

Opinion No. 65-49

March 19, 1965

BY: OPINION OF BOSTON E. WITT, Attorney General Oliver E. Payne Deputy Attorney General

TO: Alberta Miller, Secretary of State, State Capitol Building Santa Fe, New Mexico

QUESTION

FACTS

You have been presented with a referendum petition calling for repeal of the present laws relating to the minimum mark-up liquor laws. The popular name submitted to you for this referendum is "Liquor Price-Fixing Repeal".

QUESTION

Are the proposed petitions calling for a referendum valid?

CONCLUSION

No.

OPINION

{*85} ANALYSIS

Your opinion request is concerned mainly with the proposed popular name of "Liquor Price-Fixing Repeal". As you know, a proposed popular name must be submitted to the office of the secretary of state for approval. Section 3-7-19, N.M.S.A., 1953 Compilation. Subsequent to such submission, the secretary of state is to declare the popular name by which referred measures are to be designated. Section 3-7-20, N.M.S.A., 1953 Compilation. However, you do not have to concern yourself with the popular name of this particular proposed referendum since the constitution specifically prohibits the submission of this question to the electorate.

The constitution reserves to the people the power to repeal certain laws passed by the legislature. Article IV, Section 1. Certain laws cannot be submitted for a referendum, among them those "providing for the preservation of the public peace, health or safety." The title of the act in question strongly indicates that it is a "police power" statute. Laws 1939, Chapter 236. And all that is required to exempt a questioned law from popular referendum is that it bear a valid relationship to some permissible object for the exercise of the police power. **State ex rel. Hughes v. Cleveland**, 47 N.M. 230, 141 P.2d 192. We do not have to rule on this however, because assuming that the laws in question are

of the type that could have been submitted to the electorate as a referendum measure, it is far too late to do so now. Article IV, Section 1, provides that "Petitions disapproving any law . . . **enacted at the last preceding session of the legislature**, shall be filed with the secretary of state . . ." The underlined language specifically requires that any law which can be submitted to the electorate as a referendum measure must have been enacted at the last preceding legislative session. The laws here in question were enacted in 1939 and thus are no longer referable.