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March 2, 2016

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

Re: Initiative Petition

Dear Mr. Secretary:

Please find enclosed for filing on behalf of our client, Oklahomans for Consumer Freedom, 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 Article 28A of the Oklahoma Constitution be submitted to the voters at the general election on November 8, 2016.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Tom Gruber', with a long horizontal line extending to the right.

Tom Gruber
For the Firm

Counsel for Proponents

TG:pke
enclosure

cc: Oklahoma Attorney General Scott Pruitt

RECEIVED

MAR 02 2016

**OKLAHOMA SECRETARY
OF STATE**

FILED

MAR 02 2016

PROPOSED BALLOT TITLE

OKLAHOMA SECRETARY
OF STATE

This measure amends the entirety of Article 28 of the Oklahoma Constitution as an amendment by article repealing Article 28 and adopting a new Article 28A. Beverages that contain alcohol would be governed by the new article and other laws. It would require the Legislature to enact laws to regulate alcoholic beverages. Common ownership between tiers of the alcoholic beverage business would be prohibited. Some restrictions would be applied to manufacturers, brewers, winemakers and wholesalers. Direct shipments to consumers would be prohibited unless direct shipments of wine are authorized by law, subject to limitations. Certain retail licenses are specified. The Legislature would prescribe other licenses. Sales of wine and beer would be permitted at certain licensed retail outlets. Licensees could sell refrigerated or non-refrigerated products, and retail spirits licensees could sell products other than alcoholic beverages in a limited amount. Certain restrictions relating to the involvement of the state and political subdivisions and public employees would be specified. Municipalities could also levy an occupation tax. Certain acts would be made unlawful. The Legislature would by law designate days and hours during which alcoholic beverages could be sold, and would impose taxes on sales. The amendment would be effective October 1, 2018, with one provision becoming effective upon passage.

SHALL THE PROPOSAL 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.

FILED**INITIATIVE PETITION**

MAR 02 2016

To the Honorable Mary Fallin, Governor of Oklahoma:

OKLAHOMA SECRETARY
OF STATE

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 of the entirety of Article 28 of the Oklahoma Constitution, as an amendment by Article repealing Article 28 and adopting Article 28A, be approved?

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA THAT A NEW ARTICLE 28A OF THE OKLAHOMA CONSTITUTION BE APPROVED:

§ 1. Definition – Alcoholic Beverages.

All beverages that contain alcohol, unless otherwise defined by law, shall be considered alcoholic beverages by this state and therefore governed by this Article and all other applicable laws.

§ 2. Legislative Enactments – Manufacturers – Brewers – Wholesalers – Retailers – Winemakers.

A. The Legislature shall enact laws providing for the strict regulation, control, licensing and taxation of the manufacture, sale, distribution, possession, transportation and consumption of alcoholic beverages, consistent with the provisions of this Article. Provided, except for small brewers:

1. The following shall apply:

(a) There shall be prohibited any common ownership between the manufacturing, wholesaling and retailing tiers, unless otherwise permitted by this subsection. Following the effective date of this Article, brewers may obtain beer wholesaler licenses to distribute beer, also known as brewery-owned branches, to up to two (2) territories within the state. Any brewery-owned branch in operation on the date of adoption of this Article may not expand its distribution territory that was in effect on the date of adoption of this Article. If a brewer maintained one or more licenses to distribute low-point beer in the state prior to the effective date of this Article, then up to two (2) of the brewer's low-point beer distribution licenses shall automatically convert to beer distribution licenses upon the effective date of this Article. All low-point distribution licenses shall cease to exist following this conversion date.

(b) From the adoption of this Article by the voters until the effective date of this Article, brewers may continue to obtain and operate up to two (2) low-point beer brewery-owned branches pursuant to the existing low-point beer laws pertaining to the distribution of low-point beer by brewery-owned branches.

(c) Only after the effective date of this Article, the legislature may duly enact legislation to require, by statute, the divestiture of all brewery-branches. If the Legislature requires

brewers to divest, it must require full divestiture of every brewery-owned branch in the state, and it shall allow brewers at least (1) year but no more than three (3) years to complete said divestiture. Except as provided in this subsection, and except for a small brewer as defined by law, no other member of one tier may own an interest in a business licensed in a different tier.

2. A manufacturer, except a brewer, shall not be permitted to sell alcoholic beverages in this state unless such sales occur through an Oklahoma wholesaler. A manufacturer, except a brewer, or subsidiary of any manufacturer, who markets his or her product solely through a subsidiary or subsidiaries, a distiller, rectifier, bottler, winemaker or importer of alcoholic beverages, bottled or made in a foreign country, either within or without this state, may sell such brands or kinds of alcoholic beverages to any licensed wholesaler who desires to purchase the same. Provided, if a manufacturer elects to sell its products to multiple wholesalers, such sales shall be made on the same price basis and without discrimination to each wholesaler;

3. A brewer, with the exception of a small brewer as defined by law, shall not be permitted to sell beer in this state unless such sales occur through an Oklahoma licensed wholesaler pursuant to a wholesaler agreement and remain at-rest in the licensed wholesaler's warehouse for at least twenty-four (24) hours, unless the sale occurs through a wholesaler that has obtained a hardship exception to this twenty-four (24) hour at-rest requirement. The wholesaler agreement shall designate the territory within which the beer will be sold exclusively by the wholesaler;

4. Winemakers either within or without this state may sell wine produced at their wineries to any licensed wholesaler who desires to purchase the wine; provided, that if a winemaker elects to sell the wine it produces to multiple wholesalers, then such sales shall be made on the same price basis and without discrimination to each wholesaler. In addition to its sales through one or more licensed wholesalers, a winemaker may be authorized to sell its wine as follows:

- a. 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, and
- b. 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 restaurants or other retail stores and outlets that may be from time to time authorized by the state to sell alcoholic beverages; provided, however, that any such winemaker which elects to directly sell its wine under this subparagraph shall not also use a licensed wholesaler as a means of distribution, and shall be required to sell its wines to every restaurant and other retail store or outlet that may be from time to time authorized by the state to sell wine for off-premises consumption 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. Any winemaker within or without this state that annually produces no more than fifteen thousand (15,000) gallons of wine and elects to directly sell its wine to restaurants and other retail stores and outlets that may be from time to time authorized by the state to sell wine for off-premises consumption 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.

All provisions of this paragraph are declared to be interdependent; and

5. Every wholesaler, except a beer wholesaler, must sell its products on the same price basis and without discrimination to all on-premises and off-premises licensees, unless otherwise provided by law. Every beer wholesaler must sell its beer to all on-premises licensees on the same price basis and without discrimination and to all off-premises licensees on the same price basis within a particular county and without discrimination. Every wholesaler must receive payment in full upon receipt of the alcoholic beverage by all on-premises and off-premises licensees. It shall be unlawful for any wholesaler to grant to any member of the retail tier, directly or indirectly, any credit, loan, discount, rebate, free goods, allowance or other inducement not otherwise expressly permitted by state law.

B. No alcoholic beverage shall be shipped directly to a consumer from a manufacturer within or without the state, unless such shipment has been authorized by law. Provided, if direct shipment is authorized by law, it shall be limited to the direct shipment of wine by wineries within or without the state who have secured all necessary permits and remitted all necessary taxes as prescribed by the state, to Oklahoma residents:

- a. who are at least twenty-one (21) years of age,
- b. who intend the wine for personal use and not for resale,
- c. who will not receive by direct shipment more than six (6) nine-liter cases of wine from any single winery per year, and
- d. who will not receive by direct shipment more than thirty (30) nine-liter cases of wine per year.

C. All laws passed by the Legislature under the authority of the Article shall be consistent with the provisions of this section. 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 restaurants or other retail stores and outlets that may be from time to time authorized by the state to sell wine for off-premises consumption or to consumers in this state.

§ 3. Legislative Enactments – Licensing.

A. The Legislature shall, by law, prescribe a set of licenses for the sale of alcoholic beverages to consumers for off-premises consumption, which shall include but not be limited to:

1. A Retail Spirits License, which shall be required in order to sell the following:
 - a. spirits in their original sealed package, and/or
 - b. refrigerated and non-refrigerated wine and beer in their original sealed package.

A holder of a Retail Spirits License shall be permitted to sell at retail any item that may be purchased at a grocery store or convenience store, as defined by law, so long as the sale of items other than alcoholic beverages do not comprise more than ten percent (10%) of the holder's monthly sales;

2. A Retail Wine License, which shall be required in order to sell refrigerated or non-refrigerated wine in the original sealed package. Retail Wine Licenses may be owned without limitation on number by retail locations; and

3. A Retail Beer License, which shall be required in order to sell refrigerated or non-refrigerated beer in the original sealed package. Retail Beer Licenses may be owned without limitation on number by retail locations.

B. As used in this section, the term "retail location" shall include but not be limited to:

1. Supermarkets, grocery stores, convenience stores, pharmacies and other drug stores, warehouse clubs and supercenters as defined by law; and/or
2. Retail outlets which were authorized to legally sell low point beer as of the effective date of this section.

C. The Legislature shall, by law, prescribe a set of licenses for the sale of alcoholic beverages to consumers for on-premises consumption, which may include the sale of spirits, wine and/or beer, provided that such sales of alcoholic beverages by the individual drink have been authorized by the voters in the specific county where the alcoholic beverages are sold, either prior to or after the enactment of this article. Beer or malt beverages to which caffeine has been intentionally added as a separate ingredient for the purpose of providing a stimulant effect shall not be bought or sold by any entity holding a license under this Section within the State of Oklahoma. This Section should not be interpreted to prohibit the

sale of beer brewed with ingredients used for their flavor profile that contain caffeine as a natural constituent, such as coffee and chocolate.

§ 4. Required Licenses.

A. A Retail Spirits License shall only be issued to a sole proprietor who has been a resident of this state for at least five (5) years immediately preceding the date of application for such license, or a partnership in which all the partners have satisfied the same residency requirement. A Retail Spirits License shall not be issued to a corporation, limited liability company or similar business entity, and 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.

B. A Wine and Spirits Wholesaler's License shall only be issued to a sole proprietor who has been a resident of this state for at least five (5) years immediately preceding the date of application for such license, or a partnership in which all the partners have satisfied the same residency requirement, except as otherwise provided in this section. A Wine and Spirits Wholesaler's License shall not be issued to a corporation, limited liability company or similar business entity, except as otherwise provided in this section.

C. The holder of a license specified in subsection B of this section may enter into an agreement with a corporation, limited liability company or similar business entity that would otherwise be prohibited from obtaining a license in this state under this section, provided that the corporation, limited liability company or similar business entity:

1. Has operated as the holder of a substantially equivalent license in another state for at least one (1) year immediately preceding its application to be added as a corporate partner;
2. Will actively participate in the day-to-day operations of the license holder;
3. Will secure all necessary permits with the state; and
4. Will not maintain more than a fifty percent (50%) equity interest in the license holder at any time.

D. The provisions of subsection B of this section shall not apply to beer wholesalers. A wholesaler of beer shall not be subject to any residency requirements and shall not be limited in the types of entities which may own such wholesalers.

E. The State of Oklahoma shall not issue a license to any person who has been convicted of a felony, or to any entity if any individual, partner, director or officer who maintains an ownership interest in the entity, has been convicted of a felony, unless otherwise provided by law.

§ 5. Unlawful Acts.

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

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

B. It shall be unlawful for any person under the age of twenty-one (21) years to misrepresent his or her age, for the purpose of obtaining the purchase of any alcoholic beverage.

C. The Legislature shall, by law, provide penalties for violations of the provisions of this section.

§ 6. Legislative Enactments – Days and Hours of Operation.

The Legislature shall, by law, designate the specific days, hours and holidays on which alcoholic beverages may be sold or served to consumers for off-premises and/or on-premises consumption. However, sales of beer and wine by a retail beer and wine licensee shall be permitted on the same days and at the same times that are allowed for the sale of existing low-point beer prior to this amendment.

§ 7. Sales Tax Laws – Legislative Authority.

The retail sale of alcoholic beverages shall be subject to the sales tax laws 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 any entity that sells alcoholic beverages to consumers for off-premises and/or on-premises consumption, the proceeds of which, except sales tax, shall be distributed provided by law.

§ 8. State Prohibited – County Option Liquor by Individual Drink.

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. Cities and Towns May Levy 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. Repealer.

Article 28 of the Constitution of the State of Oklahoma is hereby repealed. The Prohibition Ordinance, Section 7, Article 1, and Article 27 of the Constitution of the State of Oklahoma, previously repealed by Article 28, are not revived by this repealer.

§11. Effective Date.

The provisions of this Article, except for Section 2(A)(1)(b), shall be effective as of October 1, 2018. Section 2(A)(1)(b) shall be effective immediately after this Article is duly adopted by the voters.

Names and Addresses of Proponents:

Oklahomans for Consumer Freedom
1833 South Morgan Road
Oklahoma City, OK 73128

Ron Edgemon
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Norman, OK 73072

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