

COLORADO TITLE SETTING BOARD

IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION CLAUSE
FOR INITIATIVE 2021-2022 #101

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 the licensing process. In section 2. 44-3-410.5 (4) applicants must now wait until after their application is complete at the local licensing authority before they can apply to the state. This is a substantive change that materially deviates from the current simultaneous license application process and affects the regulatory roles and responsibilities of the state and local licensing authorities. Moreover, this change creates a new two-step license application process, which necessarily increases processing time and causes delay for license applicants. This change was not made in response to review and comment.

2. Proposed initiative #101 contains more than a single subject.

The initiative creates a new fermented malt beverage and wine license, caps the allowable number, adds new distancing requirements, and changes the status quo licensing processes. 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.

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:

- In parity to opponents' own measures, the board should not include distance requirements in one measure while omitting them from other measures (*see* Section 4. 44-3-301 (12)(a.5))
- 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)
- A description of the new licensing process
- A description of the maximum number of licenses allowed when combining new licenses and existed fermented malt beverage retailer licenses.

Respectfully submitted this 27th day of April, 2022.

s/Suzanne Taheri

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