

February 3, 2016

The Honorable Chris Benge
Oklahoma Secretary of State
2300 N. Lincoln Boulevard, Ste. 101
Oklahoma City, Oklahoma 73105-4897

Re: Initiative Petition

Dear Mr. Secretary,

Please find enclosed for filing on behalf our client, Oklahomans for Modern Laws, Proponents, a true copy of an initiative petition to amend the Oklahoma Constitution and a proposed ballot title, pursuant to the requirements of Article 5, Sections 1,2, and 3 of the Oklahoma Constitution and Title 34 of the Oklahoma Statutes. The initiative petition requests that the proposed amended Article 28 of the Oklahoma Constitution be submitted to the voters at the general election on November 8, 2016.

Very truly yours,



Glenn Coffee,
Denise Davick
GLENN COFFEE & ASSOCIATES
P.O. Box 437
Oklahoma City, OK 73101

Counsel for Proponents

CC: Oklahoma Attorney General Scott Pruitt

RECEIVED

FEB 03 2016

OKLAHOMA SECRETARY
OF STATE

FILED

FEB 03 2016

PROPOSED BALLOT TITLE

OKLAHOMA SECRETARY
OF STATE

This measure repeals and replaces Article 28 of the State Constitution. It allows for the retail sale of wine and beer of not more than eight and ninety-nine one hundredths percent (8.99%) alcohol for off-premises consumption in warehouse clubs and supercenters, convenience stores, gasoline stations with convenience stores, and supermarkets and other grocery stores. It creates grocery store wine and grocery store beer licenses. It establishes the taxation of retail sales and purchase and distribution requirements of wine, beer and spirits by licensees and retail package stores. It places no limit on the number of grocery store wine or beer licenses issued to a licensee. It prohibits licenses from being issued to certain applicants convicted of a felony within 15 years. It allows grocery store wine and beer licenses to be held by certain entities from outside the state. It requires that license fees be divided between the Oklahoma Beverage Laws Enforcement Commission and the Community-based Substance Abuse Revolving Fund. It prohibits the sale of spirits on Sundays. It prohibits the sale of wine, beer and spirits to persons under 21 years of age.

SHALL THE PROPOSED AMENDMENT TO THE CONSTITUTION BE APPROVED?

YES - For the proposal

NO - Against the proposal

A "YES" vote is a vote in favor of this measure. A "NO" vote is a vote against this measure.

WARNING

IT IS A FELONY FOR ANYONE TO SIGN AN INITIATIVE OR REFERENDUM PETITION WITH ANY NAME OTHER THAN HIS OWN, OR TO KNOWINGLY SIGN HIS NAME MORE THAN ONCE FOR THE MEASURE, OR TO SIGN THE PETITION WHEN HE IS NOT A LEGAL VOTER.

INITIATIVE PETITION

To the Honorable Mary Fallin, Governor of Oklahoma:

We, the undersigned legal voters of the State of Oklahoma, respectfully order that the following proposed amendment to the constitution shall be submitted to the legal voters of the State of Oklahoma for their approval or rejection at the regular general election, to be held on the 8th day of November, 2016, and each for himself says: I have personally signed this petition; I am a legal voter of the State of Oklahoma; my residence or post office are correctly written after my name. The time for filing this petition expires ninety days from _____. The question we herewith submit to our fellow voters is:

Shall the following proposed amendment to Article 28 of the Constitution be approved?

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA THAT AN AMENDED ARTICLE 28 OF THE OKLAHOMA CONSTITUTION BE APPROVED:

§ 1. Creation of Commission – Appointment – Membership – Powers – Tenure.

There is hereby created the Alcoholic Beverage Laws Enforcement Commission. The purpose of the Commission shall be to enforce the alcoholic beverage laws of the State, and the Commission shall have such power and authority to enforce such laws, rules and regulations as shall be prescribed by the Legislature.

The Commission shall consist of seven (7) members to be appointed by the Governor with the advice and consent of the State Senate. Five (5) of the members shall be at-large members representing the lay citizenry. The remaining two (2) members shall be persons with law enforcement experience in the State. Any time there is a vacancy on the Commission the Governor shall appoint a replacement, with the advice and consent of the State Senate, within ninety (90) days. Members of the Commission shall be appointed for a term of five (5) years. The Commission shall appoint a Director whose duties shall be defined by the Legislature. No more than four (4) members of the Commission shall be appointed from the same political party. No more than two (2) members of the Commission shall be appointed from the same federal congressional district.

No member of the Commission shall hold any license authorized by this Article, or have any interest in any capacity, in the manufacture, sale, distribution or transportation of alcoholic beverages.

The members of the Commission shall be removable from office for cause as other officers not subject to impeachment.

§ 1.A. Transition to a reconstituted Alcoholic Beverage Laws Enforcement Commission.

The Alcoholic Beverage Laws Enforcement Commission shall continue to exist and operate after passage of this Article. The present seven (7) members of the Alcoholic Beverage Laws Enforcement Commission shall automatically become the seven (7) members on the reconstituted Commission. These members shall serve from the date of the Commission's reconstitution until the time that his or her term on the previous Alcoholic Beverage Laws Enforcement Commission would have expired.

§ 2. Enforcement authority of Alcoholic Beverage Laws Enforcement Commission.

Notwithstanding any other provisions of this Constitution to the contrary, the Alcoholic Beverage Laws Enforcement Commission shall have authority to enforce laws, rules and regulations for the sale of all alcoholic beverages, including spirits, wine and beer and every liquid or solid, patented or not, containing spirits, wine or beer and capable of being consumed as a beverage by human beings.

- A. Spirits shall include (1) wine containing more than thirteen and nine tenths percent (13.9%) alcohol measured by volume, (2) beer containing more than eight and ninety-nine one hundredths percent (8.99%) alcohol measured by volume, or (3) any beverage other than wine or beer containing one-half of one percent (1/2 of 1%) of alcohol measured by volume and obtained by distillation but not including any alcohol liquid completely denatured in accordance with the Acts of Congress and regulations pursuant thereto. The sale of spirits shall be subject to the provisions of this Constitution.
- B. Wine shall include any beverage containing more than one-half of one percent (1/2 of 1%) of alcohol measured by volume and not more than thirteen and nine tenths percent (13.9%) alcohol by the volume at sixty degrees Fahrenheit obtained by the fermentation of natural contents of fruits, vegetables, honey, milk or other products containing sugar, including all such beverages taxed as wine under the Internal Revenue Code (26 U.S.C. 5041 and successor statutes) and produced in accordance with federal regulations promulgated pursuant to that Code. The sale of wine shall be subject to the provisions of this Constitution. Provided, however, nothing in this Constitution or other law shall prevent the sale of wine, refrigerated or unrefrigerated, for off-premises consumption in warehouse clubs and supercenters, supermarkets and other grocery stores including convenience stores, and gasoline stations with convenience stores, as those terms are defined by 2012 North American Industry Classification System, or in any package store.
- C. Beer shall include any beverage containing more than one-half of one percent (1/2 of 1%) of alcohol measured by volume and not more than eight and ninety-nine one hundredths percent (8.99%) alcohol measured by volume and obtained by alcoholic fermentation of any infusion or decoction of malted barley, other grains, and/or other products suitable for human consumption, including all such beverages taxed as beer under the Internal Revenue Code (26 U.S.C. 5052 and successor statutes) and produced in accordance with federal regulations promulgated pursuant to that Code. The Legislature shall enact laws providing for the strict regulation, control, licensing, and taxation of the manufacture, sale, distribution, possession, and transportation of beer. Provided, however, nothing in this Constitution or other law shall prevent the sale of beer, refrigerated or unrefrigerated, for off-premises consumption in any warehouse clubs and supercenters, supermarkets and other grocery stores including convenience stores, and gasoline stations with convenience stores, as those terms are defined by 2012 North American Industry Classification System, or in any package store, subject to the limitations in Section 6 of this Article.

§ 3. Enactment of laws by Legislature - Nondiscrimination in sales to licensed wholesale distributors - Sales by winemakers.

- A. The Legislature shall enact laws providing for the strict regulation, control, licensing, and taxation of the manufacture, sale, distribution, possession, and transportation of spirits or wine, consistent with the provisions of this Article. Provided, that any manufacturer, or subsidiary of any manufacturer of spirits or wine, 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. Winemakers either within or without this state that annually produce no more than fifteen thousand (15,000) gallons of wine may sell and ship only the wine they produce 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 shall not be prohibited from directly marketing, selling or shipping its wine to consumers.
- C. All laws passed by the Legislature under the authority of the Article shall be consistent with this provision. All provisions of this Article are declared to be interdependent. If any provision of this Article 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, restaurants, warehouse clubs and supercenters, supermarkets and other grocery stores including convenience stores, and gasoline stations with convenience stores, in this state.

§ 4. Retail sales by package stores and by the individual drink.

Except as hereinafter provided, retail sales of alcoholic beverages, which may include spirits, wine or beer, shall be limited to the original sealed package, by privately owned and operated package stores, in cities and towns having a population in excess of two hundred (200) persons or by wineries; provided that wineries shall be able to sell only wine which has been produced on the winery premises. No goods, wares, or merchandise shall be sold and no services shall be rendered at retail package stores on which retail package alcoholic beverages are sold. Said premises are herein defined to be the entire space in which retail package alcoholic beverages are sold or displayed and said premises must be separated from any premises on which any other goods, wares, or merchandise are sold or services rendered by walls which may only be broken by a passageway to which the public is not admitted; provided, the restriction on the sale of merchandise and rendering of services shall not apply to the premises of a winery.

Not more than one retail package license shall be issued to any person or general or limited partnership. Retail sale of alcoholic beverages by the individual drink for on-premises consumption is hereby authorized within a county if the voters of such county have previously approved such retail sale at an election.

§ 4.A. Grocery store sale of wine and beer.

- A. Wine may be sold at retail for off-premises consumption, refrigerated or unrefrigerated, in the original sealed package in warehouse clubs and supercenters, supermarkets and other grocery stores including convenience stores, and gasoline stations with convenience stores, pursuant to a grocery store wine license. Other goods, wares or merchandise may be sold on the same premises. Sales of wine by a grocery store wine licensee shall only be permitted on the same days and at the same times that sales of wine are permitted in any retail package store and shall only be permitted to customers who are physically present on the premises of the grocery store wine licensee. No wine shall be sold to any person under the age of twenty-one (21) years; however, persons under the age of twenty-one (21) years may purchase other goods, wares or merchandise sold on the premises of a grocery store wine licensee provided the sale of such goods, wares or merchandise is not prohibited to persons under the age of twenty-one (21) by provisions of this Constitution or other laws of this State.

A grocery store wine license may only be issued to warehouse clubs and supercenters, supermarkets and other grocery stores including convenience stores, and gasoline stations with convenience stores. As used in this section, the terms "warehouse clubs and supercenters" and "supermarkets and other grocery stores including convenience stores" shall be defined by the 2012 North American Industry Classification System.

Wine shall be purchased by and distributed to grocery store wine licensees subject to the same requirements provided by this Constitution and the laws of this State for a retail package store. Taxation for retail sale of wine and license fees for grocery store wine and licensees shall be the same as provided by law for retail package store licensees.

This provision places no limit on the number of grocery store wine licenses issued to a licensee.

B. Beer may be sold at retail for off-premises consumption, refrigerated or unrefrigerated, in the original sealed package, or into transfer containers as allowed by state law, or single cans from a larger sealed package, in warehouse clubs and supercenters, supermarkets and other grocery stores including convenience stores, and gasoline stations with convenience stores, pursuant to a grocery store beer license. Other goods, wares or merchandise may be sold on the same premises. Sales of beer by a grocery store beer licensee shall only be permitted on the same days and at the same times that are permitted pursuant to Article 28, Section 6(b) of the Oklahoma Constitution; and shall only be permitted to customers who are physically present on the premises of the grocery store beer licensee. No beer shall be sold to any person under the age of twenty-one (21) years; however, persons under the age of twenty-one (21) years may purchase other goods, wares or merchandise sold on the premises of a grocery store beer licensee provided the sale of such goods, wares or merchandise is not prohibited to persons under the age of twenty-one (21) by provisions of this Constitution or other laws of this State.

A grocery store beer license may only be issued to warehouse clubs and supercenters, supermarkets and other grocery stores including convenience stores, and gasoline stations with convenience stores. As used in this section, the terms "warehouse clubs and supercenters" and "supermarkets and other grocery stores including convenience stores" shall be defined by the 2012 North American Industry Classification System.

Beer shall be purchased by beer wholesalers and distributed to grocery store licensees subject to the same requirements provided by the laws of this state under the Low-Point Beer Distribution Act as codified in Oklahoma Statutes Title 37, Chapter 2, Section 163.18A et seq., as of the date of passage of this Article. Provided, the provisions of Section 163.18D(E) which require beer purchased by a wholesaler to be unloaded in and distributed from a warehouse of the wholesaler located in this state, prior to being resold in this state shall not be a part of this Constitutional provision and shall have no force and effect.

Age of store clerk shall be governed by this Constitution and by the laws of this State pursuant to Title 37, Chapter 2, Section 243 as of the date of passage of this Article. The Legislature may amend Title 37, Chapter 2, Section 243 as of the date of the passage of this Article, in whole or in part, subsequent to the passage of this Article.

Taxation for retail sale of beer and license fees for grocery store beer and licensees shall be the same as provided by law for retail package store licensees.

This provision places no limit on the number of grocery store beer licenses issued to a licensee.

C. This section 4.A. shall become effective on July 4, 2017 for the sale of wine, and shall become effective January 1, 2017 for the sale of beer.

§ 5. Prohibition of sales to certain persons - Limitation on advertising – Penalties.

It shall be unlawful for any licensee to sell or furnish any alcoholic beverage to:

- A person under twenty-one (21) years of age; or
- A person who has been adjudged insane or mentally deficient; or
- A person who is intoxicated.

Sales, gifts, or deliveries of spirits or wine to persons under twenty-one (21) years of age shall be deemed a felony; and any license issued pursuant to any law, in compliance with this Article, shall be revoked, upon conviction for such sale, gift, or delivery. Sales, gifts, or deliveries of beer made willfully or knowingly to persons under twenty-one (21) years of age shall be deemed a felony.

It shall be unlawful for any person, firm, or corporation to advertise the sale of spirits within the State of Oklahoma, except by a sign at retail package stores bearing the words "Retail Alcoholic Liquor Store." Sales to insane, mentally deficient, or intoxicated persons shall be deemed a felony.

Any person under the age of twenty-one (21) years who misrepresents his age, for the purpose of obtaining the purchase of any alcoholic beverage, shall be guilty of a misdemeanor.

§ 6. Prohibition of sales on certain days – Penalties.

- A. It shall be unlawful for any retail package store to sell, at retail, any alcoholic beverage:

On the first day of the week, commonly called Sunday; and
On Thanksgiving Day, and Christmas Day.

- B. The voters of any county electing to authorize sales of alcoholic beverages by the individual drink for on-premises consumption under Section 4 hereof may designate as days on which such sales are not authorized, any or all of those days listed in subsection (A) of this section. It shall be unlawful for any licensee or person to make any such sale within any such county on days so designated.
- C. Any licensee or person violating the provisions of this section shall be deemed guilty of a misdemeanor and any license issued pursuant to provisions of this Article shall be revoked upon conviction for such sale in violation of this section.

§ 7. Taxation and licensing - Distribution of funds.

The retail sale of alcoholic beverages shall be subject to the sales tax statutes enacted by the Legislature and in addition thereto the Legislature may levy taxes upon the manufacture, possession and/or all sales of alcoholic beverages, including sales by retail package stores, grocery store wine licensees, grocery store beer licensee and sales by the individual drink for on-premises consumption, the proceeds of which, except sales tax, shall be distributed as follows:

- A. The Oklahoma Tax Commission shall collect and distribute the taxes collected under the terms of this Article and shall distribute ninety-seven percent (97%) of such taxes as are levied and as are attributable to retail sales by retail package stores, grocery store wine licensees, and grocery store beer licensees as follow.
- (1) One-third (1/3) of taxes attributable to sales by retail package stores, grocery store wine licensees, and grocery store beer licensees shall be allocated to the counties of the State of Oklahoma on the basis of area and population (giving equal weight to area and population) and all of said funds shall be appropriated by the Board of County Commissioners in each county to all incorporated cities and towns in said county on the basis of population within each city and town on a per capita basis based on the last preceding Federal Decennial Census.
 - (2) Two-thirds (2/3) of taxes attributable to sales by retail package stores, grocery store wine licensees, grocery store beer licensees shall be credited to the General Revenue Fund of the State of Oklahoma.
- B. The remaining three percent (3%) of taxes attributable to sales of alcoholic beverages by retail package stores, grocery store wine licensees, and grocery store beer licensees; and up to three percent (3%) of taxes attributable to sales of alcoholic beverages by the individual drink for on-premises consumption, as shall be determined by the State Legislature; shall be paid to the State Treasurer and placed to the credit of the Oklahoma Tax Commission Fund, to be paid out of said fund pursuant to appropriations made by the State Legislature.
- C. The remaining taxes attributable to sales of alcoholic beverages by the individual drink for on-premises consumption, shall be credited to the General Revenue Fund of the State of Oklahoma. The State Legislature shall appropriate to the Oklahoma Alcoholic Beverage Laws Enforcement Commission from all available taxes collected under this Article, whatever funds are necessary to provide for full enforcement of the alcoholic beverage laws of the State.
- D. All State license fees shall be collected by the Oklahoma Alcoholic Beverage Laws Enforcement Commission and deposited in the State Treasury and after the expenses of the Commission, as approved by the Legislature, have been deducted, the balance shall be credited to the General Revenue Fund of the State of Oklahoma.
- E. The State Legislature is authorized to create a license fee for grocery store wine licenses, grocery store beer licenses, and direct wine shipment licenses. The Legislature shall apportion ninety five percent (95%) of each license fee to the Oklahoma Alcoholic Beverage Laws Enforcement Commission and

five percent (5%) to the Community-based Substance Abuse Revolving Fund established in Title 43A, Section 2-311 of the Oklahoma Statutes, or successor statutes.

§ 8. State and political subdivisions prohibited from engaging in business.

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

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

§ 9. Occupation Tax.

Incorporated cities and towns wherein the sale of alcoholic beverages is lawful, may levy an occupation tax, not exceeding the amount of the State license fees, for the manufacture, distribution, or sale of alcoholic beverages.

§ 10. Restrictions on issuance of licenses.

A. No retail package store or wholesale distributor's license shall be issued to:

- (1) A corporation, business trust or secret partnership; provided, this provision shall not prohibit the issuance of a wholesale distributor's license for beer to a corporation.
- (2) A person or partnership unless such person or all of the copartners including limited partners shall have been residents of the State of Oklahoma for at least ten (10) years immediately preceding the date of application for such license, provided, this residency requirement shall not apply to the issuance of a wholesale distributor's license for beer.

B. No grocery store wine license, grocery store beer license, license to sell alcoholic beverages by the individual drink for on-premises consumption, retail package store license, wholesale distributor's license for spirits or wine, or wholesale distributor's license for beer shall be issued to:

- (1) An applicant if the applicant or any type of partner has been convicted of a felony within fifteen (15) years prior to the application date.
- (2) A corporation if a stockholder owning fifteen percent (15%) of the stock or an officer or a director has been convicted of a felony within fifteen (15) years prior to the application date.
- (3) A limited liability company if a manager or a member has been convicted of a felony within fifteen (15) years prior to the application date, and such manager or member has an ownership interest greater than fifty percent (50%).

C. No provision of this Constitution or other laws of this State shall prohibit the issuance of a grocery store wine license or a grocery store beer license solely because the applicant is a foreign corporation, a domestic corporation, a limited liability company, partnership or individual; nor shall any provision of this Constitution or other laws of this State require a durational residency requirement as a condition for being issued a grocery store wine license or a grocery store beer license.

D. No retail package store or wholesale distributor's license for spirits or wine shall be issued to:

- (1) A corporation, business trust or secret partnership.

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

E. No wholesale distributor's license for beer shall be issued to:

(1) A business trust or secret partnership.

F. No provision of this Constitution or other laws of this State shall prohibit the issuance of a special license to state or county fair associations for the sale of beer for on-premises consumption at rodeos, picnics or other organized assemblages of people, provided that the State Legislature enacts laws allowing for such special license.

Names and Addresses of Proponents:

Oklahomans for Modern Laws
6608 N Western Avenue, Suite 343
Oklahoma City, OK 73116

Sean Campbell
6608 N Western Avenue, Suite 343
Oklahoma City, OK 73116

Brian Howe
6608 N Western Avenue, Suite 343
Oklahoma City, OK 73116

SIGNATURES

This measure repeals and replaces Article 28 of the State Constitution. It allows for the retail sale of wine and beer of not more than eight and ninety-nine one hundredths percent (8.99%) alcohol for off-premises consumption in warehouse clubs and supercenters, convenience stores, gasoline stations with convenience stores, and supermarkets and other grocery stores. It creates grocery store wine and grocery store beer licenses. It establishes the taxation of retail sales and purchase and distribution requirements of wine, beer and spirits by licensees and retail package stores. It places no limit on the number of grocery store wine or beer licenses issued to a licensee. It prohibits licenses from being issued to certain applicants convicted of a felony within 15 years. It allows grocery store wine and beer licenses to be held by certain entities from outside the state. It requires that license fees be divided between the Oklahoma Beverage Laws Enforcement Commission and the Community-based Substance Abuse Revolving Fund. It prohibits the sale of spirits on Sundays. It prohibits the sale of wine, beer and spirits to persons under 21 years of age.

WARNING

IT IS A FELONY FOR ANYONE TO SIGN AN INITIATIVE OR REFERENDUM PETITION WITH ANY NAME OTHER THAN HIS OWN, OR TO KNOWINGLY SIGN HIS NAME MORE THAN ONCE FOR THE MEASURE, OR TO SIGN THE PETITION WHEN HE IS NOT A LEGAL VOTER

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|-----|----------------------------|----------------|----|--------|
| 1. | _____ / _____ | _____ / _____ | OK | _____ |
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| | Signature and Printed Name | Residence City | | County |
| 20. | _____ / _____ | _____ / _____ | OK | _____ |
| | Signature and Printed Name | Residence City | | County |

AFFIDAVIT

STATE OF OKLAHOMA,)
) ss.
COUNTY OF _____)

I, _____, being first duly sworn say:

That I am at least eighteen (18) years old and that all signatures on the signature sheet were signed in my presence; I believe that each has stated his or her name, mailing address, and residence correctly, and that each signer is a legal voter of the State of Oklahoma.

Circulator's Signature

Address

City Zip Code

Subscribed and sworn to before me this _____ day of _____, 2016.

Notary Public

Address

City Zip Code

My Commission Number Is: _____
My Commission Expires: _____
(SEAL)



Chris Bengé
Secretary of State
and
Native American Affairs

Mary Fallin
Governor

OKLAHOMA SECRETARY OF STATE

February 3, 2016

FILED

FEB 03 2016

OKLAHOMA SECRETARY
OF STATE

Oklahomans for Modern Law
6608 N Western Avenue, Suite 343
Oklahoma City, Oklahoma 73116

Sean Campbell
6608 N Western Avenue, Suite 343
Oklahoma City, Oklahoma 73116

Brian Howe
6608 N Western Avenue, Suite 343
Oklahoma City, Oklahoma 73116

Dear Proponent(s):

This acknowledges receipt of the petition submitted to our office, which has been designated as **State Question Number 783, Initiative Petition Number 407**, and filed accordingly this February 3, 2016.

Per Title 34 O.S. Section 8, subsequent to the publication of the notice of filing of said petition, the apparent sufficiency or insufficiency thereof and notice that any citizen(s) of the state may file a protest as to the constitutionality of the petition, the Secretary of State will provide a notification to the proponent(s) setting the date to begin circulation for signatures. The date set shall not be less than fifteen (15) days nor more than thirty (30) days from the date when all appeals, protests and rehearings have been resolved or the period for filing such has expired.

If we may provide any further assistance or should you have any questions, please do not hesitate to contact our office (405-522-4565 or executivelegislative@sos.ok.gov).

Sincerely,

Chris Bengé
Secretary of State and
Native American Affairs

cc: Glenn Coffee & Associates



Chris Benge
Secretary of State
and
Native American Affairs

Mary Fallin
Governor

OKLAHOMA SECRETARY OF STATE

February 4, 2016

Ms. Cindy Shea
Oklahoma Press Service
3601 N. Lincoln
Oklahoma City, Oklahoma 73105

Dear Ms. Shea:

Please find enclosed the following for publication;

- **Notice of Filing for State Question 783, Initiative Petition 407**

Per Title 34 O.S. § 8, the publications must appear in at least one newspaper of general circulation in the State of Oklahoma. Please publish the enclosed notices in *The Oklahoman*, *Tulsa World*, and the *Journal Record* as soon as possible.

Also, upon the completion of publication, please provide our office with the corresponding Affidavits of Publication. Should you have any questions, please do not hesitate to contact our office.

Sincerely,

A handwritten signature in black ink that reads "Chris Benge".

Chris Benge
Secretary of State and
Native American Affairs

**NOTICE OF THE FILING OF STATE QUESTION 783, INITIATIVE PETITION 407,
THE APPARENT SUFFICIENCY THEREOF, AND NOTICE TO CITIZENS OF THE STATE THAT
ANY SUCH PROTEST, AS TO THE CONSTITUTIONALITY OF SAID PETITION, MUST BE FILED
ACCORDINGLY WITHIN TEN (10) BUSINESS DAYS AFTER THIS NOTICE (Okla. Stat. tit. 34, § 8)**

NOTICE is hereby given that on February 3, 2016, State Question 783, Initiative Petition 407 was filed in the Office of the Oklahoma Secretary of State.

NOTICE is also hereby given that State Question 783, Initiative Petition 407 is SUFFICIENT for filing with the Office of the Oklahoma Secretary of State.

NOTICE is likewise, hereby given, as provided in Title 34 Section 8 of the Oklahoma Statutes, that any citizen or citizens of the state may file a protest as to the constitutionality of said petition, by a written notice to the Supreme Court and to the proponents or proponents filing the petition. Any such protest must be filed within ten (10) business days after publication of this notice. Also, a copy of any such protest shall be filed with the Office of the Oklahoma Secretary of State.

Proponents of record for State Question 783, Initiative Petition 407:

| | | |
|----------------------------------|----------------------------------|----------------------------------|
| Oklahomans for Modern Law | Sean Campbell | Brian Howe |
| 6608 N Western Avenue, Suite 343 | 6608 N Western Avenue, Suite 343 | 6608 N Western Avenue, Suite 343 |
| Oklahoma City, Oklahoma 73116 | Oklahoma City, Oklahoma 73116 | Oklahoma City, Oklahoma 73116 |

Chris Bengé
Oklahoma Secretary of State and
Native American Affairs

Chris Bengé
Secretary of State
and
Native American Affairs



SECRETARY OF STATE
AND
NATIVE AMERICAN AFFAIRS

Mary Fallin
Governor

February 4, 2016

RECEIVED

The Honorable Mary Fallin
Governor, State of Oklahoma
Room 212, State Capitol
Oklahoma City, Oklahoma 73105

FEB 04 2016

OFFICE OF THE
GOVERNOR

Dear Governor Fallin:

Please be advised that an initiative petition, designated as **State Question 783, Initiative Petition 407**, was sufficiently filed with the Office of the Secretary of State on Wednesday, February 3, 2016. Proponent of record for said petition is as follows;

| | | |
|---------------------------|-------------------------|-------------------------|
| Oklahomans for Modern Law | Sean Campbell | Brian Howe |
| 6608 N. Western Ave. | 6608 N. Western Ave. | 6608 N. Western Ave. |
| Suite 343 | Suite 343 | Suite 343 |
| Oklahoma City, OK 73068 | Oklahoma City, OK 73068 | Oklahoma City, OK 73068 |

Please find enclosed a true and exact copy of State Question 783, Initiative Petition 407 on record with the Office of the Secretary of State.

Per Title 34 O.S. Section 8, subsequent to the publication of notice of filing of said petition, the apparent sufficiency thereof and notice that any citizen(s) of the state may file a protest as to the constitutionality of the petition, the Secretary of State will provide a notification to the proponent(s) setting the date to begin circulation for signatures. The date set shall not be less than fifteen (15) days nor more than thirty (30) days from the date when all appeals, protests and rehearings have been resolved or the period for filing such has expired.

If I may be of any further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Chris Bengé". The signature is written in a cursive style with a large, prominent "C" and "B".

Chris Bengé
Secretary of State and
Native American Affairs



Chris Bengé
Secretary of State
and
Native American Affairs

Mary Fallin
Governor

SECRETARY OF STATE
AND
NATIVE AMERICAN AFFAIRS

RECEIVED

FEB 04 2016

STATE ELECTION
BOARD

February 4, 2016

Secretary Paul Ziriach
Oklahoma State Election Board
Room 3, State Capitol
Oklahoma City, Oklahoma 73105

Dear Secretary Ziriach:

Please be advised that an initiative petition, designated as **State Question 783, Initiative Petition 407**, was sufficiently filed with the Office of the Secretary of State on Wednesday, February 3, 2016. Proponent of record for said petition is as follows;

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If I may be of any further assistance, please do not hesitate to contact me.

Sincerely,

Chris Bengé
Secretary of State and
Native American Affairs

Oklahoma Press Service

3601 North Lincoln Blvd.

Oklahoma City, OK 73105-

Voice (405) 499-0020 Fax (405) 499-0048

Tuesday, February 23, 2016 09:32 AM

Page 1

Proof of Publication Order Number 16-02-27

I, Cindy Shea, of lawful age, being duly sworn upon oath, deposes and says: That I am the Authorized Agent of OK-TULSA WORLD - Legal, a Daily newspaper printed and published in the city of TULSA, county of Tulsa, and state of Oklahoma, and that the advertisement referred to, a true and printed copy of which is here unto attached, was published in said OK-TULSA WORLD - Legal in consecutive issues on the following dates-to-wit:

Insertion: 02/07/2016

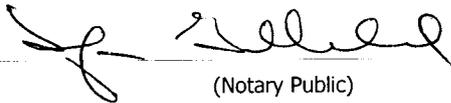
That said newspaper has been published continuously and uninterruptedly in said county during a period of one-hundred and four consecutive weeks prior to the publication of the attached notice or advertisement; that it has been admitted to the United States mail as second-class mail matter; that it has a general paid circulation, and publishes news of general interest, and otherwise conforms with all of the statutes of the Oklahoma governing legal publications.

PUBLICATION FEE \$70.78

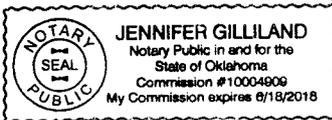


(Editor, Publisher or Authorized Agent)

SUBSCRIBED and sworn to me this
23 day of February 2016.



(Notary Public)



NOTICE OF THE FILING OF STATE QUESTION 783, INITIATIVE PETITION 407, THE APPARENT SUFFICIENCY THEREOF, AND NOTICE TO CITIZENS OF THE STATE THAT ANY SUCH PROTEST, AS TO THE CONSTITUTIONALITY OF SAID PETITION, MUST BE FILED ACCORDINGLY WITHIN TEN (10) BUSINESS DAYS AFTER THIS NOTICE (Okla. Stat. tit. 34, § 8)

NOTICE is hereby given that on February 3, 2016, State Question 783, Initiative Petition 407 was filed in the Office of the Oklahoma Secretary of State.

NOTICE is also hereby given that State Question 783, Initiative Petition 407 is SUFFICIENT for filing with the Office of the Oklahoma Secretary of State.

NOTICE is likewise, hereby given, as provided in Title 34 Section 8 of the Oklahoma Statutes, that any citizen or citizens of the state may file a protest as to the constitutionality of said petition, by a written notice to the Supreme Court and to the proponents or proponents filing the petition. Any such protest must be filed within ten (10) business days after publication of this notice. Also, a copy of any such protest shall be filed with the Office of the Oklahoma Secretary of State.

Proponents of record for State Question 783, Initiative Petition 407:

Oklahomans for Modern Law
6608 N Western Avenue, Suite 343
Oklahoma City, Oklahoma 73116

Sean Campbell
6608 N Western Avenue, Suite 343
Oklahoma City, Oklahoma 73116

Brian Howe
6608 N Western Avenue, Suite 343
Oklahoma City, Oklahoma 73116

Chris Bengé
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Page 1

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Insertion: 02/07/2016

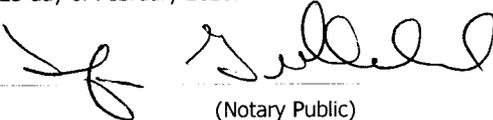
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PUBLICATION FEE \$1,156.61



(Editor, Publisher or Authorized Agent)

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23 day of February 2016.



(Notary Public)



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Page 1

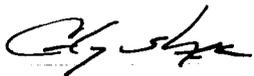
Proof of Publication Order Number 16-02-27

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Insertion: 02/08/2016

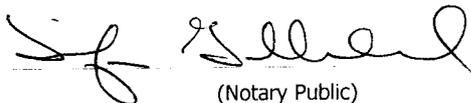
That said newspaper has been published continuously and uninterruptedly in said county during a period of one-hundred and four consecutive weeks prior to the publication of the attached notice or advertisement; that it has been admitted to the United States mail as second-class mail matter; that it has a general paid circulation, and publishes news of general interest, and otherwise conforms with all of the statutes of the Oklahoma governing legal publications.

PUBLICATION FEE \$38.25

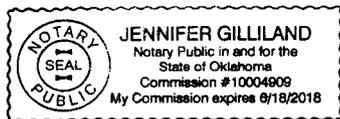


(Editor, Publisher or Authorized Agent)

SUBSCRIBED and sworn to me this
23 day of February 2016.



(Notary Public)



NOTICE OF THE FILING OF STATE QUESTION 783, INITIATIVE PETITION 407, THE APPARENT SUFFICIENCY THEREOF, AND NOTICE TO CITIZENS OF THE STATE THAT ANY SUCH PROTEST, AS TO THE CONSTITUTIONALITY OF SAID PETITION, MUST BE FILED ACCORDINGLY WITHIN TEN (10) BUSINESS DAYS AFTER THIS NOTICE (Okla. Stat. tit. 34, § 8)

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Proponents of record for State Question 783, Initiative Petition 407:

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Oklahoma City, Oklahoma 73116

Sean Campbell
6608 N Western Avenue, Suite 343
Oklahoma City, Oklahoma 73116

Brian Howe
6608 N Western Avenue, Suite 343
Oklahoma City, Oklahoma 73116

Chris Bengel
Oklahoma Secretary of State
and Native American Affairs

FILED
SUPREME COURT
STATE OF OKLAHOMA

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA FEB 18 2016

MICHAEL S. RICHIE
CLERK

In re:)
)
INITIATIVE PETITION 407)
)
STATE QUESTION 783)
)

No. #114712

PROTEST TO THE INITIATIVE PETITION

To: THE SUPREME COURT OF OKLAHOMA

-AND-

Oklahomans for Modern Law
6608 N. Western Avenue, Suite 343
Oklahoma City, Oklahoma 73116

Sean Campbell
6608 N. Western Avenue, Suite 343
Oklahoma City, Oklahoma 73116

Brian Howe
6608 N. Western Avenue, Suite 343
Oklahoma City, Oklahoma 73116

Glenn Coffee, Esq.
Glenn Coffee & Associates
915 N. Robinson
Oklahoma City, Oklahoma 73102

Chris Bengel
Secretary of State
421 N.W. 13th Street, Suite 210 & 220
Oklahoma City, Oklahoma 73103

RECEIVED

FEB 18 2016

OKLAHOMA SECRETARY
OF STATE

The Retail Liquor Association of Oklahoma, a non-profit organization founded under the laws of Oklahoma, protests the legal sufficiency of Initiative Petition No. 407, State Question No. 783 ("IP 407"), as follows:

Preliminary Statement

1. IP 407's prohibition on advertising by in-state advertisers of the sale of spirits violates the equal protection clause of the Fourteenth Amendment of the United States Constitution, as previously ruled upon by United States District Court for the Western District of Oklahoma in *Oklahoma Broadcasters Ass'n v. Crisp*, 636 F. Supp 978 (1985).

2. IP 407 violates Art. 24, § 1, of the Oklahoma Constitution because it addresses more than one general subject.

Background

3. On February 3, 2016, the proponents of IP 407 filed that Petition with the Secretary of State. See Letter from Sec'y of State Chris Benge to Oklahomans for Modern Law (Feb. 3, 2016), available at: <https://www.sos.ok.gov/documents/questions/761.pdf>.

4. On February 7, 2016, the Secretary of State published notice of the filing of IP 407 in newspapers of record in Oklahoma.

IP 407 Violates the Fourteenth Amendment to the U.S. Constitution

5. In *Oklahoma Broadcasters Ass'n v. Crisp*, 636 F. Supp 978 (1985), the United States District Court for the Western District of Oklahoma considered a challenge to the language of Article 28, § 5 and Okla. Stat. tit. 37, § 516, both of which banned alcoholic beverage advertising. The Plaintiff argued that prohibiting in-state advertisers from advertising alcoholic beverages when out-of-state advertisers were under no such prohibition, violated equal protection of the laws, as guaranteed by the Fourteenth Amendment to the United States Constitution.

6. The United States District Court for the Western District found that even under the lowest standard of review: rational basis, "the Court finds that Oklahoma applies its

prohibition on alcoholic beverages in an arbitrary, capricious and irrational manner. Accordingly, the Court DECLARES that Oklahoma's prohibition on alcoholic beverage advertising [Okla. Const. art. XXVIII, § 5 and Okla.Stat. tit. 37, § 516 (1981)], as applied, violates plaintiff's right of equal protection of the laws, guaranteed by the Fourteenth Amendment of the United States Constitution." *Id.* at 992.

7. The provision of the Oklahoma Constitution, Article 28, § 5 at issue in *Oklahoma Broadcasters Ass'n, supra.* reads as follows: "It shall be unlawful for any person, firm, or corporation to advertise the sale of alcoholic beverages within the State of Oklahoma, except by a sign at retail package stores bearing the words 'Retail Alcoholic Liquor Store.'"

8. IP 407 seeks to amend Article 28, § 5 to read as follows: "It shall be unlawful for any person, firm, or corporation to advertise the sale of **spirits** within the State of Oklahoma, except by a sign at retail package stores bearing the words 'Retail Alcoholic Liquor Store.'" Emphasis added.

9. The language proposed by IP 407 is identical to the current language, except that IP 407 only intends to prohibit the sale of spirits, and not the sale of wine or beer. There is no rational basis for a prohibition on only one form of alcoholic beverage. Further, *Oklahoma Broadcasters Ass'n, supra.*, mandates that there can be no rational basis when the out-of-state advertisers are not prohibited from advertising the sale of spirits, or any other alcoholic beverage, within the State of Oklahoma.

10. An initiative that violates federal constitutional law must be declared unconstitutional and invalid for all purposes. *See* Art. 1, § 1, Okl. Const. ("The State of Oklahoma is an inseparable part of the Federal Union, and the Constitution of the United States is the supreme law of the land.")

IP 407 Violates the Single-Subject Rule

11. The amendment proposed by IP 407 contains at least five (5) unrelated subjects in violation of Art. 24, § 1, of the Oklahoma Constitution.

12. First, the amendment provides for the sale of wine and strong beer in grocery stores, convenience stores, warehouse clubs, and supercenters.

13. Second, the amendment changes Art. 28, § 5 to place a ban on the advertising of sales of spirits.

14. Third, IP 407 amends Art. 28, § 6 to reduce the number of days on which retail package stores are prohibited from selling alcoholic beverages.

15. Fourth, IP 407 amends Art. 28, § 7 to create a license fee for grocery store wine licenses, grocery store beer licenses, and direct wine shipment licenses, and then details the apportionment of those fees between the Oklahoma Alcoholic Beverage Laws Enforcement Commission and the Community-based Substance Abuse Revolving Fund.

16. Fifth, IP 407 amends Art. 28, § 10 to change and/or lessen the restrictions on issuance to persons and/or entities of a license for a retail package store, a wholesale distributor's license, and a license to sell alcoholic beverages by the individual drink for on-premises consumption.

17. None of these amendments is supplemental or incidental to the other, and voters who support wine in grocery stores would be forced to vote for other amendments that they might not support, like lesser restrictions on the issuance of licenses for retail package stores.

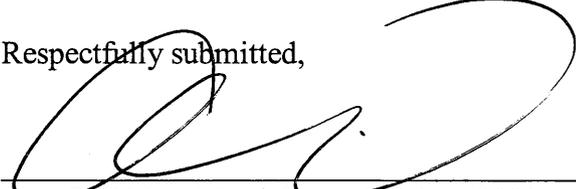
///

///

WHEREFORE, the Protestant respectfully requests that this Court declare IP 407 unconstitutional, insufficient as a matter of law and invalid for all purposes, for the reasons set forth above.

Dated: February 18, 2016

Respectfully submitted,



Ann G. Richard-Farinha, OBA #20815
Janna Dunagan Gau, OBA #18370
HARTSFIELD & EGBERT, P.L.L.C.
307 E. Danforth Road, Suite 130
Edmond, Oklahoma 73034
Telephone: (405) 285-6858
Facsimile: (405) 285-6911
ann@helawedmond.com
janna@helawedmond.com

ATTORNEYS FOR PROTESTANT

CERTIFICATE OF MAILING TO PARTIES

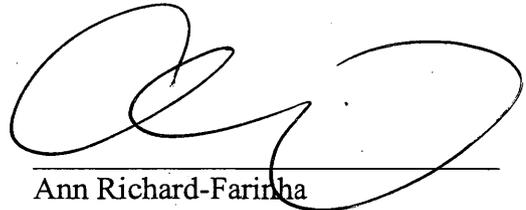
18th I certify that a true and correct copy of the Protest to Initiative Petition was mailed this day of February, 2016, by depositing it in the U.S. Mail, postage prepaid to the following:

Oklahomans for Modern Law
6608 N. Western Avenue, Suite 343
Oklahoma City, Oklahoma 73116

Sean Campbell
6608 N. Western Avenue, Suite 343
Oklahoma City, Oklahoma 73116

Brian Howe
6608 N. Western Avenue, Suite 343
Oklahoma City, Oklahoma 73116

Glenn Coffee, Esq.
Glenn Coffee & Associates
915 N. Robinson
Oklahoma City, Oklahoma 73102



Ann Richard-Farinha

IN THE SUPREME COURT OF THE
STATE OF OKLAHOMA

FILED
SUPREME COURT
STATE OF OKLAHOMA

FEB 22 2016

MICHAEL S. RICHIE
CLERK

INSTITUTE FOR RESPONSIBLE
ALCOHOL POLICY, INC., and
JOHN MAISCH,

PETITIONERS,

v.

OKLAHOMANS FOR MODERN LAWS,
SEAN CAMPBELL, and
BRIAN HOWE,

RESPONDENTS.

#114723

No. _____

RECEIVED
OK SEC. OF STATE
FEB 23 2016

APPLICATION TO ASSUME ORIGINAL JURISDICTION

ROBERT G. MCCAMPBELL, OBA #10390
AMY ELIZABETH DAVIES, OBA #20887
TRAVIS V. JETT, OBA #30601

-Of the Firm-

FELLERS SNIDER, P.C.
100 North Broadway Avenue
Suite 1700
Oklahoma City, Oklahoma 73102
TEL (405) 232-0621
FAX (405) 232-9659
RMcCampbell@FellersSnider.com
LDavies@FellersSnider.com
TJett@FellersSnider.com

ATTORNEYS FOR PETITIONERS,
INSTITUTE FOR RESPONSIBLE
ALCOHOL POLICY, INC., AND
JOHN MAISCH

February 22, 2016

Come now the Petitioners and ask this Court to assume original jurisdiction to review the constitutionality of Initiative Petition No. 407, State Question 783 (“the Petition”) which was filed with the Oklahoma Secretary of State on February 3, 2016. 34 Okla. Stat. § 8(B); Okla. Sup. Ct. R. 1.194. As will be shown in the brief supporting this application, Initiative Petition No. 407 is unconstitutional because (a) it prohibits speech in violation of the U.S. Constitution, and (b) it embraces more than one general subject in violation of Article 24, § 1 of the Oklahoma Constitution.

PARTIES

1. Institute for Responsible Alcohol Policy, Inc. is an Oklahoma nonprofit corporation incorporated with the Secretary of State of the State of Oklahoma and having its headquarters at 2300 North Lincoln, Suite 101, Oklahoma City, Oklahoma County, State of Oklahoma.

2. Petitioner John Maisch is a citizen of Oklahoma, resides in Oklahoma County, Oklahoma, and has lived in Oklahoma for over 20 years.

3. Respondent Oklahomans for Modern Laws is named on the Initiative Petition as a Proponent.

4. Respondent Sean Campbell is named on the Initiative Petition as a Proponent.

5. Respondent Brian Howe is named on the Initiative Petition as a Proponent.

THE COURT’S JURISDICTION

6. Initiative Petition 407 was filed with the Oklahoma Secretary of State on February 3, 2016 and a copy of that Petition is included as Item “A” to the Appendix.

7. The Petitioners bringing this case are citizens of this State qualified to protest the constitutionality of the Initiative Petition filed by the proponents. 34 O.S. § 8(B).

8. This Court's jurisdiction to review a challenge to the Initiative Petition is set forth in 34 O.S. § 8. Pursuant to Rule 1.194 of this Court, a challenge to an initiative petition shall be treated as an original action in this Court.

9. The Notice of the Petition was published by the Secretary of State on Sunday, February 7, 2016. (App'x Tab F) Pursuant to 34 O.S. § 8(B), the Petitioner has ten business days after notice is published in which to file a challenge. Saturdays, Sundays, and holidays are not counted. *In re Initiative Petition 397*, 2014 OK 23, ¶ 19, 326 P.3d 496. Counting business days (excluding the intervening Saturdays and Sundays as well as February 15, President's Day, which is recognized as a state holiday under 25 Okla. Stat. § 82.1) the tenth business day is February 22, 2016.

MERITS

10. The Brief in Support filed herewith demonstrates that Initiative Petition 407 is unconstitutional in two respects.

11. First, Initiative Petition 407 contains a provision in Section 5 which would prohibit advertising of spirits by retail liquor stores. A restriction on advertising by a retail liquor store violates the First Amendment of the United States Constitution. *44 Liquormart v. Rhode Island*, 517 U.S. 484, 116 S.Ct. 1495, 134 L.Ed.2d 711 (1996).

12. Second, in violation of Article 24, § 1, Okla. Const., this Petition has more than one general subject. The one general subject rule is applicable to initiative petitions. *In re Initiative Petition 314*, 1980 OK 174, ¶ 38, 625 P.2d 595, 601; *In re Initiative Petition 403*, 2016 OK 1, ¶ 4, ____ P.3d ____.

13. Importantly, Initiative Petition 407 is not an amendment "by article" and is not entitled to the more lenient standards for one general subject review that is accorded when an article is repealed and replaced in its entirety with a new article. The more lenient

standard when an amendment by article occurs was set forth most recently in *In re Initiative Petition 403*, 2016 OK 1, ¶ 5-10.

14. Instead of repealing Article 28 and creating a new article to replace it, Initiative Petition 407 makes multiple substantive changes to the current Article 28 of the Constitution.

15. In 1980, an attempt was made to enact multiple amendments to Article 27 (the predecessor to Article 28) in one state question without amending by article. This Court found that procedure to be a one general subject violation. "The changes sought by the multifarious proposal could have been effected either by submission of three separate proposals or a submission amending, under Art. 24, § 1, the entirety of Art. 27, as an amendment by article, as was done in 1959 when prohibition was repealed and Art. 27 was submitted and adopted by a vote of the people." *In re Initiative Petition 314*, 1980 OK 174, 625 P. 2d 595, 608. Initiative Petition 407, like Initiative Petition 314 in 1980, seeks to make multiple changes to alcohol regulation in our Constitution but does not repeal and replace of the current Article 28.

CONCLUSION

This Court should rule that Initiative Petition 407 is unconstitutional, invalid, and should not be presented for a vote of the people.

Respectfully submitted,



ROBERT G. McCAMPBELL, OBA #10390
AMY ELIZABETH DAVIES OBA #20887
TRAVIS V. JETT, OBA #30601

-Of the Firm-
FELLERS SNIDER, P.C.

100 North Broadway Ave., Ste. 1700
Oklahoma City, Oklahoma 73102
(405) 232-0621
RMcCampbell@FellersSnider.com
LDavies@FellersSnider.com
TJett@FellersSnider.com

**ATTORNEYS FOR PETITIONERS,
INSTITUTE FOR RESPONSIBLE
ALCOHOL POLICY, INC., AND
JOHN MAISCH**

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of February, 2016, a true and correct copy of the forgoing Application to Assume Original Jurisdiction was served by email and U.S. Mail as follows:

Glen Coffee
Denise Davick
Glenn Coffee & Associates
P.O. Box 437
Oklahoma City, OK 73101

Attorney General's Office
State of Oklahoma
313 N.E. 21st Street
Oklahoma City, OK 73105

Secretary of State's Office
State of Oklahoma
101 State Capitol
Oklahoma City, OK 73105



Robert G. McCampbell
Amy Elizabeth Davies
Travis V. Jett

IN THE SUPREME COURT OF THE **FILED**
STATE OF OKLAHOMA **SUPREME COURT**
STATE OF OKLAHOMA

FEB 22 2016

MICHAEL S. RICHIE
CLERK

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RESPONDENTS.

No. **#114723**

RECEIVED

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OKLAHOMA SECRETARY
OF STATE

BRIEF IN SUPPORT OF APPLICATION
TO ASSUME ORIGINAL JURISDICTION

ROBERT G. McCAMPBELL, OBA #10390
AMY ELIZABETH DAVIES, OBA #20887
TRAVIS V. JETT, OBA #30601

-Of the Firm-

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ATTORNEYS FOR PETITIONERS,
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ALCOHOL POLICY, INC., AND
JOHN MAISCH

February 22, 2016

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| | <i>In re Initiative Petition 319</i> , 1984 OK 23, 682 P.2d 222..... | <i>passim</i> |
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| | Article 27, Oklahoma Constitution | <i>passim</i> |
| | Article 28, Oklahoma Constitution | <i>passim</i> |
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I. INTRODUCTION

Initiative Petition 407 (“the Petition”) is unconstitutional and legally insufficient. This Court should order that it not be submitted for a vote of the people.

Section II below will describe the Petition and the multiple amendments it would make to Article 28 of the Oklahoma Constitution.

Section III(B) below will show that the Petition violates the First Amendment of the U.S. Constitution. In particular, § 5 of the Petition would prohibit advertising by a retail liquor store except by a sign bearing the words “Retail Alcoholic Liquor Store.” A prohibition on truthful commercial speech by a liquor retailer is unconstitutional. 44 *Liquormart, Inc. v. Rhode Island*, 517 U.S. 484, 116 S. Ct. 1495, 134 L. Ed. 2d 711 (1996).

Section III(C) below will show that the Petition is also unconstitutional under the one general subject rule in Article 24, § 1 of the Oklahoma Constitution. This case is controlled by *In re Initiative Petition 314*, 1980 OK 174, 625 P.2d 595. In 1980, in an attempt to provide for liquor by the drink, proponents brought forward a petition that would have made multiple changes to Oklahoma Constitution, Article 27. The Court found the attempt at multiple changes to violate the one general subject rule and struck down the proposition. (In 1984, liquor by the drink succeeded by repealing Article 27 and replacing it with a new article—Article 28—which passed muster. *In re Initiative Petition 319*, 1984 OK 23, 682 P.2d 222, 223-24.) As in the first attempt at liquor by the drink in 1980, the proponents in this case attempt multiple changes to an existing Article, and the Court should once again hold this to be a one general subject violation of the one general subject rule.

As is also detailed in Section III(C), this Proposition is not entitled to the lenient review this Court has permitted when there is a proposed amendment “by article.” When an amendment is proposed which would create a new article to the constitution, this Court has

subjected it more lenient review under the one general subject standard. *In re Initiative Petition 403*, 2016 OK 1, ¶¶ 5-8, __ P.3d __, 2016 WL 147145; *In re Initiative Petition 319, supra*, 682 P.2d at 224. The instant Petition, however, contains no language to repeal the current version of Article 28. It is not an amendment by article, but instead an attempt to use one state question to make multiple amendments to the existing Article 28.

II. INITIATIVE PETITION 407

Initiative Petition 407 would make multiple amendments to Article 28 of the Oklahoma Constitution. Some of the more noteworthy changes are as follows:

Single Strength Beer. Section 2 eliminates the provision that beer of not more than 3.2% alcohol by weight will not be regulated by Article 28. This would eliminate the distinction between 3.2 beer and strong beer. For example a retail liquor store could sell 3.2 beer under this proposition.

Change in Definition of Small Wineries. Section 3 allows distribution to retailers by small wineries in certain circumstances. The definition of a small winery would be substantively changed from wineries producing no more than 10,000 gallons of wine each year to wineries producing no more than 15,000 gallons of wine each year.

Direct Sale and Shipment from Out of State. Section 3(B) would allow the direct selling and shipping of wine to an Oklahoma consumer.

Wine in Grocery Stores. Section 4 of the Petition would allow for wine to be sold not only at retail package stores, but at warehouse clubs, supercenters, supermarkets, grocery stores, convenience stores, and gasoline stations with convenience stores.

Strong Beer in Addition to 3.2 Beer. Section 4 of the Petition would also allow a warehouse club, super center, supermarket, grocery store, convenience store or gas station to sell not only 3.2 beer but also strong beer.

Advertising Restriction. Section 5 prohibits advertising of alcoholic beverages. The proponents would amend the provision so that the prohibition would apply to spirits, but would no longer apply to wine. (As detailed below, the advertising prohibition in the proponents' § 5 violates the First Amendment as well.)

Change in Required Closing Days. Section 6 would repeal the current provision that a liquor store cannot be open on Memorial Day, Independence Day, or Labor Day.

Change in Taxation. Section 7 contains the details on taxation and allocation of tax receipts. Section 7 would cause the taxing and allocation provisions for sales at retail liquor stores to be extended to 3.2 beer sold at a grocery store.

Change in Licensure Provisions. Section 10 makes substantive changes regarding the issuance of licenses including (i) allowing a convicted felon to own part of a licensee if the felony was more than fifteen years old, (ii) eliminating the residency requirement for a beer wholesaler, and (iii) allowing a beer wholesaler's license to be issued to a corporation.

No Repealer. Section 11 of the current Article 28 is the repealer of Article 27 which Article 28 replaced. Proposition 407, however, contains no language to repeal the current Article 28. Instead, the Proposition would make multiple amendments to Article 28.

III. ARGUMENT AND AUTHORITIES

A. INTRODUCTION

“This Court has entertained preelection attacks on initiative petitions to avoid costly and unnecessary elections.” *In re Initiative Petition No. 366*, 2002 OK 21, ¶ 4, 46 P.3d 123, 125. “The right of initiative petition is not absolute with both constitutional and statutory limitations placed on the process.” *In re Initiative Petition 342*, 1990 OK 76, ¶ 11, 797 P.2d 331. *Accord In re Initiative Petition 344*, 1990 OK 75, 797 P.2d 326, 330. *See also In re*

Initiative Petition 382, 2006 OK 45, ¶ 3, 142 P.3d 400, 403 (“[T]he right of the initiative is not absolute, and is subject to constitutional and statutory limits.”)

B. THE ADVERTISING PROHIBITION VIOLATES THE FIRST AMENDMENT.

Initiative Petition 407 should be stricken from the ballot because it violates the First and Fourteenth Amendments of the United States Constitution.

Section 5 of Article 28 of the Oklahoma Constitution currently contains language which prevents a retailer from advertising wine, strong beer, and spirits. The Petition proposes amending this provision to replace “alcoholic beverages” with “spirits.” The amendment would be:

It shall be unlawful for any person, firm, or corporation to advertise the sale of ~~alcoholic beverages~~ spirits within the State of Oklahoma, except by a sign at retail package stores bearing the words “Retail Alcoholic Liquor Store.”

The effect is that the ban on advertising would no longer apply to strong beer or wine. This provision is an unconstitutional restriction on free speech. The proponents do not merely repeat the current language of Article 28. Instead they amend the language in an apparent attempt to revitalize with respect to spirits this unconstitutional prohibition.

Proposition 407 violates the right of commercial speech guaranteed by the First Amendment. In *44 Liquormart, Inc. v. Rhode Island*, 517 U.S. 484, 116 S. Ct. 1495, 134 L. Ed. 2d 711 (1996), liquor retailers sought a declaratory judgment that Rhode Island laws banning the advertisement of retail liquor prices except at the place of sale violated the First Amendment. The law prohibited retailers, in part, from “advertising in any manner whatsoever” the price of any alcoholic beverage offered for sale in the state with the exception of price tags or signs displayed with the merchandise within the licensed premises and not visible from the street. The Court found that the advertising restriction violated the

First Amendment. The court also found that although the Twenty First Amendment, which ended prohibition, provides some power to the states to regulate alcohol, does not overcome the First Amendment right to free speech. Section I of the opinion, joined by all the justices, at page 489 explained:

We now hold that Rhode Island's statutory prohibition against advertisements that provide the public with accurate information about retail prices of alcoholic beverages is . . . invalid. Our holding rests on the conclusion that such advertising ban is an abridgement of speech protected by the First Amendment and that it is not shielded from constitutional scrutiny by the Twenty-first Amendment.

The First Amendment of the U.S. Constitution applies to the states under the Due Process Clause of the Fourteenth Amendment. *Id.* at 489 n.1 (citations omitted.)

Since *44 Liquormart*, courts have routinely struck down attempts to ban advertising of liquor. *E.g.*, *Utah Licensed Beverage Ass'n v. Leavitt*, 256 F.3d 1061 (10th Cir. 2001) (relying on *44 Liquormart* to find that Utah's restrictions on advertisements for liquor violate the First Amendment); *Folsom v. City of Jasper*, 279 Ga. 260, 612 S.E.2d 287 (2005) (relying on *44 Liquormart* in holding that city ordinance that prohibited advertisement of alcoholic prices, brand names and business's name if it contained certain words was a blanket prohibition against truthful, non-misleading speech about a lawful product and violated the First Amendment); *Bad Frog Brewery, Inc. v. New York State Liquor Auth.*, 134 F.3d 87, 101 (2d Cir. 1998) (relying on *44 Liquormart* in holding that State Liquor Authority's denial of brewery's application to use beer bottle labels displaying frog giving well known insulting gesture violated the First Amendment).

In this Proposition 407, the advertising restrictions are even broader than those found to be unconstitutional in *44 Liquormart*. Proposed § 5 constitutes a blanket advertising prohibition against all information about the spirits inside the store, including the price, the

brands available, and other truthful information of value to a consumer. In accordance with *44 Liquormart*, this Court should find the prohibition to be unconstitutional.

The Court should not simply sever the language which prohibits advertising and allow the proponents to proceed. First, the Court does not know how the proponents would react to the Court's finding proposed § 5 to be unconstitutional. The proponents could choose to (a) repeal the provision entirely, (b) leave the current language from Article 28, § 5 unchanged, or (c) try to craft some new advertising restriction which might pass constitutional muster. The proponents, not the Court, should make those decisions. Second, the advertising prohibition in § 5 is just one of a number of changes to Article 28 that the proponents present as a package. If the change to § 5 is not to be a part of the package, it is impossible to know if the proponents might change other parts of the package. The drafters of Proposition 407 may intend this to be one indivisible package. In this regard, it is noteworthy that the Petition does not include a severance clause. In summary, the Court should declare the advertising prohibition to be unconstitutional and that Initiative Petition 407 cannot proceed. Thereafter, the proponents can decide how their Petition will be changed to react to the Court's holding.

Additionally, the rationale for severance is that it preserves legislative intent. As explained in *Ayotte v. Planned Parenthood of N. New England*, 546 U.S. 320, 328-29, 126 S. Ct. 961, 967-68, L. Ed. 2nd 812 (2006). "First, we try not to nullify more of a legislature's work than is necessary, for we know that '[a] ruling of unconstitutionality frustrates the intent of the elected representatives of the people.'" (Internal citations and quotations omitted.) This Court too has focused on legislative intent in its severance analysis. "Although severability of an unconstitutional provision of an Act is appropriate in certain

cases, such remedy is not appropriate if it creates a result not intended or contemplated by the Legislature. *Tulsa Exposition & Fair Corp. v. Board of County Comm'rs*, 468 P.2d 501, 507; *Ethics Commission of State of Oklahoma v. Cullison*, 850 P.2d 1069 (Okla. 1993). The question is whether the Legislature would have passed the remaining parts of the Act if they had known the population bracket was void.” *Kinney v. Bd. of Comm'rs of Tulsa Cty., Okl.*, 1995 OK CIV APP 49, 894 P.2d 444, 448. See also, *In re Oklahoma Dep't of Transp. for Approval of Not to Exceed \$100 Million Oklahoma Dep't of Transp. Grant Anticipation Notes, Series 2002*, 2002 OK 74, ¶ 27, 64 P.3d 546, 553, as corrected (Dec. 11, 2002) (Noting that the principal is to “save and not destroy” and explaining “we must determine if the Legislature would have enacted the remainder of the statute without the offending or unconstitutional language”). It is altogether appropriate that the Court would seek to save a statute duly enacted by the Legislature. Initiative Petition 407, on the other hand, is entitled to no such deference because it has not been through any democratic process and represents the collective will only of three private proponents.

C. THE PETITION VIOLATES THE ONE GENERAL SUBJECT RULE FOR CONSTITUTIONAL AMENDMENTS. OKLA. CONST. ART. 24, § 1.

1. Amendments “by article”

Initiative Petition 407 proposes an amendment to Article 28 of the Oklahoma Constitution that violates the one general subject rule. It is unconstitutional and should be stricken from the ballot. Article 28, § 1 of the Oklahoma Constitution provides:

| | | |
|-------------------|--|----------------------|
| Regular Amendment | No proposal for the amendment or alteration of this Constitution which is submitted to the voters shall embrace more than one general subject and the voters shall vote separately for or against each proposal submitted; provided, however, that in the submission of proposals for the amendment of this Constitution by articles, which embrace one general subject, each proposed article shall be deemed a single proposal or proposition. | Amendment by Article |
|-------------------|--|----------------------|

This Court has recognized the distinction between regular amendments to an existing article and amendments that add a new article to the Constitution, which are called amendments “by article.” *In re Initiative Petition No. 314*, 1980 OK 174, ¶ 81, 625 P.2d 595, 608. A more stringent test applies to petitions like the one at issue in this case, which proposes regular amendments to an existing article of the Constitution. *In re Initiative Petition No. 319*, 1984 OK 23, ¶ 9, 682 P.2d 222, 224; *In re Initiative Petition 403*, 2016 OK 1, ____ P.3d ____.

Two cases that demonstrate this distinction between regular amendments and amendments by article pertain to the control of alcoholic beverages. In 1980, proponents of Initiative Petition No. 314 attempted to amend the existing Article 27 to allow liquor by the drink and to make other changes to Article 27. *In re Initiative Petition No. 314*, 1980 OK 174, ¶ 48, 625 P.2d at 601. The petition was found to violate the one general subject rule. However, the Court noted that “the multifarious proposal could have been effected either by submission of three separate proposals or a submission amending, under Art. 24, § 1, the entirety of Art. 27, as an amendment by article, as was done in 1959 when prohibition was repealed and Art. 27 was submitted and adopted by a vote of the people.” *Id.* ¶ 81.

In 1984, liquor by the drink proponents took the Court’s advice and submitted an amendment by article that explicitly repealed the existing Article 27 and added a new article—Article 28. *In re Initiative Petition No. 319*, 1984 OK 23, 682 P.2d at 223. “[T]he initiative petition proposed many of the same substantive changes as the previously stricken petition, including the sale of alcoholic beverages for on-premises consumption and the sale of liquor by the drink by privately owned licensed on-premises outlets.” *In re Initiative Petition No. 403*, 2016 OK 1, ¶ 6. But since the proponents chose to amend the constitution

by adding a new article under the amendment by article procedure, the Court found that the Initiative Petition 319 complied with Article 24, § 1.

Earlier this year, the Court again pointed out the critical difference between Initiative Petition 314, which attempted multiple amendments to Article 27 and Initiative Petition 319 which created a new article. The Court distinguished Initiative Petition No. 314, which “sought to change the alcohol laws of this state by amending the *existing Article 27*” from Initiative Petition No. 319, in which “proponents submitted the proposal as an *amendment to the Oklahoma Constitution by article*” by proposing a new Article 28. *In re Initiative Petition No. 403*, 2016 OK 1, ¶¶ 5–6 (emphasis in original). With Initiative 319, “[p]roponents . . . complied with [the amendment by article] procedure” and the petition was allowed to proceed for a vote of the people. *In re Initiative Petition No. 403*, 2016 OK 1, ¶ 7.

The distinction between amending an existing article and proposing a new article is dispositive in this case. Every initiative petition that has been upheld by the Court as an “amendment by article” has added a new article to the Constitution. *In re Initiative Petition No. 319*, 1984 OK 23, ¶ 7, 682 P.2d at 223; *In re Initiative Petition No. 363*, 1996 OK 122, ¶ 5, 927 P.2d 558, 562; *In re Initiative Petition No. 403*, 2016 OK 1, ¶ 5; *see also In re Initiative Petition No. 314*, 1980 OK 174, ¶ 81, 625 P.2d at 608 (explaining that S.Q. 386, which repealed prohibition in 1959, and added a new Article 27, was a valid amendment by article).¹

¹ In *In re Initiative Petition 342*, 1990 OK 76, 797 P.2d 123 and *In re Initiative Petition 344*, 1990 OK 75, 797 P.2d 326, proponents unsuccessfully attempted to amend by article by repealing and replacing an existing article of the constitution. Unlike the Petition in this case, the language of Initiative Petition 342 and 344 was clear that they were repealing an existing article and replacing it with a new article. In Initiative Petition 342, the enacting clause in the Petition stated “Be it enacted by the People of the State of Oklahoma that Article IX of the Oklahoma Constitution *be repealed* and the following adopted:”. Initiative Petition 344 used identical language except that it would have repealed and replaced Article VI. Conversely, the enacting clause in Initiative Petition 407 at issue here states, “Be it enacted by the People of the State of Oklahoma that an *amended Article 28* of the Oklahoma Constitution be approved:”.

The opposite results in *In re Initiative Petition No. 314* and *In re Initiative Petition 319* are based upon procedure chosen by the proponents, not the substance of the petition. A petition, such as the instant Petition 407, that proposes multifarious amendments to an existing article of the Constitution will be ruled unconstitutional even though it may have survived constitutional scrutiny if proposed as an amendment by article.

2. Initiative Petition 407 is a regular amendment and not an amendment by article.

The text of this Petition demonstrates that it is not amendment by article, but instead amendment to an *existing* article. First, the question proponents wish to present to the people of Oklahoma shows this is a regular amendment to an existing article. The question states: “Shall the following **proposed amendment to Article 28** of the Constitution be approved?” (Initiative Petition 407, App’x at Tab A (emphasis added).)

Second, the first sentence of the text of the Petition states, “BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA THAN AN **AMENDED ARTICLE 28** OF THE OKLAHOMA CONSTITUTION BE APPROVED” App’x at Tab A (emphasis added). This also demonstrates that the Petition is a regular amendment and not creating a new article.

Third, § 1 of the Petition provides that “There is hereby created the Alcoholic Beverage Laws Enforcement Commission.” This is language carried over from the current Article 28 from when it was enacted in 1984. If the proponents’ intent was to enact a new Article 28, there would be no need to create the ABLE Commission which has existed for over 30 years. Instead it is apparent the proponents are amending the current Article 28.

Fourth, the Petition does not contain a repealer section indicating that this is an attempt to repeal Article 28 and create a new article. Both times Oklahoma has approved

revisions to the state's alcohol laws, the petitions have explicitly repealed the current provision governing alcohol. State Question 386, § 11 (1959), App'x at Tab E; Initiative Petition 319, § 11, App'x at Tab C; *In re Initiative Petition No. 314*, 1980 OK 174, ¶ 81, 625 P.2d at 608 (“prohibition was repealed and Art. 27 was submitted and adopted by a vote of the people”); *In re Initiative Petition No. 319*, 1984 OK 23, ¶ 7, 682 P.2d at 223. The current Article 28, § 11 demonstrates this procedure. Petition 407 has no such repealer provision, and the text of the Petition provides no language attempting to repeal the current Article 28 or to create a new article.²

Although the Proposed ballot title submitted by the proponents contains a misstatement that the measure repeals and replaces Article 28, the ballot title cannot change the language of in the Petition. The Legislature has specified that the ballot title is “separate” and “shall not be part of or printed on the petition.” 34 Okla. Stat. § 8(A). Further, the ballot title “shall be filed on a separate sheet of appear and shall not be part of or printed on the petition.” 34 Okla. Stat. § 9(B). Since the Legislature has specified that the ballot title is not part of the petition, the proponents should not be allowed to argue that a statement in the ballot title can alter language in the Petition.

² Initiative Petition 407 cannot be saved by *Southwestern Bell v. State Board of Equalization*, 2009 OK 72, 231 P.3d 638, which states in *dicta* that the ballot title can be relevant in construing a constitutional amendment. *Id.* at Para 3. (1) Here we are faced not with construing an enacted amendment but in determining the sufficiency of a proposed petition. (2) Further, in *Southwestern Bell* the court stressed that it was faced with a petition that had been proposed by the Legislature. *Id.* at ¶ 11. “[T]he measure proposing the constitutional amendment was set out in Section 1 of the authorizing Joint Resolution and the ballot title was set out in Section 2 of the Joint Resolution. ***When construing a constitutional amendment that was proposed by the Legislature pursuant to Okla. Const. art 24, 1 and 34 O.S. 2001 9(C), this Court will read the ballot title together with the text of the measure The Court will do so because those who framed and adopted the amendment considered the text of the measure and its ballot title together. The understanding of the Legislature as framers and of the electorate as the adopters of the constitutional amendment is the best guide for determining an amendment’s meaning and scope, and such understanding is reflected in the language used in the measure and the ballot title.” *Id.* at ¶ 12-13. The instant case is obviously different because Initiative Petition 407 has not been considered by the Legislature or the voters.

Furthermore, if the proponents decide to repeal the current Article 28, there will need to be multiple changes to Initiative Petition 407:

- Someone will need to *add* language to the Petition providing for repeal of the current Article 28. Adding language should be left to the proponents, not the Court.
- The current Article 28 not only provides for the repeal of the previous Article 27, but in the same section provides that the repeal of Article 27 will not revive the provisions of Article 1, § 7 which had been repealed when Article 27 was enacted. If they want to amend by article, the proponents, not the Court, should decide if a similar provision should be included now and what language to use.
- The Petition states the question to be: “Shall the following proposed amendment to Article 28 of the Constitution be approved?” If the proponents want to replace Article 28 instead of amend it, the proponents, not the Court, should redraft the question to reflect that intent.
- The introduction of the Petition provides: “BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA THAT AN AMENDED ARTICLE 28 OF THE OKLAHOMA CONSTITUTION BE APPROVED:” If the proponents want to replace Article 28 instead of amend it, the proponents, not the Court, should draft language for that introduction reflecting their intent.
- Someone will have to add language to resolve the problem that it is inconsistent to “create” the ABLE Commission if this is to be a new article.

This Court has been steadfast that the ballot title must conform to the text of the initiative petition, not the other way around. *In re Initiative Petition 362*, 1995 OK 77, ¶¶ 2–8, 899 P.2d 1145, 1147-49; *Matter of Proposed Ballot Title, S.Q. 319*, 1984 OK 58, ¶¶ 4-6, 685 P.2d 400, 402–03; *In re Initiative Petition 315*, 1982 OK 15, 649 P.2d 545, 553-54; *Pierce v. Cartwright*, 1981 OK 151, 638 P.2d 450, 454. There is a specific procedure for amending the ballot title to ensure that the ballot title accurately reflects the text of the amendment. 34 Okla. Stat. §§ 8(I), 9(D), 10(A). The statutes specifically exclude consideration of the ballot title at this stage of the proceedings. *Id.* §§ 8(B), 8(I). The Court should not at this stage determine that the proponents’ draft of the ballot title can be deemed

to trump conflicting provisions in the Petition itself. This is particularly true since, when the time to address the ballot title comes, *id.* § 9(D), either the Attorney General, *id.* § 9(D)(1) or this Court, *id.* § 9(D)(2), may amend the language of the ballot title.

The Petition in this case is different from every petition has been upheld under the amendment by article test. Unlike State Question 386, Initiative Petition 319, Initiative Petition 363, and Initiative Petition 403, this Petition does not seek to add a new article to the constitution. Neither can this Petition be deemed a repeal of the current Article 28. Initiative Petition 407 is not an amendment by article.

3. This Petition fails the test set forth in *In re Initiative Petition 314*.

Since Initiative Petition 407 is not an amendment by article, *In re Initiative Petition 314* controls. For the same reasons, the first attempt to constitutionalize liquor by the drink in 1980 was struck down as unconstitutional, this Petition must fail.

In *In re Initiative Petition 314*, the Court surveyed a variety of cases considering whether constitutional amendments violated the one general subject test. The Court has since clarified that it adopted the following test:

If the different changes contained in the proposed amendment all cover matters necessary to be dealt with in some manner, in order that the Constitution, as amended, shall constitute a consistent and workable whole on the general topic embraced in that part which is amended, and if, logically speaking, they should stand or fall as a whole, then there is but one amendment submitted. But, if any one of the propositions, although not directly contradicting the others, does not refer to such matters, or if it is not such that the voter supporting it would reasonably be expected to support the principle of the others, then there are in reality two or more amendments to be submitted, and the proposed amendment falls within the constitutional prohibition.

In re Initiative Petition No. 342, 1990 OK 76, 797 P.2d 331, 332 (quoting *In re Initiative Petition No. 314*, 1980 OK 174, ¶ 81, 625 P.2d at 608). It was also significant that the proposed changes to the constitution were substantial changes rather than insignificant

amendments. *In re Initiative Petition No. 314*, 1980 OK 174, 625 P.2d at 602.

The changes proposed in this Petition are even broader than to those proposed in Initiative Petition 314, and for the same reasons set forth by this Court in 1980, this Petition should be declared unconstitutional. Initiative Petition 314 sought to amend Article 27 to allow liquor by the drink, but sought to make other changes in alcohol regulation as well. Initiative Petition 407 would not only allow wine to be sold in grocery stores, but would make other changes not intertwined with or necessary to that goal including:

- Allowing felons to own an interest in a licensee under certain circumstances
- Changing the definition of small wineries allowed to directly distribute their products
- Allowing direct sales and shipment from a winery to a consumer
- Allowing a corporation to be a beer wholesaler
- Eliminating the residency requirement for beer wholesalers
- Eliminating some days on which spirits cannot be sold
- Amending the language prohibiting advertising to apply only to spirits
- Causing 3.2 beer to be taxed in the same manner as strong beer, wine and spirits
- Allowing 3.2 beer to be sold in a retail liquor store.

As was the case in *In re Initiative Petition No. 314*, “[i]t goes without saying that these proposals would substantially and significantly change Art. 2[8] in important respects.” 1980 OK 174, 625 P.2d 595, 602. Under *In re Initiative Petition No. 314*, the instant Petition should be deemed unconstitutional and stricken from the ballot.

4. This Petition cannot be saved through severance.

Upon finding this Petition violates Article 24, § 1 due to its multifarious subjects, it must be struck down. The Court cannot save this Petition by severing unconstitutional

provisions because the Petition is unconstitutional as a whole. Every time this Court has found that an initiative petition to violate Article 24, § 1, it has been stricken entirely. *E.g. In re Initiative Petition No. 314*, 1980 OK 174, ¶ 85, 625 P.2d at 608; *In re Initiative Petition No. 342*, 1990 OK 76, ¶ 16, 797 P.2d at 334; *In re Initiative Petition No. 344*, 1990 OK 75, ¶ 17, 797 P.2d at 330. *In re Initiative Petition No. 314* demonstrated that the proper remedy for a one general subject rule violation is not severance but instead to allow the proponents to select a remedy. The Court explained that a multifarious petition can be remedied “either by submission of three separate proposals or a submission amending, under Art. 24, § 1, the entirety of Art. 27, as an amendment by article” *In re Initiative Petition No. 314*, 1980 OK 174, 625 P.2d at 608. Similarly here, the Court should let the proponents determine how to proceed.

In *In re Initiative Petition No. 382*, the Court explained why severance is inappropriate for initiative petitions that violate the single-subject rule. “We do not today make any ruling on the constitutionality of any particular portion of IP 382, but hold that because the proposed act is comprised of two subjects, the entirety of IP 382 is fatally constitutionally flawed.” 2006 OK 45, ¶ 18, 142 P.3d 400. Consistent with *In re Initiative Petition No. 314*, the Court explained, “Nothing prevents the proponent or any other citizen of the State from severing the two subjects, restarting the process of initiative, and, if successful, resubmitting the initiative petitions for certification as State Questions.” *Id.*

IV. CONCLUSION

This Court should rule that Initiative Petition No. 407 violates Article 24, § 1 of the Oklahoma Constitution and the First Amendment of the United States Constitution and cannot be submitted to the voters.

Respectfully submitted,



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**ATTORNEYS FOR PETITIONERS,
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JOHN MAISCH**

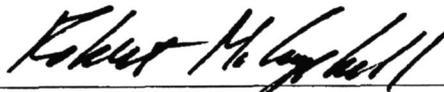
CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of February, 2016, a true and correct copy of the forgoing Brief in Support of Application to Assume Original Jurisdiction was served by email and U.S. Mail as follows:

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Robert G. McCampbell
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IN THE SUPREME COURT OF THE
STATE OF OKLAHOMA

INSTITUTE FOR RESPONSIBLE
ALCOHOL POLICY, INC., and
JOHN MAISCH,

PETITIONERS,

v.

OKLAHOMANS FOR MODERN LAWS,
SEAN CAMPBELL, and
BRIAN HOWE,

RESPONDENTS.

FILED
SUPREME COURT
STATE OF OKLAHOMA

FEB 22 2016

MICHAEL S. RICHIE
CLERK

No. **#114723**

RECEIVED

FEB 23 2016

OKLAHOMA SECRETARY,
OF STATE

PETITIONERS' APPENDIX TO APPLICATION
TO ASSUME ORIGINAL JURISDICTION

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February 22, 2016

**INDEX TO PETITIONERS' APPENDIX TO APPLICATION
TO ASSUME ORIGINAL JURISDICTION**

The following is Petitioners' Index to its Appendix, pursuant to Sup. Ct. R. 1.191(d)(3):

Tab Description and Date (If Any)

A Initiative Petition No. 407, State Question No. 783 (Feb. 3, 2016)

Relevance: This is the initiative petition that is being challenged as unconstitutional.

Synopsis: The Initiative Petition would make multiple amendments to Article 28 of the Oklahoma Constitution.

B Proposed Ballot Title (Feb. 3, 2016)

Relevance: This is the proposed Ballot Title for Initiative Petition 407 submitted by the Proponents

Synopsis: The proponents submitted a separate proposed ballot title as directed by Title 34.

C Initiative Petition 319, Article 28 of the Oklahoma Constitution

Relevance: This is the current Article 28 of the Oklahoma Constitution which would be amended by Initiative Petition 407. Also § 11 of the current Article 28 repeals Article 27.

Synopsis: The current Article 28 reflects the current constitutional provisions, several of which would be amended by Initiative Petition 407.

D Redline Comparison of Initiative Petition 407 to the current Article 28 of the Oklahoma Constitution

Relevance: The redline shows the changes which would be made to the current Article 28 by Initiative Petition 407.

Synopsis: This is a redline comparison which begins with the current Article 28 of the Oklahoma Constitution and shows by additions and deletions how Article 28 would be amended if Initiative Petition 407 is enacted.

E State Question 386, Legislative Referendum 121 (February 25, 1959)

Relevance: This State Question ended prohibition and enacted a new article, Article 27, to regulate the sale of alcohol. Also, § 11 explicitly provides that the Prohibition Ordinance and Art. I, § 7 of the Constitution would be repealed.

Synopsis: This is the Senate Joint Resolution which repealed prohibitions and created Article 27 to regulate the sale of alcohol.

F Legal Notice of Filing Initiative Petition 407 (Feb. 7, 2016)

Relevance: Publication of notice that an initiative petition has been filed begins the time period for protesting the petition. 37 Okla. Stat. § 8(B).

Synopsis: These are the notices in The Oklahoman and the Tulsa World on February 7, 2016.

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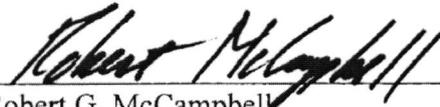
CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of February, 2016, a true and correct copy of the forgoing Appendix to Brief in Support of Application to Assume Original Jurisdiction was served by U.S. Mail as follows:

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APPENDIX A

State Question No. 783 Initiative Petition No. 407

FILED

FEB 03 2016

WARNING

OKLAHOMA SECRETARY
OF STATE

IT IS A FELONY FOR ANYONE TO SIGN AN INITIATIVE OR REFERENDUM PETITION WITH ANY NAME OTHER THAN HIS OWN, OR TO KNOWINGLY SIGN HIS NAME MORE THAN ONCE FOR THE MEASURE, OR TO SIGN THE PETITION WHEN HE IS NOT A LEGAL VOTER.

INITIATIVE PETITION

To the Honorable Mary Fallin, Governor of Oklahoma:

We, the undersigned legal voters of the State of Oklahoma, respectfully order that the following proposed amendment to the constitution shall be submitted to the legal voters of the State of Oklahoma for their approval or rejection at the regular general election, to be held on the 8th day of November, 2016, and each for himself says: I have personally signed this petition; I am a legal voter of the State of Oklahoma; my residence or post office are correctly written after my name. The time for filing this petition expires ninety days from _____. The question we herewith submit to our fellow voters is:

Shall the following proposed amendment to Article 28 of the Constitution be approved?

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA THAT AN AMENDED ARTICLE 28 OF THE OKLAHOMA CONSTITUTION BE APPROVED:

§ 1. Creation of Commission – Appointment – Membership – Powers – Tenure.

There is hereby created the Alcoholic Beverage Laws Enforcement Commission. The purpose of the Commission shall be to enforce the alcoholic beverage laws of the State, and the Commission shall have such power and authority to enforce such laws, rules and regulations as shall be prescribed by the Legislature.

The Commission shall consist of seven (7) members to be appointed by the Governor with the advice and consent of the State Senate. Five (5) of the members shall be at-large members representing the lay citizenry. The remaining two (2) members shall be persons with law enforcement experience in the State. Any time there is a vacancy on the Commission the Governor shall appoint a replacement, with the advice and consent of the State Senate, within ninety (90) days. Members of the Commission shall be appointed for a term of five (5) years. The Commission shall appoint a Director whose duties shall be defined by the Legislature. No more than four (4) members of the Commission shall be appointed from the same political party. No more than two (2) members of the Commission shall be appointed from the same federal congressional district.

No member of the Commission shall hold any license authorized by this Article, or have any interest in any capacity, in the manufacture, sale, distribution or transportation of alcoholic beverages.

The members of the Commission shall be removable from office for cause as other officers not subject to impeachment.

§ 1.A. Transition to a reconstituted Alcoholic Beverage Laws Enforcement Commission.

The Alcoholic Beverage Laws Enforcement Commission shall continue to exist and operate after passage of this Article. The present seven (7) members of the Alcoholic Beverage Laws Enforcement Commission shall automatically become the seven (7) members on the reconstituted Commission. These members shall serve from the date of the Commission's reconstitution until the time that his or her term on the previous Alcoholic Beverage Laws Enforcement Commission would have expired.

§ 2. Enforcement authority of Alcoholic Beverage Laws Enforcement Commission.

Notwithstanding any other provisions of this Constitution to the contrary, the Alcoholic Beverage Laws Enforcement Commission shall have authority to enforce laws, rules and regulations for the sale of all alcoholic beverages, including spirits, wine and beer and every liquid or solid, patented or not, containing spirits, wine or beer and capable of being consumed as a beverage by human beings.

- A. Spirits shall include (1) wine containing more than thirteen and nine tenths percent (13.9%) alcohol measured by volume, (2) beer containing more than eight and ninety-nine one hundredths percent (8.99%) alcohol measured by volume, or (3) any beverage other than wine or beer containing one-half of one percent (1/2 of 1%) of alcohol measured by volume and obtained by distillation but not including any alcohol liquid completely denatured in accordance with the Acts of Congress and regulations pursuant thereto. The sale of spirits shall be subject to the provisions of this Constitution.
- B. Wine shall include any beverage containing more than one-half of one percent (1/2 of 1%) of alcohol measured by volume and not more than thirteen and nine tenths percent (13.9%) alcohol by the volume at sixty degrees Fahrenheit obtained by the fermentation of natural contents of fruits, vegetables, honey, milk or other products containing sugar, including all such beverages taxed as wine under the Internal Revenue Code (26 U.S.C. 5041 and successor statutes) and produced in accordance with federal regulations promulgated pursuant to that Code. The sale of wine shall be subject to the provisions of this Constitution. Provided, however, nothing in this Constitution or other law shall prevent the sale of wine, refrigerated or unrefrigerated, for off-premises consumption in warehouse clubs and supercenters, supermarkets and other grocery stores including convenience stores, and gasoline stations with convenience stores, as those terms are defined by 2012 North American Industry Classification System, or in any package store.
- C. Beer shall include any beverage containing more than one-half of one percent (1/2 of 1%) of alcohol measured by volume and not more than eight and ninety-nine one hundredths percent (8.99%) alcohol measured by volume and obtained by alcoholic fermentation of any infusion or decoction of malted barley, other grains, and/or other products suitable for human consumption, including all such beverages taxed as beer under the Internal Revenue Code (26 U.S.C. 5052 and successor statutes) and produced in accordance with federal regulations promulgated pursuant to that Code. The Legislature shall enact laws providing for the strict regulation, control, licensing, and taxation of the manufacture, sale, distribution, possession, and transportation of beer. Provided, however, nothing in this Constitution or other law shall prevent the sale of beer, refrigerated or unrefrigerated, for off-premises consumption in any warehouse clubs and supercenters, supermarkets and other grocery stores including convenience stores, and gasoline stations with convenience stores, as those terms are defined by 2012 North American Industry Classification System, or in any package store, subject to the limitations in Section 6 of this Article.

§ 3. Enactment of laws by Legislature - Nondiscrimination in sales to licensed wholesale distributors - Sales by winemakers.

- A. The Legislature shall enact laws providing for the strict regulation, control, licensing, and taxation of the manufacture, sale, distribution, possession, and transportation of spirits or wine, consistent with the provisions of this Article. Provided, that any manufacturer, or subsidiary of any manufacturer of spirits or wine, 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. Winemakers either within or without this state that annually produce no more than fifteen thousand (15,000) gallons of wine may sell and ship only the wine they produce 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 shall not be prohibited from directly marketing, selling or shipping its wine to consumers.
- C. All laws passed by the Legislature under the authority of the Article shall be consistent with this provision. All provisions of this Article are declared to be interdependent. If any provision of this Article 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, restaurants, warehouse clubs and supercenters, supermarkets and other grocery stores including convenience stores, and gasoline stations with convenience stores, in this state.

§ 4. Retail sales by package stores and by the individual drink.

Except as hereinafter provided, retail sales of alcoholic beverages, which may include spirits, wine or beer, shall be limited to the original sealed package, by privately owned and operated package stores, in cities and towns having a population in excess of two hundred (200) persons or by wineries; provided that wineries shall be able to sell only wine which has been produced on the winery premises. No goods, wares, or merchandise shall be sold and no services shall be rendered at retail package stores on which retail package alcoholic beverages are sold. Said premises are herein defined to be the entire space in which retail package alcoholic beverages are sold or displayed and said premises must be separated from any premises on which any other goods, wares, or merchandise are sold or services rendered by walls which may only be broken by a passageway to which the public is not admitted; provided, the restriction on the sale of merchandise and rendering of services shall not apply to the premises of a winery.

Not more than one retail package license shall be issued to any person or general or limited partnership. Retail sale of alcoholic beverages by the individual drink for on-premises consumption is hereby authorized within a county if the voters of such county have previously approved such retail sale at an election.

§ 4.A. Grocery store sale of wine and beer.

- A. Wine may be sold at retail for off-premises consumption, refrigerated or unrefrigerated, in the original sealed package in warehouse clubs and supercenters, supermarkets and other grocery stores including convenience stores, and gasoline stations with convenience stores, pursuant to a grocery store wine license. Other goods, wares or merchandise may be sold on the same premises. Sales of wine by a grocery store wine licensee shall only be permitted on the same days and at the same times that sales of wine are permitted in any retail package store and shall only be permitted to customers who are physically present on the premises of the grocery store wine licensee. No wine shall be sold to any person under the age of twenty-one (21) years; however, persons under the age of twenty-one (21) years may purchase other goods, wares or merchandise sold on the premises of a grocery store wine licensee provided the sale of such goods, wares or merchandise is not prohibited to persons under the age of twenty-one (21) by provisions of this Constitution or other laws of this State.

A grocery store wine license may only be issued to warehouse clubs and supercenters, supermarkets and other grocery stores including convenience stores, and gasoline stations with convenience stores. As used in this section, the terms "warehouse clubs and supercenters" and "supermarkets and other grocery stores including convenience stores" shall be defined by the 2012 North American Industry Classification System.

Wine shall be purchased by and distributed to grocery store wine licensees subject to the same requirements provided by this Constitution and the laws of this State for a retail package store. Taxation for retail sale of wine and license fees for grocery store wine and licensees shall be the same as provided by law for retail package store licensees.

This provision places no limit on the number of grocery store wine licenses issued to a licensee.

- B. Beer may be sold at retail for off-premises consumption, refrigerated or unrefrigerated, in the original sealed package, or into transfer containers as allowed by state law, or single cans from a larger sealed package, in warehouse clubs and supercenters, supermarkets and other grocery stores including convenience stores, and gasoline stations with convenience stores, pursuant to a grocery store beer license. Other goods, wares or merchandise may be sold on the same premises. Sales of beer by a grocery store beer licensee shall only be permitted on the same days and at the same times that are permitted pursuant to Article 28, Section 6(b) of the Oklahoma Constitution; and shall only be permitted to customers who are physically present on the premises of the grocery store beer licensee. No beer shall be sold to any person under the age of twenty-one (21) years; however, persons under the age of twenty-one (21) years may purchase other goods, wares or merchandise sold on the premises of a grocery store beer licensee provided the sale of such goods, wares or merchandise is not prohibited to persons under the age of twenty-one (21) by provisions of this Constitution or other laws of this State.

A grocery store beer license may only be issued to warehouse clubs and supercenters, supermarkets and other grocery stores including convenience stores, and gasoline stations with convenience stores. As used in this section, the terms "warehouse clubs and supercenters" and "supermarkets and other grocery stores including convenience stores" shall be defined by the 2012 North American Industry Classification System.

Beer shall be purchased by beer wholesalers and distributed to grocery store licensees subject to the same requirements provided by the laws of this state under the Low-Point Beer Distribution Act as codified in Oklahoma Statutes Title 37, Chapter 2, Section 163.18A et seq., as of the date of passage of this Article. Provided, the provisions of Section 163.18D(E) which require beer purchased by a wholesaler to be unloaded in and distributed from a warehouse of the wholesaler located in this state, prior to being resold in this state shall not be a part of this Constitutional provision and shall have no force and effect.

Age of store clerk shall be governed by this Constitution and by the laws of this State pursuant to Title 37, Chapter 2, Section 243 as of the date of passage of this Article. The Legislature may amend Title 37, Chapter 2, Section 243 as of the date of the passage of this Article, in whole or in part, subsequent to the passage of this Article.

Taxation for retail sale of beer and license fees for grocery store beer and licensees shall be the same as provided by law for retail package store licensees.

This provision places no limit on the number of grocery store beer licenses issued to a licensee.

- C. This section 4.A. shall become effective on July 4, 2017 for the sale of wine, and shall become effective January 1, 2017 for the sale of beer.

§ 5. Prohibition of sales to certain persons - Limitation on advertising – Penalties.

It shall be unlawful for any licensee to sell or furnish any alcoholic beverage to:

- A person under twenty-one (21) years of age; or
- A person who has been adjudged insane or mentally deficient; or
- A person who is intoxicated.

Sales, gifts, or deliveries of spirits or wine to persons under twenty-one (21) years of age shall be deemed a felony; and any license issued pursuant to any law, in compliance with this Article, shall be revoked, upon conviction for such sale, gift, or delivery. Sales, gifts, or deliveries of beer made willfully or knowingly to persons under twenty-one (21) years of age shall be deemed a felony.

It shall be unlawful for any person, firm, or corporation to advertise the sale of spirits within the State of Oklahoma, except by a sign at retail package stores bearing the words "Retail Alcoholic Liquor Store." Sales to insane, mentally deficient, or intoxicated persons shall be deemed a felony.

Any person under the age of twenty-one (21) years who misrepresents his age, for the purpose of obtaining the purchase of any alcoholic beverage, shall be guilty of a misdemeanor.

§ 6. Prohibition of sales on certain days – Penalties.

- A. It shall be unlawful for any retail package store to sell, at retail, any alcoholic beverage:

On the first day of the week, commonly called Sunday; and
On Thanksgiving Day, and Christmas Day.

- B. The voters of any county electing to authorize sales of alcoholic beverages by the individual drink for on-premises consumption under Section 4 hereof may designate as days on which such sales are not authorized, any or all of those days listed in subsection (A) of this section. It shall be unlawful for any licensee or person to make any such sale within any such county on days so designated.
- C. Any licensee or person violating the provisions of this section shall be deemed guilty of a misdemeanor and any license issued pursuant to provisions of this Article shall be revoked upon conviction for such sale in violation of this section.

§ 7. Taxation and licensing - Distribution of funds.

The retail sale of alcoholic beverages shall be subject to the sales tax statutes enacted by the Legislature and in addition thereto the Legislature may levy taxes upon the manufacture, possession and/or all sales of alcoholic beverages, including sales by retail package stores, grocery store wine licensees, grocery store beer licensee and sales by the individual drink for on-premises consumption, the proceeds of which, except sales tax, shall be distributed as follows:

- A. The Oklahoma Tax Commission shall collect and distribute the taxes collected under the terms of this Article and shall distribute ninety-seven percent (97%) of such taxes as are levied and as are attributable to retail sales by retail package stores, grocery store wine licensees, and grocery store beer licensees as follow.
- (1) One-third (1/3) of taxes attributable to sales by retail package stores, grocery store wine licensees, and grocery store beer licensees shall be allocated to the counties of the State of Oklahoma on the basis of area and population (giving equal weight to area and population) and all of said funds shall be appropriated by the Board of County Commissioners in each county to all incorporated cities and towns in said county on the basis of population within each city and town on a per capita basis based on the last preceding Federal Decennial Census.
- (2) Two-thirds (2/3) of taxes attributable to sales by retail package stores, grocery store wine licensees, grocery store beer licensees shall be credited to the General Revenue Fund of the State of Oklahoma.
- B. The remaining three percent (3%) of taxes attributable to sales of alcoholic beverages by retail package stores, grocery store wine licensees, and grocery store beer licensees; and up to three percent (3%) of taxes attributable to sales of alcoholic beverages by the individual drink for on-premises consumption, as shall be determined by the State Legislature; shall be paid to the State Treasurer and placed to the credit of the Oklahoma Tax Commission Fund, to be paid out of said fund pursuant to appropriations made by the State Legislature.
- C. The remaining taxes attributable to sales of alcoholic beverages by the individual drink for on-premises consumption, shall be credited to the General Revenue Fund of the State of Oklahoma. The State Legislature shall appropriate to the Oklahoma Alcoholic Beverage Laws Enforcement Commission from all available taxes collected under this Article, whatever funds are necessary to provide for full enforcement of the alcoholic beverage laws of the State.
- D. All State license fees shall be collected by the Oklahoma Alcoholic Beverage Laws Enforcement Commission and deposited in the State Treasury and after the expenses of the Commission, as approved by the Legislature, have been deducted, the balance shall be credited to the General Revenue Fund of the State of Oklahoma.
- E. The State Legislature is authorized to create a license fee for grocery store wine licenses, grocery store beer licenses, and direct wine shipment licenses. The Legislature shall apportion ninety five percent (95%) of each license fee to the Oklahoma Alcoholic Beverage Laws Enforcement Commission and

five percent (5%) to the Community-based Substance Abuse Revolving Fund established in Title 43A, Section 2-311 of the Oklahoma Statutes, or successor statutes.

§ 8. State and political subdivisions prohibited from engaging in business.

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

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

§ 9. Occupation Tax.

Incorporated cities and towns wherein the sale of alcoholic beverages is lawful, may levy an occupation tax, not exceeding the amount of the State license fees, for the manufacture, distribution, or sale of alcoholic beverages.

§ 10. Restrictions on issuance of licenses.

A. No retail package store or wholesale distributor's license shall be issued to:

- (1) A corporation, business trust or secret partnership; provided, this provision shall not prohibit the issuance of a wholesale distributor's license for beer to a corporation.
- (2) A person or partnership unless such person or all of the copartners including limited partners shall have been residents of the State of Oklahoma for at least ten (10) years immediately preceding the date of application for such license, provided, this residency requirement shall not apply to the issuance of a wholesale distributor's license for beer.

B. No grocery store wine license, grocery store beer license, license to sell alcoholic beverages by the individual drink for on-premises consumption, retail package store license, wholesale distributor's license for spirits or wine, or wholesale distributor's license for beer shall be issued to:

- (1) An applicant if the applicant or any type of partner has been convicted of a felony within fifteen (15) years prior to the application date.
- (2) A corporation if a stockholder owning fifteen percent (15%) of the stock or an officer or a director has been convicted of a felony within fifteen (15) years prior to the application date.
- (3) A limited liability company if a manager or a member has been convicted of a felony within fifteen (15) years prior to the application date, and such manager or member has an ownership interest greater than fifty percent (50%).

C. No provision of this Constitution or other laws of this State shall prohibit the issuance of a grocery store wine license or a grocery store beer license solely because the applicant is a foreign corporation, a domestic corporation, a limited liability company, partnership or individual; nor shall any provision of this Constitution or other laws of this State require a durational residency requirement as a condition for being issued a grocery store wine license or a grocery store beer license.

D. No retail package store or wholesale distributor's license for spirits or wine shall be issued to:

- (1) A corporation, business trust or secret partnership.

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

E. No wholesale distributor's license for beer shall be issued to:

(1) A business trust or secret partnership.

F. No provision of this Constitution or other laws of this State shall prohibit the issuance of a special license to state or county fair associations for the sale of beer for on-premises consumption at rodeos, picnics or other organized assemblages of people, provided that the State Legislature enacts laws allowing for such special license.

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Oklahoma City, OK 73116

SIGNATURES

This measure repeals and replaces Article 28 of the State Constitution. It allows for the retail sale of wine and beer of not more than eight and ninety-nine one hundredths percent (8.99%) alcohol for off-premises consumption in warehouse clubs and supercenters, convenience stores, gasoline stations with convenience stores, and supermarkets and other grocery stores. It creates grocery store wine and grocery store beer licenses. It establishes the taxation of retail sales and purchase and distribution requirements of wine, beer and spirits by licensees and retail package stores. It places no limit on the number of grocery store wine or beer licenses issued to a licensee. It prohibits licenses from being issued to certain applicants convicted of a felony within 15 years. It allows grocery store wine and beer licenses to be held by certain entities from outside the state. It requires that license fees be divided between the Oklahoma Beverage Laws Enforcement Commission and the Community-based Substance Abuse Revolving Fund. It prohibits the sale of spirits on Sundays. It prohibits the sale of wine, beer and spirits to persons under 21 years of age.

WARNING

IT IS A FELONY FOR ANYONE TO SIGN AN INITIATIVE OR REFERENDUM PETITION WITH ANY NAME OTHER THAN HIS OWN, OR TO KNOWINGLY SIGN HIS NAME MORE THAN ONCE FOR THE MEASURE, OR TO SIGN THE PETITION WHEN HE IS NOT A LEGAL VOTER

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AFFIDAVIT

STATE OF OKLAHOMA,)
) ss.
COUNTY OF _____)

I, _____, being first duly sworn say:

That I am at least eighteen (18) years old and that all signatures on the signature sheet were signed in my presence; I believe that each has stated his or her name, mailing address, and residence correctly, and that each signer is a legal voter of the State of Oklahoma.

Circulator's Signature

Address

City Zip Code

Subscribed and sworn to before me this _____ day of _____, 2016.

Notary Public

Address

City Zip Code

My Commission Number Is: _____
My Commission Expires: _____
(SEAL)

APPENDIX B

FILED

FEB 03 2016

PROPOSED BALLOT TITLE

OKLAHOMA SECRETARY
OF STATE

This measure repeals and replaces Article 28 of the State Constitution. It allows for the retail sale of wine and beer of not more than eight and ninety-nine one hundredths percent (8.99%) alcohol for off-premises consumption in warehouse clubs and supercenters, convenience stores, gasoline stations with convenience stores, and supermarkets and other grocery stores. It creates grocery store wine and grocery store beer licenses. It establishes the taxation of retail sales and purchase and distribution requirements of wine, beer and spirits by licensees and retail package stores. It places no limit on the number of grocery store wine or beer licenses issued to a licensee. It prohibits licenses from being issued to certain applicants convicted of a felony within 15 years. It allows grocery store wine and beer licenses to be held by certain entities from outside the state. It requires that license fees be divided between the Oklahoma Beverage Laws Enforcement Commission and the Community-based Substance Abuse Revolving Fund. It prohibits the sale of spirits on Sundays. It prohibits the sale of wine, beer and spirits to persons under 21 years of age.

SHALL THE PROPOSED AMENDMENT TO THE CONSTITUTION BE APPROVED?

YES - For the proposal

NO - Against the proposal

A "YES" vote is a vote in favor of this measure. A "NO" vote is a vote against this measure.

APPENDIX C

wise, all property necessary, useful or convenient for its use in carrying out the objects and purposes of this Article.

Added by State Question No. 374, Legislative Referendum No. 115, adopted at election held July 3, 1956.

Addition proposed by Laws 1955, p. 567, S.J.R. No. 22.

Fish ⇐9.

Game ⇐4.

§ 3. Director of Wildlife Conservation

A Director of Wildlife Conservation shall be appointed by a majority vote of the entire Commission, who shall be removed only for cause and after public hearing by the Commission. His duties and compensation for his services shall be fixed by a majority vote of the entire Commission.

The Director shall, with the approval of the Commission, appoint such assistants and employees as the Commission may deem necessary.

The Commission shall determine the qualifications of the Director, all assistants and employees. No Commissioner shall be eligible for employment as Director or otherwise.

Added by State Question No. 374, Legislative Referendum No. 115, adopted at election held July 3, 1956.

Addition proposed by Laws 1955, p. 567, S.J.R. No. 22.

Fish ⇐11.

Game ⇐6.

Attorney

Oklahoma Department of Wildlife Conservation does not have authority to employ its own attorney to perform legal services for the Department. Op.Atty.Gen. No. 69-150.

Purpose

Purpose of this section requiring that "fees, moneys or funds" arising from general administration of fish and game laws be used by Conservation Commission for same general purposes is to transfer powers, duties and responsibilities of the then existing statutory commission and department to Wildlife Conservation Commission and Department of Wildlife Conservation. Oklahoma Wildlife Federation, Inc. v. Nigh, Old., 513 P.2d 310 (1972).

§ 4. Disposition of funds

The fees, monies, or funds arising from the operation and transactions of said Commission and from the application and the administration of the laws and regulations pertaining to the bird, fish, game and wildlife resources of the State and from the sale of property used for said purposes shall be expended and used by said Commission for the control, management, restoration, conservation and regulation of the bird, fish, game and wildlife resources of the State, including the purchase or other acquisition of property for said purposes, and for the administration of the laws pertaining thereto and for no other purpose.

Added by State Question No. 374, Legislative Referendum No. 115, adopted at election held July 3, 1956.

Addition proposed by Laws 1955, p. 567, S.J.R. No. 22.

Fish ⇐11.

Game ⇐6.

ARTICLE XXVII.—OKLAHOMA ALCOHOLIC BEVERAGE CONTROL BOARD [REPEALED]

Article XXVII, Oklahoma Alcoholic Beverage Control Board, consisting of §§ 1 to 11, was adopted at election held April 7, 1959 (State Question No. 386, Legislative Referendum No. 121), as proposed by Laws 1959, p. 479.

§§ 1 to 11. Repealed by State Question No. 563, Initiative Petition No. 319, adopted at election held on Sept. 18, 1984

ARTICLE XXVIII.—ALCOHOLIC BEVERAGE LAWS AND ENFORCEMENT

Section

1. Creation of Commission—Appointment—Membership—Powers—Tenure.
- 1.A. Transition from the Alcoholic Beverage Control Board to the Alcoholic Beverage Laws Enforcement Commission.
2. Exclusion of beer or cereal malt beverages containing not more than 3.2% of alcohol by weight.
3. Enactment of laws by Legislature—Nondiscriminatory sales to licensed wholesale distributors—Winemakers.
4. Retail sales by package stores and wineries and by the individual drink.
5. Prohibition of sales to certain persons—Limitation on advertising—Penalties.
6. Prohibition of sales on certain days—Penalties.
7. Taxation and licensing—Distribution of funds.
8. State and political subdivisions prohibited from engaging in business.
9. Occupation tax.
10. Restrictions on issuance of licenses.
11. Repealer.

§ 1. Creation of Commission—Appointment—Membership—Powers—Tenure

There is hereby created the Alcoholic Beverage Laws Enforcement Commission. The purpose of the Commission shall be to enforce the alcoholic beverage laws of the State, and the Commission shall have such power and authority to enforce such laws, rules and regulations as shall be prescribed by the Legislature.

The Commission shall consist of seven (7) members, to be appointed by the Governor with the advice and consent of the State Senate. Five (5) of the members shall be at-large members representing the lay citizenry. The remaining two (2) members shall be persons with law enforcement experience in the State. Any time there is a vacancy on the Commission the Governor shall appoint a replacement, with the advice and consent of the State Senate, within ninety (90) days. Members of the Commission shall be appointed for a term of five (5) years. The Commission shall appoint a Director, whose duties shall be defined by the Legislature. No more than four (4) members of the Commission shall be appointed from the same

political party. No more than two (2) members of the Commission shall be appointed from the same federal congressional district.

No member of the Commission shall hold any license authorized by this Article, or have any interest in any capacity, in the manufacture, sale, distribution or transportation of alcoholic beverages.

The members of the Commission shall be removable from office for cause as other officers not subject to impeachment.

Added by the State Question No. 563, Initiative Petition No. 319, adopted at election held on Sept. 18, 1984.

Intoxicating Liquors ⇨5.1.

States ⇨45, 46, 51, 52.

§ 1.A. Transition from the Alcoholic Beverage Control Board to the Alcoholic Beverage Laws Enforcement Commission

The Alcoholic Beverage Control Board shall continue to exist and operate after passage of this Article, until such time as the Commission is fully constituted, at which time the Alcoholic Beverage Control Board shall be abolished. The present five (5) members of the Alcoholic Beverage Control Board shall automatically become the five (5) at-large members on the initial transition Commission. For purposes of the initial transition Commission the five (5) year term of appointment shall not apply to these at-large members. These members shall serve from the date of the Commission's constitution until the time that their terms on the Alcoholic Beverage Control Board would have expired, at which time a replacement at-large member shall be appointed by the Governor, with the advice and consent of the Senate, within ninety (90) days. The other two (2) members with law enforcement experience in the state shall be appointed by the Governor, with the advice and consent of the State Senate, within ninety (90) days after passage of this Article. For purposes of the initial transition Commission the prohibitions against appointing more than two (2) members from any federal congressional district and more than four (4) members from the same political party shall not apply.

Added by State Question No. 563, Initiative Petition No. 319, adopted at election held on Sept. 18, 1984.

§ 2. Exclusion of beer or cereal malt beverages containing not more than 3.2% of alcohol by weight

The terms and provisions of this Amendment, and laws enacted by the Legislature pursuant hereto, shall not include nor apply to any beer or cereal malt beverage containing not more than three and two-tenths percent (3.2%) of alcohol by weight; provided, however, nothing shall prohibit a person authorized to sell alcoholic beverages by the individual drink for on-premises consumption from also becoming qualified to sell any beer or cereal malt beverage containing not

more than three and two-tenths percent (3.2%) of alcohol by weight in the same location.

Added by State Question No. 563, Initiative Petition No. 319, adopted at election held on Sept. 18, 1984.

Intoxicating Liquors ⇨47, 122.

§ 3. Enactment of laws by Legislature—Non-discriminatory sales to licensed wholesale distributors—Winemakers

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. 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 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.

Added by State Question No. 563, Initiative Petition No. 319, adopted at election held on Sept. 18, 1984. Amended by State Question No. 591, Legislative Referendum No. 255, adopted at election held on Nov. 4, 1986; State Question No. 663, Legislative Referendum No. 297, adopted at election held on Nov. 8, 1994; State Question No. 688, Legislative Referendum No. 317, adopted at election held on Nov. 7, 2000; State Question No. 743, Legislative Referendum No. 346, adopted at election held on Nov. 4, 2008.

Amendment proposed by 2008 S.J.R. No. 29, § 1.

Amendment proposed by Laws 2000, c. 4, § 1.

Amendment proposed by 1994 H.J.R. No. 1066, § 1.

Amendment proposed by Laws 1985, p. 1668, S.J.R. No. 2, § 1.

Intoxicating Liquors ⇨5.1, 124.

§ 4. Retail sales by package stores and wineries and by the individual drink

Except as hereinafter provided, retail sales of alcoholic beverages shall be limited to the original sealed package, by privately owned and operated package stores, in cities and towns having a population in excess of two hundred (200) persons or by wineries; provided that wineries shall be able to sell only wine which has been produced on the winery premises. No goods, wares, or merchandise shall be sold and no services shall be rendered on the same premises on which retail package alcoholic beverages are sold. Said premises are herein defined to be the entire space in which retail package alcoholic beverages are sold or displayed and said premises must be separated from any premises on which any other goods, wares, or merchandise are sold or services rendered by walls which may only be broken by a passageway to which the public is not admitted; provided, the restriction on the sale of merchandise and rendering of services shall not apply to the premises of a winery.

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

Retail sale of alcoholic beverages by the individual drink for on-premises consumption is hereby authorized within a county if the voters of such county have previously approved such retail sale at an election.

Added by State Question No. 563, Initiative Petition No. 319, adopted at election held on Sept. 18, 1984. Amended by State Question No. 591, Legislative Referendum No. 255, adopted at election held on Nov. 4, 1986; State Question No. 663, Legislative Referendum No. 297, adopted at election held on Nov. 8, 1994.

Amendment proposed by Laws 1985, p. 1668, S.J.R. No. 2, § 1.

Amendment proposed by 1994 H.J.R. No. 1066, § 1.

Intoxicating Liquors ⇨110.

§ 5. Prohibition of sales to certain persons—Limitation on advertising—Penalties

It shall be unlawful for any licensee to sell or furnish any alcoholic beverage to:

A person under twenty-one (21) years of age; or

A person who has been adjudged insane or mentally deficient; or

A person who is intoxicated.

Sales, gifts, or deliveries to persons under twenty-one (21) years of age shall be deemed a felony; and any license issued pursuant to any law, in compliance with this Amendment, shall be revoked, upon conviction for such sale, gift, or delivery.

It shall be unlawful for any person, firm, or corporation to advertise the sale of alcoholic beverages within the State of Oklahoma, except by a sign at retail package stores bearing the words "Retail Alcoholic Liquor Store."

Sales to insane, mentally deficient, or intoxicated persons shall be deemed a felony.

Any person under the age of twenty-one (21) years who misrepresents his age, for the purpose of obtaining the purchase of any alcoholic beverage, shall be guilty of a misdemeanor.

Added by State Question No. 563, Initiative Petition No. 319, adopted at election held on Sept. 18, 1984.

Intoxicating Liquors ⇨157.

§ 6. Prohibition of sales on certain days—Penalties

(a) It shall be unlawful for any retail package store to sell, at retail, any alcoholic beverage:

On the first day of the week, commonly called Sunday;

and

On Decoration or Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

(b) The voters of any county electing to authorize sales of alcoholic beverages by the individual drink for on-premises consumption under Section 4 hereof may designate as days on which such sales are not authorized, any or all of those days listed in subsection (a) of this section. It shall be unlawful for any licensee or person to make any such sale within any such county on days so designated.

(c) Any licensee or person violating the provisions of this section shall be deemed guilty of a misdemeanor and any license issued pursuant to provisions of this act shall be revoked upon conviction for such sale in violation of this section.

Added by State Question No. 563, Initiative Petition No. 319, adopted at election held on Sept. 18, 1984. Amended by State Question No. 733, Legislative Referendum No. 341, adopted at election held Nov. 7, 2006.

Amendment proposed by Laws 2006, H.J.R. No. 1066, § 1.

Intoxicating Liquors ⇨120, 121.

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§ 7. Taxation and licensing—Distribution of funds

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

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

(1) One-third ($\frac{1}{3}$) of taxes attributable to sales by retail package stores shall be allocated to the counties of the State of Oklahoma on the basis of area and population (giving equal weight to area and population) and all of said funds shall be appropriated by the Board of County Commissioners in each county to all incorporated cities and towns in said county on the basis of population within each city and town on a per capita basis based on the last preceding Federal Decennial Census.

(2) Two-thirds ($\frac{2}{3}$) of taxes attributable to sales by retail package stores shall be credited to the General Revenue Fund of the State of Oklahoma.

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

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

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

Added by State Question No. 563, Initiative Petition No. 319, adopted at election held on Sept. 18, 1984.
Intoxicating Liquors \Rightarrow 44, 89.

§ 8. State and political subdivisions prohibited from engaging in business

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

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

Added by State Question No. 563, Initiative Petition No. 319, adopted at election held on Sept. 18, 1984. Amended by State Question No. 638, Legislative Referendum No. 286, adopted at election held on Sept. 18, 1990.

Amendment proposed by Laws 1990, p. 1906, S.J.R. No. 25, § 1.
Intoxicating Liquors \Rightarrow 127.

§ 9. Occupation tax

Incorporated cities and towns wherein the sale of alcoholic beverages is lawful, may levy an occupation tax, not exceeding the amount of the State license fees, for the manufacture, distribution, or sale of alcoholic beverages.

Added by State Question No. 563, Initiative Petition No. 319, adopted at election held on Sept. 18, 1984.

Intoxicating Liquors \Rightarrow 89.1.
Municipal Corporations \Rightarrow 957.

§ 10. Restrictions on issuance of licenses

No retail package store or wholesale distributor's license shall be issued to:

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

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

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

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

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

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

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

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

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

Added by State Question No. 563, Initiative Petition No. 319, adopted at election held on Sept. 18, 1984.

Intoxicating Liquors ⇨57.

§ 11. Repealer

Article XXVII of the Constitution of the State of Oklahoma is hereby repealed. The Prohibition Ordinance and Section 7, Article I of the Constitution of the State of Oklahoma, previously repealed by Article XXVII of the Constitution of the State of Oklahoma, are not revived by this repealer.

Added by State Question No. 563, Initiative Petition No. 319, adopted at election held on Sept. 18, 1984.

Intoxicating Liquors ⇨17.

ARTICLE XXIX.—ETHICS COMMISSION

Section

1. Ethics Commission—Appointments—Qualifications—Terms—Vacancies—Quorum.
2. Appropriation—Compensation—Staff.
3. Ethics Rules.
4. Investigation—Decision—Subpoena Power.
5. Ethics Interpretations.
6. Criminal Penalties.
7. Removal.

§ 1. Ethics Commission—Appointments—Qualifications—Terms—Vacancies—Quorum

Ethics Commission—Appointments—Qualifications—Terms—Vacancies—Quorum. A. There is hereby created the Ethics Commission which shall consist of five members. The Governor, Attorney General, President Pro Tempore of the Senate, Speaker of the House of Representatives, and Chief Justice of the Supreme Court shall each appoint a person who is a registered voter of this State to the Commission. The initial terms of the Governor's and Attorney General's appointees shall be one year; the initial terms of the President Pro Tempore's and Speaker's appointees shall be three years, and the initial term of the Chief Justice's appointee shall be five years. B. No congressional district shall be represented by

more than one Commissioner, and no more than three persons of the same political registration shall serve on the Ethics Commission at the same time. C. After the initial terms, members of the Ethics Commission shall serve terms of five years. No person shall be appointed to the Commission more than two times in succession, except the initial members who serve less than five-year terms may be appointed three times in succession. A vacancy on the Commission shall be filled for the remainder of the unexpired term by the appointing authority. D. The members of the Commission shall choose a chair from among themselves. E. The term of office for a Commissioner shall commence at noon on the second Monday in July. F. No member of the Ethics Commission shall be eligible for elected office for two years after completing his or her term. G. A majority of the members serving shall constitute a quorum.

Added by State Question No. 627, Initiative Petition No. 341, adopted at election held on Sept. 18, 1990.

States ⇨45 to 47, 51.

§ 2. Appropriation—Compensation—Staff

Appropriation—Compensation—Staff. A. The Ethics Commission shall receive an annual appropriation by the Legislature sufficient to enable it to perform its duties as set forth in this Constitutional Amendment. Any funds appropriated to the Ethics Commission, which remain unspent at the end of the fiscal year shall be returned to the general revenue fund. The Commission shall present its proposed budget to the Governor and the Legislature on the second day of each legislative session. B. The commissioners shall receive reimbursement for travel, lodging, and meals while on official business as provided for other officers of the State, but they shall not be otherwise compensated. C. The Commission may employ an executive director and other staff, including attorneys, necessary to fulfill its duties.

Added by State Question No. 627, Initiative Petition No. 341, adopted at election held on Sept. 18, 1990.

States ⇨53, 62.

§ 3. Ethics Rules

Ethics Rules. A. After public hearing, the Ethics Commission shall promulgate rules of ethical conduct for campaigns for elective state office and for campaigns for initiatives and referenda, including civil penalties for violation of these rules. B. After public hearing, the Ethics Commission shall promulgate rules of ethical conduct for state officers and employees, including civil penalties for violation of these rules. C. Newly promulgated rules shall be presented to each House of the Legislature and to the Governor on the second day of each session of the Legislature. If these rules are not disapproved by joint resolution, subject to veto by the Governor, during the same legislative session, they shall be effective. In the event the Governor vetoes a joint resolution disapproving any Ethics Commission's rules, the procedure

APPENDIX D

COMPARISON OF OKLA. CONST. ART. 28 AND STATE QUESTION 783

§ 1. Creation of Commission - Appointment - Membership - Powers - Tenure.

There is hereby created the Alcoholic Beverage Laws Enforcement Commission. The purpose of the Commission shall be to enforce the alcoholic beverage laws of the State, and the Commission shall have such power and authority to enforce such laws, rules and regulations as shall be prescribed by the Legislature.

The Commission shall consist of seven (7) members, to be appointed by the Governor with the advice and consent of the State Senate. Five (5) of the members shall be at-large members representing the lay citizenry. The remaining two (2) members shall be persons with law enforcement experience in the State. Any time there is a vacancy on the Commission the Governor shall appoint a replacement, with the advice and consent of the State Senate, within ninety (90) days. Members of the Commission shall be appointed for a term of five (5) years. The Commission shall appoint a Director, whose duties shall be defined by the Legislature. No more than four (4) members of the Commission shall be appointed from the same political party. No more than two (2) members of the Commission shall be appointed from the same federal congressional district.

No member of the Commission shall hold any license authorized by this Article, or have any interest in any capacity, in the manufacture, sale, distribution or transportation of alcoholic beverages.

The members of the Commission shall be removable from office for cause as other officers not subject to impeachment.

§ 1.A. ~~Transition from the Alcoholic Beverage Control Board to the~~ to a reconstituted Alcoholic Beverage Laws Enforcement Commission.

The Alcoholic Beverage ~~Control Board~~ Laws Enforcement Commission shall continue to exist and operate after passage of this Article, ~~until such time as the Commission is fully constituted, at which time the Alcoholic Beverage Control Board shall be abolished.~~ The present ~~five (5) members~~ (7) members of the Alcoholic Beverage ~~Control Board~~ Laws Enforcement Commission shall automatically become the ~~five (5)~~ (7) members at large members ~~on the initial transition~~ reconstituted Commission. ~~For purposes of the initial transition Commission the five (5) year term of appointment shall not apply to these at-large members.~~ These members shall serve from the date of the Commission's ~~constitution~~ reconstitution until the time that ~~their~~ his or her terms ~~on the Alcoholic Beverage Control Board~~ Enforcement Commission would have expired, ~~at which time a replacement at large member shall be appointed by the Governor, with the advice and consent of the Senate, within ninety (90) days.~~ The other two (2) members with law enforcement experience in the state shall be appointed by the Governor, with the advice and consent of the State Senate, within ninety (90) days after passage of this Article. ~~For~~

purposes of the initial transition Commission the prohibitions against appointing more than two (2) members from any federal congressional district and more than four (4) members from the same political party shall not apply.

§ 2. Exclusion of beer or cereal malt beverages containing not more than 3.2% of alcohol by weight Enforcement authority of Alcoholic Beverage Laws Enforcement Commission.

The terms and provisions of this Amendment, and laws enacted by the Legislature pursuant hereto, shall not include nor apply to any beer or cereal malt beverage containing not more than three and two tenths percent (3.2%) of alcohol by weight; provided, however, nothing shall prohibit a person authorized to sell alcoholic beverages by the individual drink for on-premises consumption from also becoming qualified to sell any beer or cereal malt beverage containing not more than three and two tenths percent (3.2%) of alcohol by weight in the same location.

Notwithstanding any other provisions of this Constitution to the contrary, the Alcoholic Beverage Laws Enforcement Commission shall have authority to enforce laws, rules and regulations for the sale of all alcoholic beverages, including spirits, wine and beer and every liquid or solid, patented or not, containing spirits, wine or beer and capable of being consumed as a beverage by human beings.

- A. Spirits shall include (1) wine containing more than thirteen and nine tenths percent (13.9%) alcohol measured by volume, (2) beer containing more than eight and ninety-nine one hundredths percent (8.99%) alcohol measured by volume, or (3) any beverage other than wine or beer containing one-half of one percent (1/2 of 1%) of alcohol measured by volume and obtained by distillation but not including any alcohol liquid completely denatured in accordance with the Acts of Congress and regulations pursuant thereto. The sale of spirits shall be subject to the provisions of this Constitution.
- B. Wine shall include any beverage containing more than one-half of one percent (1/2 of 1%) of alcohol measured by volume and not more than thirteen and nine tenths percent (13.9%) alcohol by the volume at sixty degrees Fahrenheit obtained by the fermentation of natural contents of fruits, vegetables, honey, milk or other products containing sugar, including all such beverages taxed as wine under the Internal Revenue Code (26 U.S.C. 5041 and successor statutes) and produced in accordance with federal regulations promulgated pursuant to that Code. The sale of wine shall be subject to the provisions of this Constitution. Provided, however, nothing in this Constitution or other law shall prevent the sale of wine, refrigerated or unrefrigerated, for off-premises consumption in warehouse clubs and supercenters, supermarkets and other grocery stores including convenience stores, and gasoline stations with convenience stores, as those terms are defined by 2012 North American Industry Classification System, or in any package store.

C. Beer shall include any beverage containing more than one-half of one percent (1/2 of 1%) of alcohol measured by volume and not more than eight and ninety-nine one hundredths percent (8.99%) alcohol measured by volume and obtained by alcoholic fermentation of any infusion or decoction of malted barley, other grains, and/or other products suitable for human consumption, including all such beverages taxed as beer under the Internal Revenue Code (26 U.S.C. 5052 and successor statutes) and produced in accordance with federal regulations promulgated pursuant to that Code. The Legislature shall enact laws providing for the strict regulation, control, licensing, and taxation of the manufacture, sale, distribution, possession, and transportation of beer. Provided, however, nothing in this Constitution or other law shall prevent the sale of beer, refrigerated or unrefrigerated, for off-premises consumption in any warehouse clubs and supercenters, supermarkets and other grocery stores including convenience stores, and gasoline stations with convenience stores, as those terms are defined by 2012 North American Industry Classification System, or in any package store, subject to the limitations in Section 6 of this Article.

§3. Enactment of laws by Legislature - ~~Nondiscriminatory~~Nondiscrimination in sales to licensed wholesale distributors - Winemakers~~Sales by winemakers.~~

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~~spirits or wine, consistent with the provisions of this ~~Amendment.~~Article. Provided, that any manufacturer, or subsidiary of any manufacturer of spirits or wine, 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. Winemakers either within or without this state that annually produce no more than ~~ten~~fifteen thousand (~~10,000~~15,000) gallons of wine may sell and ship only the wine they produce 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 carriers~~ shall not be prohibited from directly marketing, selling or shipping its wine to consumers.
- C. All laws passed by the Legislature under the authority of the Article shall be consistent with this provision. All provisions of this ~~amendment~~ Article are declared to be interdependent. If any provision of this ~~amendment~~ Article 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, restaurants, warehouse clubs and supercenters, supermarkets and other grocery stores including convenience stores, and gasoline stations with convenience stores,~~ in this state.

§ 4. Retail sales by package stores and wineries and by the individual drink.

Except as hereinafter provided, retail sales of alcoholic beverages, which may include spirits, wine or beer, shall be limited to the original sealed package, by privately owned and operated package stores, in cities and towns having a population in excess of two hundred (200) persons or by wineries; provided that wineries shall be able to sell only wine which has been produced on the winery premises. No goods, wares, or merchandise shall be sold and no services shall be rendered ~~on the same premises~~ at retail package stores on which retail package alcoholic beverages are sold. Said premises are herein defined to be the entire space in which retail package alcoholic beverages are sold or displayed and said premises must be separated from any premises on which any other goods, wares, or merchandise are sold or services rendered by walls which may only be broken by a passageway to which the public is not admitted; provided, the restriction on the sale of merchandise and rendering of services shall not apply to the premises of a winery.

Not more than one retail package license shall be issued to any person or general or limited partnership. Retail sale of alcoholic beverages by the individual drink for on-premises consumption is hereby authorized within a county if the voters of such county have previously approved such retail sale at an election.

§ 4.A. Grocery store sale of wine and beer.

- A. Wine may be sold at retail for off-premises consumption, refrigerated or

unrefrigerated, in the original sealed package in warehouse clubs and supercenters, supermarkets and other grocery stores including convenience stores, and gasoline stations with convenience stores, pursuant to a grocery store wine license. Other goods, wares or merchandise may be sold on the same premises. Sales of wine by a grocery store wine licensee shall only be permitted on the same days and at the same times that sales of wine are permitted in any retail package store and shall only be permitted to customers who are physically present on the premises of the grocery store wine licensee. No wine shall be sold to any person under the age of twenty-one (21) years; however, persons under the age of twenty-one (21) years may purchase other goods, wares or merchandise sold on the premises of a grocery store wine licensee provided the sale of such goods, wares or merchandise is not prohibited to persons under the age of twenty-one (21) by provisions of this Constitution or other laws of this State.

A grocery store wine license may only be issued to warehouse clubs and supercenters, supermarkets and other grocery stores including convenience stores, and gasoline stations with convenience stores. As used in this section, the terms "warehouse clubs and supercenters" and "supermarkets and other grocery stores including convenience stores" shall be defined by the 2012 North American Industry Classification System.

Wine shall be purchased by and distributed to grocery store wine licensees subject to the same requirements provided by this Constitution and the laws of this State for a retail package store. Taxation for retail sale of wine and license fees for grocery store wine and licensees shall be the same as provided by law for retail package store licensees.

This provision places no limit on the number of grocery store wine licenses issued to a licensee. Beer may be sold at retail for off-premises consumption, refrigerated or unrefrigerated, in the original sealed package, or into transfer containers as allowed by state law, or single cans from a larger sealed package, in warehouse clubs and supercenters, supermarkets and other grocery stores including convenience stores, and gasoline stations with convenience stores, pursuant to a grocery store beer license. Other goods, wares or merchandise may be sold on the same premises. Sales of beer by a grocery store beer licensee shall only be permitted on the same days and at the same times that are permitted pursuant to Article 28, Section 6(b) of the Oklahoma Constitution; and shall only be permitted to customers who are physically present on the premises of the grocery store beer licensee. No beer shall be sold to any person under the age of twenty-one (21) years; however, persons under the age of twenty-one (21) years may purchase other goods, wares or merchandise sold on the premises of a grocery store beer licensee provided the sale of such goods, wares or merchandise is not prohibited to persons under the age of twenty-one (21) by provisions of this Constitution or other laws of this State.

A grocery store beer license may only be issued to warehouse clubs and supercenters, supermarkets and other grocery stores including convenience stores, and gasoline stations with convenience stores. As used in this section, the terms "warehouse clubs and supercenters" and "supermarkets and other grocery stores including convenience stores" shall be defined by the 2012 North American Industry Classification System.

Beer shall be purchased by beer wholesalers and distributed to grocery store licensees subject to the same requirements provided by the laws of this state under the Low-Point Beer Distribution Act as codified in Oklahoma Statutes Title 37, Chapter 2, Section 163.18A et seq., as of the date of passage of this Article. Provided, the provisions of Section 163.18D(E) which require beer purchased by a wholesaler to be unloaded in and distributed from a warehouse of the wholesaler located in this state, prior to being resold in this state shall not be a part of this Constitutional provision and shall have no force and effect.

Age of store clerk shall be governed by this Constitution and by the laws of this State pursuant to Title 37, Chapter 2, Section 243 as of the date of passage of this Article. The Legislature may amend Title 37, Chapter 2, Section 243 as of the date of the passage of this Article, in whole or in part, subsequent to the passage of this Article.

Taxation for retail sale of beer and license fees for grocery store beer and licensees shall be the same as provided by law for retail package store licensees.

This provision places no limit on the number of grocery store beer licenses issued to a licensee.

B. This section 4.A. shall become effective on July 4, 2017 for the sale of wine, and shall become effective January 1, 2017 for the sale of beer.

§ 5. Prohibition of sales to certain persons - Limitation on advertising - Penalties.

It shall be unlawful for any licensee to sell or furnish any alcoholic beverage to:

- A person under twenty-one (21) years of age; or
- A person who has been adjudged insane or mentally deficient; or
- A person who is intoxicated.

Sales, gifts, or deliveries of spirits or wine to persons under twenty-one (21) years of age shall be deemed a felony; and any license issued pursuant to any law, in compliance with this ~~Amendment~~Article, shall be revoked, upon conviction for such sale, gift, or delivery. Sales, gifts, or deliveries of beer made willfully or knowingly to persons under twenty-one (21) years of age shall be deemed a felony.

It shall be unlawful for any person, firm, or corporation to advertise the sale of alcoholic beverages ~~spirits~~ within the State of Oklahoma, except by a sign at retail package stores bearing the words "Retail Alcoholic Liquor Store." Sales to insane, mentally deficient, or intoxicated persons shall be deemed a felony.

Any person under the age of twenty-one (21) years who misrepresents his age, for the purpose of obtaining the purchase of any alcoholic beverage, shall be guilty of a misdemeanor.

§ 6. Prohibition of sales on certain days - Penalties.

(a) ~~A.~~ It shall be unlawful for any retail package store to sell, at retail, any alcoholic beverage:

On the first day of the week, commonly called Sunday; and
On ~~Decoration or Memorial Day, Independence Day, Labor Day,~~ Thanksgiving Day, and Christmas Day.

(b) ~~B.~~ The voters of any county electing to authorize sales of alcoholic beverages by the individual drink for on-premises consumption under Section 4 hereof may designate as days on which such sales are not authorized, any or all of those days listed in subsection (a) ~~A~~ of this section. It shall be unlawful for any licensee or person to make any such sale within any such county on days so designated.

(c) ~~C.~~ Any licensee or person violating the provisions of this section shall be deemed guilty of a misdemeanor and any license issued pursuant to provisions of this ~~act~~ Article shall be revoked upon conviction for such sale in violation of this section.

§ 7. Taxation and licensing - Distribution of funds.

The retail sale of alcoholic beverages shall be subject to the sales tax statutes enacted by the Legislature and in addition thereto the Legislature may levy taxes upon the manufacture, possession and/or all sales of alcoholic beverages, including sales by retail package stores, grocery store wine licensees, grocery store beer licensee and sales by the individual drink for on-premises consumption, the proceeds of which, except sales tax, shall be distributed as follows:

(a) ~~A.~~ The Oklahoma Tax Commission shall collect and distribute the taxes collected under the terms of this Article and shall distribute ninety-seven percent (97%) of such taxes as are levied and as are attributable to retail sales by retail package stores as follows, grocery store wine licensees, and grocery store beer licensees as follow.

(1) One-third (1/3) of taxes attributable to sales by retail package stores, grocery store wine licensees, and grocery store beer licensees shall be allocated to the

counties of the State of Oklahoma on the basis of area and population (giving equal weight to area and population) and all of said funds shall be appropriated by the Board of County Commissioners in each county to all incorporated cities and towns in said county on the basis of population within each city and town on a per capita basis based on the last preceding Federal Decennial Census.

- (2) Two-thirds (2/3) of taxes attributable to sales by retail package stores, grocery store wine licensees, grocery store beer licensees shall be credited to the General Revenue Fund of the State of Oklahoma.
- ~~(b)~~ B. The remaining three percent (3%) of taxes attributable to sales of alcoholic beverages by retail package stores, grocery store wine licensees, and grocery store beer licensees; and up to three percent (3%) of taxes attributable to sales of alcoholic beverages by the individual drink for on-premises consumption, as shall be determined by the State Legislature; shall be paid to the State Treasurer and placed to the credit of the Oklahoma Tax Commission Fund, to be paid out of said fund pursuant to appropriations made by the State Legislature.
- ~~(c)~~ C. The remaining taxes attributable to sales of alcoholic beverages by the individual drink for on-premises consumption, shall be credited to the General Revenue Fund of the State of Oklahoma. The State Legislature shall appropriate to the Oklahoma Alcoholic Beverage Laws Enforcement Commission from all available taxes collected under this Article, whatever funds are necessary to provide for full enforcement of the alcoholic beverage laws of the State.
- ~~(d)~~ D. All State license fees shall be collected by the Oklahoma Alcoholic Beverage Laws Enforcement Commission and deposited in the State Treasury and after the expenses of the Commission, as approved by the Legislature, have been deducted, the balance shall be credited to the General Revenue Fund of the State of Oklahoma.
- E. The State Legislature is authorized to create a license fee for grocery store wine licenses, grocery store beer licenses, and direct wine shipment licenses. The Legislature shall apportion ninety five percent (95%) of each license fee to the Oklahoma Alcoholic Beverage Laws Enforcement Commission and five percent (5%) to the Community-based Substance Abuse Revolving Fund established in Title 43A, Section 2-311 of the Oklahoma Statutes, or successor statutes.

§ 8. State and political subdivisions prohibited from engaging in business.

The State of Oklahoma, or any political subdivision thereof, or any board, commission or agency thereof, is hereby prohibited from engaging in any phase of the alcoholic beverage business, including the manufacture, sale, transportation, or distribution thereof, at wholesale or retail, and the maintenance, ownership, or operation of warehouses or

alcoholic beverage stores; except that if the voters of a county in which a state lodge is located approve retail sale of alcoholic beverages by the individual drink for on--premises consumption, and if the State Legislature enacts legislation approving such sales in any such lodges located in any such counties, then such sales are authorized. The Legislature may enact laws restricting the involvement of officers and employees of the state and political subdivisions thereof in the alcoholic beverage business.

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

§ 9. Occupation Tax.

Incorporated cities and towns wherein the sale of alcoholic beverages is lawful, may levy an occupation tax, not exceeding the amount of the State license fees, for the manufacture, distribution, or sale of alcoholic beverages.

§ 10. Restrictions on issuance of licenses.

A. No retail package store or wholesale distributor's license shall be issued to:

- (a) A corporation, business trust or secret partnership; provided, this provision shall not prohibit the issuance of a wholesale distributor's license for beer to a corporation.
- (b) A person or partnership unless such person or all of the copartners including limited partners shall have been residents of the State of Oklahoma for at least ten (10) years immediately preceding the date of application for such license, provided, this residency requirement shall not apply to the issuance of a wholesale distributor's license for beer.
- ~~(c) A person or a general or limited partnership containing a partner who has been convicted of a violation of a prohibitory law relating to the sale, manufacture, or the transportation of alcoholic beverages which constituted a felony or misdemeanor.~~
- ~~(d) A person or a general or limited partnership containing a partner who has been convicted of a felony.~~

B. No grocery store wine license, grocery store beer license, license to sell alcoholic beverages by the individual drink for on-premises consumption, retail package store license, wholesale distributor's license for spirits or wine, or wholesale distributor's license for beer shall be issued to:

- (1) An applicant if the applicant or any type of partner has been convicted of a

felony within fifteen years prior to the application date.

(2) A corporation if a stockholder owning fifteen percent (15%) of the stock or an officer or a director has been convicted of a felony within fifteen (15) years prior to the application date.

(3) A limited liability company if a manager or a member has been convicted of a felony within fifteen years prior to the application date, and such manager or member has an ownership interest greater than fifty percent (50%).

C. No provision of this Constitution or other laws of this State shall prohibit the issuance of a grocery store wine license or a grocery store beer license solely because the applicant is a foreign corporation, a domestic corporation, a limited liability company, partnership or individual; nor shall any provision of this Constitution or other laws of this State require a durational residency requirement as a condition for being issued a grocery store wine license or a grocery store beer license.

D. No retail package store or wholesale distributor's license for spirits or wine shall be issued to:

(1) A corporation, business trust or secret partnership.

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

E. No wholesale distributor's license for beer shall be issued to:

(1) A business trust or secret partnership.

F. No provision of this Constitution or other laws of this State shall prohibit the issuance of a special license to state or county fair associations for the sale of beer for on-premises consumption at rodeos, picnics or other organized assemblages of people, provided that the State Legislature enacts laws allowing for such special license.

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

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

(b) A person or a general or limited partnership containing a partner who has been

convicted of a felony.

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

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

~~§ 11. Repealer.~~

~~Article XXVII of the Constitution of the State of Oklahoma is hereby repealed. The Prohibition Ordinance and Section 7, Article I of the Constitution of the State of Oklahoma, previously repealed by Article XXVII of the Constitution of the State of Oklahoma, are not revived by this repealer.~~

APPENDIX E

A Resolution

ENROLLED SENATE JOINT
RESOLUTION NO. 1

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

Correctly Enrolled *John R. H. Board* Chairman, COMMITTEE ON ENGROSSED AND ENROLLED BILLS

-----A JOINT RESOLUTION DIRECTING THE SECRETARY OF STATE TO REFER TO THE PEOPLE, FOR THEIR APPROVAL OR REJECTION, A PROPOSED AMENDMENT TO THE OKLAHOMA CONSTITUTION; REPEALING ARTICLE I, SECTION 7, OF THE CONSTITUTION OF THE STATE OF OKLAHOMA; ADDING THERETO A NEW ARTICLE TO BE KNOWN AS ARTICLE XXVII; PROVIDING FOR THE CREATION OF THE OKLAHOMA ALCOHOLIC BEVERAGE CONTROL BOARD; EXEMPTING CERTAIN BEVERAGES FROM CONTROL; PROVIDING FOR THE LEGISLATURE TO ENACT LAWS FOR THE REGULATION, CONTROL, LICENSING AND TAXING OF THE MANUFACTURE, SALE, DISTRIBUTION, POSSESSION AND TRANSPORTATION OF ALCOHOLIC LIQUOR; PROHIBITING THE OPEN SALOON AND PROVIDING FOR PACKAGE SALES ONLY FROM PRIVATELY OWNED STORES; PROHIBITING THE SALE OF ALCOHOLIC LIQUOR TO CERTAIN PERSONS; PROHIBITING THE SALE OF ALCOHOLIC LIQUOR ON CERTAIN DAYS; PROHIBITING THE STATE OF OKLAHOMA FROM ENGAGING IN THE ALCOHOLIC LIQUOR BUSINESS; PROVIDING RESTRICTIONS ON THE PLACE OF SALE; PROVIDING OTHER RESTRICTIONS; PROVIDING FOR TAXATION AND LICENSING AND FOR DISTRIBUTION OF TAXES AND LICENSE FEES COLLECTED; PROVIDING FOR TAXATION BY CITIES AND TOWNS; AND ORDERING A SPECIAL ELECTION.-----

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

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 Oklahoma, to be known as Article XXVII, Oklahoma Constitution:-----

-----ARTICLE XXVII-----

Section 1. There is hereby created the Oklahoma Alcoholic Beverage Control Board, the members of which shall be appointed by the Governor, with the advice and consent of the State Senate. The Board shall appoint a Director, with the advice and consent of the State Senate, whose duties shall be defined by the Legislature.-----

-----The Board shall have such power and authority to enforce said rules and regulations as may be prescribed by the Legislature.-----

-----The Board shall consist of five (5) members, and no two (2) members shall be appointed from any one Congressional District and no more than four (4) members of the Board shall belong to the same political party.-----

-----The members of the Board shall be appointed within sixty (60)

days after the passage of this Amendment, to serve the following terms from the date of appointment: _____

- _____ One member for two (2) years; _____
- _____ One member for three (3) years; _____
- _____ One member for four (4) years; _____
- _____ One member for six (6) years; and _____
- _____ One member for seven (7) years; _____

or until their successors are duly appointed and qualified; and, as the term of each member expires, a successor member shall be thereupon appointed by the Governor for a term of seven (7) years, with the advice and consent of the State Senate. The members of the Board shall be removable from office for cause as other officers not subject to impeachment. _____

Section 2. The terms and provisions of this Amendment, and laws enacted by the Legislature pursuant hereto, shall not include nor apply to any beer or cereal malt beverage containing not more than three and two-tenths per cent (3.2%) of alcohol by weight. _____

Section 3. The Legislature shall enact laws providing for the strict regulation, control, licensing, and taxation of the manufacture, sale, distribution, possession, and transportation of alcoholic beverage, consistent with the provisions of this Amendment. Provided, that any manufacturer, or subsidiary of any manufacturer who markets his product solely through a subsidiary or subsidiaries, a distiller, rectifier, bottler, winemaker, brewer, or importer of alcoholic beverage, 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, and all laws passed by the Legislature under the authority of the Article shall be consistent with this provision. _____

Section 4. The open saloon, for the sale of alcoholic beverage, _____

Correctly Enrolled:  Chairman, COMMITTEE ON ENGROSSED AND ENROLLED BILLS

Correctly Enrolled. *Robert D. Brown*, Chairman, COMMITTEE ON ENGROSSED AND ENROLLED BILLS

as commonly known prior to the adoption of the Eighteenth Article of Amendment to the Constitution of the United States of America, is hereby prohibited.

The words "open saloon" shall mean:

Any place, public or private, wherein alcoholic beverage is sold or offered for sale, by the drink; or, sold, offered for sale, or kept for sale, for consumption on the premises.

Retail sales of alcoholic beverage shall be limited to the original sealed package, by privately owned and operated package stores, in cities and towns having a population in excess of two hundred. No goods, wares or merchandise shall be sold and no services shall be rendered on the same premises on which alcoholic beverages are sold. Premises are herein defined to be the entire space in which alcoholic beverages are sold or displayed and said premises must be separated from any premises on which any other goods, wares or merchandise are sold or services rendered by walls which may only be broken by a passageway to which the public is not admitted. Not more than one retail license shall be issued to any person or general or limited partnership.

Section 5. It shall be unlawful for any licensee to sell or furnish any alcoholic beverage to:

A person under twenty-one (21) years of age; or

A person who has been adjudged insane or mentally deficient; or

A person who is intoxicated.

Sales, gifts or deliveries to persons under twenty-one (21) years of age shall be deemed a felony; and any license issued pursuant to any law, in compliance with this Amendment, shall be revoked, upon conviction for such sale, gift or delivery.

It shall be unlawful for any person, firm or corporation to advertise the sale of alcoholic beverage within the State of Oklahoma, except one sign at the retail outlet bearing the words "Retail Alcoholic Liquor Store."

----- Sales to insane, mentally deficient, or intoxicated persons shall be deemed a felony. -----

----- Any person under the age of twenty-one (21) years who misrepresents his age, for the purpose of obtaining the purchase of any alcoholic beverage, shall be guilty of a misdemeanor. -----

Section 6. It shall be unlawful for any person to sell, at retail, any alcoholic beverage: -----

----- On the first day of the week, commonly called Sunday; -----

----- On the day of any National, State, County or City Election, including Primary elections, during the hours the polls are open; and -----

----- On Decoration or Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. -----

----- Any licensee or person violating the provisions of this Section shall be deemed guilty of a misdemeanor and any license issued pursuant to the provisions of this act shall be revoked upon conviction for such sale in violation of this section. -----

Section 7. The retail sale of intoxicating liquors shall be subject to the sales tax statutes enacted by the Legislature and in addition thereto the Legislature may levy taxes upon the manufacture, possession, and/or sale of intoxicating liquors, the proceeds of which, except sales tax, shall be distributed as follows: -----

----- (a) The Oklahoma Tax Commission shall collect and distribute the taxes collected under the terms of this Article and shall distribute ninety-seven percent (97%) of such taxes as are levied as follows: -----

----- (1) One-third (1/3) shall be allocated to the counties of the State of Oklahoma on the basis of area and population (giving equal weight to area and population) wherein the sale of intoxicating liquors is lawful and all of said funds shall be appropriated by the Board of County Commissioners in each county to all incorporated cities and towns in said county on the basis of population within each city and town on a per capita basis based on the last preceding Federal Decennial Census. -----

Correctly Enrolled:  Chairman, COMMITTEE ON ENGROSSED AND ENROLLED BILLS

(2) Two-thirds (2/3) shall be credited to the General Revenue Fund of the State of Oklahoma.

(b) The remaining three percent (3%) of such taxes collected under the provisions of this Act shall be paid to the State Treasurer and placed to the credit of the Oklahoma Tax Commission Fund, to be paid out of said fund pursuant to appropriations made by the State Legislature.

(c) All State license fees shall be collected by the Oklahoma Alcoholic Beverage Control Board and deposited in the State Treasury and after the expenses of the Board, as approved by the Legislature, have been deducted, the balance shall be credited to the General Fund.

Section 8. The State of Oklahoma, or any political subdivision thereof, or any board, commission, agent, or employee thereof, is hereby prohibited from engaging in any phase of the alcoholic beverage business, including the manufacture, sale, transportation, or distribution thereof, at wholesale or retail, and the maintenance, ownership, or operation of warehouses or alcoholic beverage stores.

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

Section 9. Incorporated cities and towns, situated in counties wherein the sale of alcoholic beverage is lawful, may levy an occupation tax, not exceeding the amount of the State license fees, for the manufacture, distribution, or sale of alcoholic beverage.

Section 10. No retail or wholesale distributor's license shall be issued to: ---

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

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

(c) A person or a general or limited partnership containing a partner who has been convicted of a violation of a prohibitory

Richard J. Braden, Chairman. COMMITTEE ON ENGROSSED AND ENROLLED BILLS

Correctly Enrolled: *Richard D. Bond* Chairman, COMMITTEE ON ENGROSSED AND ENROLLED BILLS

law relating to the sale, manufacture, or the transportation of alcoholic beverages which constituted a felony or misdemeanor.

(d) A person or a general or limited partnership containing a partner who has been convicted of a felony or who has held a Federal Liquor Stamp while a resident of the State of Oklahoma prior to the adoption of this act, except those persons who have held said stamp on a military reservation or installation.

Section 11. The Prohibition Ordinance and Section 7, Article I of the Constitution of the State of Oklahoma are hereby repealed.

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

| BALLOT TITLE | REPEAL OF PROHIBITION |
|---|-------------------------------|
| Legislative Referendum No. <u>387.191</u> | State Question No. <u>386</u> |

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

Shall a Constitutional Amendment

REPEALING the PROHIBITION Ordinance and Article I, Section 7, of the Constitution of the State of Oklahoma; and amending the Constitution of the State of Oklahoma by adding a new Article to be known as Article XXVII, providing for the creation of the Oklahoma Alcoholic Beverage Control Board; providing for privately owned package stores; providing for regulations and restrictions on the manufacture, sale, distribution and taxation of alcoholic liquor in the State of Oklahoma

be approved by the people?

YES

SHALL THE PROPOSED AMENDMENT BE ADOPTED?

NO

SECTION 3. The President of the Senate shall immediately after the adoption of this Resolution by the Legislature prepare and file one (1) copy thereof, including the above ballot title, with the Secretary of State, and one (1) copy with the Attorney General.

SECTION 4. A special election is hereby ordered to be held

throughout the State on April 7, 1959. At said election the proposed amendment to the Constitution of the State of Oklahoma, set forth in SECTION 1 of this Resolution, shall be submitted to the electors of Oklahoma for their approval or rejection as and in the manner provided by law.

Passed the Senate the 11th day of February, 1959.

acting Fred McMane
President *Pro Tempore* of the Senate

Passed the House of Representatives the 18th day of February, 1959.

Clayton A. Tipton
Speaker of the House of Representatives

OFFICE OF THE GOVERNOR

Received by the Governor this 24th day of February, 1959, at 3:10 o'clock P. M.

By: Paul H. H. H.

APPROVED by the Governor of the State of Oklahoma the 25th day of February, 1959, at 1:00 pm

Maurice E. E.
Governor of the State of Oklahoma.

OFFICE OF SECRETARY OF STATE

Received by the Secretary of State this 25 day of February, 1959, at 2:30 o'clock P. M.

John D. D.
By: A. A.

Richard D. ...



MAC Q. WILLIAMSON
ATTORNEY GENERAL

STATE OF OKLAHOMA
OFFICE OF THE ATTORNEY GENERAL
OKLAHOMA CITY

March 3, 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. 1 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 George Nigh, President of the Senate, and from said examination finds that said ballot title is 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 | REPEAL OF PROHIBITION |
|--------------------------------|------------------------|
| Legislative Referendum No. 121 | State Question No. 386 |

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

Shall a Constitutional Amendment

REPEALING the PROHIBITION Ordinance and Article I, Section 7, of the Constitution of the State of Oklahoma; and amending the Constitution of the State of Oklahoma, by adding a new Article to be known as Article XXVII, providing for the creation of the Oklahoma Alcoholic Beverage Control Board; providing for privately owned package stores; providing for regulations and restrictions on the manufacture, sale, distribution and taxation of alcoholic liquor in the State of Oklahoma

Hon. John D. Conner

3-3-59

2

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

Sam H. Lattimore

Sam H. Lattimore
Assistant Attorney General

APPROVED BY ATTORNEY GENERAL 3-4-1959

SHL

SHL:LW

S T A T E O F O K L A H O M A

EXECUTIVE DEPARTMENT

P R O C L A M A T I O N

WHEREAS, the people of the State of Oklahoma, by Legislative Referendum No. 121, proposed an amendment to the Constitution of Oklahoma by repealing the Prohibition Ordinance and Article I, Section 7 thereof and adding a new article to be known as Article XXVII, providing for the creation of the Oklahoma Alcoholic Beverage Control Board, providing for privately owned package stores, providing for regulations and restrictions on the manufacture, sale, distribution and taxation of alcoholic liquor in the State of Oklahoma, and

WHEREAS, said proposed amendment was submitted to the people for their approval or rejection at a special election held throughout the State of Oklahoma on April 7, 1959, and the question as to whether said proposed constitutional amendment should be approved appeared on the ballots for said election as State Question No. 386, Legislative Referendum No. 121 under the following ballot title:

Shall a Constitutional Amendment

REPEALING the PROHIBITION Ordinance and Article I, Section 7, of the Constitution of the State of Oklahoma; and amending the Constitution of the State of Oklahoma by adding a new Article to be known as Article XXVII, providing for the creation of the Oklahoma Alcoholic Beverage Control Board; providing for privately owned package stores; providing for regulations and restrictions on the manufacture, sale, distribution and taxation of alcoholic liquor in the State of Oklahoma

be approved by the people?

WHEREAS, the people of the State of Oklahoma, by Legislative Referendum No. 122, proposed an Amendment to the Constitution by adding a new article to be known as Article XXVIII to the Oklahoma Constitution providing county option upon alcoholic beverages, and

WHEREAS, the said proposed amendment was submitted to the people for their approval or rejection at a special election held throughout the State of Oklahoma on April 7, 1959 and the question as to whether the proposed constitutional amendment should be approved appeared on the ballots for said election as State Question No. 387, Legislative Referendum No. 122 under the following ballot title:

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; 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?

NOW, THEREFORE, by virtue of the authority vested in me, I, J. Howard Edmondson, Governor of the State of Oklahoma, do hereby declare and proclaim that I have received from the State Election Board the following certificate, to-wit:

THIS IS TO CERTIFY, That, at the Special Election held throughout the State of Oklahoma on April 7, 1959, on STATE QUESTION NO. 386 - LEGISLATIVE REFERENDUM NO. 121, the returns of the several county election boards of the State show that

396,845 votes

were cast to approve said proposed measure; that

314,380 votes

were cast to disapprove said measure, and that

711,225

was the total number of electors voting on State Question No. 386 -
Legislative Referendum No. 121.

THIS IS TO FURTHER CERTIFY That, at a Special Election held
throughout the State of Oklahoma on April 7, 1959, on STATE QUES-
TION NO. 387 - LEGISLATIVE REFERENDUM NO. 122, the returns of the
several county election boards of the State show that

221,404 votes

were cast to approve said proposed measure; that

469,503 votes

were cast to disapprove said measure, and that

690,907

was the total number of electors voting on State Question No. 387 -
Legislative Referendum No. 122.

IN TESTIMONY WHEREOF, We hereunto set our hands and cause to
be affixed the Seal of the State Election Board, on this
_____ day of April, 1959.

STATE ELECTION BOARD:

(Signed) George D. Key, Chairman

(SEAL)

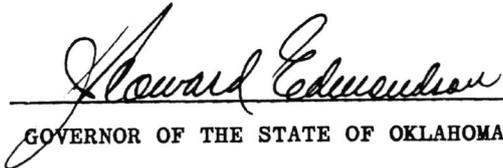
ATTEST:

Leo Winters, Secretary

And by virtue of the authority vested in me, I, J. Howard
Edmondson, Governor of the State of Oklahoma, do further declare
that by reason of said State Question No. 386 - Legislative
Referendum No. 121, having received a majority vote of all elec-
tors voting on said question at said special election on April 7,
1959, was adopted;

And that by virtue of the authority vested in me, I, J. Howard Edmondson, Governor of the State of Oklahoma, do further declare that by reason of said State Question No. 387 - Legislative Referendum No. 122, having failed to receive a majority vote of all electors voting on said question at said election was rejected.

IN WITNESS WHEREOF, I have hereunto set my hand in Oklahoma City, Oklahoma, and caused to be affixed the Great Seal of the State of Oklahoma on the 21 day of April, 1959.

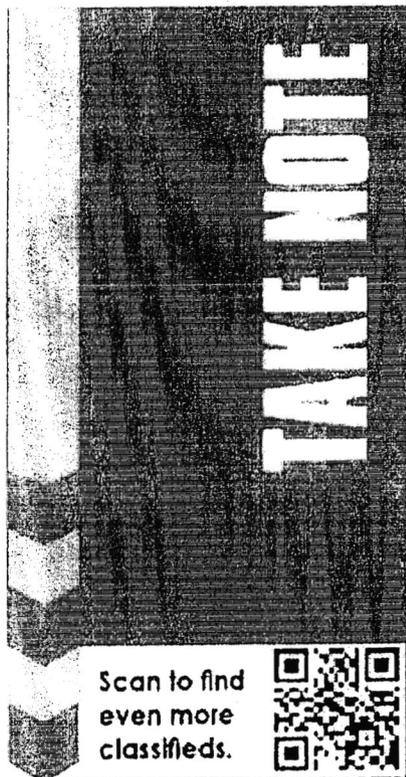

GOVERNOR OF THE STATE OF OKLAHOMA

ATTEST:


SECRETARY OF STATE

By _____
ASSISTANT SECRETARY OF STATE

APPENDIX F


Business Oppty 712.5

"Why Don't You Start A Home Business?"
 Businesses are Closing, Laying Off and Downsizing Daily are you Next? Come Join A Team with you in mind for Less than \$500 Investment. Our Team will train you and develop

Legal Notices
717
Legal Notices
717

NOTICE OF THE FILING OF STATE QUESTION 783, INITIATIVE PETITION 407, THE APPARENT SUFFICIENCY THEREOF, AND NOTICE TO CITIZENS OF THE STATE THAT ANY SUCH PROTEST, AS TO THE CONSTITUTIONALITY OF SAID PETITION, MUST BE FILED ACCORDINGLY WITHIN TEN (10) BUSINESS DAYS AFTER THIS NOTICE (Okla. Stat. tit. 34, § 8)

NOTICE is hereby given that on February 3, 2016, State Question 783, Initiative Petition 407 was filed in the Office of the Oklahoma Secretary of State.

NOTICE is also hereby given that State Question 783, Initiative Petition 407 is SUFFICIENT for filing with the Office of the Oklahoma Secretary of State.

NOTICE is likewise, hereby given, as provided in Title 34 Section 8 of the Oklahoma Statutes, that any citizen or citizens of the state may file a protest as to the constitutionality of said petition, by a written notice to the Supreme Court and to the proponents or proponents filing the petition. Any such protest must be filed within ten (10) business days after publication of this notice. Also, a copy of any such protest shall be filed with the Office of the Oklahoma Secretary of State.

Proponents of record for State Question 783, Initiative Petition 407:

Oklahomans for Modern Law
 6608 N Western Avenue, Suite 343
 Oklahoma City, Oklahoma 73116

Sean Campbell
 6608 N Western Avenue, Suite 343
 Oklahoma City, Oklahoma 73116

Brian Howe
 6608 N Western Avenue, Suite 343
 Oklahoma City, Oklahoma 73116

Chris Bengé
 Oklahoma Secretary of State and
 Native American Affairs

211292

Published in the Tulsa World on February 7, 2016.

**NOTICE OF THE FILING OF
STATE QUESTION 783, INITIATIVE PETITION 407,
THE APPARENT SUFFICIENCY THEREOF, AND NOTICE
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Brian Howe
6608 N Western Avenue, Suite 343
Oklahoma City, Oklahoma 73116

**Chris Bengé
Oklahoma Secretary of State and
Native American Affairs**

IN THE SUPREME COURT OF THE
STATE OF OKLAHOMA

FILED
SUPREME COURT
STATE OF OKLAHOMA

FEB 22 2016

MICHAEL S. RICHIE
CLERK

INSTITUTE FOR RESPONSIBLE
ALCOHOL POLICY, INC., and
JOHN MAISCH,

PETITIONERS,

v.

OKLAHOMANS FOR MODERN LAWS,
SEAN CAMPBELL, and
BRIAN HOWE,

RESPONDENTS.

No. **#114723**

RECEIVED

FEB 23 2016

OKLAHOMA SECRETARY
OF STATE

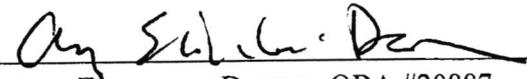
ENTRY OF APPEARANCE

Robert G. McCampbell, Amy Elizabeth Davies and Travis V. Jett of Fellers Snider, a professional corporation, hereby enter their appearance in this case on behalf of Petitioners Institute for Responsible Alcohol Policy, Inc., and John Maisch.

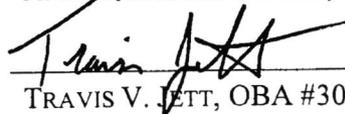
Respectfully submitted,



ROBERT G. MCCAMPBELL, OBA #10390



AMY ELIZABETH DAVIES, OBA #20887



TRAVIS V. JETT, OBA #30601

-Of the Firm-

FELLERS SNIDER, P.C.
100 North Broadway Ave., Ste. 1700
Oklahoma City, Oklahoma 73102
(405) 232-0621
RMcCampbell@FellersSnider.com
LDavies@FellersSnider.com
TJett@FellersSnider.com

**ATTORNEYS FOR PETITIONERS,
INSTITUTE FOR RESPONSIBLE
ALCOHOL POLICY, INC., AND
JOHN MAISCH**

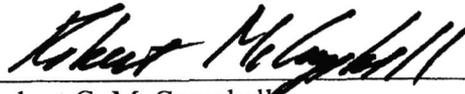
CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of February, 2016, a true and correct copy of the forgoing Entry of Appearance was served by email and U.S. Mail as follows:

Glen Coffee
Denise Davick
Glenn Coffee & Associates
P.O. Box 437
Oklahoma City, OK 73101

Attorney General's Office
State of Oklahoma
313 N.E. 21st Street
Oklahoma City, OK 73105

Secretary of State's Office
State of Oklahoma
101 State Capitol
Oklahoma City, OK 73105



Robert G. McCampbell
Amy Elizabeth Davies
Travis V. Jett



IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

IN RE:)
)
 INITIATIVE PETITION NO. 407,)
)
 STATE QUESTION NO. 783.)
)
 INSTITUTE FOR RESPONSIBLE)
 ALCOHOL POLICY, INC., and)
 JOHN MAISCH,)
)
 Petitioner,)
)
 v.)
)
 OKLAHOMANS FOR MODERN)
 LAWS, SEAN COMPBELL and)
 BRIAN HOWE,)
)
 Respondents.)

No. 114,712

No. 114,723

FILED
SUPREME COURT
STATE OF OKLAHOMA

FEB 23 2016

MICHAEL S. RICHIE
CLERK OF
THE APPELLATE COURTS

RECEIVED

FEB 26 2016

OKLAHOMA SECRETARY
OF STATE

ORDER

On the Court's own motion, these original proceedings are consolidated under surviving No. 114,712.

Proponent of Initiative Petition No. 407 is directed to submit a single response to the protestants' arguments not later than the 18th of March, 2016. Oral presentation before a Referee of this Court is set for 10:30 a.m. on March 23, 2016.

DONE BY ORDER OF THE SUPREME COURT THIS 23rd DAY OF FEBRUARY, 2016.



 VICE CHIEF JUSTICE

March 7, 2016

The Honorable Chris Bengé
Oklahoma Secretary of State
2300 N. Lincoln Boulevard, Ste. 101
Oklahoma City, Oklahoma 73105-4897

FILED

MAR 07 2016

OKLAHOMA SECRETARY
OF STATE

Re: Withdrawal of Initiative Petition 407, State Question 783

Dear Mr. Secretary,

Please be advised that our client, Oklahomans for Modern Laws, Proponents of the initiative petition designated as State Question 783, Initiative Petition 407, respectfully request to withdraw the petition.

Very truly yours,



Glenn Coffee
Denise Davick
GLENN COFFEE & ASSOCIATES
P.O. Box 437
Oklahoma City, OK 73101

Counsel for Proponents

CC: Oklahoma Attorney General Scott Pruitt
Oklahoma Supreme Court (In re: Initiative Petition 407, Case No. 114,712)
The Retail Liquor Association (Petitioners, Case No. 114,712)
Institute for Responsible Alcohol Inc. and John Maisch (Petitioners, Case No. 114,712)