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MEMORANDUM

TO: Robert Schraeder and Joel Allen Cathey
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: March 31, 2022

SUBJECT: Proposed initiative measure: 2021-2022 #96, concerning Liquor Licenses

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Colorado Legislative Council and the Office of Legislative Legal Services to "review and comment" on initiative petitions for proposed laws and amendments to the Colorado constitution. We hereby submit our comments to you regarding the appended proposed initiative.

The purpose of this statutory requirement of the directors of Legislative Council and the Office of Legislative Legal Services is to provide comments intended to aid proponents in determining the language of their proposal and to avail the public of knowledge of the contents of the proposal. Our first objective is to be sure we understand your intent and your objective in proposing the amendment. We hope that the statements and questions contained in this memorandum will provide a basis for discussion and understanding of the proposal.

This initiative was submitted with a series of initiatives including proposed initiatives 2021-2022 #97 to 102. The comments and questions raised in this memorandum will not include comments and questions that were addressed in the memoranda for proposed initiatives 2021-2022 #97 to 102, except as necessary to fully understand the issues raised by the proposed initiative. Comments and questions addressed in those other memoranda may also be relevant, and those questions and comments are hereby incorporated by reference in this memorandum.

Purposes

The major purpose of the proposed amendment to the Colorado Revised Statutes appears to be to create parity between retail liquor store and liquor-licensed drugstore licensees regarding the number of additional store licenses that each licensee may obtain by increasing the number of additional retail liquor store licenses that a retail liquor store licensee may obtain as follows:

1. On or after January 1, 2022, and before January 1, 2027, increasing from two under current law to seven additional retail liquor store licenses for a total of eight retail liquor store licenses;
2. On or after January 1, 2027, and before January 1, 2032, increasing from three under current law to twelve additional retail liquor store licenses for a total of thirteen retail liquor store licenses;
3. On or after January 1, 2032, and before January 1, 2037, increasing from three under current law to nineteen additional retail liquor store licenses for a total of twenty retail liquor store licenses; and
4. On or after January 1, 2037, increasing from three under current law to an unlimited number of retail liquor store licenses.

Substantive Comments and Questions

The substance of the proposed initiative raises the following comments and questions:

1. Article V, section 1 (5.5) of the Colorado constitution requires all proposed initiatives to have a single subject. What is the single subject of the proposed initiative?
2. Under current Colorado law, "drugstores" and "liquor stores" are licensed under the "Colorado Liquor Code" as "liquor-licensed drugstores" and "retail liquor stores", respectively, and are permitted to sell beer, wine, and spirits. The law also limits the total number of licenses that both of those licensees may obtain. On the other hand, "grocery stores" that are not licensed as "liquor-licensed drugstores" are licensed under the "Colorado Beer Code," are permitted to sell beer only, and are not subject to any limit on the number of licenses that a licensee may hold. The measure appears to address the limit on retail liquor store licenses and increases those numbers to match the number of additional store licenses available to liquor-licensed drugstores. The measure does not

address grocery store licenses. The declaration of purpose of the measure states that the intent of the measure is to create parity "for the different business types that sell alcohol for off-premises consumption" and that the measure will allow "an equal number of licenses for drugstores, grocery stores and liquor stores." Would the proponents consider modifying that language since the measure does not address the number of store licenses that grocery stores may obtain and does not apply to all the different business types that sell alcohol for off-premises consumption?

3. It is standard drafting practice to show language being deleted from statute in stricken type. In section 2 of the measure, the current language in section 44-3-409 (4)(b)(III)(C) includes the word "or" at the end of the sub-subparagraph. The word "or" should be shown in stricken type after "licenses;" as: "... licenses; ~~or~~".

Technical Comments

The following comments address technical issues raised by the form of the proposed initiative. These comments will be read aloud at the public meeting only if the proponents so request. You will have the opportunity to ask questions about these comments at the review and comment meeting. Please consider revising the proposed initiative as suggested below.

1. It is standard drafting practice to show a headnote in bold-faced type, so in section 1, "Declaration of Purpose." would appear in bold-faced type.
2. It is standard drafting practice to show the introductory portion that precedes the language that is being amended, if one exists, for ease of reading. For example, in section 2, section 44-3-409 (4)(b) has an introductory portion. (See example in number 3., below)
3. It is standard drafting practice to show the statutory text being amended immediately following the headnote. For example, section 2 would appear as:

44-3-409. Retail liquor store license - rules. (4) (b) An owner, part owner, shareholder, or person interested directly or indirectly in a retail liquor store may have an interest in:

(III) For a retail liquor store licensed on or before January 1, 2016, and whose
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