

ENROLLED SENATE
JOINT
RESOLUTION NO. 29

By: Ivester, Coates and Schulz
of the Senate

and

Morgan, Kiesel, Collins,
Hoskin and Roan 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 Section 3 of Article XXVIII of the Oklahoma Constitution; making language gender neutral; clarifying who may be sold wine at wineries, festivals or trade shows; providing for direct sale of wine to retail package stores and restaurants by all wineries that produce no more than ten thousand gallons of wine annually; prohibiting use of a licensed wholesale distributor in certain circumstances; requiring wineries to sell wine to every package store and restaurant who desires to purchase the wine on the same price basis and without discrimination; prohibiting the use of common or private contract carriers in certain circumstances; making provisions of the amendment nonseverable; providing ballot title; and directing filing.

BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE 2ND SESSION OF THE 51ST 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 Section 3 of Article XXVIII of the Constitution of the State of Oklahoma to read as follows:

Section 3. A. The Legislature shall enact laws providing for the strict regulation, control, licensing, and taxation of the manufacture, sale, distribution, possession, and transportation of alcoholic beverages, consistent with the provisions of this Amendment. Provided, that any manufacturer, or subsidiary of any manufacturer, who markets his or her product solely through a subsidiary or subsidiaries, a distiller, rectifier, bottler, winemaker, brewer, or importer of alcoholic beverages, bottled or made in a foreign country, either within or without this state, shall be required to sell such brands or kinds of alcoholic beverages to every licensed wholesale distributor who desires to purchase the same, on the same price basis and without discrimination, and shall further be required to sell such beverages only to those distributors licensed as wholesale distributors. Winemakers either within or without this state shall be required to sell wine they produce to every licensed wholesale distributor who desires to purchase the wine, but winemakers shall not be required to sell the wine they produce only to licensed wholesale distributors. Winemakers either within or without this state may sell wine produced at the winery to adult consumers who are at least twenty-one (21) years of age and are physically present on the premises of the winery or at a festival or trade show. ~~Oklahoma winemakers~~ Winemakers either within or without this state that annually produce no more than ten thousand (10,000) gallons of wine may sell and ship only the wine they produce at wineries in this state directly to licensed retail package stores and restaurants in this state; provided, however, that any such winemaker which elects to directly sell its wine to package stores and restaurants shall not also use a licensed wholesale distributor as a means of distribution, and shall be required to sell its wines to every package store and restaurant licensee who desires to purchase the same, as supplies allow, on the same price basis and without discrimination. As used in this section, "restaurant" means an establishment that is licensed to sell alcoholic beverages by the individual drink for on-premises consumption and where food is prepared and sold for immediate consumption on the premises.

B. Any winemaker within or without this state that annually produces no more than ten thousand (10,000) gallons of wine and elects to directly sell its wine to retail package stores and restaurants in this state must self-distribute the wine using only

vehicle(s) owned or leased by the winemaker, and without the use of a common or private contract carrier.

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

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

BALLOT TITLE

Legislative Referendum No. _____ State Question No. _____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure amends Section 3 of Article 28 of the State Constitution. The measure clarifies who may purchase wine at a winery, festival or trade show. Also, currently, winemakers cannot sell wine directly to restaurants and retail package stores. This measure would allow winemakers from within this state and from without this state that produce up to ten thousand gallons of wine a year to sell wine directly to retail package stores and restaurants in this state. It would prohibit winemakers that sell directly to retail package stores and restaurants from using a licensed wholesale distributor as a means of distribution. It would require winemakers to sell wine to every retail package store or restaurant who wants to buy the wine. It would require the winemakers to sell the wine to every retail package store or restaurant on the same price basis and without discrimination. It would prohibit winemakers that sell wine directly to retail package stores or restaurants from using common or private carriers to distribute the wine. If any part of this amendment related to winemakers is found unconstitutional, then no winemaker shall be permitted to directly sell its wine to retail package stores or restaurants in this state.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL -- YES _____

AGAINST THE PROPOSAL -- NO _____

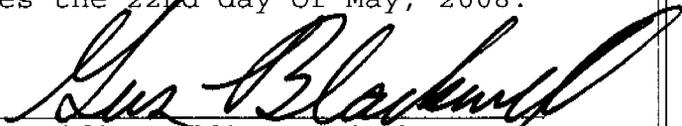
SECTION 3. The President Pro Tempore of the Senate shall, immediately after the passage of this resolution, prepare and file one copy thereof, including the Ballot Title set forth in SECTION 2 hereof, with the Secretary of State and one copy with the Attorney General.

Passed the Senate the 19th day of May, 2008.



Presiding Officer of the Senate

Passed the House of Representatives the 22nd day of May, 2008.



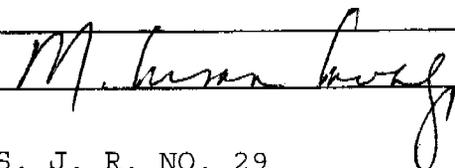
Presiding Officer of the House
of Representatives

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this _____

23rd day of May, 2008,

at 8:52 o'clock P M.

By: 



OKLAHOMA SECRETARY OF STATE

2300 N. LINCOLN BLVD. ROOM 101

OKLAHOMA CITY, OK 73105-4897

(405) 521-3912

Fax # (405) 521-3771

M. Susan Savage
Secretary of State

Brad Henry
Governor

May 27, 2008

The Honorable Drew Edmondson
Attorney General
State Capitol, Room 112
Oklahoma City, Oklahoma 73105

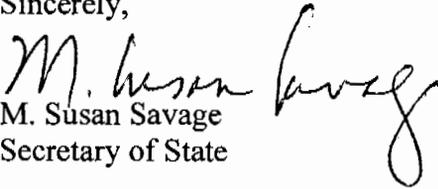
Dear Attorney General Edmondson:

You are hereby notified that Enrolled Senate Joint Resolution 29 was received in the Office of the Secretary of State on May 23, 2008. This resolution has been designated as **State Question Number 743, Legislative Referendum Number 346.**

Pursuant to 34 O.S. 2007 Supp., Section 9, this office is submitting the proposed ballot title to you for review.

If our office may be of further assistance, please let us know.

Sincerely,


M. Susan Savage
Secretary of State

MSS/ks



OKLAHOMA SECRETARY OF STATE

2300 N. LINCOLN BLVD. ROOM 101

OKLAHOMA CITY, OK 73105-4897

(405) 521-3912

Fax # (405) 521-3771

M. Susan Savage
Secretary of State

Brad Henry
Governor

RECEIVED

MAY 27 2008

OFFICE OF THE
GOVERNOR

May 27, 2008

The Honorable Brad Henry
Governor, State of Oklahoma
State Capitol, Room 212
Oklahoma City, Oklahoma 73105

Dear Governor Henry:

You are hereby notified that Enrolled Senate Joint Resolution 29 was received in the Office of the Secretary of State on May 23, 2008. This resolution has been designated as **State Question Number 743, Legislative Referendum Number 346.**

This office has submitted the proposed ballot title to the Attorney General for review as required by 34 O.S., 2007 Supp., Section 9. The official ballot title will be submitted to you upon completion of the review.

If our office may be of further assistance, please let us know.

Sincerely,


M. Susan Savage
Secretary of State

MSS/ks



OKLAHOMA SECRETARY OF STATE

2300 N. LINCOLN BLVD. ROOM 101

OKLAHOMA CITY, OK 73105-4897

(405) 521-3912

Fax # (405) 521-3771

M. Susan Savage
Secretary of State

Brad Henry
Governor

May 27, 2008

The Honorable Michael Clingman
Secretary, State Election Board
State Capitol, Room 3
Oklahoma City, Oklahoma 73105

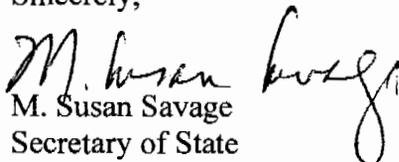
Dear Secretary Clingman:

You are hereby notified that Enrolled Senate Joint Resolution 29 was received in the Office of the Secretary of State on May 23, 2008. This resolution has been designated as **State Question Number 743, Legislative Referendum Number 346.**

This office has submitted the proposed ballot title to the Attorney General for review as required by 34 O.S. 2007 Supp., Section 9. The official ballot title will be submitted to you upon completion of the review.

If our office may be of further assistance, please let us know.

Sincerely,


M. Susan Savage
Secretary of State

MSS/ks





W. A. DREW EDMONDSON
ATTORNEY GENERAL OF OKLAHOMA

May 28, 2008

The Honorable M. Susan Savage
Oklahoma Secretary of State
Room 101, State Capitol Building
Oklahoma City, Oklahoma 73105

Re: State Question Number 743 - Proposed Ballot Title
Legislative Referendum Number 346

Dear Secretary Savage:

Thank you for your letter regarding the above matter. I have referred this information to Sandra Rinehart, Senior Assistant Attorney General, for her review and appropriate action.

If you have any questions, please feel free to contact Ms. Rinehart directly.

Sincerely,

A handwritten signature in black ink, appearing to read "W.A. Edmondson".

W.A. DREW EDMONDSON
ATTORNEY GENERAL

WAE:st

cc: Sandra Rinehart

RECEIVED

MAY 30 2008

**OKLAHOMA SECRETARY
OF STATE**



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

June 3, 2008

RECEIVED

JUN 03 2008

**OKLAHOMA SECRETARY
OF STATE**

M. Susan Savage, Secretary of State
Office of the Secretary of State
2300 N. Lincoln Blvd., Room 101
Oklahoma City, Oklahoma 73105-4897

The Honorable Mike Morgan
Senate President Pro Tempore
State Capitol, Room 422
2300 N. Lincoln Boulevard
Oklahoma City, OK 73105

FILED

JUN 3 2008

**OKLAHOMA SECRETARY
OF STATE**

The Honorable Glenn Coffee
Senate President Pro Tempore
State Capitol, Room 418
2300 N. Lincoln Boulevard
Oklahoma City, OK 73105

The Honorable Chris Bengtson
Speaker of the House of Representatives
State Capitol, Room 401
2300 N. Lincoln Boulevard
Oklahoma City, OK 73105

**Re: Ballot Title for State Question No. 743, Legislative Referendum
No. 346**

Dear Secretary Savage, Senators Morgan and Coffee, and Speaker Bengtson:

We have, in accordance with the provisions of 34 O.S. Supp. 2005, § 9(C), reviewed the Ballot Title for the above referenced State Question and conclude that it does not comply with applicable laws for the following reasons:

- It exceeds two hundred (200) words,

- It is not written on the eighth-grade reading comprehension level.

Having found that the Ballot Title does not comply with applicable laws, we will, in conformity with the provisions of 34 O.S.Supp.2005, § 9(C), within ten (10) business days, prepare a preliminary Ballot Title which complies with the law.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "W. A. Edmondson", with a long horizontal flourish extending to the right.

W. A. DREW EDMONDSON
ATTORNEY GENERAL

WAE/ab



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

June 16, 2008

M. Susan Savage, Secretary of State
Office of the Secretary of State
2300 N. Lincoln Blvd., Room 101
Oklahoma City, Oklahoma 73105-4897

The Honorable Mike Morgan
Senate President Pro Tempore
State Capitol, Room 422
2300 N. Lincoln Boulevard
Oklahoma City, OK 73105

FILED

JUN 16 2008

**OKLAHOMA SECRETARY
OF STATE**

The Honorable Glenn Coffee
Senate President Pro Tempore
State Capitol, Room 418
2300 N. Lincoln Boulevard
Oklahoma City, OK 73105

The Honorable Chris Bengé
Speaker of the House of Representatives
State Capitol, Room 401
2300 N. Lincoln Boulevard
Oklahoma City, OK 73105

**Re: Ballot Title for State Question No. 743, Legislative Referendum
No. 346**

Dear Secretary Savage, Senators Morgan and Coffee, and Speaker Bengé:

The following is a preliminary ballot title we have prepared in accordance with 34 O.S.Supp.2005, § B(1). We determined the proposed ballot title was defective and have prepared this preliminary ballot title which complies with the law. Pursuant to 34 O.S.Supp.2005, § B(1), we may consider any comments by the President Pro Tempore of the Senate and the Speaker of the House of Representatives and are required to file a final ballot title with the Secretary of State no sooner than ten (10) business days and no later than fifteen (15)

business days after furnishing this preliminary ballot title. We ask that, if you have any comments to the ballot title, you provide them to us by June 30, 2008 so that we may have an opportunity to consider them in preparing the final ballot title.

The preliminary Ballot Title reads as follows:

This measure amends Section 3 of Article 28 of the Constitution. It requires a customer to be twenty-one and physically present to purchase wine at a winery, festival or trade show. The measure changes the law to allow certain winemakers to sell directly to retail package stores and restaurants in Oklahoma. The change applies to winemakers who produce up to ten thousand gallons of wine a year. It applies to winemakers in state and out of state. Those winemakers may not also use a licensed wholesale distributor. They must sell their wine to every retail package store and restaurant in Oklahoma that wants to buy the wine. The sales must be on the same price basis. The sales must be without discrimination. Those winemakers must use their own leased or owned vehicles to distribute their wine. They may not use common or private carriers. If any part of this measure is found to be unconstitutional, no winemaker could sell wine directly to retail package stores or restaurants in Oklahoma.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL - YES _____

AGAINST THE PROPOSAL - NO _____

If you have any questions you may contact Senior Assistant Attorney General Sandy Rinehart at 522-4392. Thank you.

Respectfully submitted,



TOM GRUBER
FIRST ASSISTANT ATTORNEY GENERAL

TG/ab



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

FILED

JUL 03 2008

OKLAHOMA SECRETARY
OF STATE

July 3, 2008

M. Susan Savage, Secretary of State
Office of the Secretary of State
2300 N. Lincoln Blvd., Room 101
Oklahoma City, Oklahoma 73105-4897

**Re: Ballot Title for State Question No. 743, Legislative Referendum
No. 346**

Dear Secretary Savage:

On June 16, 2008, we furnished you a copy of a preliminary ballot title we prepared in accordance with 34 O.S.Supp.2005, § C(1). At that time we provided copies of the preliminary ballot title to the Presidents Pro Tempore of the Senate and Speaker of the House of Representatives to allow them the opportunity to provide comment as required by law. Having received no response, we submit the preliminary ballot title for filing as the final ballot title.

This measure amends Section 3 of Article 28 of the Constitution. It requires a customer to be twenty-one and physically present to purchase wine at a winery, festival or trade show. The measure changes the law to allow certain winemakers to sell directly to retail package stores and restaurants in Oklahoma. The change applies to winemakers who produce up to ten thousand gallons of wine a year. It applies to winemakers in state and out of state. Those winemakers may not also use a licensed wholesale distributor. They must sell their wine to every retail package store and restaurant in Oklahoma that wants to buy the wine. The sales must be on the same price basis. The sales must be without discrimination. Those winemakers must use their own leased or owned vehicles to distribute their wine. They may not use common or private carriers. If any part of this measure is found to be unconstitutional, no

winemaker could sell wine directly to retail package stores or restaurants in Oklahoma.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL - YES _____

AGAINST THE PROPOSAL - NO _____

Respectfully submitted,



W. A. DREW EDMONDSON
Attorney General

WAE/ab

cc: The Honorable Mike Morgan
The Honorable Glenn Coffee
The Honorable Chris Bengé



OKLAHOMA SECRETARY OF STATE

2300 N. LINCOLN BLVD. ROOM 101

OKLAHOMA CITY, OK 73105-4897

(405) 521-3912

Fax # (405) 521-3771

M. Susan Savage
Secretary of State

Brad Henry
Governor

July 3, 2008

The Honorable Brad Henry
Governor, State of Oklahoma
State Capitol, Room 212
Oklahoma City, Oklahoma 73105

RECEIVED

JUL 03 2008

OFFICE OF THE
GOVERNOR

Dear Governor Henry:

Enclosed are copies of the Attorney General's review of the proposed Ballot Title for State Question 743, Legislative Referendum 346; the State Question from Senate Joint Resolution 29; and the letter to the Oklahoma State Election Board attesting the measure.

Pursuant to the provisions of Title 34 O.S. 2001, Section 12, the Ballot Title has been reviewed and approved and the election proclamation may be issued with the date on which the vote will be held.

If there are any questions, please do not hesitate to contact this office at the above number or address.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathy Jekel".

Kathy Jekel
Acting Assistant
Secretary of State

KJ/ks



OKLAHOMA SECRETARY OF STATE

2300 N. LINCOLN BLVD. ROOM 101

OKLAHOMA CITY, OK 73105-4897

(405) 521-3912

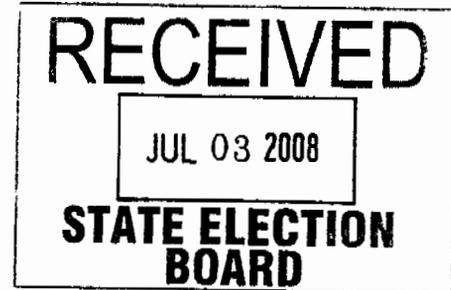
Fax # (405) 521-3771

M. Susan Savage
Secretary of State

Brad Henry
Governor

July 3, 2008

The Honorable Michael Clingman
Oklahoma State Election Board
State Capitol
Oklahoma City, Oklahoma 73105



Dear Mr. Clingman:

Enclosed is a copy of the Attorney General's review of the proposed Ballot Title and an attested copy of State Question 743, Legislative Referendum 346.

The Governor has been notified of the official ballot title pursuant to 34 O.S. 2001, Section 12. This office will provide a copy of the election proclamation upon receipt from the Governor's Office.

If there are any questions, please do not hesitate to contact this office at the above number or address.

Sincerely,

Kathy Jekel
Acting Assistant
Secretary of State

KJ/ks



Brad Henry
Governor

FILED

JUL 23 2008

**OKLAHOMA SECRETARY
OF STATE**

EXECUTIVE DEPARTMENT

EXECUTIVE PROCLAMATION

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the authority vested in me by Section 3 of Article V and Section 1 of Article XXIV of the Oklahoma Constitution and Section 12 of Title 34 of the Oklahoma Statutes, do hereby order that State Question Number 743, Legislative Referendum Number 346, be submitted to qualified electors of the State of Oklahoma for their approval or rejection at the general election to be held statewide on November 4, 2008.

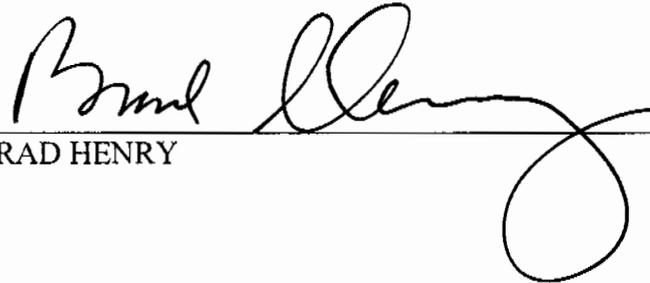
The substance of the measure is as follows:

This measure amends Section 3 of Article 28 of the Constitution. It requires a customer to be twenty-one and physically present to purchase wine at a winery, festival or trade show. The measure changes the law to allow certain winemakers to sell directly to retail package stores and restaurants in Oklahoma. The change applies to winemakers who produce up to ten thousand gallons of wine a year. It applies to winemakers in state and out of state. Those winemakers may not also use a licensed wholesale distributor. They must sell their wine to every retail package store and restaurant in Oklahoma that wants to buy the wine. The sales must be on the same price basis. The sales must be without discrimination. Those winemakers must use their own leased or owned vehicles to distribute their wine. They may not use common or private carriers. If any part of this measure is found to be unconstitutional, no winemaker could sell wine directly to retail package stores or restaurants in Oklahoma.

Copies of this Executive Proclamation shall be distributed to the Secretary of State, the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Secretary of the State Election Board. The Secretary of the State Election Board and the secretaries of the appropriate county election boards are hereby directed to take all actions necessary to conduct the aforesaid election.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma this 23rd day of July, 2008.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA



BRAD HENRY

ATTEST:





OKLAHOMA SECRETARY OF STATE

2300 N. LINCOLN BLVD. ROOM 101

OKLAHOMA CITY, OK 73105-4897

(405) 521-3912

Fax # (405) 521-3771

M. Susan Savage
Secretary of State

Brad Henry
Governor

July 24, 2008

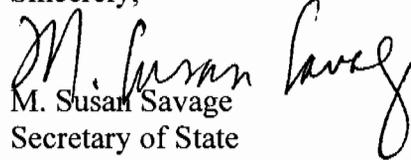
The Honorable Michael Clingman
Oklahoma State Election Board
Room 3, State Capitol
Oklahoma City, Oklahoma 73105

Dear Secretary Clingman:

Enclosed is a copy of the Governor's Proclamation calling for the election on State Question Number 743, Legislative Referendum 346.

If there are any questions or if our office may be of further assistance, please do not hesitate to let us know.

Sincerely,


M. Susan Savage
Secretary of State

MSS/kj





Brad Henry
Governor

FILED

NOV 20 2008

OKLAHOMA SECRETARY
OF STATE

EXECUTIVE DEPARTMENT

EXECUTIVE PROCLAMATION

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the authority vested in me by the provisions of Section 12-118 of Title 26 of the Oklahoma Statutes and the Certification by the State Election Board, do hereby proclaim State Question Number 743 to have passed. The results of the election held on November 4, 2008, on State Question 743, Legislative Referendum Number 346, are as follows:

Total Votes – 1,349,113

YES — 1,064,972

NO – 284,141

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma this 20th day of November, 2008.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

BRAD HENRY

