SUPREME COURT OF COLORADO 101 West Colfax Avenue, Suite 800 Denver, Colorado 80203	FILED IN THE SUPREME COURT AUG - 4 2011 OF THE STATE OF COLORADO Christopher T. Ryan, Clerk ▲ COURT USE ONLY ▲
Original Proceeding Pursuant to §1-40-107(2), C.R.S. (2010) Appeal from the Ballot Title Board	
In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiatives 2011-2012, #29, #30, #31, #32, #33, #34, #35, and #36, **Petitioner:** Douglas Bruce, Objector, **v.** **Respondents:** Mason Tvert and Brian Vicente, Proponents, **and** **Title Board:** William Hobbs, Dan Domenico, and Jason Gelender	
Attorneys for Respondents Mason Tvert and Brian Vicente (Proponents) Edward T. Ramey, #6748 Heizer Paul Grueskin LLP 2401 15th Street, Suite 300 Denver, CO 80202 Telephone: 303-376-3712 Facsimile: 303-595-4750 Email: eramey@hpgfirm.com	Supreme Court Case No. 2011SA194
MOTION TO DISMISS	

Respondents Mason Tvert and Brian Vicente ("Proponents"), through counsel, respectfully request the Court to dismiss this original proceeding for lack of jurisdiction.

Pursuant to §1-40-107(2), C.R.S. (2010), the following persons may seek review by this Court of actions of the Ballot Title Board: "any person presenting an initiative petition for which a motion for a rehearing is filed, any registered elector who filed a motion for a rehearing pursuant to subsection (1) of this section, or any other registered elector who appeared before the title board in support of or in opposition to a motion for rehearing . . . ." As accurately stated in Objector's Petition, he falls into none of these categories.

As Objector notes, the titles were set for each of these initiatives at an initial meeting of the Ballot Title Board on June 15, 2011. Pursuant to §1-40-107(1), C.R.S. (2010), the deadline for filing a motion for rehearing with the Ballot Title Board was "within seven days after the decision is made or the titles and submission clause are set" – in this case June 22, 2011. Objector did not file a request for rehearing, or anything else, with the Ballot Title Board within that period.

Another individual (a Mr. Corey Donahue) did timely request a rehearing, however, and, as Objector notes, a rehearing was conducted by the Ballot Title

Board on July 6, 2011. A copy of Mr. Donahue's Motion for Rehearing is attached hereto as Exhibit A. A certified copy of the sign-in sheet for persons who spoke for or against the Motion for Rehearing is attached as Exhibit B. A transcript of the rehearing is attached as Exhibit C. As evidenced by these exhibits, Objector did not appear at or participate in any manner whatsoever in the rehearing.

As Objector states in his Petition here, "The titles were adjusted [at the rehearing] *in areas not related to this petition for review*."

Objector notes in his Petition that he "read of the July 6 rehearing the next day," upon which he "immediately emailed the secretary of state and deputy secretary of state with his objections" – albeit over two weeks after the statutory deadline for requesting a rehearing. Objector followed with a Petition for Rehearing to the Ballot Title Board on July 12, 2011 – twenty days after the statutory deadline and one day *after* lodging his Petition for Review with this Court. The Ballot Title Board duly dismissed this motion for lack of jurisdiction on July 20, 2011 (Exhibit D attached hereto).

In construing §1-40-107(2), C.R.S. (2010), this Court has noted "the legislative objectives of finality of Board action and an expedited procedure in the event of an appeal." In the Matter of the Title, Ballot Title and Submission Clause, and Summary for 1997-98 #62, 961 P.2d 1077, 1080 (Colo. 1998). This Court has

also stated that "an objector may not raise in a second motion for rehearing a challenge that the objector could have raised in his first motion for rehearing." In the Matter of the Title, Ballot Title and Submission Clause, and Summary for 1999-2000 #215, 3 P.3d 447, 449 (Colo. 2000). Logically, a wholly new objector may not do so either.

Here, the Objector is raising a challenge before this Court (1) without having timely requesting a rehearing before the Ballot Title Board, (2) without participating in any manner in the rehearing that did take place at the request of another objector on other topics, and (3) concerning a topic that could have been raised in a timely motion for rehearing after the titles were initially set and that was not affected by the revisions made at the rehearing that did take place.

Proponents respectfully request the Court to dismiss this Petition.

Respectfully submitted this 4th day of August, 2011.

Edward T. Ramey, #6748
Heizer Paul Grueskin LLP
2401 15th Street, Suite 300
Denver, CO 80202
Telephone: 303-376-3712
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Attorneys for Respondents

CERTIFICATE OF SERVICE

I hereby certify that on August 4th, 2011, a true and correct copy of the foregoing **MOTION TO DISMISS** was served via United States Mail on the following:

Douglas Bruce
Post Office Box 26018
Colorado Springs, CO 80936

John W. Suthers
Maurice G. Knaizer
Office of the Attorney General
1525 Sherman Street, 7th Floor
Denver, CO 80203

Amy Knight

MOTION FOR REHEARING

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
Web: www.sos.state.co.us
Email: initiatives@sos.state.co.us

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 or 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.

EXHIBIT A

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
1536 MacArthur Drive, Boulder, CO 80303
Phone: 720-340-9730
Email: minatour48@hotmail.com

Certificate of Service
The above Motion for Rehearing was emailed to the proponents of the initiatives
Mason Tvert, SAFER <mason@saferchoice.org>
Brian Vicente, Sensible <brian@sensiblecolorado.org>

Cesiah Gomez

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 you time.

Sincerely,

Corey Donahue
1536 MacArthur Drive, Boulder, CO 80303
Phone: 720-340-9730
Email: minatour48@hotmail.com

STATE OF COLORADO

DEPARTMENT OF STATE

CERTIFICATE

I, SCOTT GESSLER, Secretary of State of the State of Colorado, do hereby certify that:

the attached are true and exact copies of the sign in sheet from the rehearing that took place on Wednesday, July 6, 2011, and the CD of the audio recorded from the rehearing for Proposed Initiatives "2011-2012 #29-#36 Use and Regulation of Marijuana".....

.....**IN TESTIMONY WHEREOF** I have unto set my hand .....
and affixed the Great Seal of the State of Colorado, at the
City of Denver this 26th day of July, 2011.

SECRETARY OF STATE

EXHIBIT B

Proposed Initiative: 2011 – 2012 #29-#36
Use and Regulation of Marijuana - Rehearing
Date: July 6, 2011

Secretary of State Conference Room
1700 Broadway, Suite 200
Denver, Colorado

Sign-Up Sheet

Name (Please Print)	Complete Mailing Address	Telephone No.	Testify (Y/N)	Group Represented / Agency
Ed Ramey	2401 15th St. #300 Denver, CO 80202	303-595-4747	Y	Proponents
Brian Vicente	PO Box 18942 Denver CO 80218	720 890 4247	Y	Proponents
Corey Donohue	1536 Mortiller Dr Denver CO 80303	720-340-9730	Y	Opponent
Kathleen Chippi	PO Box 1794 Nederland, CO 80466		✓	Patient + Caregiver Rights Litigation Project
Mason Tvert	1441 Humboldt St. #101 Denver, CO 80218	303-861-0133	Y	Proponent

Proposed Initiative: 2011 – 2012 #29-#36
Use and Regulation of Marijuana - Rehearing
Date: July 6, 2011

Secretary of State Conference Room
1700 Broadway, Suite 200
Denver, Colorado

Sign-Up Sheet

Name (Please Print)	Complete Mailing Address	Proponent/Opponent	Support/Oppose	Entity (if applicable)
LAURA KRIHO				
Robert Close				CCPC
Timothy Tipton				RMCC

ORIGINAL

INITIATIVE TITLE SETTING REVIEW BOARD
Secretary of State's Blue Spruce Conference Room
1700 Broadway, Suite 270
Denver, Colorado
Wednesday, July 6, 2011

Motion for Rehearing
2011-2012 #29 through #36 Use and Regulation of Marijuana

APPEARANCES:

William A. Hobbs
Deputy Secretary of State
1700 Broadway, Suite 270
Denver, Colorado 80290

Jason Gelender
Senior Attorney
Office of Legislative Legal Services
091 State Capital Building
Denver, Colorado 80203

EXHIBIT C

PROCEEDINGS

MR. HOBBS: Good afternoon. Let's go ahead and begin.

This is a meeting of the Title Setting Board pursuant to Article 40 of Title I, Colorado Revised Statute. The date is July 6, 2011. The time is 2:01 p.m. We're meeting in the Secretary of State's Blue Spruce Conference Room, 1700 Broadway, Denver, Colorado.

The Title Setting Board today consists of the following: My name is Bill Hobbs. I'm deputy secretary of state, and I'll conduct the meeting on behalf of Secretary of State Scott Gessler. To my immediate left is Jason Gelender senior attorney with the Office of Legislative Legal Services, who is the designee of the Director of the Office of Legislative Legal Services, Dan Cartin. We do not have the third member of the title board today, Dan Domenico, was the attorney who oversees -- the representative of the attorney general's office who served on the board when these measures were considered last time, but he is unavailable. He is out of town. So it will just be the two of us.

Our agenda today is a single motion for rehearing for the eight different versions, numbers 29 through 36.

Because this is a motion for rehearing that we're considering today, we have a quorum because we have two out of the three board members here but any change to the status quo would require a majority vote of the quorum, which means a two/o vote. So just to be clear on the procedures. I regret that we don't have all three members of the board, but it does sometimes happen.

We do have a -- we have sign-up sheets on the table by the door. If anybody to wishes to testify, please do sign up on the sign-up sheet. When you testify, come to the podium, state your name and who you represent, if anyone.

This is a recorded meeting. It's also broadcast over the Internet and copies of the recording will be available on the Secretary of State's web site I think probably later today.

I think that covers the preliminaries. We'll start with then the -- to hear from the proponent of the motion for rehearing, and I believe -- I check my sign-up sheet -- this was submitted by Corey Donahue. And are you present, sir? If you'll come forward and identify yourself and if you like -- we have the benefit of your written argument but if you would like to summarize or elaborate or emphasize anything, please go

ahead and give us your testimony.

MR. DONOHUE: Okay. Thank you very much, Deputy Secretary Hobbs and Mr. Gelender.

Lately, as you said, you have the written testimony, and I am very familiar with the law, the medical marijuana code and the proposal, and even if someone as familiar as myself, I am still extremely confused.

The first point, as it says, they say they'd like to -- they'd like to be made -- regulated in a manner similar to the use of alcohol, yet alcohol is only mentioned twice in all of their initiative language, and the medical marijuana code is mentioned nine times in total. So I think that the true intent of this is to regulate it like medical marijuana, and I think that it behooves the people of Colorado to have a title that informs them of such because creating the -- creating the title and trying to regulate it similar to alcohol is, as it says, impermissible catch phrase, and one of the proponents of this initiative wrote a book to the -- to the -- speaking to it's safer than alcohol, so you treat it like alcohol.

And I think that's the catch phrase that plays on people's emotions that think, oh, it will be regulated similar to alcohol when, in fact, it will not be because

you cannot -- it does not matter how much liquor you buy in the stores. There's no limit. I could buy for all of us the entire liquor store, and we could have it. I could give it to you. There's no tracking of my one ounce. I can buy way more than one little shooter of vodka or gin or I can buy a seven-pack or a 12-pack or a case or a keg, not one ounce. There's no specific limit on that. So to say it's regulated in a manner similar to alcohol, I believe is an injustice, and I believe it's misleading the people and the voters of Colorado as to the true intent of this.

Also, it is regulated by the Department of Revenue which regulates liquor but the Department of Revenue does not have the liquor criminal enforcement division. The criminal enforcement for the violation of the liquor code is taken up by the police as you see with their -- when they send underaged kids into liquor stores to try to purchase alcohol to make sure they're compliant. It's not done by criminal enforcement in the Department of Revenue. It's done by the police and the sheriff of Colorado.

So I think that it's very confusing and being a person who is extremely familiar with medical marijuana laws and the laws in Colorado, I think the average voter would be ballyhooed and confused into believing that

this would be regulated anywhere close to that, given that they're putting limits on it and that they're not -- they're creating an entire separate division of enforcement separate from dealer enforcement provision. That's my (inaudible).

MR. HOBBS: Any questions for Mr. Donahue?

MR. GELENDER: Let me push back just a little bit for the sake of drawing out the discussion a little bit.

The legislative declaration, I think, for each of these under the purpose and (inaudible) says that it's -- there's marijuana should be regulated in a manner similar to alcohol and if -- it seemed to the Board that in a rough sense there's a lot of parallels between the proposed regulation of marijuana and the existing regulation of alcohol.

You know, you -- you conceded in the motion for rehearing that there's five -- five areas of similarity. The one major area that's the most significant difference, I think, as you pointed out, is the limited quantity. That is a really big difference. But the Board dealt with that by pointing that out in the title after first saying that it's in a manner similar to alcohol it does go on to say "permitting someone 21 years of age or older to consume or possess limited amounts of marijuana."

So I think it was important to us to recognize that as a difference between the existing regulation of alcohol and the proposed regulation of marijuana.

So I still like to say it's hard for me to see that this is so substantially different from alcohol that the title is misleading or suggestive.

MR. DONAHUE: I would also believe it would be essentially different. If it wasn't, why would they then give preferential treatment to medical marijuana facilities who are seeming to comply with the previously controlled -- you know, why weren't they given to alcohol -- liquor stores. Why can't a liquor store go in and say, hey, I've complied with all the liquor codes, and if we're going to -- if we're going to treat this the same as my liquor business, which, you know, Applejack and the numerous ones we have around the state that have been here for a long time, why wouldn't they have the privilege of being able to have a medical marijuana license first in order because they -- it's being -- it would still be regulated similar to alcohol. Why is it the medical marijuana centers rather than the liquor stores that get the preferential treatment for this for the license or whatever the Department of Revenue decides to deem necessary?

So that's another area I think that it's

completely different to alcohol because they would -- if it was similar to alcohol, why would you go and create another division and say the people that complied with the rules from this division in the Department of Revenue, not from the alcohol division or the gambling division but from the medical marijuana division? Why would they be given preferential treatment rather than alcohol or gambling or, you know, ones that have already complied with -- why aren't we having liquor stores that have been in compliance for 20 years with the alcohol codes, why don't they get preferential treatment because it seems to me the state would prefer that because we could see they're honest, they're trustworthy businesses that comply with the rules and regulations of the State of Colorado.

And that's why it seems there's a fundamental difference. That's why I have a disagreement with the Board and that's the reason for the rehearing.

MR. HOBBS: Okay. Thank you.

MR. DONAHUE: Anything else?

MR. GELENDER: I just --

MR. HOBBS: Mr. Gelender.

MR. DONAHUE: Mr. Gelender.

MR. GELENDER: I would just point out, Mr. Donahue, there are, however -- I mean, we did talk

about there seems to be a function of a similarity of the product. I think there's no doubt that marijuana, whether for recreation -- marijuana for recreational uses as a product is probably more similar to medical marijuana than to alcohol. But we're talking about sort of how it's regulated and what -- I see a lot of similarity: Similar population, you're selling to anyone 21 or over as opposed to just people with a certain maintenance medical criteria, similar type of or somewhat similar DUI type enforcement, legal sale by licensees, taxation, limits on either open or public dangerous consumption. Those are a big difference. But, I mean, liquor, there are actually laws, whether enforced or not, you know, about sort of open consumption just on the street.

Also, the provision provides for a local option to prohibit or limit the marijuana sales which is also on the books for liquor and alcohol.

So lastly different kinds of licenses, for example, for manufacture versus retail versus being a wine shop or something, having a tasting room.

So there seem to be a lot more similarities than differences to me.

MR. DONAHUE: I think there are some similarities. I mean, you could say that preapproved

question, you thought similarities, who can buy it, who can sell it? You could do that for alcohol. You could say, you know -- I mean for tobacco. Why is it alcohol? Why are they saying it's similar to alcohol when it's, you know, obviously there are some differences? And so you say that for -- why can't we say marijuana is similar to tobacco with the age limit of 21? Why are these specific ones with the very specific, as he says -- as it says in the first one, there's five very specific areas. It mentions the alcohol code. You know, it says -- it says to be taxed in a manner similar to alcohol.

Marijuana should be regulated in a manner similar to alcohol but in only five different areas. A person who shows proof of age, similar. Similar for tobacco. You have to show you're 18 to buy tobacco and not -- you know, 18 for tobacco. 21. 18 to buy a gun. 18 to, you know -- so that proof of age is for guns, for gambling, for tobacco, for alcohol, for marijuana. Why isn't it marijuana and alcohol? Proof of age.

It says minor shall be illegal. You can't gamble under 18. You can't drink under 21. You can't buy a gun under 18. You can't -- you know, you can't buy tobacco under 18. So why not tobacco and -- have it tobacco and marijuana or gambling and marijuana with an

age limit of 21 instead of 18.

And then driving under the influence of marijuana shall be illegal. That's the only one that's similar between alcohol -- just alcohol and just cannabis because, you know, you can smoke a cigarette in your car. You can scratch your scratch-offs in your car. You can bring your gun in your car.

And then criminal acting shall not sell marijuana. That saying you can't buy a gun from someone off the street. You have to have your tax license for tobacco. You have to have your -- you have to follow the code to satisfy the Department of Revenue for gambling.

And then -- and will be subject to additional regulations and be sure the consumers are informed and protected. So informing on that it's similar to alcohol when there are some similarities yet a vast array of differences is misleading to the public.

And as I said, I know this and I'm still confused. The average voter, I don't believe would know all this, would actually spend time looking at the alcohol code versus marijuana, medical marijuana code or the gambling code versus the medical marijuana code.

So I think it's disingenuous to say that it's going to be regulated in a manner similar to alcohol.

MR. HOBBS: Thank you very much.

MR. DONAHUE: Thank you very much.

MR. HOBBS: I want to hear from the proponents of the measure, but first let me find out if there's anyone else who wishes to testify in support of the motion for rehearing.

If you'll come forward. I do have a Kathleen Chippi signed up. Okay. Thank you.

If you'll identify yourself for the tape and give us your testimony.

MS. CHIPPI: Kathleen Chippi representing the Patient and Caregiver Rights Litigation Project.

And I see a big difference between alcohol and marijuana and that big difference would be if we're going to regulate it like alcohol, the consumer and the voter are all going to think that it's federally legal and acceptable, and it is not. So the fact of the matter is medical marijuana in the State of Colorado is still federally illegal, but it is constitutional in the State of Colorado. And I would say that we would definitely be misleading the voter to say it will be regulated like alcohol because -- and like Mr. Donahue just said, the medical marijuana enforcement division and the code is referenced seven or nine times and part of that -- part of that code allows for the video

surveillance via live Internet feed to the Department of Revenue and the medical marijuana center, which as a founding member of the Patient Caregiver Rights Litigation Project is stomping all over patients' privacy rights and that's also incriminating them because it's all accessible to all law enforcement and the DEA.

So since federal law is okay with alcohol and federal law is not okay with marijuana, I think we're going to confuse everyone in the State of Colorado who is not as informed on what is going on, and if it's going to be regulated right, medical marijuana, which is referenced numerous times, I think it's a better matchup to -- to correct the title because -- and it's only (inaudible) as the main concern and on a federal level it's completely different than alcohol.

And I think that the voters are going to be confused. They're going to think they're legalizing -- I mean, they're legalizing cannabis for recreation. Just like I go into a liquor store and I can buy the whole store. I can go back to my house and have a party, and I can pass it out to anybody I want as much as I want. And I think it would be misleading to the general public that it is limitless, by the way.

That's another thing I found confusing on what

can you have at your house; that you can only transport one ounce, and I think that's another problem for enforcement because in the medical marijuana program two ounces is what patients are allowed to purchase from a medical marijuana center.

The medical marijuana center is being granted the privilege, which I'll -- I'll say it quite honestly, I don't think anybody should have a leg up if this goes legal, let alone a medical marijuana center. I think all other business owners that aren't (inaudible) should be offended. $500 for a -- if you're a medical marijuana license -- state licensed facility versus a liquor store if it really is liquor. Why would I pay with the discount instead of the $5,000 license, they get a $500 license.

But I'll tell you I can't get past the federal thing, and I think we're going to confuse people very much so.

And the other thing is the Department of Revenue is going to be in charge of enforcing similar to the patients in the medical marijuana program and this video surveillance is unacceptable and it's self-incrimination, and there's no guarantee that that is not going to happen here. And people are going to be breaking federal law if this passes. And I'm not saying

I'm against that. I believe in states rights. However, the DEA has been knocking on our door, you know, when you're getting regular letters from the -- from the federal government saying that they're going to come and arrest everybody, well, we clearly are not treating it like alcohol. That's all I have to say.

MR. HOBBS: Let me -- let me comment a little bit about that because I think you raise an important concern for the Title Board, and I'll comment on it, and if you want to comment further, then you're welcome to do so.

You know, your point is well taken. A big difference here between alcohol regulation and this proposal is -- is federal regulation, federal prohibition. And this is something that the Title Board I think talked about last time. I think we talked about it a year or so ago when we set a title for number 47 which was somewhat similar.

From -- I think from our perspective the way that resolved that dilemma in not addressing that in the title is that it's not a feature of the measure itself. We don't -- by practice we try to draw a line where we don't speculate about how a measure -- what effects it may have, how it might be administered, what legal -- if there's legal questions about it, we don't speculate in

the title about those legal questions. If something may be unconstitutional for various reasons. Those -- in many cases of measures come before the Title Board, those are legitimate concerns, but they are more questions of legal interpretation or how a measure might operate.

And I think at least in this case and then in the case of number 47, we felt that the -- you know, the effective federal prohibition is something that's probably better discussed in the argument for and against the measure. That is they are very relevant, as you pointed out, but when we're charged with summarizing the key features of the measure itself, I don't think there's anything in the measure itself about it. So I think that's why we sort of erred on a little bit more conservative side and not talk about it in the title.

So -- but I do agree it's a legitimate concern, but it is just probably not something that I think the Title Board should comment about in the title.

But, again, you're welcome to comment further if, you know, if you'd like to try to persuade me otherwise.

MS. CHIPPI: Do you have something you want to say? Are you fine with it or no?

MR. DONAHUE: No.

MS. CHIPPI: Okay. Well, I would, I guess,

then -- I think that saying to the average voter, average citizen in the State of Colorado that we're regulating it like alcohol is deceitful and on November 6, 2010, which was last November, I attended the (inaudible) for Sensible for Drug Policy Reform. It was a daylong event at CU Boulder campus, and Proponent Mason Tvert spoke and discussed this language that he was preparing and probably announced that his -- since we already had a medical marijuana program set up by the state and enforced in the division by the state -- that we would just use that as the model and -- and go ahead and legalize that. Now, I have that on audio and videotape.

And then just last week, more recently, Proponent Mason Tvert was on marijuana radio discussing his language where in that -- that is also a pod cast available for everyone to hear, where Mr. Tvert admits that (inaudible) of alcohol is a catch phrase in the title and that concerns me. Concerned me enough that I called in to the radio show and voiced my concern because it is illegal to have a catch phrase and -- and I guess I will end it with that.

MR. HOBBS: Any questions?

Thank you very much.

MS. CHIPPI: Uh-huh.

MR. HOBBS: Okay. Thank you.

MS. KRIHO: Laura Kriho. I was here last time speaking on behalf of the another initiative campaign that we're working on called Legalize 2012. And as you guys remember when I was here last time, I grabbed the word legalization out of the title and reserved it for the title of our ballot initiative when it should come before the Court. And I think it's -- the proponents all argued to get the word legalization out of the ballot title clearly shows there to regulate as something other than alcohol because otherwise if they really wanted to regulate it like alcohol, they wouldn't have argued against having the word legalized there. And I guess that's my main concern.

As far as it being misleading to voters is that if you say "in a manner similar to alcohol," alcohol is legal under both state and federal law, and people are going to get that idea in their heads. We think that is deceptive of the proponents to do this because I also have had personal conversations with them where they had declared their intent to regulate it like medical marijuana. To paraphrase what they had told me, we already have a regulated system for medical marijuana in Colorado, why wouldn't we just plug in and use that. They never said that to me about alcohol. They never

said, oh, we already have retail liquor stores, why wouldn't we just plug in and sell it through liquor stores. I mean, honestly if that were really the model of alcohol, it would be sold through retail liquor stores, and they wouldn't have to create an entity called the retail marijuana store where this would be sold.

Well, once again, I mean, to me that proves the disingenuousness of their -- not only their proposal but also of the misleading -- the misleading aspects of the title.

And I would like to also argue the fact that it is a catch phrase similar to alcohol as Kathleen testified. She has heard the proponents use this as a catch phrase and we even admit that it is a catch phrase.

The proponents have written books upon which this is the main basis that marijuana is similar (inaudible) to alcohol. So this is a catch phrase designed to confuse voters. Where the confusion of the voters would come -- and it's really hard to understand unless you've gone through the whole medical marijuana thing.

You know, medical marijuana was sold to the State of Colorado as being legalize medical marijuana, and it's going to help patients and over the past -- since

the general assembly has gotten ahold of it over the past two years we've seen these incredible restrictions and incredible laws that are being forced down on patients and their providers that were never foreseen before the original initiatives because everybody thought, oh, this is legalizing it; this is legalizing it.

Well, you have the proponents here on 10/15 to argue themselves that this is not legalizing it. This is not legalizing it. This is restricting it and controlling it. And anything other than that in the title will be misleading to voters. And I would argue again there is a catch phrase that should not be allowed in the title ever on anybody's initiative.

That's my testimony.

MR. HOBBS: Thank you very much.

MR. GELENDER: Thank you.

MR. HOBBS: Anyone else wish to testify in favor of the motion for rehearing? And I will give Mr. Donahue another chance after we hear from the proponents of the measure.

Then I'll turn to the proponents of the measure and several people signed up.

Mr. Ramey, do you want to begin?

MR. RAMEY: Mr. Chairman, yes, thank you. With

me today are the two proponents, Mr. Vicente and Mr. Tvert.

I think -- I guess I -- two points I'd like to -- to raise very briefly. Number one, I think the Board had accurately caught our purpose as stated in the measure to attempt to regulate marijuana in a manner similar to alcohol. I think that does accurately reflect the proponents' purpose. However, we've listened to several minutes of arguments as to why the use of that phrase in the title might be misleading, and three people have come up and not only indicated they have been misled, despite having substantial familiarity with the measures, but also have accused us, the proponents, of being -- trying to remember all the words -- deceitful, deceptive, disingenuous, misleading, et cetera -- which is not our intent.

I would particularly point that out, and I don't think we -- I think that phrase was in the staff draft and it was fine with us. I think we found it to be an accurate reflection. It wasn't something that we were fighting tooth and nail for last time.

But the last thing that the proponents want to do -- and I will invite Mr. Tvert and Mr. Vicente to comment if they wish -- is to do anything that would mislead anybody or have anything in the title that might

arguably be misleading to any of the voters, whether we think the phrase is misleading or not.

And similarly the last thing we want to do, for a whole lot of obvious reasons, is to have a catch phrase in the title, and I'll be candid with the Board, the (inaudible) on catch phases still needs to be (inaudible) -- the last pronouncement from the Supreme Court on that issue came down last year with the health care initiative, and there was the majority opinion and a dissent dealing with the catch phrase issue. And some of it is running back to an old case of mine of a bunch of years ago where I probably created more trouble than I should have.

So, I mean, I don't want a catch phrase to stay, and it seems to me to be a little -- the term seems to be a little flexible, but we don't want one of those in there. And we certainly do not want to mislead any of the voters, majority or minority.

So from the proponents' perspective grudgingly -- and I say this grudgingly but it would be acceptable to us to drop the phrase "in a manner similar to alcohol" in all eight of the titles. And the way then it would read -- and it sort of pains me to say this because, you know, I think the phrase has -- has some -- some important -- interpretive import to it, but

apparently it is of concern and misleading to at least three people, and I'm going to assume more people as well as those three that are here.

So it would be simple enough to simply drop the words "in a manner similar to alcohol." We don't want to put in a substitute "in a manner similar to medical marijuana" because we get back into the same quagmire we're in with a manner similar to alcohol. I could stand here and recite a bunch of different ways as to why it's different and the references to medical marijuana are often by ways of distinction or exclusion or granting a preference to medical marijuana licensees and the licensing process and so forth. But it's -- it's not an attempt in the language of the initiative to be similar to medical marijuana. So I wouldn't want to substitute that phrase, but we could drop the one that we have.

And the concern, Mr. Chairman, that you raised about the legalization issue. We certainly do not want voters to suggest that we are managing to change federal law. We can't. Under the Colorado initiative process we understand that. Whether we'd like to or not, that's something we can't do. So, again, if there's a concern in a manner similar to alcohol to suggest that it would be legal at all levels, we don't want to have that

concern out there.

So in sum -- and, again, I would defer to the proponents themselves -- from our perspective it would acceptable to us in all eight of the titles to drop the words "in a manner similar to alcohol."

MR. HOBBS: Question for Mr. Ramey?

Mr. Ramey, on a -- with respect to this threat about federal versus state regulation or federal prohibition and state regulation, how would you feel about modifying the title to insert the word "state," so it might read something like in the second line -- if you can pop up the second line -- providing for state regulation of marijuana?

MR. RAMEY: I think that would be acceptable. I don't think we'd have any problem with that. I mean, I think that's the fact. I'm willing to defer to my clients (inaudible).

MR. HOBBS: Okay. State regulation.

Mr. Tvert, if you want to identify yourself for the record.

MR. TVERT: Mason Tvert. I'm one of the two proponents of the initiative.

I think the only situation that that would bring up is that localities are also given the power to regulate, so I think that, you know, we talked in the

last meeting about the desire for this being so succinct, and we cut it down to concerning marijuana. I think simply providing for the regulation of marijuana really gets to the point of what it's doing and then it goes on to explain what that entails.

MR. RAMEY: I stand corrected. That's the point that I missed. We do have a local regulatory component in there, and it states would suggest to somebody that all the regulations at the state level (inaudible). So I agree with that.

MR. HOBBS: Any other questions for Mr. Ramey?

MR. GELENDER: I don't -- yes, just one, which is the only thing that -- I do think that the phrase in a manner that's similar to alcohol -- no -- obviously, no one feels strongly about it -- I think that includes me. It does, I think, in light of, you know, some of the things, you know, as I pointed out for the string of similarities before. I think it does add some level of value to the voter.

My question was: Is do you believe the rest of the trailer is sufficiently inclusive if we take that out or would you suggest other modifications as well?

MR. RAMEY: I would not. I think it's sufficient if we take that out. I think the remaining trailer, I guess, of the -- of the title works adequately and, I

mean, to the extent these go forward, there'll be a campaign on this and there'll be political messages on both sides, and we can argue all the other issues both sides, all sides, there may be more than two sides, to our heart's content.

But I -- I do think -- we came out last week thinking the titles were good with that phrase in it. I'm hearing a lot of objection, and I can't honestly say that the objections that I'm hearing are completely crazy or off the wall. And I know Mr. Hobbs has heard me many years argue that -- that objections are without merit. I really can't say that with these, other than to take objection to being characterized as deceitful.

But I would take the phrase out, and if we want to present the message in -- in campaign where we can do that, we'll do it, but we absolutely do not want to have something floating around the title that could either be characterized as a catch phrase and tilt the argument one way or another in the official title or have anything in there that could mislead the voters.

MR. HOBBS: Maybe this is just a comment but for the time you say is there any idea -- I actually think the phrase is okay. I don't think it's an infamous full catch phrase, and I think it's helpful to the voters, and I think it's consistent with our obligation

to briefly, you know, clearly state the essence of the measure. But it looks like we can live without it. You know, the very next clause says "permitting people 21 years of age or older to consume unlimited quantity," and I think that's kind of the real essence. So it gets back to my concern about regulation versus legalization.

MR. RAMEY: Well, I -- and I don't want to -- exactly. If we're suggesting "in a manner similar to alcohol," that phrase, and I see how it could carry the suggestion that we're now wholly legal at all levels. We don't want to suggest that because we're not.

MR. HOBBS: And I agree with you that -- that it -- it's a different argument that has been made here that the phrase is possibly a catch phrase, and there are arguments against it. So if it -- if it removes an obstacle to everyone's satisfaction to remove that phrase, and we're still okay with the title -- and I think we probably are -- I'm inclined to do that based on what I've heard so far.

MR. RAMEY: It would be acceptable to the proponents.

MR. HOBBS: Thank you.

Anyone else wish to testify on behalf of the proponents of the measure?

If not, let me next turn then to Mr. Donahue

again if you'd like to respond to what you've heard so far.

MR. DONAHUE: Thank you, Deputy Secretary. The regulation of marijuana. Who is regulating it? How is it regulated? Is the Department of Revenue regulating it? Is each city regulating it? Is the secretary of state regulating it? Who is regulating marijuana?

This is a completely new area, completely new commodity for the State of Colorado. It is illegal on the federal level, and I understand that you take no position on this vis-à-vis federally. But with the regulation of marijuana that leaves the whole slew -- that was just me sitting there thinking who, how -- who, what, where, when, why -- you know, the whole litany of journalistic questions.

With the regulation of marijuana they have nothing to compare it to, they have nothing to -- they have no -- they are even more in the dark, I think. I think this is just not -- not deceiving -- deceiving them but rather to just saying the regulation of marijuana leaves it completely up to their imagination.

Because for -- for Kathleen maybe the regulation of marijuana for her means no regulation, means you can grow it like tomatoes. Maybe for the proponents it means that the DOR tracks it from seed to sale. Maybe

for me it means 18 and over. Maybe for someone else it means that it's still illegal. What's the regulation? Are we regulating it back to prohibition?

I'm even more confused now taking that phrase out than with that phrase in. I think that -- and as I said, I'm very well versed in this. What's the regulation? What would the common voter think? Because you'll have people -- you'll have people, you know, in Rifle that think regulation is one thing; people in Boulder will think regulation is another thing. So the -- that will make it specific to whatever the person's mind-set is and it won't give a clear intention of what the proponents propose with this initiative.

And so that's why I believe not only -- I think that taking the "in a manner similar to alcohol" makes it even worse, and I think it's -- it's going from bad to worse in my opinion.

MR. HOBBS: Mr. Gelender.

MR. GELENDER: Well, Mr. Donahue, I guess my question then would be what's your proposed solution? Are you now just asking us just not to set a title at all?

MR. DONAHUE: Yes. I think it would be fair to the people of Colorado to get the accurate title as this is a new area.

MR. GELENDER: And we are -- to be clear, we are (inaudible) -- it was not in the written motion. I don't think you're making now the single subject argument. You just seem to be making an argument that it's not possible to get a clear title with this or?

MR. DONAHUE: It's not for the specific language, yes. I think it does fall in the single subject because as I -- maybe I didn't put it eloquently. The single subject for the regulation of marijuana is a hanging -- it's a hanging -- it leaves people hanging. What's -- what's the -- where's the rest of that title?

MR. GELENDER: Well, the answer to that question to me, Mr. Donahue, is the answer to that title is the words that follow it where then it doesn't leave it totally to people's imagination because then it talks about 21 years of age or older limit -- limited of quantity limit, licensing of certain kinds of specified facilities, (inaudible) low box seem to regulate or prohibit, requirement of taxation.

MR. DONAHUE: Yeah. And I think they're --

MR. GELENDER: There is clarification following.

MR. DONAHUE: Okay. I perceive that, yes, I think that is. But then it does exceed the medical marijuana code. It says that nine times. It says in the event if you take every specific instance that

compares it to alcohol, even if we get rid of alcohol, it says the medical marijuana code. So maybe my proposal would be the regulation of marijuana as I put similar to the -- similar to medical marijuana with the Department of Revenue as the enforcement division as when you regulate it you have to have an enforcement division. There has to be some sort of body, and I think that gives people in Colorado a clear indication of what they are voting for if they say, okay, it's being regulated. It's being regulated similar to something else, and it appears that people who are regulating it, you know, who, what, and where. And that's what I believe would be the best title for this initiative.

Does that answer your question, sir?

MR. GELENDER: Yes, I think so.

MR. HOBBS: Mr. Donahue, would you feel better if we amended the title to say that it's regulation by the Department of Revenue?

MR. DONAHUE: I think so. I think it would be regulation and enforcement because it does say criminal enforcement.

MR. HOBBS: And one reason I was thinking about doing that is because we -- if we were to say at the beginning "providing for the regulation or regulation

and enforcement of marijuana by the Colorado Department of Revenue," that might cement pretty well with the clause that comes about midway through the title that says "permitting local government to regulate or prohibit such facility." It's right after we say --

MR. DONAHUE: Okay.

MR. HOBBS: -- provide for still. We go on to say provides for licensing of certain facilities, and then we say in the title permitting local government to regulate or prohibit the facilities. And so if we haven't said who at the state level or that it is the state --

MR. DONAHUE: Yeah.

MR. HOBBS: -- then it may be a little confusing to generally refer to local government regulations.

MR. DONAHUE: Yeah. And I think the other confusing thing that sets this all in motion is that they're attempting -- the proponents want to put this initiative into our constitution and as the 14th Amendment stipulates local governments can't regulate a constitutional amendment. Sure they can regulate alcohol because it's a code, it's not in the constitution of Colorado. But I have yet to see a city or municipality around the State of Colorado that can tell a woman, yes, you may vote or, no, you may not or

tell people, you know, what water fountain to drink at because this will be a constitutional amendment and the regulation by a local municipality would be flying directly in face of the 14th Amendment and...

MR. HOBBS: Any other questions?

Thank you.

Is there anyone else who wishes to testify? Yes, sir, if you'll come forward and identify yourself for the record, please.

MR. ROBERT (unidentifiable): My name is Robert Finch (sic) of the Colorado Coalition for Patients and Caregivers, and I -- my point is somewhat tangential but going back to the -- what the point that was raised by the representative of the secretary of state's office last time, that the sentence is unduly long and unclear, he suggested that amending it to be an amendment to the Colorado constitution concerning marijuana. That is impossibly vague. But the language you have there is very unclear. That first -- that first clause is impossibly vague. That's not the appropriate -- it's simply excess verbiage. It -- it is clearly equivalent to that excise the word "concerning marijuana" and "in connection therewith." "Therewith" I would point out is a legalism and not familiar to most teachers of English who will be reading it.

So simply have it read "in order to the Colorado constitution providing for the regulation of marijuana." That introduces the subject most clearly, very quickly at the beginning and then continue on. That's much clearer. Thank you.

MR. HOBBS: Again, does anyone have any questions?

Your point is well taken, and I think some day we're going to end up following that format, but we haven't for a couple of reasons. One is we're required to state a single subject first, usually signaled by the word "concerning." And the other reason pushing us in this direction is that our statute says we are supposed to generally follow the way that general assembly sets titles, and this is the typical format of the general assembly. I agree "therewith," you know, "in connection therewith" is awkward --

MR. ROBERT (Unidentifiable): And I don't think it's (inaudible). You'll note the objection but the result was unfortunate.

MR. HOBBS: Thank you.

Ms. Kriho, you need to come to the microphone.

MS. KRIHO: Just the point -- Laura Kriho again.

Just to point out for matter of clarification and why we're concerned with having the regulatory agency in

there is because there are going to be other initiative proposals that come to you, and that is going to be one of the hallmarks of their differences is what agency controls it. We have people writing language now with the Department of Revenue, the Department of Public Health and Environment and the Agriculture Department, of the three that are being tossed around now. There may be more. So I think that it's really important -- you know, if I look at this thing, what it is going to look like next to our ballot title? How it is going to be distinguished from the title that we are going to want for our initiative? And that's going to be one of the hallmarks of the differences. That was all.

MR. HOBBS: Thank you.

Anyone else waiting to testify?

Mr. Ramey.

MR. RAMEY: Mr. Chairman, if I can just comment very briefly just on the two issues about having the regulatory agency in there, and again going back to the manner similar to marijuana. I do want to emphasize that there are -- there are as many and more distinctions between our regulatory structure than the medical marijuana structure. One primarily being the age limitation of 21 years of age or older under the commission that doesn't apply at all under medical

marijuana. That again is a reason we don't want to have that comparison in sort of the mirror of the concern of having "in a manner similar to alcohol."

And with regard to the Department of Revenue, there is nothing terribly objectionable about identifying that department in this title other -- maybe a bit of surplusage but the problem -- I think the more technical problem is that local -- localities -- and I use that phrase definitionally; it could be cities, counties, whatever -- will have some measure of regulatory authority under any circumstances under our measure and may, under certain circumstances, become the primary regulatory authority for a period of time if the Department of Revenue declines to adopt regulation. So if we said Department of Revenue, there is a possibility that it could turn out not to be the Department of Revenue. It could be the locality. So that would be the only reason, I think, that we would object to identifying that department, that particular regulatory authority in this language.

MR. HOBBS: Could it be -- and I just want to explore that because I think that's an important point.

We -- you know, as I indicated, I'm concerned about the portion that while -- we're looking at number 29 on this phrase. The title for number 29 that -- in

line -- beginning at the end of line five it says "permitting the local government to regulate," but that's just with respect to those facilities. I think you're raising another issue really is the fact that regulation if the Department of Revenue fails to act.

MR. RAMEY: That's correct, Mr. Chairman, and that refers to the fact that the local governments will have regulatory authority under any circumstances. But there is the backup regulatory authority if the Department of Revenue does not act. I don't want to speculate about the possibilities that that would come to pass. But it's in the text in the measure.

MR. HOBBS: You know, and it's sort of a slippery slope because once we start getting into more details, I mean, I am -- I am, at least in my own mind, wondering if that's a detail. I mean, it's sort of a fail safe -- the primary intent of the proponents I think is that the Colorado Department of Revenue do the regulation at the state level.

MR. RAMEY: Yes.

MR. HOBBS: But in case they don't and in anticipation of that possibility, there is a provision that kicks in.

MR. RAMEY: And, Mr. Chair, I do -- I do take your -- your point on that. I mean, I don't know where

you cross the line in implementation details or not but -- but the line may be there in this particular case, and we may have a misleading issue again in there if the title locks in the regulatory authority and the regulatory authority is not actually locked in in the text of our measure.

MR. HOBBS: Thank you.

MR. RAMEY: Yes.

MR. HOBBS: Anybody else wish to testify?

Mr. Donahue, one more time?

MR. DONAHUE: Back again for the first time.

I think he pointed out clearly because the more we talk about who is regulating it, the state is going to regulate this little bit down in Alamosa, is the whole state going to regulate for 21, but who is going to regulate for the kids who are using medical marijuana. I think it kind of brings this whole milieu to a head and shows that it's very -- it's a very confusing title that has been set, and that it's almost impossible to change it without creating even more confusion to the average voter.

And like I said before, I'm very well-versed. I've read these things on planes. I've taken hours out of my time to read these, and I'm still very much confused. And the more we change it and the more we do

it, it just makes it more confusing, and I believe the average voter would be -- it would be doing a disservice by trying to -- you know, I don't think the title should be set once again or it should be set saying exactly what it is because it's very confusing, and the more we tinker with it and the more that we say, oh, well, we'll just use marijuana. Well, then, where does that lead?

Well, we can't put the regulation agency because that's only for the state because if the DOR decides not to in only this specific instance. I think that the whole thing is very confusing and it's just leading us down a path, like you said, or a slippery slope to confusion of the public to not know what they're voting for to just think, Oh, it's marijuana, so whatever my feelings are, we don't know what the title is. It's just very much a -- it's more of an ethos, pathos -- more of an ethos, you know, argument than a pathos argument, so that's all I have to say, gentlemen.

MR. GELENDER: Well, Mr. Donahue, I think this is part of the standard issue that faces the Title Board. We have in this case an eight- or ten-page proposal, and there's a reason why it's eight or ten pages to provide all of the details that the proponents think is necessary, and yet we're charged with setting titles that are supposedly succinct, identifies the central

features and inevitably distilling something down to 7 lines or so we're inevitably leaving out things or oversimplfying things and it -- what I'm hearing is, yes, we're leaving out things or we're oversimplfying things, but it's not that complicated a measure, given that it takes eight or ten pages, it's not -- there's nothing about it that I can think of that we don't understand. It's just the usual challenge of how do we in approximately seven lines capture the central features of the measure. And it seems like that's pretty good. That's not to take too much pride in it so far because I'm going to propose a change or two anyway but...

MR. DONAHUE: Okay. Yeah -- like I said, I think it -- I think you guys are doing the best job you can, but I think with what you're working with is a measure that is very confusing to the average voter, and it will be very confusing to distill it down to seven lines because there's so many very important things because as we would be the first place in the world to legalize or regulate medical cannabis for everyone over the age of 21. I think we have to have something that very clearly shows the intent of the proponent because this is a completely new arena for all of us.

And the other ones where you have to distill it

down, you can rely on case law, you can rely on precedent from other ones. This one has no precedent but one, save for one, medical marijuana. And with the regulation going into that, that's the only precedent we can look at to say this is what it looks like because nobody -- the average voter will not, no matter how heartily you do your job, know in seven lines what it is because they have no prior knowledge unless we go all the way back to, you know -- unless you say something regulate marijuana as was before the, you know -- what is it -- marijuana tax act, but then that would bring in the federal law.

So, like I said, it's just confusing and as it's a new arena, I think that it would be -- behoove all of us and the people of Colorado to make sure they know exactly what they're voting for, and I don't feel that this -- even with the discussion we've had -- is going to give that -- give the fair shake to the people of Colorado.

MR. GELENDER: And just remember to be a little stubborn about this. This isn't the only resource that voters have. I mean, you're in a petition circulating state. For example, the text of the measure is in front of finders if they want to read it. The text of the measure will be available to people who are considering

whether to vote for a measure in the Blue Book and through other sources. The Blue Book will provide more of a summary. So there's a number of other resources. Then the campaigns themselves explain what a measure is. We can only do so much in a ballot title.

MR. DONAHUE: I understand. And I think with that too goes to the willingness what is the motivation? What is their intent? If they're so willingly willing to drop "similar to alcohol" and just make marijuana, what is the intent now because the whole thing -- you know, the whole first thing said there's five legs that's similar, age restriction, driving, you know. So if that was the crux of it but they so readily drop that crux, how are we to determine what their intent of this language is now?

MR. HOBBS: Thank you very much.

MR. DONAHUE: Thank you very much.

MR. HOBBS: Last call briefly from anyone before I turn to Board discussion?

If not, then -- then we'll turn to Board discussion, and I'll open it up if there's suggestions from the Board or any changes to title that we stressed, we'll proceed.

MR. GELENDER: We make a motion?

MR. HOBBS: I think what -- what we could do is

see if there's support for any changes.

MR. GELENDER: Okay. And then?

MR. HOBBS: And this is a little backwards, but I think our usual procedure is then we'll amend the title, if there's sufficient votes for it, and then at the end if we have amended the title, then we would have a motion that takes the form of moving, that the motion for rehearing be granted to the extent that the Board had to change the titles. So we sort of -- it's kind of an awkward thing. We -- we don't ever -- we don't start by saying shall we rehear this. We've sort of already been hearing it if that makes any sense at all.

MR. GELENDER: Right.

MR. HOBBS: I guess I would like to see if there's two members of the Board that want to make any changes to the title?

MR. GELENDER: Well, there's one member of the Board at least who is willing to make some members changes to the title.

I think based on the discussion we heard here I do not have any objection to removing the language "in a manner similar to alcohol." The proponents seem fine with it. The opponents want it.

I do want to talk a little bit about Mr. Donahue's point that -- argument that this makes

things sort of even worse. As I mentioned before, I think I didn't agree with that argument on the grounds that after we say providing for the regulation of marijuana, which is quite broad, we do limit that quite a bit by summarizing some of the sort of salient points about that regulation, not -- so, therefore, I think this would be the elimination of all (inaudible). I would be fine with that.

MR. HOBBS: And I'm fine with that as well.

Do you have any reaction to the idea of adding the agencies, the state agencies in the title?

MR. GELENDER: Yes, I will oppose adding the agency to the title. One, because I think it could cause confusion in terms of the local government enforcement. And secondary -- if there is going to be enforcement on the criminal side if, for example, people want to exceed the quantity limit on this or have a secondary market or something like that or, you know, continue to provide marijuana on an unlicensed basis, it seems to me that other state agencies, like the Colorado Bureau of Investigation or perhaps other local agencies by county and local law enforcement may get involved, but I think it would be misleading in the regulation to a particular department.

MR. HOBBS: Okay. I won't make that motion then.

But I -- I do support eliminating the phrase "in a manner similar to alcohol." I'll go ahead and make that motion that for all eight titles -- and I think this works for all eight, but somebody present if I'm wrong, somebody jump up and tell me -- but I'll -- Ms. Gomez will mark it on the titles and stuff for number 29. I'll lay on the screen in the room. But I would move that we strike the phrase "in a manner similar to alcohol" in all eight titles, numbers 29 through 36. Is there a second?

MR. GELENDER: Second.

MR. HOBBS: All those in favor say aye.

Aye.

All those opposed, no.

That motion carries two to zero.

Are there any other changes the Board members want to propose to the title that has previously been set?

MR. GELENDER: None from me.

MR. HOBBS: I don't have anything else. So then I will move that -- for all eight -- actually let me, before I do that.

Mr. Ramey, this is a bit repetitious, but I think at the last Title Board meeting you did indicate that the proponents' intent is to circulate only one measure.

MR. RAMEY: That's correct.

MR. HOBBS: And because we have similar titles on these, I'd like to maybe have that reaffirmed.

MR. RAMEY: Yes. There will only be one measure circulated. I'm not sure a decision as been made yet as to which one it is, but a decision has been made that it will be one and only one.

MR. HOBBS: Thank you.

Then I'll go ahead and make the motion that the Board grant the motion for rehearing to the extent that we have amended the titles and denied the motion for rehearing in all other respects.

Is there a second?

MR. GELENDER: Second.

MR. HOBBS: Any further discussion? If not, all those in favor say aye.

Aye.

All those opposed, no.

That motion carries two to zero.

That concludes actions on the Motion for Rehearing on numbers 29 through 36. The time is 2:59 p.m., and that concludes our agenda. And thank you all for coming and for participating. Much appreciated.

MR. RAMEY: Thank you.

REPORTER'S CERTIFICATE

STATE OF COLORADO)

) ss.

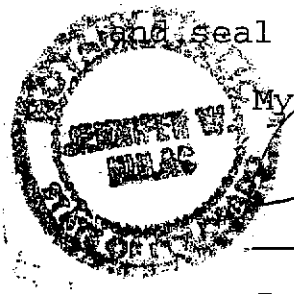
COUNTY OF DENVER)

I, Jennifer W. Hulac, Registered Professional Reporter and Notary Public within and for the State of Colorado, do hereby certify that this rehearing was reduced to typewritten form from a disk and that the foregoing constitutes a true and correct transcript.

I further certify that I am not related to, employed by, nor of counsel for any of the parties or attorneys herein, nor otherwise interested in the result of the within action.

IN WITNESS WHEREOF, I have affixed my signature and seal this 31st day of July, 2011.

My commission expires November 5, 2012.



Jennifer W. Hulac

Registered Professional Reporter

Ballot Title Setting Board

Proposed Initiative 2011-2012 #29[1]

The title as designated and fixed by the Board is as follows:

An amendment to the Colorado constitution concerning marijuana, and, in connection therewith, providing for the regulation of marijuana; permitting a person twenty-one years of age or older to consume or possess limited amounts of marijuana; providing for the licensing of cultivation facilities, product manufacturing facilities, testing facilities, and retail stores; permitting local governments to regulate or prohibit such facilities; and permitting the general assembly to enact an excise tax to be levied upon wholesale sales of marijuana.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be an amendment to the Colorado constitution concerning marijuana, and, in connection therewith, providing for the regulation of marijuana; permitting a person twenty-one years of age or older to consume or possess limited amounts of marijuana; providing for the licensing of cultivation facilities, product manufacturing facilities, testing facilities, and retail stores; permitting local governments to regulate or prohibit such facilities; and permitting the general assembly to enact an excise tax to be levied upon wholesale sales of marijuana?

Hearing June 15, 2011:
Single subject approved; staff draft amended; titles set.
Hearing adjourned 4:43 p.m.

Hearing July 6, 2011:
Motion for Rehearing granted in part to the extent Board amended titles; denied in all other respects.
Hearing adjourned 2:59 p.m.

Hearing July 20, 2011:
Petition for Rehearing dismissed on the basis that the Board lacks jurisdiction.
Hearing adjourned 11:00 a.m.

[1] Unofficially captioned **"Use and Regulation of Marijuana"** by legislative staff for tracking purposes. Such caption is not part of the titles set by the Board.

EXHIBIT D

Ballot Title Setting Board

Proposed Initiative 2011-2012 #30[1]

The title as designated and fixed by the Board is as follows:

An amendment to the Colorado constitution concerning marijuana, and, in connection therewith, providing for the regulation of marijuana; permitting a person twenty-one years of age or older to consume or possess limited amounts of marijuana; providing for the licensing of cultivation facilities, product manufacturing facilities, testing facilities, and retail stores; permitting local governments to regulate or prohibit such facilities; requiring the general assembly to enact an excise tax to be levied upon wholesale sales of marijuana; requiring that the first $40 million in revenue raised annually by such tax be credited to the public school capital construction assistance fund; and requiring the general assembly to enact legislation governing the cultivation, processing, and sale of industrial hemp.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be an amendment to the Colorado constitution concerning marijuana, and, in connection therewith, providing for the regulation of marijuana; permitting a person twenty-one years of age or older to consume or possess limited amounts of marijuana; providing for the licensing of cultivation facilities, product manufacturing facilities, testing facilities, and retail stores; permitting local governments to regulate or prohibit such facilities; requiring the general assembly to enact an excise tax to be levied upon wholesale sales of marijuana; requiring that the first $40 million in revenue raised annually by such tax be credited to the public school capital construction assistance fund; and requiring the general assembly to enact legislation governing the cultivation, processing, and sale of industrial hemp?

Hearing June 15, 2011:
Single subject approved; staff draft amended; titles set.
Hearing adjourned 4:43 p.m.

Hearing July 6, 2011:
Motion for Rehearing granted in part to the extent Board amended titles; denied in all other respects.
Hearing adjourned 2:59 p.m.

Hearing July 20, 2011:
Petition for Rehearing dismissed on the basis that the Board lacks jurisdiction.
Hearing adjourned 11:00 a.m.

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[1] Unofficially captioned **"Use and Regulation of Marijuana"** by legislative staff for tracking purposes. Such caption is not part of the titles set by the Board.

Ballot Title Setting Board

Proposed Initiative 2011-2012 #31[1]

The title as designated and fixed by the Board is as follows:

An amendment to the Colorado constitution concerning marijuana, and, in connection therewith, providing for the regulation of marijuana; permitting a person twenty-one years of age or older to consume or possess limited amounts of marijuana; providing for the licensing of cultivation facilities, product manufacturing facilities, testing facilities, and retail stores; permitting local governments to regulate or prohibit such facilities; permitting the general assembly to enact an excise tax to be levied upon wholesale sales of marijuana; and requiring the general assembly to enact legislation governing the cultivation, processing, and sale of industrial hemp.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be an amendment to the Colorado constitution concerning marijuana, and, in connection therewith, providing for the regulation of marijuana; permitting a person twenty-one years of age or older to consume or possess limited amounts of marijuana; providing for the licensing of cultivation facilities, product manufacturing facilities, testing facilities, and retail stores; permitting local governments to regulate or prohibit such facilities; permitting the general assembly to enact an excise tax to be levied upon wholesale sales of marijuana; and requiring the general assembly to enact legislation governing the cultivation, processing, and sale of industrial hemp?

Hearing June 15, 2011:
Single subject approved; staff draft amended; titles set.
Hearing adjourned 4:43 p.m.

Hearing July 6, 2011:
Motion for Rehearing granted in part to the extent Board amended titles; denied in all other respects.
Hearing adjourned 2:59 p.m.

Hearing July 20, 2011:
Petition for Rehearing dismissed on the basis that the Board lacks jurisdiction.
Hearing adjourned 11:00 a.m.

[1] Unofficially captioned **"Use and Regulation of Marijuana"** by legislative staff for tracking purposes. Such caption is not part of the titles set by the Board.

Ballot Title Setting Board

Proposed Initiative 2011-2012 #32[1]

The title as designated and fixed by the Board is as follows:

An amendment to the Colorado constitution concerning marijuana, and, in connection therewith, providing for the regulation of marijuana; permitting a person twenty-one years of age or older to consume or possess limited amounts of marijuana; providing for the licensing of cultivation facilities, product manufacturing facilities, testing facilities, and retail stores; permitting local governments to regulate or prohibit such facilities; and requiring the general assembly to enact an excise tax to be levied upon wholesale sales of marijuana.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be an amendment to the Colorado constitution concerning marijuana, and, in connection therewith, providing for the regulation of marijuana; permitting a person twenty-one years of age or older to consume or possess limited amounts of marijuana; providing for the licensing of cultivation facilities, product manufacturing facilities, testing facilities, and retail stores; permitting local governments to regulate or prohibit such facilities; and requiring the general assembly to enact an excise tax to be levied upon wholesale sales of marijuana?

Hearing June 15, 2011:
Single subject approved; staff draft amended; titles set.
Hearing adjourned 4:43 p.m.

Hearing July 6, 2011:
Motion for Rehearing granted in part to the extent Board amended titles; denied in all other respects.
Hearing adjourned 2:59 p.m.

Hearing July 20, 2011:
Petition for Rehearing dismissed on the basis that the Board lacks jurisdiction.
Hearing adjourned 11:00 a.m.

[1] Unofficially captioned **"Use and Regulation of Marijuana"** by legislative staff for tracking purposes. Such caption is not part of the titles set by the Board.

Ballot Title Setting Board

Proposed Initiative 2011-2012 #33[1]

The title as designated and fixed by the Board is as follows:

An amendment to the Colorado constitution concerning marijuana, and, in connection therewith, providing for the regulation of marijuana; permitting a person twenty-one years of age or older to consume or possess limited amounts of marijuana; providing for the licensing of cultivation facilities, product manufacturing facilities, testing facilities, and retail stores; permitting local governments to regulate or prohibit such facilities; permitting the general assembly to enact an excise tax to be levied upon wholesale sales of marijuana; and requiring that the first $40 million in revenue raised annually by such tax be credited to the public school capital construction assistance fund.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be an amendment to the Colorado constitution concerning marijuana, and, in connection therewith, providing for the regulation of marijuana; permitting a person twenty-one years of age or older to consume or possess limited amounts of marijuana; providing for the licensing of cultivation facilities, product manufacturing facilities, testing facilities, and retail stores; permitting local governments to regulate or prohibit such facilities; permitting the general assembly to enact an excise tax to be levied upon wholesale sales of marijuana; and requiring that the first $40 million in revenue raised annually by such tax be credited to the public school capital construction assistance fund?

Hearing June 15, 2011:
Single subject approved; staff draft amended; titles set.
Hearing adjourned 4:43 p.m.

Hearing July 6, 2011:
Motion for Rehearing granted in part to the extent Board amended titles; denied in all other respects.
Hearing adjourned 2:59 p.m.

Hearing July 20, 2011:
Petition for Rehearing dismissed on the basis that the Board lacks jurisdiction.
Hearing adjourned 11:00 a.m.

[1] Unofficially captioned **"Use and Regulation of Marijuana"** by legislative staff for tracking purposes. Such caption is not part of the titles set by the Board.

Ballot Title Setting Board

Proposed Initiative 2011-2012 #34[1]

The title as designated and fixed by the Board is as follows:

An amendment to the Colorado constitution concerning marijuana, and, in connection therewith, providing for the regulation of marijuana; permitting a person twenty-one years of age or older to consume or possess limited amounts of marijuana; providing for the licensing of cultivation facilities, product manufacturing facilities, testing facilities, and retail stores; permitting local governments to regulate or prohibit such facilities; requiring the general assembly to enact an excise tax to be levied upon wholesale sales of marijuana; and requiring that the first $40 million in revenue raised annually by such tax be credited to the public school capital construction assistance fund.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be an amendment to the Colorado constitution concerning marijuana, and, in connection therewith, providing for the regulation of marijuana; permitting a person twenty-one years of age or older to consume or possess limited amounts of marijuana; providing for the licensing of cultivation facilities, product manufacturing facilities, testing facilities, and retail stores; permitting local governments to regulate or prohibit such facilities; requiring the general assembly to enact an excise tax to be levied upon wholesale sales of marijuana; and requiring that the first $40 million in revenue raised annually by such tax be credited to the public school capital construction assistance fund?

Hearing June 15, 2011:
Single subject approved; staff draft amended; titles set.
Hearing adjourned 4:43 p.m.

Hearing July 6, 2011:
Motion for Rehearing granted in part to the extent Board amended titles; denied in all other respects.
Hearing adjourned 2:59 p.m.

Hearing July 20, 2011:
Petition for Rehearing dismissed on the basis that the Board lacks jurisdiction.
Hearing adjourned 11:00 a.m.

[1] Unofficially captioned **"Use and Regulation of Marijuana"** by legislative staff for tracking purposes. Such caption is not part of the titles set by the Board.

Ballot Title Setting Board

Proposed Initiative 2011-2012 #35[1]

The title as designated and fixed by the Board is as follows:

An amendment to the Colorado constitution concerning marijuana, and, in connection therewith, providing for the regulation of marijuana; permitting a person twenty-one years of age or older to consume or possess limited amounts of marijuana; providing for the licensing of cultivation facilities, product manufacturing facilities, testing facilities, and retail stores; permitting local governments to regulate or prohibit such facilities; permitting the general assembly to enact an excise tax to be levied upon wholesale sales of marijuana; requiring that the first $40 million in revenue raised annually by such tax be credited to the public school capital construction assistance fund; and requiring the general assembly to enact legislation governing the cultivation, processing, and sale of industrial hemp.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be an amendment to the Colorado constitution concerning marijuana, and, in connection therewith, providing for the regulation of marijuana; permitting a person twenty-one years of age or older to consume or possess limited amounts of marijuana; providing for the licensing of cultivation facilities, product manufacturing facilities, testing facilities, and retail stores; permitting local governments to regulate or prohibit such facilities; permitting the general assembly to enact an excise tax to be levied upon wholesale sales of marijuana; requiring that the first $40 million in revenue raised annually by such tax be credited to the public school capital construction assistance fund; and requiring the general assembly to enact legislation governing the cultivation, processing, and sale of industrial hemp?

Hearing June 15, 2011:
Single subject approved; staff draft amended; titles set.
Hearing adjourned 4:43 p.m.

Hearing July 6, 2011:
Motion for Rehearing granted in part to the extent Board amended titles; denied in all other respects.
Hearing adjourned 2:59 p.m.

Hearing July 20, 2011:
Petition for Rehearing dismissed on the basis that the Board lacks jurisdiction.
Hearing adjourned 11:00 a.m.

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[1] Unofficially captioned **"Use and Regulation of Marijuana"** by legislative staff for tracking purposes. Such caption is not part of the titles set by the Board.

Ballot Title Setting Board

Proposed Initiative 2011-2012 #36[1]

The title as designated and fixed by the Board is as follows:

An amendment to the Colorado constitution concerning marijuana, and, in connection therewith, providing for the regulation of marijuana; permitting a person twenty-one years of age or older to consume or possess limited amounts of marijuana; providing for the licensing of cultivation facilities, product manufacturing facilities, testing facilities, and retail stores; permitting local governments to regulate or prohibit such facilities; requiring the general assembly to enact an excise tax to be levied upon wholesale sales of marijuana; and requiring the general assembly to enact legislation governing the cultivation, processing, and sale of industrial hemp.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be an amendment to the Colorado constitution concerning marijuana, and, in connection therewith, providing for the regulation of marijuana; permitting a person twenty-one years of age or older to consume or possess limited amounts of marijuana; providing for the licensing of cultivation facilities, product manufacturing facilities, testing facilities, and retail stores; permitting local governments to regulate or prohibit such facilities; requiring the general assembly to enact an excise tax to be levied upon wholesale sales of marijuana; and requiring the general assembly to enact legislation governing the cultivation, processing, and sale of industrial hemp?

Hearing June 15, 2011:
Single subject approved; staff draft amended; titles set.
Hearing adjourned 4:43 p.m.

Hearing July 6, 2011:
Motion for Rehearing granted in part to the extent Board amended titles; denied in all other respects.
Hearing adjourned 2:59 p.m.

Hearing July 20, 2011:
Petition for Rehearing dismissed on the basis that the Board lacks jurisdiction.
Hearing adjourned 11:00 a.m.

[1] Unofficially captioned **"Use and Regulation of Marijuana"** by legislative staff for tracking purposes. Such caption is not part of the titles set by the Board.