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## MOTION FOR REHEARING

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June 22, 2011

Colorado Secretary of State  
Attn: Title Board  
1700 Broadway, Suite 200  
Denver, CO 80290  
Phone: (303) 894-2200, press "3"  
Fax: (303) 869-4861  
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**RECEIVED**  
JUN 22 2011 3:57 P.M.  
Colorado Secretary of State

Dear Sirs:

Pursuant to CRS 1-40-107 (1), this is a motion for rehearing on the ballot title and submission clauses for proposed initiatives 2011-2012 #29 through 2011-2012 #36 – "Use and Regulation of Marijuana". I am a registered elector in the state of Colorado. I believe the titles and submission clauses set by the Title Board at their hearing on June 15, 2011 do not fairly express the true meaning and intent of the proposed initiatives.

I. The title is misleading.

The title contains the phrase "providing for the regulation of marijuana in a manner similar to the use of alcohol." This is misleading to voters, as the proposed initiatives more closely model the Medical Marijuana Code than the Alcohol Code. I propose changing that language to "providing for the regulation of marijuana in a manner similar to medical marijuana with enforcement through the Department of Revenue."

- 1) The word "alcohol" is only mentioned twice in the proposed ballot initiatives. In 1 (a), it says it shall be "taxed in a manner similar to alcohol". In 1 (b), it says marijuana shall be "regulated in a manner similar to alcohol", but in only 5 different areas: a person will need to show proof of age to purchase marijuana; sales to minors shall be illegal; driving under the influence of marijuana shall be illegal; "criminal actors" will not be allowed to sell marijuana; and marijuana will be subject to additional regulations "to ensure that consumers are informed and protected."
- 2) The Medical Marijuana Code is mentioned repeatedly in the proposed initiatives. Section 5 (a) (II) states that a person "licensed under the Colorado Medical Marijuana Code" shall have a discounted licensing fee for a retail marijuana store. Section 5 (b) states that the Department of Revenue shall have as a "primary consideration" whether or not the applicant for a marijuana retail store is licensed under the "Colorado Medical Marijuana Code" and has "complied consistently" with the "Colorado Medical Marijuana Code." This means if you have a license for a medical marijuana retail store, you are almost automatically guaranteed a license for a retail marijuana store. This indicates the clear intent of the proponents to model their initiatives after the Medical Marijuana Code, not the Liquor Code. Licensed retail medical marijuana stores are given preferential treatment because they are already assumed to be in compliance with the bulk of regulations that will be promulgated for retail marijuana stores. There are no similar provisions for preferential treatment or discounted licensing fees for retail liquor stores, as there would be if these initiatives intended to regulate marijuana in a manner "similar to alcohol."
- 3) The proposed initiatives give broad power to regulate retail marijuana stores to the Department of Revenue, which also controls medical marijuana licensing in the state. Even though the DOR does oversee alcohol as well, marijuana is much more similar to medical marijuana than it is alcohol, so it is logical to assume the DOR will use its broad powers to create rules which model its medical marijuana rules, not its alcohol rules.

- 4) The proposed initiatives set a limit on possession of marijuana by consumers of 1 ounce and 6 plants. However, there is no limit on the amount of alcohol that can be purchased in a retail alcohol store. This is a fundamental difference in the regulation of the two products. If alcohol consumers were only allowed to purchase one ounce of vodka at a time, it would require an entirely different set of regulations. The Liquor Code would be far different from the one we have today. This fundamental difference in quantity limits means it would be misleading to voters to say marijuana was regulated in a manner "similar to alcohol" under the proposed initiatives. This misleads the public into thinking that there are no limits on marijuana possession, just as there are none on alcohol
- 5) The proposed initiatives will likely result in the need for the Department of Revenue to create a database of marijuana consumers, so that they can track their purchases to make sure that consumers are not exceeding the limits. There is no such database required for liquor store sales.
- 6) Marijuana is illegal under Federal Law, and thus cannot be regulated like alcohol, a legal substance. To say it is "similar to alcohol" misleads voters into thinking that marijuana is legal under federal law.
- 7) Marijuana consumers risk federal arrest and therefore will have need for more privacy rules than alcohol consumers.

## II. The titles include an impermissible catch phrase

The phrase "similar to alcohol" is a catch phrase used to appeal to the emotions of people who want marijuana to be treated with leniency. The use of this catch phrase will mislead voters into thinking that the regulation will be similar to alcohol. However, because of the substantial differences between marijuana and alcohol regulation outlined above, it is clear that marijuana will be treated much stricter than alcohol and much more similarly to medical marijuana by the Department of Revenue. The use of a catch phrase is forbidden in titles. It will mislead voters into voting in favor of a leniency in laws similar to alcohol, when in reality they will be voting for much greater scrutiny and stricter regulations than retail liquor stores. Medical marijuana is now regulated stricter than plutonium in Colorado.

In conclusion, the titles as set are misleading and contain an impermissible catch phrase. I request that my Motion for Rehearing be granted, or, alternatively, for the Title Board to amend the titles of the proposed initiatives to state "providing for the regulation of marijuana in a manner similar to medical marijuana with enforcement through the Department of Revenue."

Sincerely,

Corey Donahue  
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Phone: 720-340-9730  
Email: minatour48@hotmail.com

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Certificate of Service

The above Motion for Rehearing was emailed to the proponents of the initiatives

Mason Tvert, SAFER <mason@safertools.org>

Brian Vicente, Sensible <brian@sensiblecolorado.org>

## Cesiah Gomez

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**From:** COREY DONAHUE <minatour48@hotmail.com>  
**Sent:** Wednesday, June 22, 2011 3:37 PM  
**To:** Statewide Initiatives  
**Subject:** Motion for rehearing on the ballot title and submission  
**Attachments:** title.board.rehearing.petition.pdf

To whom it may concern,

Attached is my motion for a rehearing on recently submitted marijuana ballot titles. The attachment lays out the reasons why this rehearing is important to the people of Colorado. I thank you for your time.

Sincerely,

Corey Donahue  
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