

COLORADO TITLE SETTING BOARD

IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION CLAUSE
FOR INITIATIVE 2021-2022 #100

MOTION FOR REHEARING

On behalf of Steve Ward and Levi Mendyk, registered electors in the State of Colorado, the undersigned counsel, hereby submits this Motion for Rehearing of the Title Board's April 20, 2022, decision.

1. The Board lacked jurisdiction to consider the initiative because Proponents were required to resubmit the Initiative for review and comment.

After review and comment proponents changed Section 4. 44-1-104(1)(c)(VI) to allow the state licensing authority to adopt rules for how previously issued licenses exceeding the maximum of twelve "will not be renewable after the existing licenses expire." Previously the language was "shall be surrendered or allowed to expire." This is a substantive change to the measure tucked into a provision on rule-making authority. Before the change, the statute could operate to surrender the license. Now the statute operates to not renew the license. This is central, substantive feature of the measure that was changed without relation to review and comment.

2. Proposed initiative #100 contains more than a single subject.

The initiative *increases* statewide licenses for retail liquor stores *and* drastically *decreases* statewide licenses for retail sales of fermented malt beverages. Retail liquor store licenses allow for the sale of beer, wine, and spirits to customers. Fermented malt beverage licenses (primarily held by grocery and convenience stores) only allow for the sale of beer to customers. The two license types are entirely distinct. Under the proposed initiative, access to liquor stores that sell the full range of alcohol beverage products including beer would be expanded, while existing grocery or convenience store locations that only sell beer would be eliminated. Finally, to accomplish the elimination of existing fermented malt beverage licenses, the initiative creates a new regulatory process from whole cloth, requiring the state licensing authority to devise an undetermined process for the non-renewal of otherwise valid and lawful licenses.

Few voters will be in favor of, or opposed to, these disconnected subjects. To satisfy the single subject requirement in Colo. Const. art. V, § 1(5.5), the subject matter of an initiative must be necessarily and properly connected rather than disconnected or incongruous. A proposed initiative presents only one subject if it tends to effect or carry out one general objective or purpose; minor provisions necessary to effectuate the single objective or purpose of the initiative may be properly included. Conversely, an initiative violates the single subject requirement where

it relates to more than one subject and has at least two distinct and separate purposes. If an initiative advances separate and distinct purposes, the fact that they both relate to the same general concept or subject is insufficient to satisfy the single subject requirement. *Johnson v. Curry (In re Title, Ballot Title, & Submission Clause for 2015-2016 #132)*, 2016 CO 55, ¶ 1, 374 P.3d 460, 462.

The initiative further operates to strip existing, lawfully held licenses from 1,800 statewide licensed fermented malt liquor establishments such as neighborhood grocery and convenience stores. This surreptitious provision will be a surprise to voters and is not connected to the purpose of the measure.

3. The measure violates the clear title requirement.

Opponents assert that the titles as set violate clear title as they do not describe the central features of the measure including:

- A description of a “retail liquor store”
- A description of a “liquor-licensed drugstore”
- A description of the respective increases and decreases, including the elimination of existing fermented malt beverage licenses
- A description of “person” that “may hold an interest”
- A description of the language deleted from statute that allowed unlimited liquor licensed drugstores on or after January 1, 2037.
- A description of the language deleted from statute that allowed unlimited malt beverage licenses.
- In parity to opponents’ own measures, the board should not include effective dates in one measure while omitting them from other measures. (*see* Section 2. 43-3-410.5)

Respectfully submitted this 27th day of April, 2022.

s/Suzanne Taheri
Suzanne Taheri
MAVEN LAW GROUP
1600 Broadway, Suite 1600
Denver, CO 80202
Phone: (303) 218-7150