

FILED IN THE  
SUPREME COURT

JUL 12 2011

Colorado Supreme Court )  
101 West Colfax Avenue, Suite 800 )  
Denver CO 80202 )

OF THE STATE OF COLORADO  
Christopher T. Ryan, Clerk

**Petitioner:**

Corey Donahue,

v. 1536 MacARTHUR DR )  
BOULDER CO, 80303 )

**Respondent:**

State of Colorado Title-Setting Board; )  
Secretary of State. )

) Supreme Court Case No.

11SA198

**Real Parties in Interest:**

Mason Tvert and Brian Vicente, proponents )

PETITION for REVIEW OF TITLE-SETTING and for AN ORDER TO DESIST

**\$ PAID**

Petitioner Corey Donahue ("Petitioner"), is a registered elector in the State of Colorado, respectfully submits this petition for review to appeal the decision of the Title Board in setting the title for Proposed Initiatives 2011-2012 #29 through 2011-2012 #36. (Regulation of Marijuana)

### **ACTIONS OF THE TITLE BOARD**

Brian Vicente and Mason Tvert ("Proponents") proposed initiative 2011-2012 #29 through 2011-2012 #36("Regulation of Marijuana") (the "Initiative"). On June 15, 2011 the Title Board held a public hearing in order to establish the initiative's single subject and set a title. On June 22, 2011, the Respondents filed a Motion for Rehearing alleging that:

- I. The title is misleading
- II. Contains an impermissible catch phrase.

The Motions for Rehearing were heard at the next meeting of the Title Board on July 6, 2011. In response to the Motions for Rehearing and oral argument, the Title Board revised the ballot title by striking the term, "similar to alcohol."

I respectfully petition the court to rule on actions of the Title Board. During the Title Board Rehearing the petitioner argued that the title was confusing, as it was not similar to alcohol, and the initiative proposed to regulate marijuana in a manner similar to medical marijuana with enforcement through the Department of Revenue. Although the board did strike the term, "similar to alcohol" it did not include a regulating authority in the title which will lead to confusion by the people of Colorado regarding who is in charge of regulations. As the language in this proposed amendment would create a regulatory scheme in the State of Colorado unknown to the citizenry and ripe for confusion by the

People of Colorado, I would respectfully request the court submit this ballot back to the Title Board.

If the court in its wisdom decides to refer this back to the Title Board then I would suggest the court direct the title board to also take these additional arguments in to consideration.

In Section 5 of the proposed initiative, "Regulation of marijuana," specifically states, "No later than July, 1 the department of revenue shall adopt regulations necessary for implementation of this section. " The division in the Department of Revenue currently tasked with implementing the "Colorado Medical Marijuana Code is the Medical Marijuana Criminal Enforcement Division." Section 5 of this proposed initiative contains the bulk of the language aimed at creating a bright line for law enforcement and revenue collecting agency proposes to distinguish between criminal actors and legitimate, taxpaying business people.

With the majority of the wording of this initiative regulating the actions of the people of Colorado by law enforcement and revenue generating agencies I submit to the opinion of the court that the true intent of the proponents of this initiative is, "marijuana sentencing reform for the more efficient use of law enforcement resources," and request the court to take this title in to consideration if it refers this proposed initiative back to the Title Board.

At the Title Board hearing on June 15, 2011, the subject of TABOR was discussed at length. The proponents argued that the ballot initiative wasn't required to have a TABOR-compliant ballot title because it was merely directing the General Assembly to enact an excise tax, not enacting one directly through the amendment. Citizen Laura Kriho questioned this and also questioned the applicability of TABOR given that marijuana had never been a taxable product before. At the June 15 Title Board

hearing, Kriho asked, "I'm curious as to why this ballot title isn't TABOR-compliant under the marijuana sales tax which has never existed before. This is a new tax, and under TABOR a new tax should have a TABOR-compliant ballot title."

The Title Board responded that they did not think the sales tax constituted a new tax, and therefore not subject to TABOR. However, a memo from John Suthers dated November 16, 2009 titled "Formal Opinion of Attorney General John Suthers Regarding Sales Tax and Medical Marijuana" states that medical marijuana in Colorado should be considered a taxable product (see **exhibit b**). This was a clear change in tax policy, as medical marijuana dispensaries had operated from 2000 to 2009 with no requirement to pay sales tax. TABOR (4)(a) says voter approval is required in advance for "any change in tax policy directly causing a net gain in tax revenue to any district." Therefore, the tax on non-medical marijuana required in the proposed ballot initiatives should also be considered a "change in tax policy", just as the tax on medical marijuana was.

The ballot titles for the proposed initiatives are not TABOR-compliant in their wording or in their capitalization. The petitioner respectfully asks the Court to consider these issues because they were brought up at the original Title Board hearing, and because there is no time frame for the court to resolve these constitutional issues.

### **ADVISORY LIST OF ISSUES PRESENTED**

1. Whether the Initiative's title, ballot title, and submission clause are misleading, confusing, unclear, and fail to accurately and fairly reflect the Initiative's true meaning and intent.

As required by Colo. Rev. Stat. § 1-40-107(2).

2. Whether the Ballot Title violates Article X, section 20 (3)(c), the Taxpayer's Bill of Rights ("TABOR").

### **SUPPORTING DOCUMENTATION**

Petitioners have submitted a certified copy of the title set with this Petition and a copy of my motion for rehearing. See **Exhibit A**. "Formal Opinion of Attorney General John Suthers Regarding Sales Tax and Medical Marijuana" states that medical marijuana in Colorado should be considered a taxable product see **Exhibit B**.

### **RELIEF REQUESTED**

Petitioner respectfully request that, after consideration of the parties' briefs, this Court revise the actions of the Title Board with directions to decline to set a title and return the Initiative to the Proponents or instruct the title board to set the title as, "Regulation of Marijuana with Enforcement Through the Department of Revenue" or "The Sentencing Reform of Marijuana for the More Efficient Use of Law Enforcement Resources." Petitioner also requests that this court accept this petition for review and immediately Order the secretary of state to desist from approving any petition form for circulation that contains the illegal ballot title wording and lack of capitalization complained of here and in the petition filed by Douglas Bruce.

Respectfully submitted this 12<sup>th</sup> day July 2011,

Corey Donahue



I certify that I emailed this PETITION FOR REVIEW, on July 12, 2011, addressed to:

Secretary of State Scott Gessler

ScottGessler@ScottGessler.com

Dep. Secretary of State William Hobbs

Chairman of Colorado Title Board

bill.hobbs@sos.state.co.us

Proponents

Mason Tvert, SAFER <mason@saferchoice.org>

Brian Vicente, Sensible <brian@sensiblecolorado.org>

I certify that I emailed and sent through certified mail this PETITION FOR REVIEW, on July 12, 2011

addressed to:

FILED IN THE  
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OF THE STATE OF COLORADO  
Christopher T. Ryan, Clerk

115A198

Secretary of State Scott Gessler

1700 Broadway

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Denver, Colorado 80203  
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FORMAL )  
OPINION )

No. 09-06

OF )

AG Alpha No. EX AD AGBDD

JOHN W. SUTHERS )  
Attorney General )

November 16, 2009

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Governor Bill Ritter, Jr., through his Chief Legal Counsel Thomas M. Rogers, III, requested an opinion from this office regarding the applicability of state sales tax to the purchase and sales of medical marijuana.

**QUESTIONS PRESENTED AND SHORT ANSWERS**

The Governor's Chief Legal Counsel presented the following six questions:

**Question 1.** Is medical marijuana "tangible personal property" subject to the state sales tax under the Colorado tax code, section 39-26-104(1)(a), C.R.S.?

**Answer 1.** Yes. Medical marijuana is tangible personal property and is subject to the state sales tax, unless eligible for a specific sales tax exemption.

**Question 2.** Do transactions involving medical marijuana constitute "sales of drugs dispensed in accordance with a prescription" such that they would qualify for tax exemption under section 39-26-717(1)(a), C.R.S.?

**Answer 2.** No. Medical marijuana is not dispensed in accordance with a prescription.

**Question 3.** Do medical marijuana transactions qualify for the agricultural tax exemptions under section 39-26-716, C.R.S.?

**Answer 3.** Generally not, except as discussed in response to Question 4, below.



**Question 4.** Does the form of marijuana sold or purchased alter the tax treatment of the transaction?

**Answer 4.** Yes. Pursuant to section 39-26-716(4)(b), C.R.S., all sales and purchases of seeds are exempt from sales tax in Colorado. Other forms of marijuana sold or purchased would not qualify for this sales tax exemption.

**Question 5.** Regardless of the legality of the activity, are individuals and enterprises that engage in the sale of medical marijuana pursuant to Amendment 20 required to obtain a license and otherwise comply with the requirements of section 39-26-103, C.R.S.?

**Answer 5.** Yes. Unless subject to a particular exemption, it is unlawful under section 39-26-103(1)(a), C.R.S., for any individual or enterprise to engage in the business of selling at retail without first having obtained a retail sales license issued by the Colorado Department of Revenue.

**Question 6.** If such transactions are taxable, whose obligation is it to collect and remit any sales tax due for the purchase or sale of medical marijuana?

**Answer 6.** The obligation to collect and remit sales tax due is borne by the vendor.

## BACKGROUND

In 2000, Colorado voters amended the Colorado Constitution by adopting an amendment (hereinafter "Amendment 20") authorizing the medical use of marijuana for persons suffering from defined "debilitating medical conditions."<sup>1</sup>

Amendment 20 left many legal questions unanswered. The Blue Book<sup>2</sup> circulated in connection with Amendment 20 stated that under the proposed amendment, possession of marijuana would be permitted for patients who have registered with the state, but distribution of marijuana would still be illegal in Colorado.<sup>3</sup> Consequently, Amendment 20 provides certain protections from state criminal liability for qualifying patients and primary caregivers, but "nothing in the amendment protects their original suppliers from prosecution or conviction on drug-related charges."<sup>4</sup>

<sup>1</sup> Colo. Const. art. XVIII, § 14 (hereinafter "Amendment 20").

<sup>2</sup> The "Blue Book" is the explanatory publication of the Legislative Council of the Colorado General Assembly. It is not binding, but "provides important insight into the electorate's understanding" when passing a Colorado constitutional amendment and "also shows the public's intentions in adopting the amendment." *People v. Clendenin*, --- P.3d ---, 2009 WL 3464306 \*5 (October 29, 2009), citing *Grossman v. Dean*, 80 P.3d 952, 962 (Colo. App. 2003).

<sup>3</sup> Colorado Legislative Council, Research Pub. No. 475-6, *An Analysis of 2000 Ballot Proposals 1* (2000), cited in *People v. Clendenin*, --- P.3d ---, 2009 WL 3464306 \*5 (October 29, 2009).

<sup>4</sup> *Id.* at \*7 (Loeb, J., specially concurring).

Further complicating the application of Amendment 20, federal law prohibits the manufacture, distribution, dispensing, or possession with intent to manufacture, distribute or dispense marijuana.<sup>5</sup> The United States Supreme Court has held that under the Supremacy Clause of the United States Constitution, where federal and state law conflict, federal law prevails.<sup>6</sup> In another case, the Court has upheld application of federal law to enjoin distribution of medical marijuana under a California law that is similar to Amendment 20.<sup>7</sup>

Nevertheless, fourteen states, including Colorado, currently have laws in some form addressing the use of marijuana for medical purposes.<sup>8</sup> On October 19, 2009, the United States Department of Justice issued a memorandum addressing the issue (hereinafter, "Department of Justice Memorandum"). The Department of Justice Memorandum clarified that compliance with a state's medical marijuana laws does not constitute a defense to a charge under 21 U.S.C. § 841 and related provisions, but it stated that United States Attorneys should not "focus" federal resources on individuals "whose actions are in clear and unambiguous compliance with existing state laws providing for the medical use of marijuana."<sup>9</sup> Recently, Colorado has witnessed a surge in dispensaries providing medical marijuana to patients.

Despite the legal confusion surrounding the medical marijuana industry, the taxation question is relatively straightforward. Colorado's sales tax applies to "the purchase price paid or charged upon all sales and purchases of tangible personal property at retail."<sup>10</sup> Colorado law contains no sales tax exemption for legally prohibited or otherwise unauthorized sales. Sales of medical marijuana are subject to state sales tax, unless a specific sales tax exemption applies.

## DISCUSSION

**Question 1.** *Is medical marijuana "tangible personal property" subject to the state sales tax under the Colorado tax code, section 39-26-104(1)(a), C.R.S.?*

Colorado imposes a tax on "the purchase price paid or charged upon all sales and purchases of tangible personal property at retail."<sup>11</sup> Tangible personal property means corporeal personal property.<sup>12</sup> "Retail sale" is defined as "all sales made within the state except wholesale sales."<sup>13</sup> The Colorado Department of Revenue ("Revenue") further defines "tangible personal property" via regulation as follows:

<sup>5</sup> 21 U.S.C. § 841(a)(1); 21 U.S.C. § 812(c).

<sup>6</sup> *Gonzales v. Raich*, 545 U.S. 1, 29 (2005).

<sup>7</sup> See *U.S. v. Oakland Cannabis Buyers' Co-op*, 532 U.S. 483 (2001).

<sup>8</sup> <http://www.justice.gov/opa/pr/2009/October/09-ag-1119.html>

<sup>9</sup> <http://blogs.usdoj.gov/blog/archives/192>.

<sup>10</sup> § 39-26-104(1)(a), C.R.S.

<sup>11</sup> § 39-26-104(1)(a), C.R.S.

<sup>12</sup> § 39-26-102(15), C.R.S.

<sup>13</sup> Section 39-26-102(9), C.R.S.

“Tangible personal property” embraces all goods, wares, merchandise, products and commodities, and all tangible or corporeal things which are dealt in, capable of being processed or exchanged . . . .<sup>14</sup>

Under the plain language of both the statutory and the regulatory definition of “tangible personal property,” medical marijuana constitutes tangible personal property subject to state sales tax, unless it qualifies for a specific sales tax exemption.<sup>15</sup>

**Question 2.** *Do transactions involving medical marijuana constitute “sales of drugs dispensed in accordance with a prescription” such that they would qualify for tax exemption under section 39-26-717(1)(a), C.R.S.?*

The State of Colorado applies its sales tax provisions broadly.<sup>16</sup> In construing tax statutes there is a strong presumption that taxation is the rule and exemption the rare exception.<sup>17</sup> The burden is on the taxpayer who claims an exemption to establish clearly the right to such an exemption.<sup>18</sup> Like Colorado courts, “[u]nless the statutes and the constitution place the property within a stated category of exemption, we resolve doubts regarding the meaning of statutes and the constitution in favor of subjecting the property to payment of its fair proportion of taxation.”<sup>19</sup>

Section 39-26-717(1)(a), C.R.S., exempts from state sales tax, among other items, “[a]ll sales of drugs dispensed in accordance with a prescription.” The words “prescription” and “dispensed” are medical terms not defined within state statutes governing sales tax, but are further discussed in regulation. Revenue’s rule defining “prescription” for purposes of the sales tax exemption in section 39-26-717(1)(a), C.R.S. provides as follows:

A “prescription” means any order in writing, dated and signed by a practitioner, or given orally by a practitioner, and immediately reduced to writing by the pharmacist, assistant pharmacist, or pharmacy intern, specifying the name and address of the person for whom a medicine, drug, or poison is ordered and directions, if any, to be placed on the label.<sup>20</sup>

<sup>14</sup> Revenue Regulation 39-26-102.15, 1 C.C.R. 201-4 (further language setting forth inapplicable exemptions omitted).

<sup>15</sup> See *Telluride Resort and Spa, L.P., v. Colorado Department of Revenue*, 40 P.3d 1260, 1264 (Colo. 2002) (“In taxation matters, we commence our analysis with the statutory provisions.”).

<sup>16</sup> See *A.D. Store v. Department of Revenue*, 19 P.3d 680, 682 (Colo. 2001).

<sup>17</sup> *Colorado Dept. of Revenue v. Woodmen of the World*, 919 P.2d 806, 810 (Colo. 1996).

<sup>18</sup> *Id.*

<sup>19</sup> *Telluride Resort and Spa, L.P. v. Colo. Department of Revenue*, 40 P.3d 1260, 1264 (Colo. 2002).

<sup>20</sup> Department of Revenue Regulation 39-26-717.1, 1 C.C.R. 201-4.

Under Amendment 20, no such prescription is contemplated. Instead, a physician merely provides written documentation that a patient has a debilitating medical condition and “might benefit from the medical use of marijuana.”<sup>21</sup>

Moreover, under federal law, marijuana – medical or otherwise – cannot be distributed by prescription. In addition to meeting any state licensure and regulatory requirements, any individual or entity aspiring to dispense a controlled substance must comply with federal law and obtain a registration from the United States Drug Enforcement Administration (“DEA”).<sup>22</sup> Such registration is available only for dispensing of schedules II through V controlled substances.<sup>23</sup> Under federal law, marijuana is a schedule I controlled substance.<sup>24</sup> Unlike drugs in other schedules, schedule I controlled substances cannot be dispensed under a prescription.<sup>25</sup>

Sales of medical marijuana are not and cannot be “dispensed in accordance with a prescription” and therefore are not exempt from sales tax pursuant to section 39-26-717(1)(a), C.R.S.

**Question 3.** *Do medical marijuana transactions qualify for the agricultural tax exemptions under section 39-26-716, C.R.S.?*

**Question 4.** *Does the form of marijuana sold or purchased alter the tax treatment of the transaction?*

Section 39-26-716, C.R.S., exempts several agriculturally-related products from state sales tax. The majority of the provisions listed under section 716 are not applicable to retail sales of medical marijuana. Subsection 4(b) of section 716, however, exempts from state sales tax “all sales and purchases of seeds.” Marijuana sold in the form of seeds would qualify for this exemption. Marijuana sold in the form of leaves, buds, flowers or plants would not qualify, and would be subject to sales tax.

Section 39-26-707(1)(e), C.R.S., generally exempts sales of food from sales tax. Marijuana sold in the form of food would not qualify for this exemption, however. Revenue Regulation 26-102.4.5, 1 C.C.R. 201-4, clarifies that the following items do not constitute “food” and do not qualify for sales tax exemption under section 39-26-707(1)(e), C.R.S.: medicines, therapeutic products and deficiency correctors such as vitamins and minerals, cod liver oil,

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<sup>21</sup> Colo. Const. art. XVIII, §§ 14(2)(a)(I) and (II); (2)(c)(I) and (II), and (3)(b)(I).

<sup>22</sup> 21 C.F.R. § 1301.11.

<sup>23</sup> 21 C.F.R. 1301.13.

<sup>24</sup> 21 U.S.C. §812(c).

<sup>25</sup> See also 21 U.S.C. § 829 (governing “prescriptions” and describing requirements associated with schedule II through V controlled substances only); *U.S. v. Oakland Cannabis Buyers' Co-op*, 532 U.S. 483, 492 n5 (2001) (Schedule I drugs cannot be dispensed under a prescription).

and “other such items which are primarily used for medicinal purposes or as health aids.”<sup>26</sup> By definition, any food product containing medical marijuana and sold pursuant to Amendment 20 must be used “for medicinal purposes” and would not be exempt from sales tax under section 39-26-707, C.R.S.

**Question 5.** *Regardless of the legality of the activity, are individuals and enterprises that engage in the sale of medical marijuana pursuant to Amendment 20 required to obtain a license and otherwise comply with the requirements of section 39-26-103, C.R.S.?*

As discussed in the Background section above, distribution of medical marijuana is illegal under federal law. Except where transfer of medical marijuana between a primary care-giver and a patient is authorized by Amendment 20, distribution of marijuana is also illegal under state law.<sup>27</sup> Regardless of the legality of the activity, however, individuals and enterprises that engage in the sale of medical marijuana pursuant to Amendment 20 are required to obtain a retail sales tax license and otherwise comply with the requirements of section 39-26-103, C.R.S. Unless subject to a particular exemption, it is unlawful for any person to engage in the business of selling at retail without first having obtained a retail sales license granted and issued by the executive director of Revenue.<sup>28</sup>

Colorado is not the first state to consider this question. In February 2007, the California State Board of Equalization, which collects California’s state sales and use tax, issued a “Special Notice” clarifying that those who sell medical marijuana in the state of California must hold a seller’s permit and are generally subject to sales tax.<sup>29</sup> The “Special Notice” explains: “Having a seller’s permit does not mean you have the authority to make unlawful sales. The permit only provides a way to remit any sales and taxes due.”<sup>30</sup>

This analysis is consistent with federal treatment of illegally obtained income. While the federal government does not impose a sales tax, for federal income tax purposes, “gross income” includes income derived from illegal sources.<sup>31</sup>

Thus, under both federal and state tax law, an individual or business must pay applicable tax even if the taxpayer is noncompliant with the law, and even the taxpayer sells an illegal product. Failing to obtain the required sales tax license and remit required sales taxes would add another illegality to the operation.

<sup>26</sup> Revenue Regulation 26-102.4.5, 1 C.C.R. 201-4, paragraphs (b)(8) and (9). See also Revenue Regulation 26-707.1(e), 1 C.C.R. 201-4, and § 39-26-102(4.5), C.R.S.

<sup>27</sup> See, e.g. § 18-1-406(8)(b), C.R.S. (offenses related to marijuana); Colo. Const. art. XVIII, § 14(2)(a) and (2)(b) (defenses under Amendment 20); and § 18-1-406.3, C.R.S. (statutory provision governing medical use of marijuana in light of Amendment 20).

<sup>28</sup> § 39-26-103(1)(a), C.R.S.

<sup>29</sup> See <http://www.boe.ca.gov/news/pdf/medseller2007.pdf>.

<sup>30</sup> *Id.*

<sup>31</sup> 26 U.S.C. § 61; 26 C.F.R. § 1.61-14. But see 26 U.S.C. § 280E (disallowing any income tax deduction or credit for any amount paid or incurred in carrying on any trade or business activities related to trafficking in schedule I or II controlled substances prohibited by state or federal law).

A state retail sales tax license does not represent an endorsement of an enterprise's compliance with the law and does not legitimize an illegal act. As under federal tax law, however, state tax law should not allow an individual or business engaged in an unlawful or potentially unlawful enterprise to avoid tax liability.

Under Colorado law, an individual or enterprise that engages in the sale of marijuana pursuant to Amendment 20 (or otherwise, for that matter) must obtain a retail sales tax license and comply with the requirements of section 39-26-103, C.R.S.

**Question 6.** *If such transactions are taxable, whose obligation is it to collect and remit any sales tax due for the purchase or sale of medical marijuana?*

The obligation to collect and remit sales tax due is borne by the vendor.<sup>32</sup> The retailer must add the tax imposed, or the average equivalent thereof, to the sales price or charge, showing such tax as a separate and distinct item.<sup>33</sup> When added, such tax constitutes a part of the price or charge and is a debt from the consumer to the retailer.<sup>34</sup> All sums of money paid by the purchaser to the retailer as taxes constitute public money, the property of the state in the hands of such retailer, who holds the same in trust for the sole use and benefit of the State until paid to Revenue.<sup>35</sup>

Revenue Regulation 26-104.1(a), 1 C.C.R. 201-4, explains: "The tax is imposed upon the purchaser. However, if the transaction involves a licensed vendor, the duty is imposed upon the vendor to add the tax to the sales price and to collect and remit the tax to the state." The sales tax constitutes a part of the price, and is a debt from the consumer or user to the vendor or retailer until paid.<sup>36</sup> The vendor, however, is liable for remitting payment of the amount of the sales tax to Revenue, regardless of whether the vendor has actually collected from the consumer.<sup>37</sup>

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<sup>32</sup> See § 39-26-105(1)(a), C.R.S.

<sup>33</sup> § 39-26-106(2)(a), C.R.S.

<sup>34</sup> *Id.*

<sup>35</sup> § 39-26-118(1), C.R.S.

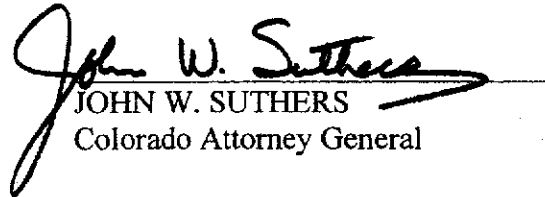
<sup>36</sup> § 39-26-106(2)(a), C.R.S.

<sup>37</sup> § 39-26-105(1)(a), C.R.S.

## CONCLUSION

Medical marijuana is tangible property that is generally subject to state sales tax. Any individual or enterprise engaged in the sale of medical marijuana therefore must obtain a retail sales license from Revenue, and must collect and remit all state sales tax due.

Issued this 16<sup>th</sup> day of November, 2009.

  
JOHN W. SUTHERS  
Colorado Attorney General



**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 text, motion for rehearing, titles, and the rulings thereon of the Title Board on Proposed Initiative "2011-2012 #29".....

..... **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 8<sup>th</sup> day of July, 2011.

A handwritten signature in cursive script, appearing to read "Scott Gessler", is written over a horizontal line.

SECRETARY OF STATE



## 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](http://www.sos.state.co.us)  
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JUN 22 2011 3:57 PM

Colorado Secretary of State

Dear Sirs:

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

I. The title is misleading.

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

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

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

II. The titles include an impermissible catch phrase

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

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

Sincerely,

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

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Certificate of Service

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

**Cesiah Gomez**

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

To whom it may concern,

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

Sincerely,

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

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Be it Enacted by the People of the State of Colorado

Colorado Secretary of State

Article XVIII of the constitution of the state of Colorado is amended BY THE ADDITION OF A NEW SECTION to read:

**Section 16. Personal use and regulation of marijuana**

**(1) Purpose and findings.**

(a) IN THE INTEREST OF THE EFFICIENT USE OF LAW ENFORCEMENT RESOURCES, ENHANCING REVENUE FOR PUBLIC PURPOSES, AND INDIVIDUAL FREEDOM, THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT THE USE OF MARIJUANA SHOULD BE LEGAL FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER AND TAXED IN A MANNER SIMILAR TO ALCOHOL.

(b) IN THE INTEREST OF THE HEALTH AND PUBLIC SAFETY OF OUR CITIZENRY, THE PEOPLE OF THE STATE OF COLORADO FURTHER FIND AND DECLARE THAT MARIJUANA SHOULD BE REGULATED IN A MANNER SIMILAR TO ALCOHOL SO THAT:

- (I) INDIVIDUALS WILL HAVE TO SHOW PROOF OF AGE BEFORE PURCHASING MARIJUANA;
- (II) SELLING, DISTRIBUTING, OR TRANSFERRING MARIJUANA TO MINORS AND OTHER INDIVIDUALS UNDER THE AGE OF TWENTY-ONE SHALL REMAIN ILLEGAL;
- (III) DRIVING UNDER THE INFLUENCE OF MARIJUANA SHALL REMAIN ILLEGAL;
- (IV) LEGITIMATE, TAXPAYING BUSINESS PEOPLE, AND NOT CRIMINAL ACTORS, WILL CONDUCT SALES OF MARIJUANA; AND
- (V) MARIJUANA SOLD IN THIS STATE WILL BE LABELED AND SUBJECT TO ADDITIONAL REGULATIONS TO ENSURE THAT CONSUMERS ARE INFORMED AND PROTECTED.

(c) THE PEOPLE OF THE STATE OF COLORADO FURTHER FIND AND DECLARE THAT IT IS NECESSARY TO ENSURE CONSISTENCY AND FAIRNESS IN THE APPLICATION OF THIS SECTION THROUGHOUT THE STATE AND THAT, THEREFORE, THE MATTERS ADDRESSED BY THIS SECTION ARE, EXCEPT AS SPECIFIED HEREIN, MATTERS OF STATEWIDE CONCERN.

**(2) Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES,

(a) "COLORADO MEDICAL MARIJUANA CODE" MEANS ARTICLE 43.3 OF TITLE 12, COLORADO REVISED STATUTES.

(b) "CONSUMER" MEANS A PERSON TWENTY-ONE YEARS OF AGE OR OLDER WHO PURCHASES MARIJUANA OR MARIJUANA PRODUCTS FOR PERSONAL USE BY PERSONS TWENTY-ONE YEARS OF AGE OR OLDER, BUT NOT FOR RESALE TO OTHERS.

(c) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE OR ITS SUCCESSOR AGENCY.

(d) "LOCALITY" MEANS A COUNTY, MUNICIPALITY, OR CITY AND COUNTY.

(e) "MARIJUANA" OR "MARIHUANA" MEANS ALL PARTS OF THE PLANT OF THE GENUS CANNABIS WHETHER GROWING OR NOT, THE SEEDS THEREOF, THE RESIN EXTRACTED FROM ANY PART OF THE PLANT, AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF THE PLANT, ITS SEEDS, OR ITS RESIN, INCLUDING MARIHUANA CONCENTRATE. "MARIJUANA" OR "MARIHUANA" DOES NOT INCLUDE FIBER PRODUCED FROM THE STALKS, OIL, OR CAKE MADE FROM THE SEEDS OF THE PLANT, STERILIZED SEED OF THE PLANT WHICH IS INCAPABLE OF GERMINATION, OR THE

WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH MARIJUANA TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK, OR OTHER PRODUCT.

(f) "MARIJUANA ACCESSORIES" MEANS ANY EQUIPMENT, PRODUCTS, OR MATERIALS OF ANY KIND WHICH ARE USED, INTENDED FOR USE, OR DESIGNED FOR USE IN PLANTING, PROPAGATING, CULTIVATING, GROWING, HARVESTING, COMPOSTING, MANUFACTURING, COMPOUNDING, CONVERTING, PRODUCING, PROCESSING, PREPARING, TESTING, ANALYZING, PACKAGING, REPACKAGING, STORING, VAPORIZING, OR CONTAINING MARIJUANA, OR FOR INGESTING, INHALING, OR OTHERWISE INTRODUCING MARIJUANA INTO THE HUMAN BODY.

(g) "MARIJUANA CULTIVATION FACILITY" MEANS AN ENTITY LICENSED TO CULTIVATE, PREPARE, AND PACKAGE MARIJUANA AND SELL MARIJUANA TO RETAIL MARIJUANA STORES, TO MARIJUANA PRODUCT MANUFACTURING FACILITIES, AND TO OTHER MARIJUANA CULTIVATION FACILITIES, BUT NOT TO CONSUMERS.

(h) "MARIJUANA ESTABLISHMENT" MEANS A MARIJUANA CULTIVATION FACILITY, A MARIJUANA TESTING FACILITY, A MARIJUANA PRODUCT MANUFACTURING FACILITY, OR A RETAIL MARIJUANA STORE.

(i) "MARIJUANA PRODUCT MANUFACTURING FACILITY" MEANS AN ENTITY LICENSED TO PURCHASE MARIJUANA; MANUFACTURE, PREPARE, AND PACKAGE MARIJUANA PRODUCTS; AND SELL MARIJUANA AND MARIJUANA PRODUCTS TO OTHER MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO RETAIL MARIJUANA STORES, BUT NOT TO CONSUMERS.

(j) "MARIJUANA PRODUCTS" MEANS CONCENTRATED MARIJUANA PRODUCTS AND MARIJUANA PRODUCTS THAT ARE COMPRISED OF MARIJUANA AND OTHER INGREDIENTS AND ARE INTENDED FOR USE OR CONSUMPTION, SUCH AS, BUT NOT LIMITED TO, EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES.

(k) "MARIJUANA TESTING FACILITY" MEANS AN ENTITY LICENSED TO ANALYZE AND CERTIFY THE SAFETY AND POTENCY OF MARIJUANA.

(l) "MEDICAL MARIJUANA CENTER" MEANS AN ENTITY LICENSED BY A STATE AGENCY TO SELL MARIJUANA AND MARIJUANA PRODUCTS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

(m) "RETAIL MARIJUANA STORE" MEANS AN ENTITY LICENSED TO PURCHASE MARIJUANA FROM MARIJUANA CULTIVATION FACILITIES AND MARIJUANA AND MARIJUANA PRODUCTS FROM MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS.

(n) "UNREASONABLY IMPRACTICABLE" MEANS THAT THE MEASURES NECESSARY TO COMPLY WITH THE REGULATIONS REQUIRE SUCH A HIGH INVESTMENT OF RISK, MONEY, TIME, OR ANY OTHER RESOURCE OR ASSET THAT THE OPERATION OF A MARIJUANA ESTABLISHMENT IS NOT WORTHY OF BEING CARRIED OUT IN PRACTICE BY A REASONABLY PRUDENT BUSINESSPERSON.

**(3) Personal use of marijuana.** NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING ACTS ARE NOT UNLAWFUL AND SHALL NOT BE AN OFFENSE UNDER COLORADO LAW OR THE LAW OF ANY LOCALITY WITHIN COLORADO OR BE A BASIS FOR SEIZURE OR FORFEITURE OF ASSETS UNDER COLORADO LAW FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER:

(a) POSSESSING, USING, DISPLAYING, PURCHASING, OR TRANSPORTING MARIJUANA ACCESSORIES OR ONE OUNCE OR LESS OF MARIJUANA.

(b) POSSESSING, GROWING, PROCESSING, OR TRANSPORTING NO MORE THAN SIX MARIJUANA PLANTS, WITH THREE OR FEWER BEING MATURE, FLOWERING PLANTS, AND POSSESSION OF THE MARIJUANA PRODUCED BY THE PLANTS ON THE PREMISES WHERE THE PLANTS WERE GROWN, PROVIDED THAT THE GROWING TAKES PLACE IN AN ENCLOSED, LOCKED SPACE, IS NOT CONDUCTED OPENLY OR PUBLICLY, AND IS NOT MADE AVAILABLE FOR SALE.

(c) TRANSFER OF ONE OUNCE OR LESS OF MARIJUANA WITHOUT REMUNERATION TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

(d) CONSUMPTION OF MARIJUANA, PROVIDED THAT NOTHING IN THIS SECTION SHALL PERMIT CONSUMPTION THAT IS CONDUCTED OPENLY AND PUBLICLY OR IN A MANNER THAT ENDANGERS OTHERS.

(e) ASSISTING ANOTHER PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER IN ANY OF THE ACTS DESCRIBED IN PARAGRAPHS (a) THROUGH (d) OF THIS SUBSECTION.

**(4) Lawful operation of marijuana-related facilities.** NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING ACTS ARE NOT UNLAWFUL AND SHALL NOT BE AN OFFENSE UNDER COLORADO LAW OR BE A BASIS FOR SEIZURE OR FORFEITURE OF ASSETS UNDER COLORADO LAW FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER:

(a) MANUFACTURE, POSSESSION, OR PURCHASE OF MARIJUANA ACCESSORIES OR THE SALE OF MARIJUANA ACCESSORIES TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

(b) POSSESSING, DISPLAYING, OR TRANSPORTING MARIJUANA OR MARIJUANA PRODUCTS; PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY; PURCHASE OF MARIJUANA OR MARIJUANA PRODUCTS FROM A MARIJUANA PRODUCT MANUFACTURING FACILITY; OR SALE OF MARIJUANA OR MARIJUANA PRODUCTS TO CONSUMERS, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A RETAIL MARIJUANA STORE OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE OR AGENT OF A LICENSED RETAIL MARIJUANA STORE.

(c) CULTIVATING, HARVESTING, PROCESSING, PACKAGING, TRANSPORTING, DISPLAYING, OR POSSESSING MARIJUANA; DELIVERY OR TRANSFER OF MARIJUANA TO A MARIJUANA TESTING FACILITY; SELLING MARIJUANA TO A MARIJUANA CULTIVATION FACILITY, A MARIJUANA PRODUCT MANUFACTURING FACILITY, OR A RETAIL MARIJUANA STORE; OR THE PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A MARIJUANA CULTIVATION FACILITY OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA CULTIVATION FACILITY.

(d) PACKAGING, PROCESSING, TRANSPORTING, MANUFACTURING, DISPLAYING, OR POSSESSING MARIJUANA OR MARIJUANA PRODUCTS; DELIVERY OR TRANSFER OF MARIJUANA OR MARIJUANA PRODUCTS TO A MARIJUANA TESTING FACILITY; SELLING MARIJUANA OR MARIJUANA PRODUCTS TO A RETAIL MARIJUANA STORE OR A MARIJUANA PRODUCT MANUFACTURING FACILITY; THE PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY; OR THE PURCHASE OF MARIJUANA OR MARIJUANA PRODUCTS FROM A MARIJUANA PRODUCT MANUFACTURING FACILITY, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO

OPERATE A MARIJUANA PRODUCT MANUFACTURING FACILITY OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA PRODUCT MANUFACTURING FACILITY.

(e) POSSESSING, CULTIVATING, PROCESSING, REPACKAGING, STORING, TRANSPORTING, DISPLAYING, TRANSFERRING OR DELIVERING MARIJUANA OR MARIJUANA PRODUCTS IF THE PERSON HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A MARIJUANA TESTING FACILITY OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA TESTING FACILITY.

(f) LEASING OR OTHERWISE ALLOWING THE USE OF PROPERTY OWNED, OCCUPIED OR CONTROLLED BY ANY PERSON, CORPORATION OR OTHER ENTITY FOR ANY OF THE ACTIVITIES CONDUCTED LAWFULLY IN ACCORDANCE WITH PARAGRAPHS (a) THROUGH (e) OF THIS SUBSECTION.

**(5) Regulation of marijuana.**

(a) NOT LATER THAN JULY 1, 2013, THE DEPARTMENT SHALL ADOPT REGULATIONS NECESSARY FOR IMPLEMENTATION OF THIS SECTION. SUCH REGULATIONS SHALL NOT PROHIBIT THE OPERATION OF MARIJUANA ESTABLISHMENTS, EITHER EXPRESSLY OR THROUGH REGULATIONS THAT MAKE THEIR OPERATION UNREASONABLY IMPRACTICABLE. SUCH REGULATIONS SHALL INCLUDE:

(I) PROCEDURES FOR THE ISSUANCE, RENEWAL, SUSPENSION, AND REVOCATION OF A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT, WITH SUCH PROCEDURES SUBJECT TO ALL REQUIREMENTS OF ARTICLE 4 OF TITLE 24 OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION;

(II) A SCHEDULE OF APPLICATION, LICENSING AND RENEWAL FEES, PROVIDED, APPLICATION FEES SHALL NOT EXCEED FIVE THOUSAND DOLLARS, WITH THIS UPPER LIMIT ADJUSTED ANNUALLY FOR INFLATION, UNLESS THE DEPARTMENT DETERMINES A GREATER FEE IS NECESSARY TO CARRY OUT ITS RESPONSIBILITIES UNDER THIS SECTION, AND PROVIDED FURTHER, AN ENTITY THAT IS LICENSED UNDER THE COLORADO MEDICAL MARIJUANA CODE TO CULTIVATE OR SELL MARIJUANA OR TO MANUFACTURE MARIJUANA PRODUCTS AT THE TIME THIS SECTION TAKES EFFECT AND THAT CHOOSES TO APPLY FOR A SEPARATE MARIJUANA ESTABLISHMENT LICENSE SHALL NOT BE REQUIRED TO PAY AN APPLICATION FEE GREATER THAN FIVE HUNDRED DOLLARS TO APPLY FOR A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION;

(III) QUALIFICATIONS FOR LICENSURE THAT ARE DIRECTLY AND DEMONSTRABLY RELATED TO THE OPERATION OF A MARIJUANA ESTABLISHMENT;

(IV) SECURITY REQUIREMENTS FOR MARIJUANA ESTABLISHMENTS;

(V) REQUIREMENTS TO PREVENT THE SALE OR DIVERSION OF MARIJUANA AND MARIJUANA PRODUCTS TO PERSONS UNDER THE AGE OF TWENTY-ONE;

(VI) LABELING REQUIREMENTS FOR MARIJUANA AND MARIJUANA PRODUCTS SOLD OR DISTRIBUTED BY A MARIJUANA ESTABLISHMENT;

(VII) HEALTH AND SAFETY REGULATIONS AND STANDARDS FOR THE MANUFACTURE OF MARIJUANA PRODUCTS AND THE CULTIVATION OF MARIJUANA;

(VIII) RESTRICTIONS ON THE ADVERTISING AND DISPLAY OF MARIJUANA AND MARIJUANA PRODUCTS; AND

(IX) CIVIL PENALTIES FOR THE FAILURE TO COMPLY WITH REGULATIONS MADE PURSUANT TO THIS SECTION.

(b) IN ORDER TO ENSURE THE MOST SECURE, RELIABLE, AND ACCOUNTABLE SYSTEM FOR THE PRODUCTION AND DISTRIBUTION OF MARIJUANA AND MARIJUANA PRODUCTS IN ACCORDANCE WITH THIS SUBSECTION, IN ANY COMPETITIVE APPLICATION PROCESS THE DEPARTMENT SHALL HAVE AS A PRIMARY CONSIDERATION WHETHER AN APPLICANT:

(I) HAS PRIOR EXPERIENCE PRODUCING OR DISTRIBUTING MARIJUANA OR MARIJUANA PRODUCTS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE IN THE LOCALITY IN WHICH THE APPLICANT SEEKS TO OPERATE A MARIJUANA ESTABLISHMENT; AND

(II) HAS, DURING THE EXPERIENCE DESCRIBED IN SUBPARAGRAPH (I), COMPLIED CONSISTANTLY WITH SECTION 14 OF THIS ARTICLE, THE PROVISIONS OF THE COLORADO MEDICAL MARIJUANA CODE AND CONFORMING REGULATIONS.

(c) IN ORDER TO ENSURE THAT INDIVIDUAL PRIVACY IS PROTECTED, NOTWITHSTANDING PARAGRAPH (a), THE DEPARTMENT SHALL NOT REQUIRE A CONSUMER TO PROVIDE A RETAIL MARIJUANA STORE WITH PERSONAL INFORMATION OTHER THAN GOVERNMENT-ISSUED IDENTIFICATION TO DETERMINE THE CONSUMER'S AGE, AND A RETAIL MARIJUANA STORE SHALL NOT BE REQUIRED TO ACQUIRE AND RECORD PERSONAL INFORMATION ABOUT CONSUMERS OTHER THAN INFORMATION TYPICALLY ACQUIRED IN A FINANCIAL TRANSACTION CONDUCTED AT A RETAIL LIQUOR STORE.

(d) THE GENERAL ASSEMBLY MAY ENACT AN EXCISE TAX TO BE LEVIED UPON MARIJUANA SOLD OR OTHERWISE TRANSFERRED BY A MARIJUANA CULTIVATION FACILITY TO A MARIJUANA PRODUCT MANUFACTURING FACILITY OR TO A RETAIL MARIJUANA STORE AT A RATE NOT TO EXCEED FIFTEEN PERCENT PRIOR TO JANUARY 1, 2017 AND AT A RATE TO BE DETERMINED BY THE GENERAL ASSEMBLY THEREAFTER, AND, IF AN EXCISE TAX IS ENACTED, SHALL DIRECT THE DEPARTMENT TO ESTABLISH PROCEDURES FOR THE COLLECTION OF ALL TAXES LEVIED; PROVIDED, NO SUCH EXCISE TAX SHALL BE LEVIED UPON MARIJUANA INTENDED FOR SALE AT MEDICAL MARIJUANA CENTERS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE;

(e) NOT LATER THAN OCTOBER 1, 2013, EACH LOCALITY SHALL ENACT AN ORDINANCE OR REGULATION SPECIFYING THE ENTITY WITHIN THE LOCALITY THAT IS RESPONSIBLE FOR PROCESSING APPLICATIONS SUBMITTED FOR A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT WITHIN THE BOUNDARIES OF THE LOCALITY AND FOR THE ISSUANCE OF SUCH LICENSES SHOULD THE ISSUANCE BY THE LOCALITY BECOME NECESSARY BECAUSE OF A FAILURE BY THE DEPARTMENT TO ADOPT REGULATIONS PURSUANT TO PARAGRAPH (a) OR BECAUSE OF A FAILURE BY THE DEPARTMENT TO PROCESS AND ISSUE LICENSES AS REQUIRED BY PARAGRAPH (g).

(f) A LOCALITY MAY ENACT ORDINANCES OR REGULATIONS, NOT IN CONFLICT WITH THIS SECTION OR WITH REGULATIONS OR LEGISLATION ENACTED PURSUANT TO THIS SECTION, GOVERNING THE TIME, PLACE, MANNER AND NUMBER OF MARIJUANA ESTABLISHMENT OPERATIONS; ESTABLISHING PROCEDURES FOR THE ISSUANCE,



SUSPENSION, AND REVOCATION OF A LICENSE ISSUED BY THE LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i), SUCH PROCEDURES TO BE SUBJECT TO ALL REQUIREMENTS OF ARTICLE 4 OF TITLE 24 OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION; ESTABLISHING A SCHEDULE OF ANNUAL OPERATING, LICENSING, AND APPLICATION FEES FOR MARIJUANA ESTABLISHMENTS, PROVIDED, THE APPLICATION FEE SHALL ONLY BE DUE IF AN APPLICATION IS SUBMITTED TO A LOCALITY IN ACCORDANCE WITH PARAGRAPH (i) AND A LICENSING FEE SHALL ONLY BE DUE IF A LICENSE IS ISSUED BY A LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i); AND ESTABLISHING CIVIL PENALTIES FOR VIOLATION OF AN ORDINANCE OR REGULATION GOVERNING THE TIME, PLACE, AND MANNER OF A MARIJUANA ESTABLISHMENT THAT MAY OPERATE IN SUCH LOCALITY. A LOCALITY MAY PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES THROUGH THE ENACTMENT OF AN ORDINANCE OR THROUGH AN INITIATED OR REFERRED MEASURE; PROVIDED, ANY INITIATED OR REFERRED MEASURE TO PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES MUST APPEAR ON A GENERAL ELECTION BALLOT DURING AN EVEN NUMBERED YEAR.

(g) EACH APPLICATION FOR AN ANNUAL LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT SHALL BE SUBMITTED TO THE DEPARTMENT. THE DEPARTMENT SHALL:

(I) BEGIN ACCEPTING AND PROCESSING APPLICATIONS ON OCTOBER 1, 2013;

(II) IMMEDIATELY FORWARD A COPY OF EACH APPLICATION AND HALF OF THE LICENSE APPLICATION FEE TO THE LOCALITY IN WHICH THE APPLICANT DESIRES TO OPERATE THE MARIJUANA ESTABLISHMENT;

(III) ISSUE AN ANNUAL LICENSE TO THE APPLICANT BETWEEN FORTY-FIVE AND NINETY DAYS AFTER RECEIPT OF AN APPLICATION UNLESS THE DEPARTMENT FINDS THE APPLICANT IS NOT IN COMPLIANCE WITH REGULATIONS ENACTED PURSUANT TO PARAGRAPH (a) OR THE DEPARTMENT IS NOTIFIED BY THE RELEVANT LOCALITY THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) AND IN EFFECT AT THE TIME OF APPLICATION, PROVIDED, WHERE A LOCALITY HAS ENACTED A NUMERICAL LIMIT ON THE NUMBER OF MARIJUANA ESTABLISHMENTS AND A GREATER NUMBER OF APPLICANTS SEEK LICENSES, THE DEPARTMENT SHALL SOLICIT AND CONSIDER INPUT FROM THE LOCALITY AS TO THE LOCALITY'S PREFERENCE OR PREFERENCES FOR LICENSURE; AND

(IV) UPON DENIAL OF AN APPLICATION, NOTIFY THE APPLICANT IN WRITING OF THE SPECIFIC REASON FOR ITS DENIAL.

(h) IF THE DEPARTMENT DOES NOT ISSUE A LICENSE TO AN APPLICANT WITHIN NINETY DAYS OF RECEIPT OF THE APPLICATION FILED IN ACCORDANCE WITH PARAGRAPH (g) AND DOES NOT NOTIFY THE APPLICANT OF THE SPECIFIC REASON FOR ITS DENIAL, IN WRITING AND WITHIN SUCH TIME PERIOD, OR IF THE DEPARTMENT HAS ADOPTED REGULATIONS PURSUANT TO PARAGRAPH (a) AND HAS ACCEPTED APPLICATIONS PURSUANT TO PARAGRAPH (g) BUT HAS NOT ISSUED ANY LICENSES BY JANUARY 1, 2014, THE APPLICANT MAY RESUBMIT ITS APPLICATION DIRECTLY TO THE LOCALITY, PURSUANT TO PARAGRAPH (e), AND THE LOCALITY MAY ISSUE AN ANNUAL LICENSE TO THE APPLICANT. A

LOCALITY ISSUING A LICENSE TO AN APPLICANT SHALL DO SO WITHIN NINETY DAYS OF RECEIPT OF THE RESUBMITTED APPLICATION UNLESS THE LOCALITY FINDS AND NOTIFIES THE APPLICANT THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) IN EFFECT AT THE TIME THE APPLICATION IS RESUBMITTED AND THE LOCALITY SHALL NOTIFY THE DEPARTMENT IF AN ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT. IF AN APPLICATION IS SUBMITTED TO A LOCALITY UNDER THIS PARAGRAPH, THE DEPARTMENT SHALL FORWARD TO THE LOCALITY THE APPLICATION FEE PAID BY THE APPLICANT TO THE DEPARTMENT UPON REQUEST BY THE LOCALITY. A LICENSE ISSUED BY A LOCALITY IN ACCORDANCE WITH THIS PARAGRAPH SHALL HAVE THE SAME FORCE AND EFFECT AS A LICENSE ISSUED BY THE DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (g) AND THE HOLDER OF SUCH LICENSE SHALL NOT BE SUBJECT TO REGULATION OR ENFORCEMENT BY THE DEPARTMENT DURING THE TERM OF THAT LICENSE. A SUBSEQUENT OR RENEWED LICENSE MAY BE ISSUED UNDER THIS PARAGRAPH ON AN ANNUAL BASIS ONLY UPON RESUBMISSION TO THE LOCALITY OF A NEW APPLICATION SUBMITTED TO THE DEPARTMENT PURSUANT TO PARAGRAPH (g). NOTHING IN THIS PARAGRAPH SHALL LIMIT SUCH RELIEF AS MAY BE AVAILABLE TO AN AGGRIEVED PARTY UNDER SECTION 24-4-104, C.R.S., OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION.

(i) IF THE DEPARTMENT DOES NOT ADOPT REGULATIONS REQUIRED BY PARAGRAPH (a), AN APPLICANT MAY SUBMIT AN APPLICATION DIRECTLY TO A LOCALITY AFTER OCTOBER 1, 2013 AND THE LOCALITY MAY ISSUE AN ANNUAL LICENSE TO THE APPLICANT. A LOCALITY ISSUING A LICENSE TO AN APPLICANT SHALL DO SO WITHIN NINETY DAYS OF RECEIPT OF THE APPLICATION UNLESS IT FINDS AND NOTIFIES THE APPLICANT THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) IN EFFECT AT THE TIME OF APPLICATION AND SHALL NOTIFY THE DEPARTMENT IF AN ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT. A LICENSE ISSUED BY A LOCALITY IN ACCORDANCE WITH THIS PARAGRAPH SHALL HAVE THE SAME FORCE AND EFFECT AS A LICENSE ISSUED BY THE DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (g) AND THE HOLDER OF SUCH LICENSE SHALL NOT BE SUBJECT TO REGULATION OR ENFORCEMENT BY THE DEPARTMENT DURING THE TERM OF THAT LICENSE. A SUBSEQUENT OR RENEWED LICENSE MAY BE ISSUED UNDER THIS PARAGRAPH ON AN ANNUAL BASIS IF THE DEPARTMENT HAS NOT ADOPTED REGULATIONS REQUIRED BY PARAGRAPH (a) AT LEAST NINETY DAYS PRIOR TO THE DATE UPON WHICH SUCH SUBSEQUENT OR RENEWED LICENSE WOULD BE EFFECTIVE OR IF THE DEPARTMENT HAS ADOPTED REGULATIONS PURSUANT TO PARAGRAPH (a) BUT HAS NOT, AT LEAST NINETY DAYS AFTER THE ADOPTION OF SUCH REGULATIONS, ISSUED LICENSES PURSUANT TO PARAGRAPH (g).

**(6) Employers, driving, minors and control of property.**

(a) NOTHING IN THIS SECTION IS INTENDED TO REQUIRE AN EMPLOYER TO PERMIT OR ACCOMMODATE THE USE, CONSUMPTION, POSSESSION, TRANSFER, DISPLAY, TRANSPORTATION, SALE OR GROWING OF MARIJUANA IN THE WORKPLACE OR TO AFFECT THE ABILITY OF EMPLOYERS TO HAVE POLICIES RESTRICTING THE USE OF MARIJUANA BY EMPLOYEES.

(b) NOTHING IN THIS SECTION IS INTENDED TO ALLOW DRIVING UNDER THE INFLUENCE OF MARIJUANA OR DRIVING WHILE IMPAIRED BY MARIJUANA OR TO SUPERSEDE STATUTORY LAWS RELATED TO DRIVING UNDER THE INFLUENCE OF MARIJUANA OR DRIVING WHILE IMPAIRED BY MARIJUANA, NOR SHALL THIS SECTION PREVENT THE STATE FROM ENACTING AND IMPOSING PENALTIES FOR DRIVING UNDER THE INFLUENCE OF OR WHILE IMPAIRED BY MARIJUANA.

(c) NOTHING IN THIS SECTION IS INTENDED TO PERMIT THE TRANSFER OF MARIJUANA, WITH OR WITHOUT REMUNERATION, TO A PERSON UNDER THE AGE OF TWENTY-ONE OR TO ALLOW A PERSON UNDER THE AGE OF TWENTY-ONE TO PURCHASE, POSSESS, USE, TRANSPORT, GROW, OR CONSUME MARIJUANA.

(d) NOTHING IN THIS SECTION SHALL PROHIBIT A PERSON, EMPLOYER, SCHOOL, HOSPITAL, DETENTION FACILITY, CORPORATION OR ANY OTHER ENTITY WHO OCCUPIES, OWNS OR CONTROLS A PROPERTY FROM PROHIBITING OR OTHERWISE REGULATING THE POSSESSION, CONSUMPTION, USE, DISPLAY, TRANSFER, DISTRIBUTION, SALE, TRANSPORTATION, OR GROWING OF MARIJUANA ON OR IN THAT PROPERTY.

**(7) Medical marijuana provisions unaffected.** NOTHING IN THIS SECTION SHALL BE CONSTRUED:

(a) TO LIMIT ANY PRIVILEGES OR RIGHTS OF A MEDICAL MARIJUANA PATIENT, PRIMARY CAREGIVER, OR LICENSED ENTITY AS PROVIDED IN SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE;

(b) TO PERMIT A MEDICAL MARIJUANA CENTER TO DISTRIBUTE MARIJUANA TO A PERSON WHO IS NOT A MEDICAL MARIJUANA PATIENT;

(c) TO PERMIT A MEDICAL MARIJUANA CENTER TO PURCHASE MARIJUANA OR MARIJUANA PRODUCTS IN A MANNER OR FROM A SOURCE NOT AUTHORIZED UNDER THE COLORADO MEDICAL MARIJUANA CODE;

(d) TO PERMIT ANY MEDICAL MARIJUANA CENTER LICENSED PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE TO OPERATE ON THE SAME PREMISES AS A RETAIL MARIJUANA STORE.; OR

(e) TO DISCHARGE THE DEPARTMENT, THE COLORADO BOARD OF HEALTH, OR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FROM THEIR STATUTORY AND CONSTITUTIONAL DUTIES TO REGULATE MEDICAL MARIJUANA PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

**(8) Self-executing, severability, conflicting provisions.** ALL PROVISIONS OF THIS SECTION ARE SELF-EXECUTING EXCEPT AS SPECIFIED HEREIN, ARE SEVERABLE, AND, EXCEPT WHERE OTHERWISE INDICATED IN THE TEXT, SHALL SUPERSEDE CONFLICTING STATE STATUTORY, LOCAL CHARTER, ORDINANCE, OR RESOLUTION, AND OTHER STATE AND LOCAL PROVISIONS.

**(9) Effective date.** UNLESS OTHERWISE PROVIDED BY THIS SECTION, ALL PROVISIONS OF THIS SECTION SHALL BECOME EFFECTIVE UPON OFFICIAL DECLARATION OF THE VOTE HEREON BY PROCLAMATION OF THE GOVERNOR, PURSUANT TO SECTION 1(4) OF ARTICLE V.

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**Proponent Representative 1**

**Name:** Mason Tvert  
**Physical Address:** 1441 Humboldt Street #101, Denver, Colorado 80218  
**Mailing Address:** P.O. Box 40332, Denver, Colorado 80204  
**Phone:** 303-861-0033  
**Fax:** 303-861-0915  
**E-mail:** mason@saferchoice.org

**Proponent Representative 2**

**Name:** Brian Vicente  
**Physical Address:** 949 B Pennsylvania St., Denver, Colorado 80203  
**Mailing Address:** P.O. Box 18768, Denver, Colorado 80218  
**Phone:** 303-860-4501  
**Fax:** 303-860-4505  
**E-mail:** brian@sensiblecolorado.org

**Ballot Title Setting Board**

**Proposed Initiative 2011-2012 #29<sup>1</sup>**

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.*

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<sup>1</sup> 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.



**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 text, motion for rehearing, titles, and the rulings thereon of the Title Board on Proposed Initiative "2011-2012 #31".....

..... **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 8<sup>th</sup> day of July, 2011.

A handwritten signature in cursive script, appearing to read "Scott Gessler", is written over a horizontal line.

SECRETARY OF STATE

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MOTION FOR REHEARING

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June 22, 2011

Colorado Secretary of State  
Attn: Title Board  
1700 Broadway, Suite 200  
Denver, CO 80290  
Phone: (303) 894-2200, press "3"  
Fax: (303) 869-4861  
Web: [www.sos.state.co.us](http://www.sos.state.co.us)  
Email: [initiatives@sos.state.co.us](mailto:initiatives@sos.state.co.us)

RECEIVED

JUN 22 2011 3:57 PM

Colorado Secretary of State

Dear Sirs:

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

1. The title is misleading.

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

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

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

II. The titles include an impermissible catch phrase

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

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

Sincerely,

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

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Certificate of Service

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



**Cesiah Gomez**

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

To whom it may concern,

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

Sincerely,

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

RECEIVED

JUN 03 2011

CB  
1:20pm

#31-Final

Be it Enacted by the People of the State of Colorado

Colorado Secretary of State

Article XVIII of the constitution of the state of Colorado is amended BY THE ADDITION OF A NEW SECTION to read:

**Section 16. Personal use and regulation of marijuana**

**(1) Purpose and findings.**

(a) IN THE INTEREST OF THE EFFICIENT USE OF LAW ENFORCEMENT RESOURCES, ENHANCING REVENUE FOR PUBLIC PURPOSES, AND INDIVIDUAL FREEDOM, THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT THE USE OF MARIJUANA SHOULD BE LEGAL FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER AND TAXED IN A MANNER SIMILAR TO ALCOHOL.

(b) IN THE INTEREST OF THE HEALTH AND PUBLIC SAFETY OF OUR CITIZENRY, THE PEOPLE OF THE STATE OF COLORADO FURTHER FIND AND DECLARE THAT MARIJUANA SHOULD BE REGULATED IN A MANNER SIMILAR TO ALCOHOL SO THAT:

(I) INDIVIDUALS WILL HAVE TO SHOW PROOF OF AGE BEFORE PURCHASING MARIJUANA;

(II) SELLING, DISTRIBUTING, OR TRANSFERRING MARIJUANA TO MINORS AND OTHER INDIVIDUALS UNDER THE AGE OF TWENTY-ONE SHALL REMAIN ILLEGAL;

(III) DRIVING UNDER THE INFLUENCE OF MARIJUANA SHALL REMAIN ILLEGAL;

(IV) LEGITIMATE, TAXPAYING BUSINESS PEOPLE, AND NOT CRIMINAL ACTORS, WILL CONDUCT SALES OF MARIJUANA; AND

(V) MARIJUANA SOLD IN THIS STATE WILL BE LABELED AND SUBJECT TO ADDITIONAL REGULATIONS TO ENSURE THAT CONSUMERS ARE INFORMED AND PROTECTED.

(c) IN THE INTEREST OF ENACTING RATIONAL POLICIES FOR THE TREATMENT OF ALL VARIATIONS OF THE CANNABIS PLANT, THE PEOPLE OF COLORADO FURTHER FIND AND DECLARE THAT INDUSTRIAL HEMP SHOULD BE REGULATED SEPARATELY FROM STRAINS OF CANNABIS WITH HIGHER DELTA-9 TETRAHYDROCANNABINOL (THC) CONCENTRATIONS.

(d) THE PEOPLE OF THE STATE OF COLORADO FURTHER FIND AND DECLARE THAT IT IS NECESSARY TO ENSURE CONSISTENCY AND FAIRNESS IN THE APPLICATION OF THIS SECTION THROUGHOUT THE STATE AND THAT, THEREFORE, THE MATTERS ADDRESSED BY THIS SECTION ARE, EXCEPT AS SPECIFIED HEREIN, MATTERS OF STATEWIDE CONCERN.

**(2) Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES,

(a) "COLORADO MEDICAL MARIJUANA CODE" MEANS ARTICLE 43.3 OF TITLE 12, COLORADO REVISED STATUTES.

(b) "CONSUMER" MEANS A PERSON TWENTY-ONE YEARS OF AGE OR OLDER WHO PURCHASES MARIJUANA OR MARIJUANA PRODUCTS FOR PERSONAL USE BY PERSONS TWENTY-ONE YEARS OF AGE OR OLDER, BUT NOT FOR RESALE TO OTHERS.

(c) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE OR ITS SUCCESSOR AGENCY.

(d) "INDUSTRIAL HEMP" MEANS THE PLANT OF THE GENUS CANNABIS AND ANY PART OF SUCH PLANT, WHETHER GROWING OR NOT, WITH A DELTA-9 TETRAHYDROCANNABINOL CONCENTRATION THAT DOES NOT EXCEED THREE-TENTHS PERCENT ON A DRY WEIGHT BASIS.

(e) "LOCALITY" MEANS A COUNTY, MUNICIPALITY, OR CITY AND COUNTY.

(f) "MARIJUANA" OR "MARIHUANA" MEANS ALL PARTS OF THE PLANT OF THE GENUS CANNABIS WHETHER GROWING OR NOT, THE SEEDS THEREOF, THE RESIN EXTRACTED FROM ANY PART OF THE PLANT, AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF THE PLANT, ITS SEEDS, OR ITS RESIN, INCLUDING MARIHUANA CONCENTRATE. "MARIJUANA" OR "MARIHUANA" DOES NOT INCLUDE INDUSTRIAL HEMP, NOR DOES IT INCLUDE FIBER PRODUCED FROM THE STALKS, OIL, OR CAKE MADE FROM THE SEEDS OF THE PLANT, STERILIZED SEED OF THE PLANT WHICH IS INCAPABLE OF GERMINATION, OR THE WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH MARIJUANA TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK, OR OTHER PRODUCT.

(g) "MARIJUANA ACCESSORIES" MEANS ANY EQUIPMENT, PRODUCTS, OR MATERIALS OF ANY KIND WHICH ARE USED, INTENDED FOR USE, OR DESIGNED FOR USE IN PLANTING, PROPAGATING, CULTIVATING, GROWING, HARVESTING, COMPOSTING, MANUFACTURING, COMPOUNDING, CONVERTING, PRODUCING, PROCESSING, PREPARING, TESTING, ANALYZING, PACKAGING, REPACKAGING, STORING, VAPORIZING, OR CONTAINING MARIJUANA, OR FOR INGESTING, INHALING, OR OTHERWISE INTRODUCING MARIJUANA INTO THE HUMAN BODY.

(h) "MARIJUANA CULTIVATION FACILITY" MEANS AN ENTITY LICENSED TO CULTIVATE, PREPARE, AND PACKAGE MARIJUANA AND SELL MARIJUANA TO RETAIL MARIJUANA STORES, TO MARIJUANA PRODUCT MANUFACTURING FACILITIES, AND TO OTHER MARIJUANA CULTIVATION FACILITIES, BUT NOT TO CONSUMERS.

(i) "MARIJUANA ESTABLISHMENT" MEANS A MARIJUANA CULTIVATION FACILITY, A MARIJUANA TESTING FACILITY, A MARIJUANA PRODUCT MANUFACTURING FACILITY, OR A RETAIL MARIJUANA STORE.

(j) "MARIJUANA PRODUCT MANUFACTURING FACILITY" MEANS AN ENTITY LICENSED TO PURCHASE MARIJUANA; MANUFACTURE, PREPARE, AND PACKAGE MARIJUANA PRODUCTS; AND SELL MARIJUANA AND MARIJUANA PRODUCTS TO OTHER MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO RETAIL MARIJUANA STORES, BUT NOT TO CONSUMERS.

(k) "MARIJUANA PRODUCTS" MEANS CONCENTRATED MARIJUANA PRODUCTS AND MARIJUANA PRODUCTS THAT ARE COMPRISED OF MARIJUANA AND OTHER INGREDIENTS AND ARE INTENDED FOR USE OR CONSUMPTION, SUCH AS, BUT NOT LIMITED TO, EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES.

(l) "MARIJUANA TESTING FACILITY" MEANS AN ENTITY LICENSED TO ANALYZE AND CERTIFY THE SAFETY AND POTENCY OF MARIJUANA.

(m) "MEDICAL MARIJUANA CENTER" MEANS AN ENTITY LICENSED BY A STATE AGENCY TO SELL MARIJUANA AND MARIJUANA PRODUCTS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

(n) "RETAIL MARIJUANA STORE" MEANS AN ENTITY LICENSED TO PURCHASE MARIJUANA FROM MARIJUANA CULTIVATION FACILITIES AND MARIJUANA AND MARIJUANA PRODUCTS FROM MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS.

(o) "UNREASONABLY IMPRACTICABLE" MEANS THAT THE MEASURES NECESSARY TO COMPLY WITH THE REGULATIONS REQUIRE SUCH A HIGH INVESTMENT OF RISK, MONEY, TIME, OR ANY OTHER RESOURCE OR ASSET THAT THE OPERATION OF A MARIJUANA

ESTABLISHMENT IS NOT WORTHY OF BEING CARRIED OUT IN PRACTICE BY A REASONABLY PRUDENT BUSINESSPERSON.

**(3) Personal use of marijuana.** NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING ACTS ARE NOT UNLAWFUL AND SHALL NOT BE AN OFFENSE UNDER COLORADO LAW OR THE LAW OF ANY LOCALITY WITHIN COLORADO OR BE A BASIS FOR SEIZURE OR FORFEITURE OF ASSETS UNDER COLORADO LAW FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER:

(a) POSSESSING, USING, DISPLAYING, PURCHASING, OR TRANSPORTING MARIJUANA ACCESSORIES OR ONE OUNCE OR LESS OF MARIJUANA.

(b) POSSESSING, GROWING, PROCESSING, OR TRANSPORTING NO MORE THAN SIX MARIJUANA PLANTS, WITH THREE OR FEWER BEING MATURE, FLOWERING PLANTS, AND POSSESSION OF THE MARIJUANA PRODUCED BY THE PLANTS ON THE PREMISES WHERE THE PLANTS WERE GROWN, PROVIDED THAT THE GROWING TAKES PLACE IN AN ENCLOSED, LOCKED SPACE, IS NOT CONDUCTED OPENLY OR PUBLICLY, AND IS NOT MADE AVAILABLE FOR SALE.

(c) TRANSFER OF ONE OUNCE OR LESS OF MARIJUANA WITHOUT REMUNERATION TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

(d) CONSUMPTION OF MARIJUANA, PROVIDED THAT NOTHING IN THIS SECTION SHALL PERMIT CONSUMPTION THAT IS CONDUCTED OPENLY AND PUBLICLY OR IN A MANNER THAT ENDANGERS OTHERS.

(e) ASSISTING ANOTHER PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER IN ANY OF THE ACTS DESCRIBED IN PARAGRAPHS (a) THROUGH (d) OF THIS SUBSECTION.

**(4) Lawful operation of marijuana-related facilities.** NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING ACTS ARE NOT UNLAWFUL AND SHALL NOT BE AN OFFENSE UNDER COLORADO LAW OR BE A BASIS FOR SEIZURE OR FORFEITURE OF ASSETS UNDER COLORADO LAW FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER:

(a) MANUFACTURE, POSSESSION, OR PURCHASE OF MARIJUANA ACCESSORIES OR THE SALE OF MARIJUANA ACCESSORIES TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

(b) POSSESSING, DISPLAYING, OR TRANSPORTING MARIJUANA OR MARIJUANA PRODUCTS; PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY; PURCHASE OF MARIJUANA OR MARIJUANA PRODUCTS FROM A MARIJUANA PRODUCT MANUFACTURING FACILITY; OR SALE OF MARIJUANA OR MARIJUANA PRODUCTS TO CONSUMERS, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A RETAIL MARIJUANA STORE OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE OR AGENT OF A LICENSED RETAIL MARIJUANA STORE.

(c) CULTIVATING, HARVESTING, PROCESSING, PACKAGING, TRANSPORTING, DISPLAYING, OR POSSESSING MARIJUANA; DELIVERY OR TRANSFER OF MARIJUANA TO A MARIJUANA TESTING FACILITY; SELLING MARIJUANA TO A MARIJUANA CULTIVATION FACILITY, A MARIJUANA PRODUCT MANUFACTURING FACILITY, OR A RETAIL MARIJUANA STORE; OR THE PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A MARIJUANA CULTIVATION FACILITY OR IS ACTING

IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA CULTIVATION FACILITY.

(d) PACKAGING, PROCESSING, TRANSPORTING, MANUFACTURING, DISPLAYING, OR POSSESSING MARIJUANA OR MARIJUANA PRODUCTS; DELIVERY OR TRANSFER OF MARIJUANA OR MARIJUANA PRODUCTS TO A MARIJUANA TESTING FACILITY; SELLING MARIJUANA OR MARIJUANA PRODUCTS TO A RETAIL MARIJUANA STORE OR A MARIJUANA PRODUCT MANUFACTURING FACILITY; THE PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY; OR THE PURCHASE OF MARIJUANA OR MARIJUANA PRODUCTS FROM A MARIJUANA PRODUCT MANUFACTURING FACILITY, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A MARIJUANA PRODUCT MANUFACTURING FACILITY OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA PRODUCT MANUFACTURING FACILITY.

(e) POSSESSING, CULTIVATING, PROCESSING, REPACKAGING, STORING, TRANSPORTING, DISPLAYING, TRANSFERRING OR DELIVERING MARIJUANA OR MARIJUANA PRODUCTS IF THE PERSON HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A MARIJUANA TESTING FACILITY OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA TESTING FACILITY.

(f) LEASING OR OTHERWISE ALLOWING THE USE OF PROPERTY OWNED, OCCUPIED OR CONTROLLED BY ANY PERSON, CORPORATION OR OTHER ENTITY FOR ANY OF THE ACTIVITIES CONDUCTED LAWFULLY IN ACCORDANCE WITH PARAGRAPHS (a) THROUGH (e) OF THIS SUBSECTION.

**(5) Regulation of marijuana.**

(a) NOT LATER THAN JULY 1, 2013, THE DEPARTMENT SHALL ADOPT REGULATIONS NECESSARY FOR IMPLEMENTATION OF THIS SECTION. SUCH REGULATIONS SHALL NOT PROHIBIT THE OPERATION OF MARIJUANA ESTABLISHMENTS, EITHER EXPRESSLY OR THROUGH REGULATIONS THAT MAKE THEIR OPERATION UNREASONABLY IMPRACTICABLE. SUCH REGULATIONS SHALL INCLUDE:

(I) PROCEDURES FOR THE ISSUANCE, RENEWAL, SUSPENSION, AND REVOCATION OF A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT, WITH SUCH PROCEDURES SUBJECT TO ALL REQUIREMENTS OF ARTICLE 4 OF TITLE 24 OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION;

(II) A SCHEDULE OF APPLICATION, LICENSING AND RENEWAL FEES, PROVIDED, APPLICATION FEES SHALL NOT EXCEED FIVE THOUSAND DOLLARS, WITH THIS UPPER LIMIT ADJUSTED ANNUALLY FOR INFLATION, UNLESS THE DEPARTMENT DETERMINES A GREATER FEE IS NECESSARY TO CARRY OUT ITS RESPONSIBILITIES UNDER THIS SECTION, AND PROVIDED FURTHER, AN ENTITY THAT IS LICENSED UNDER THE COLORADO MEDICAL MARIJUANA CODE TO CULTIVATE OR SELL MARIJUANA OR TO MANUFACTURE MARIJUANA PRODUCTS AT THE TIME THIS SECTION TAKES EFFECT AND THAT CHOOSES TO APPLY FOR A SEPARATE MARIJUANA ESTABLISHMENT LICENSE SHALL NOT BE REQUIRED TO PAY AN APPLICATION FEE GREATER THAN FIVE HUNDRED DOLLARS TO APPLY FOR A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION;

(III) QUALIFICATIONS FOR LICENSURE THAT ARE DIRECTLY AND DEMONSTRABLY RELATED TO THE OPERATION OF A MARIJUANA ESTABLISHMENT;

- (IV) SECURITY REQUIREMENTS FOR MARIJUANA ESTABLISHMENTS;
- (V) REQUIREMENTS TO PREVENT THE SALE OR DIVERSION OF MARIJUANA AND MARIJUANA PRODUCTS TO PERSONS UNDER THE AGE OF TWENTY-ONE;
- (VI) LABELING REQUIREMENTS FOR MARIJUANA AND MARIJUANA PRODUCTS SOLD OR DISTRIBUTED BY A MARIJUANA ESTABLISHMENT;
- (VII) HEALTH AND SAFETY REGULATIONS AND STANDARDS FOR THE MANUFACTURE OF MARIJUANA PRODUCTS AND THE CULTIVATION OF MARIJUANA;
- (VIII) RESTRICTIONS ON THE ADVERTISING AND DISPLAY OF MARIJUANA AND MARIJUANA PRODUCTS; AND
- (IX) CIVIL PENALTIES FOR THE FAILURE TO COMPLY WITH REGULATIONS MADE PURSUANT TO THIS SECTION.

(b) IN ORDER TO ENSURE THE MOST SECURE, RELIABLE, AND ACCOUNTABLE SYSTEM FOR THE PRODUCTION AND DISTRIBUTION OF MARIJUANA AND MARIJUANA PRODUCTS IN ACCORDANCE WITH THIS SUBSECTION, IN ANY COMPETITIVE APPLICATION PROCESS THE DEPARTMENT SHALL HAVE AS A PRIMARY CONSIDERATION WHETHER AN APPLICANT:

(I) HAS PRIOR EXPERIENCE PRODUCING OR DISTRIBUTING MARIJUANA OR MARIJUANA PRODUCTS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE IN THE LOCALITY IN WHICH THE APPLICANT SEEKS TO OPERATE A MARIJUANA ESTABLISHMENT; AND

(II) HAS, DURING THE EXPERIENCE DESCRIBED IN SUBPARAGRAPH (I), COMPLIED CONSISTANTLY WITH SECTION 14 OF THIS ARTICLE, THE PROVISIONS OF THE COLORADO MEDICAL MARIJUANA CODE AND CONFORMING REGULATIONS.

(c) IN ORDER TO ENSURE THAT INDIVIDUAL PRIVACY IS PROTECTED, NOTWITHSTANDING PARAGRAPH (a), THE DEPARTMENT SHALL NOT REQUIRE A CONSUMER TO PROVIDE A RETAIL MARIJUANA STORE WITH PERSONAL INFORMATION OTHER THAN GOVERNMENT-ISSUED IDENTIFICATION TO DETERMINE THE CONSUMER'S AGE, AND A RETAIL MARIJUANA STORE SHALL NOT BE REQUIRED TO ACQUIRE AND RECORD PERSONAL INFORMATION ABOUT CONSUMERS OTHER THAN INFORMATION TYPICALLY ACQUIRED IN A FINANCIAL TRANSACTION CONDUCTED AT A RETAIL LIQUOR STORE.

(d) THE GENERAL ASSEMBLY MAY ENACT AN EXCISE TAX TO BE LEVIED UPON MARIJUANA SOLD OR OTHERWISE TRANSFERRED BY A MARIJUANA CULTIVATION FACILITY TO A MARIJUANA PRODUCT MANUFACTURING FACILITY OR TO A RETAIL MARIJUANA STORE AT A RATE NOT TO EXCEED FIFTEEN PERCENT PRIOR TO JANUARY 1, 2017 AND AT A RATE TO BE DETERMINED BY THE GENERAL ASSEMBLY THEREAFTER, AND, IF AN EXCISE TAX IS ENACTED, SHALL DIRECT THE DEPARTMENT TO ESTABLISH PROCEDURES FOR THE COLLECTION OF ALL TAXES LEVIED; PROVIDED, NO SUCH EXCISE TAX SHALL BE LEVIED UPON MARIJUANA INTENDED FOR SALE AT MEDICAL MARIJUANA CENTERS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

(e) NOT LATER THAN OCTOBER 1, 2013, EACH LOCALITY SHALL ENACT AN ORDINANCE OR REGULATION SPECIFYING THE ENTITY WITHIN THE LOCALITY THAT IS RESPONSIBLE FOR PROCESSING APPLICATIONS SUBMITTED FOR A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT WITHIN THE BOUNDARIES OF THE LOCALITY AND FOR THE

ISSUANCE OF SUCH LICENSES SHOULD THE ISSUANCE BY THE LOCALITY BECOME NECESSARY BECAUSE OF A FAILURE BY THE DEPARTMENT TO ADOPT REGULATIONS PURSUANT TO PARAGRAPH (a) OR BECAUSE OF A FAILURE BY THE DEPARTMENT TO PROCESS AND ISSUE LICENSES AS REQUIRED BY PARAGRAPH (g).

(f) A LOCALITY MAY ENACT ORDINANCES OR REGULATIONS, NOT IN CONFLICT WITH THIS SECTION OR WITH REGULATIONS OR LEGISLATION ENACTED PURSUANT TO THIS SECTION, GOVERNING THE TIME, PLACE, MANNER AND NUMBER OF MARIJUANA ESTABLISHMENT OPERATIONS; ESTABLISHING PROCEDURES FOR THE ISSUANCE, SUSPENSION, AND REVOCATION OF A LICENSE ISSUED BY THE LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i), SUCH PROCEDURES TO BE SUBJECT TO ALL REQUIREMENTS OF ARTICLE 4 OF TITLE 24 OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION; ESTABLISHING A SCHEDULE OF ANNUAL OPERATING, LICENSING, AND APPLICATION FEES FOR MARIJUANA ESTABLISHMENTS, PROVIDED, THE APPLICATION FEE SHALL ONLY BE DUE IF AN APPLICATION IS SUBMITTED TO A LOCALITY IN ACCORDANCE WITH PARAGRAPH (i) AND A LICENSING FEE SHALL ONLY BE DUE IF A LICENSE IS ISSUED BY A LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i); AND ESTABLISHING CIVIL PENALTIES FOR VIOLATION OF AN ORDINANCE OR REGULATION GOVERNING THE TIME, PLACE, AND MANNER OF A MARIJUANA ESTABLISHMENT THAT MAY OPERATE IN SUCH LOCALITY. A LOCALITY MAY PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES THROUGH THE ENACTMENT OF AN ORDINANCE OR THROUGH AN INITIATED OR REFERRED MEASURE; PROVIDED, ANY INITIATED OR REFERRED MEASURE TO PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES MUST APPEAR ON A GENERAL ELECTION BALLOT DURING AN EVEN NUMBERED YEAR.

(g) EACH APPLICATION FOR AN ANNUAL LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT SHALL BE SUBMITTED TO THE DEPARTMENT. THE DEPARTMENT SHALL:

- (I) BEGIN ACCEPTING AND PROCESSING APPLICATIONS ON OCTOBER 1, 2013;
- (II) IMMEDIATELY FORWARD A COPY OF EACH APPLICATION AND HALF OF THE LICENSE APPLICATION FEE TO THE LOCALITY IN WHICH THE APPLICANT DESIRES TO OPERATE THE MARIJUANA ESTABLISHMENT;
- (III) ISSUE AN ANNUAL LICENSE TO THE APPLICANT BETWEEN FORTY-FIVE AND NINETY DAYS AFTER RECEIPT OF AN APPLICATION UNLESS THE DEPARTMENT FINDS THE APPLICANT IS NOT IN COMPLIANCE WITH REGULATIONS ENACTED PURSUANT TO PARAGRAPH (a) OR THE DEPARTMENT IS NOTIFIED BY THE RELEVANT LOCALITY THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) AND IN EFFECT AT THE TIME OF APPLICATION, PROVIDED, WHERE A LOCALITY HAS ENACTED A NUMERICAL LIMIT ON THE NUMBER OF MARIJUANA ESTABLISHMENTS AND A GREATER NUMBER OF APPLICANTS SEEK LICENSES, THE DEPARTMENT SHALL SOLICIT AND CONSIDER INPUT FROM THE LOCALITY AS TO THE LOCALITY'S PREFERENCE OR PREFERENCES FOR LICENSURE; AND
- (IV) UPON DENIAL OF AN APPLICATION, NOTIFY THE APPLICANT IN WRITING OF THE SPECIFIC REASON FOR ITS DENIAL.

(h) IF THE DEPARTMENT DOES NOT ISSUE A LICENSE TO AN APPLICANT WITHIN NINETY DAYS OF RECEIPT OF THE APPLICATION FILED IN ACCORDANCE WITH PARAGRAPH (g) AND DOES NOT NOTIFY THE APPLICANT OF THE SPECIFIC REASON FOR ITS DENIAL, IN WRITING AND WITHIN SUCH TIME PERIOD, OR IF THE DEPARTMENT HAS ADOPTED REGULATIONS PURSUANT TO PARAGRAPH (a) AND HAS ACCEPTED APPLICATIONS PURSUANT TO PARAGRAPH (g) BUT HAS NOT ISSUED ANY LICENSES BY JANUARY 1, 2014, THE APPLICANT MAY RESUBMIT ITS APPLICATION DIRECTLY TO THE LOCALITY, PURSUANT TO PARAGRAPH (e), AND THE LOCALITY MAY ISSUE AN ANNUAL LICENSE TO THE APPLICANT. A LOCALITY ISSUING A LICENSE TO AN APPLICANT SHALL DO SO WITHIN NINETY DAYS OF RECEIPT OF THE RESUBMITTED APPLICATION UNLESS THE LOCALITY FINDS AND NOTIFIES THE APPLICANT THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) IN EFFECT AT THE TIME THE APPLICATION IS RESUBMITTED AND THE LOCALITY SHALL NOTIFY THE DEPARTMENT IF AN ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT. IF AN APPLICATION IS SUBMITTED TO A LOCALITY UNDER THIS PARAGRAPH, THE DEPARTMENT SHALL FORWARD TO THE LOCALITY THE APPLICATION FEE PAID BY THE APPLICANT TO THE DEPARTMENT UPON REQUEST BY THE LOCALITY. A LICENSE ISSUED BY A LOCALITY IN ACCORDANCE WITH THIS PARAGRAPH SHALL HAVE THE SAME FORCE AND EFFECT AS A LICENSE ISSUED BY THE DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (g) AND THE HOLDER OF SUCH LICENSE SHALL NOT BE SUBJECT TO REGULATION OR ENFORCEMENT BY THE DEPARTMENT DURING THE TERM OF THAT LICENSE. A SUBSEQUENT OR RENEWED LICENSE MAY BE ISSUED UNDER THIS PARAGRAPH ON AN ANNUAL BASIS ONLY UPON RESUBMISSION TO THE LOCALITY OF A NEW APPLICATION SUBMITTED TO THE DEPARTMENT PURSUANT TO PARAGRAPH (g). NOTHING IN THIS PARAGRAPH SHALL LIMIT SUCH RELIEF AS MAY BE AVAILABLE TO AN AGGRIEVED PARTY UNDER SECTION 24-4-104, C.R.S., OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION.

(i) IF THE DEPARTMENT DOES NOT ADOPT REGULATIONS REQUIRED BY PARAGRAPH (a), AN APPLICANT MAY SUBMIT AN APPLICATION DIRECTLY TO A LOCALITY AFTER OCTOBER 1, 2013 AND THE LOCALITY MAY ISSUE AN ANNUAL LICENSE TO THE APPLICANT. A LOCALITY ISSUING A LICENSE TO AN APPLICANT SHALL DO SO WITHIN NINETY DAYS OF RECEIPT OF THE APPLICATION UNLESS IT FINDS AND NOTIFIES THE APPLICANT THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) IN EFFECT AT THE TIME OF APPLICATION AND SHALL NOTIFY THE DEPARTMENT IF AN ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT. A LICENSE ISSUED BY A LOCALITY IN ACCORDANCE WITH THIS PARAGRAPH SHALL HAVE THE SAME FORCE AND EFFECT AS A LICENSE ISSUED BY THE DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (g) AND THE HOLDER OF SUCH LICENSE SHALL NOT BE SUBJECT TO REGULATION OR ENFORCEMENT BY THE DEPARTMENT DURING THE TERM OF THAT LICENSE. A SUBSEQUENT OR RENEWED LICENSE MAY BE ISSUED UNDER THIS PARAGRAPH ON AN ANNUAL BASIS IF THE DEPARTMENT HAS NOT ADOPTED REGULATIONS REQUIRED BY PARAGRAPH (a) AT LEAST NINETY DAYS PRIOR TO THE DATE UPON WHICH SUCH SUBSEQUENT OR RENEWED LICENSE WOULD BE EFFECTIVE OR IF THE DEPARTMENT HAS ADOPTED REGULATIONS PURSUANT TO PARAGRAPH (a) BUT HAS NOT, AT LEAST NINETY



DAYS AFTER THE ADOPTION OF SUCH REGULATIONS, ISSUED LICENSES PURSUANT TO PARAGRAPH (g).

(j) NOT LATER THAN JULY 1, 2014, THE GENERAL ASSEMBLY SHALL ENACT LEGISLATION GOVERNING THE CULTIVATION, PROCESSING AND SALE OF INDUSTRIAL HEMP.

**(6) Employers, driving, minors and control of property.**

(a) NOTHING IN THIS SECTION IS INTENDED TO REQUIRE AN EMPLOYER TO PERMIT OR ACCOMMODATE THE USE, CONSUMPTION, POSSESSION, TRANSFER, DISPLAY, TRANSPORTATION, SALE OR GROWING OF MARIJUANA IN THE WORKPLACE OR TO AFFECT THE ABILITY OF EMPLOYERS TO HAVE POLICIES RESTRICTING THE USE OF MARIJUANA BY EMPLOYEES.

(b) NOTHING IN THIS SECTION IS INTENDED TO ALLOW DRIVING UNDER THE INFLUENCE OF MARIJUANA OR DRIVING WHILE IMPAIRED BY MARIJUANA OR TO SUPERSEDE STATUTORY LAWS RELATED TO DRIVING UNDER THE INFLUENCE OF MARIJUANA OR DRIVING WHILE IMPAIRED BY MARIJUANA, NOR SHALL THIS SECTION PREVENT THE STATE FROM ENACTING AND IMPOSING PENALTIES FOR DRIVING UNDER THE INFLUENCE OF OR WHILE IMPAIRED BY MARIJUANA.

(c) NOTHING IN THIS SECTION IS INTENDED TO PERMIT THE TRANSFER OF MARIJUANA, WITH OR WITHOUT REMUNERATION, TO A PERSON UNDER THE AGE OF TWENTY-ONE OR TO ALLOW A PERSON UNDER THE AGE OF TWENTY-ONE TO PURCHASE, POSSESS, USE, TRANSPORT, GROW, OR CONSUME MARIJUANA.

(d) NOTHING IN THIS SECTION SHALL PROHIBIT A PERSON, EMPLOYER, SCHOOL, HOSPITAL, DETENTION FACILITY, CORPORATION OR ANY OTHER ENTITY WHO OCCUPIES, OWNS OR CONTROLS A PROPERTY FROM PROHIBITING OR OTHERWISE REGULATING THE POSSESSION, CONSUMPTION, USE, DISPLAY, TRANSFER, DISTRIBUTION, SALE, TRANSPORTATION, OR GROWING OF MARIJUANA ON OR IN THAT PROPERTY.

**(7) Medical marijuana provisions unaffected.** NOTHING IN THIS SECTION SHALL BE CONSTRUED:

(a) TO LIMIT ANY PRIVILEGES OR RIGHTS OF A MEDICAL MARIJUANA PATIENT, PRIMARY CAREGIVER, OR LICENSED ENTITY AS PROVIDED IN SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE;

(b) TO PERMIT A MEDICAL MARIJUANA CENTER TO DISTRIBUTE MARIJUANA TO A PERSON WHO IS NOT A MEDICAL MARIJUANA PATIENT;

(c) TO PERMIT A MEDICAL MARIJUANA CENTER TO PURCHASE MARIJUANA OR MARIJUANA PRODUCTS IN A MANNER OR FROM A SOURCE NOT AUTHORIZED UNDER THE COLORADO MEDICAL MARIJUANA CODE;

(d) TO PERMIT ANY MEDICAL MARIJUANA CENTER LICENSED PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE TO OPERATE ON THE SAME PREMISES AS A RETAIL MARIJUANA STORE.; OR

(e) TO DISCHARGE THE DEPARTMENT, THE COLORADO BOARD OF HEALTH, OR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FROM THEIR STATUTORY AND CONSTITUTIONAL DUTIES TO REGULATE MEDICAL MARIJUANA PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

**(8) Self-executing, severability, conflicting provisions.** ALL PROVISIONS OF THIS SECTION ARE SELF-EXECUTING EXCEPT AS SPECIFIED HEREIN, ARE SEVERABLE, AND, EXCEPT WHERE OTHERWISE INDICATED IN THE TEXT, SHALL SUPERSEDE CONFLICTING STATE STATUTORY, LOCAL CHARTER, ORDINANCE, OR RESOLUTION, AND OTHER STATE AND LOCAL PROVISIONS.

**(9) Effective date.** UNLESS OTHERWISE PROVIDED BY THIS SECTION, ALL PROVISIONS OF THIS SECTION SHALL BECOME EFFECTIVE UPON OFFICIAL DECLARATION OF THE VOTE HEREON BY PROCLAMATION OF THE GOVERNOR, PURSUANT TO SECTION 1(4) OF ARTICLE V.

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**Proponent Representative 1**

**Name:** Mason Tvert  
**Physical Address:** 1441 Humboldt Street #101, Denver, Colorado 80218  
**Mailing Address:** P.O. Box 40332, Denver, Colorado 80204  
**Phone:** 303-861-0033  
**Fax:** 303-861-0915  
**E-mail:** mason@saferchoice.org

**Proponent Representative 2**

**Name:** Brian Vicente  
**Physical Address:** 949 B Pennsylvania St., Denver, Colorado 80203  
**Mailing Address:** P.O. Box 18768, Denver, Colorado 80218  
**Phone:** 303-860-4501  
**Fax:** 303-860-4505  
**E-mail:** brian@sensiblecolorado.org

**Ballot Title Setting Board**

**Proposed Initiative 2011-2012 #31<sup>1</sup>**

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.*

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<sup>1</sup> 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.



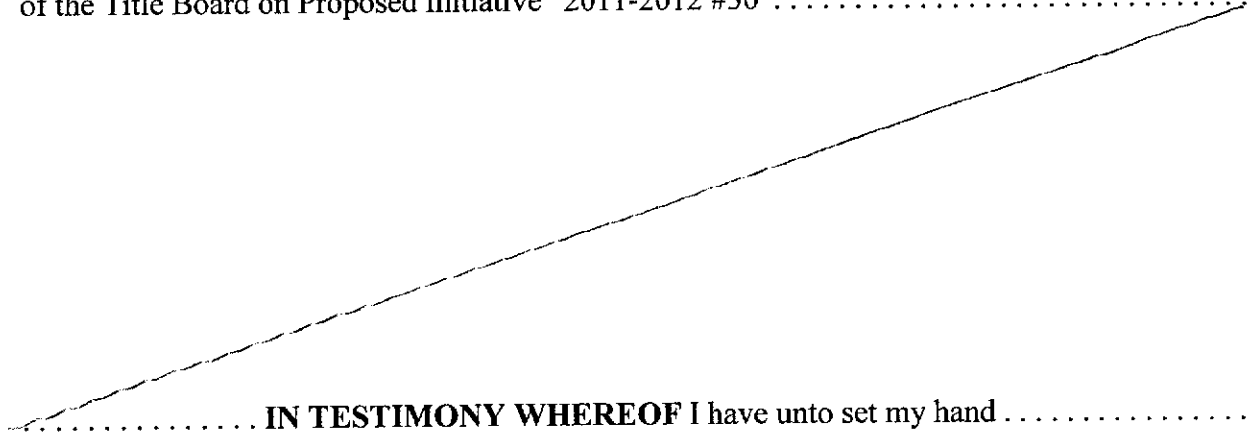
**STATE OF COLORADO**

**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 text, motion for rehearing, titles, and the rulings thereon of the Title Board on Proposed Initiative "2011-2012 #30".....



**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 8<sup>th</sup> day of July, 2011.

A handwritten signature in cursive script, appearing to read 'Scott Gessler', is written over a horizontal line.

SECRETARY OF STATE

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MOTION FOR REHEARING

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June 22, 2011

Colorado Secretary of State  
Attn: Title Board  
1700 Broadway, Suite 200  
Denver, CO 80290  
Phone: (303) 894-2200, press "3"  
Fax: (303) 869-4861  
Web: www.sos.state.co.us  
Email: initiatives@sos.state.co.us

RECEIVED

JUN 22 2011 3:58 PM

Colorado Secretary of State

Dear Sirs:

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

I. The title is misleading.

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

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

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

II. The titles include an impermissible catch phrase

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

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

Sincerely,

Corey Donahue  
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**

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

To whom it may concern,

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

Sincerely,

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

RECEIVED

#30-Final

JUN 03 2011 1:20 PM  
CB

Be it Enacted by the People of the State of Colorado

Colorado Secretary of State

Article XVIII of the constitution of the state of Colorado is amended BY THE ADDITION OF A NEW SECTION to read:

**Section 16. Personal use and regulation of marijuana**

**(1) Purpose and findings.**

(a) IN THE INTEREST OF THE EFFICIENT USE OF LAW ENFORCEMENT RESOURCES, ENHANCING REVENUE FOR PUBLIC PURPOSES, AND INDIVIDUAL FREEDOM, THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT THE USE OF MARIJUANA SHOULD BE LEGAL FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER AND TAXED IN A MANNER SIMILAR TO ALCOHOL.

(b) IN THE INTEREST OF THE HEALTH AND PUBLIC SAFETY OF OUR CITIZENRY, THE PEOPLE OF THE STATE OF COLORADO FURTHER FIND AND DECLARE THAT MARIJUANA SHOULD BE REGULATED IN A MANNER SIMILAR TO ALCOHOL SO THAT:

(I) INDIVIDUALS WILL HAVE TO SHOW PROOF OF AGE BEFORE PURCHASING MARIJUANA;

(II) SELLING, DISTRIBUTING, OR TRANSFERRING MARIJUANA TO MINORS AND OTHER INDIVIDUALS UNDER THE AGE OF TWENTY-ONE SHALL REMAIN ILLEGAL;

(III) DRIVING UNDER THE INFLUENCE OF MARIJUANA SHALL REMAIN ILLEGAL;

(IV) LEGITIMATE, TAXPAYING BUSINESS PEOPLE, AND NOT CRIMINAL ACTORS, WILL CONDUCT SALES OF MARIJUANA; AND

(V) MARIJUANA SOLD IN THIS STATE WILL BE LABELED AND SUBJECT TO ADDITIONAL REGULATIONS TO ENSURE THAT CONSUMERS ARE INFORMED AND PROTECTED.

(c) IN THE INTEREST OF ENACTING RATIONAL POLICIES FOR THE TREATMENT OF ALL VARIATIONS OF THE CANNABIS PLANT, THE PEOPLE OF COLORADO FURTHER FIND AND DECLARE THAT INDUSTRIAL HEMP SHOULD BE REGULATED SEPARATELY FROM STRAINS OF CANNABIS WITH HIGHER DELTA-9 TETRAHYDROCANNABINOL (THC) CONCENTRATIONS.

(d) THE PEOPLE OF THE STATE OF COLORADO FURTHER FIND AND DECLARE THAT IT IS NECESSARY TO ENSURE CONSISTENCY AND FAIRNESS IN THE APPLICATION OF THIS SECTION THROUGHOUT THE STATE AND THAT, THEREFORE, THE MATTERS ADDRESSED BY THIS SECTION ARE, EXCEPT AS SPECIFIED HEREIN, MATTERS OF STATEWIDE CONCERN.

**(2) Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES,

(a) "COLORADO MEDICAL MARIJUANA CODE" MEANS ARTICLE 43.3 OF TITLE 12, COLORADO REVISED STATUTES.

(b) "CONSUMER" MEANS A PERSON TWENTY-ONE YEARS OF AGE OR OLDER WHO PURCHASES MARIJUANA OR MARIJUANA PRODUCTS FOR PERSONAL USE BY PERSONS TWENTY-ONE YEARS OF AGE OR OLDER, BUT NOT FOR RESALE TO OTHERS.

(c) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE OR ITS SUCCESSOR AGENCY.

(d) "INDUSTRIAL HEMP" MEANS THE PLANT OF THE GENUS CANNABIS AND ANY PART OF SUCH PLANT, WHETHER GROWING OR NOT, WITH A DELTA-9 TETRAHYDROCANNABINOL CONCENTRATION THAT DOES NOT EXCEED THREE-TENTHS PERCENT ON A DRY WEIGHT BASIS.



(e) "LOCALITY" MEANS A COUNTY, MUNICIPALITY, OR CITY AND COUNTY.

(f) "MARIJUANA" OR "MARIHUANA" MEANS ALL PARTS OF THE PLANT OF THE GENUS CANNABIS WHETHER GROWING OR NOT, THE SEEDS THEREOF, THE RESIN EXTRACTED FROM ANY PART OF THE PLANT, AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF THE PLANT, ITS SEEDS, OR ITS RESIN, INCLUDING MARIHUANA CONCENTRATE. "MARIJUANA" OR "MARIHUANA" DOES NOT INCLUDE INDUSTRIAL HEMP, NOR DOES IT INCLUDE FIBER PRODUCED FROM THE STALKS, OIL, OR CAKE MADE FROM THE SEEDS OF THE PLANT, STERILIZED SEED OF THE PLANT WHICH IS INCAPABLE OF GERMINATION, OR THE WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH MARIJUANA TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK, OR OTHER PRODUCT.

(g) "MARIJUANA ACCESSORIES" MEANS ANY EQUIPMENT, PRODUCTS, OR MATERIALS OF ANY KIND WHICH ARE USED, INTENDED FOR USE, OR DESIGNED FOR USE IN PLANTING, PROPAGATING, CULTIVATING, GROWING, HARVESTING, COMPOSTING, MANUFACTURING, COMPOUNDING, CONVERTING, PRODUCING, PROCESSING, PREPARING, TESTING, ANALYZING, PACKAGING, REPACKAGING, STORING, VAPORIZING, OR CONTAINING MARIJUANA, OR FOR INGESTING, INHALING, OR OTHERWISE INTRODUCING MARIJUANA INTO THE HUMAN BODY.

(h) "MARIJUANA CULTIVATION FACILITY" MEANS AN ENTITY LICENSED TO CULTIVATE, PREPARE, AND PACKAGE MARIJUANA AND SELL MARIJUANA TO RETAIL MARIJUANA STORES, TO MARIJUANA PRODUCT MANUFACTURING FACILITIES, AND TO OTHER MARIJUANA CULTIVATION FACILITIES, BUT NOT TO CONSUMERS.

(i) "MARIJUANA ESTABLISHMENT" MEANS A MARIJUANA CULTIVATION FACILITY, A MARIJUANA TESTING FACILITY, A MARIJUANA PRODUCT MANUFACTURING FACILITY, OR A RETAIL MARIJUANA STORE.

(j) "MARIJUANA PRODUCT MANUFACTURING FACILITY" MEANS AN ENTITY LICENSED TO PURCHASE MARIJUANA; MANUFACTURE, PREPARE, AND PACKAGE MARIJUANA PRODUCTS; AND SELL MARIJUANA AND MARIJUANA PRODUCTS TO OTHER MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO RETAIL MARIJUANA STORES, BUT NOT TO CONSUMERS.

(k) "MARIJUANA PRODUCTS" MEANS CONCENTRATED MARIJUANA PRODUCTS AND MARIJUANA PRODUCTS THAT ARE COMPRISED OF MARIJUANA AND OTHER INGREDIENTS AND ARE INTENDED FOR USE OR CONSUMPTION, SUCH AS, BUT NOT LIMITED TO, EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES.

(l) "MARIJUANA TESTING FACILITY" MEANS AN ENTITY LICENSED TO ANALYZE AND CERTIFY THE SAFETY AND POTENCY OF MARIJUANA.

(m) "MEDICAL MARIJUANA CENTER" MEANS AN ENTITY LICENSED BY A STATE AGENCY TO SELL MARIJUANA AND MARIJUANA PRODUCTS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

(n) "RETAIL MARIJUANA STORE" MEANS AN ENTITY LICENSED TO PURCHASE MARIJUANA FROM MARIJUANA CULTIVATION FACILITIES AND MARIJUANA AND MARIJUANA PRODUCTS FROM MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS.

(o) "UNREASONABLY IMPRACTICABLE" MEANS THAT THE MEASURES NECESSARY TO COMPLY WITH THE REGULATIONS REQUIRE SUCH A HIGH INVESTMENT OF RISK, MONEY, TIME, OR ANY OTHER RESOURCE OR ASSET THAT THE OPERATION OF A MARIJUANA

ESTABLISHMENT IS NOT WORTHY OF BEING CARRIED OUT IN PRACTICE BY A REASONABLY PRUDENT BUSINESSPERSON.

**(3) Personal use of marijuana.** NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING ACTS ARE NOT UNLAWFUL AND SHALL NOT BE AN OFFENSE UNDER COLORADO LAW OR THE LAW OF ANY LOCALITY WITHIN COLORADO OR BE A BASIS FOR SEIZURE OR FORFEITURE OF ASSETS UNDER COLORADO LAW FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER:

(a) POSSESSING, USING, DISPLAYING, PURCHASING, OR TRANSPORTING MARIJUANA ACCESSORIES OR ONE OUNCE OR LESS OF MARIJUANA.

(b) POSSESSING, GROWING, PROCESSING, OR TRANSPORTING NO MORE THAN SIX MARIJUANA PLANTS, WITH THREE OR FEWER BEING MATURE, FLOWERING PLANTS, AND POSSESSION OF THE MARIJUANA PRODUCED BY THE PLANTS ON THE PREMISES WHERE THE PLANTS WERE GROWN, PROVIDED THAT THE GROWING TAKES PLACE IN AN ENCLOSED, LOCKED SPACE, IS NOT CONDUCTED OPENLY OR PUBLICLY, AND IS NOT MADE AVAILABLE FOR SALE.

(c) TRANSFER OF ONE OUNCE OR LESS OF MARIJUANA WITHOUT REMUNERATION TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

(d) CONSUMPTION OF MARIJUANA, PROVIDED THAT NOTHING IN THIS SECTION SHALL PERMIT CONSUMPTION THAT IS CONDUCTED OPENLY AND PUBLICLY OR IN A MANNER THAT ENDANGERS OTHERS.

(e) ASSISTING ANOTHER PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER IN ANY OF THE ACTS DESCRIBED IN PARAGRAPHS (a) THROUGH (d) OF THIS SUBSECTION.

**(4) Lawful operation of marijuana-related facilities.** NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING ACTS ARE NOT UNLAWFUL AND SHALL NOT BE AN OFFENSE UNDER COLORADO LAW OR BE A BASIS FOR SEIZURE OR FORFEITURE OF ASSETS UNDER COLORADO LAW FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER:

(a) MANUFACTURE, POSSESSION, OR PURCHASE OF MARIJUANA ACCESSORIES OR THE SALE OF MARIJUANA ACCESSORIES TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

(b) POSSESSING, DISPLAYING, OR TRANSPORTING MARIJUANA OR MARIJUANA PRODUCTS; PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY; PURCHASE OF MARIJUANA OR MARIJUANA PRODUCTS FROM A MARIJUANA PRODUCT MANUFACTURING FACILITY; OR SALE OF MARIJUANA OR MARIJUANA PRODUCTS TO CONSUMERS, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A RETAIL MARIJUANA STORE OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE OR AGENT OF A LICENSED RETAIL MARIJUANA STORE.

(c) CULTIVATING, HARVESTING, PROCESSING, PACKAGING, TRANSPORTING, DISPLAYING, OR POSSESSING MARIJUANA; DELIVERY OR TRANSFER OF MARIJUANA TO A MARIJUANA TESTING FACILITY; SELLING MARIJUANA TO A MARIJUANA CULTIVATION FACILITY, A MARIJUANA PRODUCT MANUFACTURING FACILITY, OR A RETAIL MARIJUANA STORE; OR THE PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A MARIJUANA CULTIVATION FACILITY OR IS ACTING

IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA CULTIVATION FACILITY.

(d) PACKAGING, PROCESSING, TRANSPORTING, MANUFACTURING, DISPLAYING, OR POSSESSING MARIJUANA OR MARIJUANA PRODUCTS; DELIVERY OR TRANSFER OF MARIJUANA OR MARIJUANA PRODUCTS TO A MARIJUANA TESTING FACILITY; SELLING MARIJUANA OR MARIJUANA PRODUCTS TO A RETAIL MARIJUANA STORE OR A MARIJUANA PRODUCT MANUFACTURING FACILITY; THE PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY; OR THE PURCHASE OF MARIJUANA OR MARIJUANA PRODUCTS FROM A MARIJUANA PRODUCT MANUFACTURING FACILITY, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A MARIJUANA PRODUCT MANUFACTURING FACILITY OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA PRODUCT MANUFACTURING FACILITY.

(e) POSSESSING, CULTIVATING, PROCESSING, REPACKAGING, STORING, TRANSPORTING, DISPLAYING, TRANSFERRING OR DELIVERING MARIJUANA OR MARIJUANA PRODUCTS IF THE PERSON HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A MARIJUANA TESTING FACILITY OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA TESTING FACILITY.

(f) LEASING OR OTHERWISE ALLOWING THE USE OF PROPERTY OWNED, OCCUPIED OR CONTROLLED BY ANY PERSON, CORPORATION OR OTHER ENTITY FOR ANY OF THE ACTIVITIES CONDUCTED LAWFULLY IN ACCORDANCE WITH PARAGRAPHS (a) THROUGH (e) OF THIS SUBSECTION.

**(5) Regulation of marijuana.**

(a) NOT LATER THAN JULY 1, 2013, THE DEPARTMENT SHALL ADOPT REGULATIONS NECESSARY FOR IMPLEMENTATION OF THIS SECTION. SUCH REGULATIONS SHALL NOT PROHIBIT THE OPERATION OF MARIJUANA ESTABLISHMENTS, EITHER EXPRESSLY OR THROUGH REGULATIONS THAT MAKE THEIR OPERATION UNREASONABLY IMPRACTICABLE. SUCH REGULATIONS SHALL INCLUDE:

(I) PROCEDURES FOR THE ISSUANCE, RENEWAL, SUSPENSION, AND REVOCATION OF A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT, WITH SUCH PROCEDURES SUBJECT TO ALL REQUIREMENTS OF ARTICLE 4 OF TITLE 24 OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION;

(II) A SCHEDULE OF APPLICATION, LICENSING AND RENEWAL FEES, PROVIDED, APPLICATION FEES SHALL NOT EXCEED FIVE THOUSAND DOLLARS, WITH THIS UPPER LIMIT ADJUSTED ANNUALLY FOR INFLATION, UNLESS THE DEPARTMENT DETERMINES A GREATER FEE IS NECESSARY TO CARRY OUT ITS RESPONSIBILITIES UNDER THIS SECTION, AND PROVIDED FURTHER, AN ENTITY THAT IS LICENSED UNDER THE COLORADO MEDICAL MARIJUANA CODE TO CULTIVATE OR SELL MARIJUANA OR TO MANUFACTURE MARIJUANA PRODUCTS AT THE TIME THIS SECTION TAKES EFFECT AND THAT CHOOSES TO APPLY FOR A SEPARATE MARIJUANA ESTABLISHMENT LICENSE SHALL NOT BE REQUIRED TO PAY AN APPLICATION FEE GREATER THAN FIVE HUNDRED DOLLARS TO APPLY FOR A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION;

(III) QUALIFICATIONS FOR LICENSURE THAT ARE DIRECTLY AND DEMONSTRABLY RELATED TO THE OPERATION OF A MARIJUANA ESTABLISHMENT;

- (IV) SECURITY REQUIREMENTS FOR MARIJUANA ESTABLISHMENTS;
- (V) REQUIREMENTS TO PREVENT THE SALE OR DIVERSION OF MARIJUANA AND MARIJUANA PRODUCTS TO PERSONS UNDER THE AGE OF TWENTY-ONE;
- (VI) LABELING REQUIREMENTS FOR MARIJUANA AND MARIJUANA PRODUCTS SOLD OR DISTRIBUTED BY A MARIJUANA ESTABLISHMENT;
- (VII) HEALTH AND SAFETY REGULATIONS AND STANDARDS FOR THE MANUFACTURE OF MARIJUANA PRODUCTS AND THE CULTIVATION OF MARIJUANA;
- (VIII) RESTRICTIONS ON THE ADVERTISING AND DISPLAY OF MARIJUANA AND MARIJUANA PRODUCTS; AND
- (IX) CIVIL PENALTIES FOR THE FAILURE TO COMPLY WITH REGULATIONS MADE PURSUANT TO THIS SECTION.

(b) IN ORDER TO ENSURE THE MOST SECURE, RELIABLE, AND ACCOUNTABLE SYSTEM FOR THE PRODUCTION AND DISTRIBUTION OF MARIJUANA AND MARIJUANA PRODUCTS IN ACCORDANCE WITH THIS SUBSECTION, IN ANY COMPETITIVE APPLICATION PROCESS THE DEPARTMENT SHALL HAVE AS A PRIMARY CONSIDERATION WHETHER AN APPLICANT:

(I) HAS PRIOR EXPERIENCE PRODUCING OR DISTRIBUTING MARIJUANA OR MARIJUANA PRODUCTS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE IN THE LOCALITY IN WHICH THE APPLICANT SEEKS TO OPERATE A MARIJUANA ESTABLISHMENT; AND

(II) HAS, DURING THE EXPERIENCE DESCRIBED IN SUBPARAGRAPH (I), COMPLIED CONSISTANTLY WITH SECTION 14 OF THIS ARTICLE, THE PROVISIONS OF THE COLORADO MEDICAL MARIJUANA CODE AND CONFORMING REGULATIONS.

(c) IN ORDER TO ENSURE THAT INDIVIDUAL PRIVACY IS PROTECTED, NOTWITHSTANDING PARAGRAPH (a), THE DEPARTMENT SHALL NOT REQUIRE A CONSUMER TO PROVIDE A RETAIL MARIJUANA STORE WITH PERSONAL INFORMATION OTHER THAN GOVERNMENT-ISSUED IDENTIFICATION TO DETERMINE THE CONSUMER'S AGE, AND A RETAIL MARIJUANA STORE SHALL NOT BE REQUIRED TO ACQUIRE AND RECORD PERSONAL INFORMATION ABOUT CONSUMERS OTHER THAN INFORMATION TYPICALLY ACQUIRED IN A FINANCIAL TRANSACTION CONDUCTED AT A RETAIL LIQUOR STORE.

(d) THE GENERAL ASSEMBLY SHALL ENACT AN EXCISE TAX TO BE LEVIED UPON MARIJUANA SOLD OR OTHERWISE TRANSFERRED BY A MARIJUANA CULTIVATION FACILITY TO A MARIJUANA PRODUCT MANUFACTURING FACILITY OR TO A RETAIL MARIJUANA STORE AT A RATE NOT TO EXCEED FIFTEEN PERCENT PRIOR TO JANUARY 1, 2017 AND AT A RATE TO BE DETERMINED BY THE GENERAL ASSEMBLY THEREAFTER, AND SHALL DIRECT THE DEPARTMENT TO ESTABLISH PROCEDURES FOR THE COLLECTION OF ALL TAXES LEVIED. PROVIDED, THE FIRST FORTY MILLION DOLLARS IN REVENUE RAISED ANNUALLY FROM ANY SUCH EXCISE TAX SHALL BE CREDITED TO THE PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE FUND CREATED BY ARTICLE 43.7 OF TITLE 22, C.R.S., OR ANY SUCCESSOR FUND DEDICATED TO A SIMILAR PURPOSE. PROVIDED FURTHER, NO SUCH EXCISE TAX SHALL BE LEVIED UPON MARIJUANA INTENDED FOR SALE AT MEDICAL MARIJUANA CENTERS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

(e) NOT LATER THAN OCTOBER 1, 2013, EACH LOCALITY SHALL ENACT AN ORDINANCE OR REGULATION SPECIFYING THE ENTITY WITHIN THE LOCALITY THAT IS RESPONSIBLE FOR PROCESSING APPLICATIONS SUBMITTED FOR A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT WITHIN THE BOUNDARIES OF THE LOCALITY AND FOR THE ISSUANCE OF SUCH LICENSES SHOULD THE ISSUANCE BY THE LOCALITY BECOME NECESSARY BECAUSE OF A FAILURE BY THE DEPARTMENT TO ADOPT REGULATIONS PURSUANT TO PARAGRAPH (a) OR BECAUSE OF A FAILURE BY THE DEPARTMENT TO PROCESS AND ISSUE LICENSES AS REQUIRED BY PARAGRAPH (g).

(f) A LOCALITY MAY ENACT ORDINANCES OR REGULATIONS, NOT IN CONFLICT WITH THIS SECTION OR WITH REGULATIONS OR LEGISLATION ENACTED PURSUANT TO THIS SECTION, GOVERNING THE TIME, PLACE, MANNER AND NUMBER OF MARIJUANA ESTABLISHMENT OPERATIONS; ESTABLISHING PROCEDURES FOR THE ISSUANCE, SUSPENSION, AND REVOCATION OF A LICENSE ISSUED BY THE LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i), SUCH PROCEDURES TO BE SUBJECT TO ALL REQUIREMENTS OF ARTICLE 4 OF TITLE 24 OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION; ESTABLISHING A SCHEDULE OF ANNUAL OPERATING, LICENSING, AND APPLICATION FEES FOR MARIJUANA ESTABLISHMENTS, PROVIDED, THE APPLICATION FEE SHALL ONLY BE DUE IF AN APPLICATION IS SUBMITTED TO A LOCALITY IN ACCORDANCE WITH PARAGRAPH (i) AND A LICENSING FEE SHALL ONLY BE DUE IF A LICENSE IS ISSUED BY A LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i); AND ESTABLISHING CIVIL PENALTIES FOR VIOLATION OF AN ORDINANCE OR REGULATION GOVERNING THE TIME, PLACE, AND MANNER OF A MARIJUANA ESTABLISHMENT THAT MAY OPERATE IN SUCH LOCALITY. A LOCALITY MAY PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES THROUGH THE ENACTMENT OF AN ORDINANCE OR THROUGH AN INITIATED OR REFERRED MEASURE; PROVIDED, ANY INITIATED OR REFERRED MEASURE TO PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES MUST APPEAR ON A GENERAL ELECTION BALLOT DURING AN EVEN NUMBERED YEAR.

(g) EACH APPLICATION FOR AN ANNUAL LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT SHALL BE SUBMITTED TO THE DEPARTMENT. THE DEPARTMENT SHALL:

(I) BEGIN ACCEPTING AND PROCESSING APPLICATIONS ON OCTOBER 1, 2013;

(II) IMMEDIATELY FORWARD A COPY OF EACH APPLICATION AND HALF OF THE LICENSE APPLICATION FEE TO THE LOCALITY IN WHICH THE APPLICANT DESIRES TO OPERATE THE MARIJUANA ESTABLISHMENT;

(III) ISSUE AN ANNUAL LICENSE TO THE APPLICANT BETWEEN FORTY-FIVE AND NINETY DAYS AFTER RECEIPT OF AN APPLICATION UNLESS THE DEPARTMENT FINDS THE APPLICANT IS NOT IN COMPLIANCE WITH REGULATIONS ENACTED PURSUANT TO PARAGRAPH (a) OR THE DEPARTMENT IS NOTIFIED BY THE RELEVANT LOCALITY THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) AND IN EFFECT AT THE TIME OF APPLICATION, PROVIDED, WHERE A LOCALITY HAS ENACTED A NUMERICAL LIMIT ON THE NUMBER OF MARIJUANA ESTABLISHMENTS AND A GREATER NUMBER OF APPLICANTS SEEK LICENSES, THE

DEPARTMENT SHALL SOLICIT AND CONSIDER INPUT FROM THE LOCALITY AS TO THE LOCALITY'S PREFERENCE OR PREFERENCES FOR LICENSURE; AND

(IV) UPON DENIAL OF AN APPLICATION, NOTIFY THE APPLICANT IN WRITING OF THE SPECIFIC REASON FOR ITS DENIAL.

(h) IF THE DEPARTMENT DOES NOT ISSUE A LICENSE TO AN APPLICANT WITHIN NINETY DAYS OF RECEIPT OF THE APPLICATION FILED IN ACCORDANCE WITH PARAGRAPH (g) AND DOES NOT NOTIFY THE APPLICANT OF THE SPECIFIC REASON FOR ITS DENIAL, IN WRITING AND WITHIN SUCH TIME PERIOD, OR IF THE DEPARTMENT HAS ADOPTED REGULATIONS PURSUANT TO PARAGRAPH (a) AND HAS ACCEPTED APPLICATIONS PURSUANT TO PARAGRAPH (g) BUT HAS NOT ISSUED ANY LICENSES BY JANUARY 1, 2014, THE APPLICANT MAY RESUBMIT ITS APPLICATION DIRECTLY TO THE LOCALITY, PURSUANT TO PARAGRAPH (e), AND THE LOCALITY MAY ISSUE AN ANNUAL LICENSE TO THE APPLICANT. A LOCALITY ISSUING A LICENSE TO AN APPLICANT SHALL DO SO WITHIN NINETY DAYS OF RECEIPT OF THE RESUBMITTED APPLICATION UNLESS THE LOCALITY FINDS AND NOTIFIES THE APPLICANT THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) IN EFFECT AT THE TIME THE APPLICATION IS RESUBMITTED AND THE LOCALITY SHALL NOTIFY THE DEPARTMENT IF AN ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT. IF AN APPLICATION IS SUBMITTED TO A LOCALITY UNDER THIS PARAGRAPH, THE DEPARTMENT SHALL FORWARD TO THE LOCALITY THE APPLICATION FEE PAID BY THE APPLICANT TO THE DEPARTMENT UPON REQUEST BY THE LOCALITY. A LICENSE ISSUED BY A LOCALITY IN ACCORDANCE WITH THIS PARAGRAPH SHALL HAVE THE SAME FORCE AND EFFECT AS A LICENSE ISSUED BY THE DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (g) AND THE HOLDER OF SUCH LICENSE SHALL NOT BE SUBJECT TO REGULATION OR ENFORCEMENT BY THE DEPARTMENT DURING THE TERM OF THAT LICENSE. A SUBSEQUENT OR RENEWED LICENSE MAY BE ISSUED UNDER THIS PARAGRAPH ON AN ANNUAL BASIS ONLY UPON RESUBMISSION TO THE LOCALITY OF A NEW APPLICATION SUBMITTED TO THE DEPARTMENT PURSUANT TO PARAGRAPH (g). NOTHING IN THIS PARAGRAPH SHALL LIMIT SUCH RELIEF AS MAY BE AVAILABLE TO AN AGGRIEVED PARTY UNDER SECTION 24-4-104, C.R.S., OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION.

(i) IF THE DEPARTMENT DOES NOT ADOPT REGULATIONS REQUIRED BY PARAGRAPH (a), AN APPLICANT MAY SUBMIT AN APPLICATION DIRECTLY TO A LOCALITY AFTER OCTOBER 1, 2013 AND THE LOCALITY MAY ISSUE AN ANNUAL LICENSE TO THE APPLICANT. A LOCALITY ISSUING A LICENSE TO AN APPLICANT SHALL DO SO WITHIN NINETY DAYS OF RECEIPT OF THE APPLICATION UNLESS IT FINDS AND NOTIFIES THE APPLICANT THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) IN EFFECT AT THE TIME OF APPLICATION AND SHALL NOTIFY THE DEPARTMENT IF AN ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT. A LICENSE ISSUED BY A LOCALITY IN ACCORDANCE WITH THIS PARAGRAPH SHALL HAVE THE SAME FORCE AND EFFECT AS A LICENSE ISSUED BY THE DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (g) AND THE HOLDER OF SUCH LICENSE SHALL NOT BE SUBJECT TO REGULATION OR ENFORCEMENT BY THE DEPARTMENT DURING THE TERM OF THAT LICENSE. A SUBSEQUENT OR RENEWED LICENSE MAY BE ISSUED UNDER THIS PARAGRAPH ON AN ANNUAL BASIS IF THE DEPARTMENT HAS NOT ADOPTED REGULATIONS REQUIRED BY

PARAGRAPH (a) AT LEAST NINETY DAYS PRIOR TO THE DATE UPON WHICH SUCH SUBSEQUENT OR RENEWED LICENSE WOULD BE EFFECTIVE OR IF THE DEPARTMENT HAS ADOPTED REGULATIONS PURSUANT TO PARAGRAPH (a) BUT HAS NOT, AT LEAST NINETY DAYS AFTER THE ADOPTION OF SUCH REGULATIONS, ISSUED LICENSES PURSUANT TO PARAGRAPH (g).

(j) NOT LATER THAN JULY 1, 2014, THE GENERAL ASSEMBLY SHALL ENACT LEGISLATION GOVERNING THE CULTIVATION, PROCESSING AND SALE OF INDUSTRIAL HEMP.

**(6) Employers, driving, minors and control of property.**

(a) NOTHING IN THIS SECTION IS INTENDED TO REQUIRE AN EMPLOYER TO PERMIT OR ACCOMMODATE THE USE, CONSUMPTION, POSSESSION, TRANSFER, DISPLAY, TRANSPORTATION, SALE OR GROWING OF MARIJUANA IN THE WORKPLACE OR TO AFFECT THE ABILITY OF EMPLOYERS TO HAVE POLICIES RESTRICTING THE USE OF MARIJUANA BY EMPLOYEES.

(b) NOTHING IN THIS SECTION IS INTENDED TO ALLOW DRIVING UNDER THE INFLUENCE OF MARIJUANA OR DRIVING WHILE IMPAIRED BY MARIJUANA OR TO SUPERSEDE STATUTORY LAWS RELATED TO DRIVING UNDER THE INFLUENCE OF MARIJUANA OR DRIVING WHILE IMPAIRED BY MARIJUANA, NOR SHALL THIS SECTION PREVENT THE STATE FROM ENACTING AND IMPOSING PENALTIES FOR DRIVING UNDER THE INFLUENCE OF OR WHILE IMPAIRED BY MARIJUANA.

(c) NOTHING IN THIS SECTION IS INTENDED TO PERMIT THE TRANSFER OF MARIJUANA, WITH OR WITHOUT REMUNERATION, TO A PERSON UNDER THE AGE OF TWENTY-ONE OR TO ALLOW A PERSON UNDER THE AGE OF TWENTY-ONE TO PURCHASE, POSSESS, USE, TRANSPORT, GROW, OR CONSUME MARIJUANA.

(d) NOTHING IN THIS SECTION SHALL PROHIBIT A PERSON, EMPLOYER, SCHOOL, HOSPITAL, DETENTION FACILITY, CORPORATION OR ANY OTHER ENTITY WHO OCCUPIES, OWNS OR CONTROLS A PROPERTY FROM PROHIBITING OR OTHERWISE REGULATING THE POSSESSION, CONSUMPTION, USE, DISPLAY, TRANSFER, DISTRIBUTION, SALE, TRANSPORTATION, OR GROWING OF MARIJUANA ON OR IN THAT PROPERTY.

**(7) Medical marijuana provisions unaffected.** NOTHING IN THIS SECTION SHALL BE CONSTRUED:

(a) TO LIMIT ANY PRIVILEGES OR RIGHTS OF A MEDICAL MARIJUANA PATIENT, PRIMARY CAREGIVER, OR LICENSED ENTITY AS PROVIDED IN SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE;

(b) TO PERMIT A MEDICAL MARIJUANA CENTER TO DISTRIBUTE MARIJUANA TO A PERSON WHO IS NOT A MEDICAL MARIJUANA PATIENT;

(c) TO PERMIT A MEDICAL MARIJUANA CENTER TO PURCHASE MARIJUANA OR MARIJUANA PRODUCTS IN A MANNER OR FROM A SOURCE NOT AUTHORIZED UNDER THE COLORADO MEDICAL MARIJUANA CODE;

(d) TO PERMIT ANY MEDICAL MARIJUANA CENTER LICENSED PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE TO OPERATE ON THE SAME PREMISES AS A RETAIL MARIJUANA STORE.; OR

(e) TO DISCHARGE THE DEPARTMENT, THE COLORADO BOARD OF HEALTH, OR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FROM THEIR STATUTORY AND CONSTITUTIONAL DUTIES TO REGULATE MEDICAL MARIJUANA PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

**(8) Self-executing, severability, conflicting provisions.** ALL PROVISIONS OF THIS SECTION ARE SELF-EXECUTING EXCEPT AS SPECIFIED HEREIN, ARE SEVERABLE, AND, EXCEPT WHERE OTHERWISE INDICATED IN THE TEXT, SHALL SUPERSEDE CONFLICTING STATE STATUTORY, LOCAL CHARTER, ORDINANCE, OR RESOLUTION, AND OTHER STATE AND LOCAL PROVISIONS.

**(9) Effective date.** UNLESS OTHERWISE PROVIDED BY THIS SECTION, ALL PROVISIONS OF THIS SECTION SHALL BECOME EFFECTIVE UPON OFFICIAL DECLARATION OF THE VOTE HEREON BY PROCLAMATION OF THE GOVERNOR, PURSUANT TO SECTION 1(4) OF ARTICLE V.

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**Proponent Representative 1**

**Name:** Mason Tvert  
**Physical Address:** 1441 Humboldt Street #101, Denver, Colorado 80218  
**Mailing Address:** P.O. Box 40332, Denver, Colorado 80204  
**Phone:** 303-861-0033  
**Fax:** 303-861-0915  
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**Proponent Representative 2**

**Name:** Brian Vicente  
**Physical Address:** 949 B Pennsylvania St., Denver, Colorado 80203  
**Mailing Address:** P.O. Box 18768, Denver, Colorado 80218  
**Phone:** 303-860-4501  
**Fax:** 303-860-4505  
**E-mail:** brian@sensiblecolorado.org



**Ballot Title Setting Board**

**Proposed Initiative 2011-2012 #30<sup>1</sup>**

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.*

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<sup>1</sup> 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.



**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 text, motion for rehearing, titles, and the rulings thereon of the Title Board on Proposed Initiative "2011-2012 #32".....

..... **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 8<sup>th</sup> day of July, 2011.

A handwritten signature in cursive script, appearing to read 'Scott Gessler', is written over a horizontal line.

SECRETARY OF STATE

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MOTION FOR REHEARING

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June 22, 2011

Colorado Secretary of State  
Attn: Title Board  
1700 Broadway, Suite 200  
Denver, CO 80290  
Phone: (303) 894-2200, press "3"  
Fax: (303) 869-4861  
Web: www.sos.state.co.us  
Email: initiatives@sos.state.co.us

RECEIVED

JUN 22 2011 3:57 P.M.

Colorado Secretary of State

Dear Sirs:

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

I. The title is misleading.

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

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

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

II. The titles include an impermissible catch phrase

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

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

Sincerely,

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

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Certificate of Service

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

**Cesiah Gomez**

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

To whom it may concern,

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

Sincerely,

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

RECEIVED

#32 - Final

JUN 03 2011

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Be it Enacted by the People of the State of Colorado

Colorado Secretary of State

Article XVIII of the constitution of the state of Colorado is amended BY THE ADDITION OF A NEW SECTION to read:

**Section 16. Personal use and regulation of marijuana**

**(1) Purpose and findings.**

(a) IN THE INTEREST OF THE EFFICIENT USE OF LAW ENFORCEMENT RESOURCES, ENHANCING REVENUE FOR PUBLIC PURPOSES, AND INDIVIDUAL FREEDOM, THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT THE USE OF MARIJUANA SHOULD BE LEGAL FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER AND TAXED IN A MANNER SIMILAR TO ALCOHOL.

(b) IN THE INTEREST OF THE HEALTH AND PUBLIC SAFETY OF OUR CITIZENRY, THE PEOPLE OF THE STATE OF COLORADO FURTHER FIND AND DECLARE THAT MARIJUANA SHOULD BE REGULATED IN A MANNER SIMILAR TO ALCOHOL SO THAT:

(I) INDIVIDUALS WILL HAVE TO SHOW PROOF OF AGE BEFORE PURCHASING MARIJUANA;

(II) SELLING, DISTRIBUTING, OR TRANSFERRING MARIJUANA TO MINORS AND OTHER INDIVIDUALS UNDER THE AGE OF TWENTY-ONE SHALL REMAIN ILLEGAL;

(III) DRIVING UNDER THE INFLUENCE OF MARIJUANA SHALL REMAIN ILLEGAL;

(IV) LEGITIMATE, TAXPAYING BUSINESS PEOPLE, AND NOT CRIMINAL ACTORS, WILL CONDUCT SALES OF MARIJUANA; AND

(V) MARIJUANA SOLD IN THIS STATE WILL BE LABELED AND SUBJECT TO ADDITIONAL REGULATIONS TO ENSURE THAT CONSUMERS ARE INFORMED AND PROTECTED.

(c) THE PEOPLE OF THE STATE OF COLORADO FURTHER FIND AND DECLARE THAT IT IS NECESSARY TO ENSURE CONSISTENCY AND FAIRNESS IN THE APPLICATION OF THIS SECTION THROUGHOUT THE STATE AND THAT, THEREFORE, THE MATTERS ADDRESSED BY THIS SECTION ARE, EXCEPT AS SPECIFIED HEREIN, MATTERS OF STATEWIDE CONCERN.

**(2) Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES,

(a) "COLORADO MEDICAL MARIJUANA CODE" MEANS ARTICLE 43.3 OF TITLE 12, COLORADO REVISED STATUTES.

(b) "CONSUMER" MEANS A PERSON TWENTY-ONE YEARS OF AGE OR OLDER WHO PURCHASES MARIJUANA OR MARIJUANA PRODUCTS FOR PERSONAL USE BY PERSONS TWENTY-ONE YEARS OF AGE OR OLDER, BUT NOT FOR RESALE TO OTHERS.

(c) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE OR ITS SUCCESSOR AGENCY.

(d) "LOCALITY" MEANS A COUNTY, MUNICIPALITY, OR CITY AND COUNTY.

(e) "MARIJUANA" OR "MARIHUANA" MEANS ALL PARTS OF THE PLANT OF THE GENUS CANNABIS WHETHER GROWING OR NOT, THE SEEDS THEREOF, THE RESIN EXTRACTED FROM ANY PART OF THE PLANT, AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF THE PLANT, ITS SEEDS, OR ITS RESIN, INCLUDING MARIHUANA CONCENTRATE. "MARIJUANA" OR "MARIHUANA" DOES NOT INCLUDE FIBER PRODUCED FROM THE STALKS, OIL, OR CAKE MADE FROM THE SEEDS OF THE PLANT, STERILIZED SEED OF THE PLANT WHICH IS INCAPABLE OF GERMINATION, OR THE

WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH MARIJUANA TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK, OR OTHER PRODUCT.

(f) "MARIJUANA ACCESSORIES" MEANS ANY EQUIPMENT, PRODUCTS, OR MATERIALS OF ANY KIND WHICH ARE USED, INTENDED FOR USE, OR DESIGNED FOR USE IN PLANTING, PROPAGATING, CULTIVATING, GROWING, HARVESTING, COMPOSTING, MANUFACTURING, COMPOUNDING, CONVERTING, PRODUCING, PROCESSING, PREPARING, TESTING, ANALYZING, PACKAGING, REPACKAGING, STORING, VAPORIZING, OR CONTAINING MARIJUANA, OR FOR INGESTING, INHALING, OR OTHERWISE INTRODUCING MARIJUANA INTO THE HUMAN BODY.

(g) "MARIJUANA CULTIVATION FACILITY" MEANS AN ENTITY LICENSED TO CULTIVATE, PREPARE, AND PACKAGE MARIJUANA AND SELL MARIJUANA TO RETAIL MARIJUANA STORES, TO MARIJUANA PRODUCT MANUFACTURING FACILITIES, AND TO OTHER MARIJUANA CULTIVATION FACILITIES, BUT NOT TO CONSUMERS.

(h) "MARIJUANA ESTABLISHMENT" MEANS A MARIJUANA CULTIVATION FACILITY, A MARIJUANA TESTING FACILITY, A MARIJUANA PRODUCT MANUFACTURING FACILITY, OR A RETAIL MARIJUANA STORE.

(i) "MARIJUANA PRODUCT MANUFACTURING FACILITY" MEANS AN ENTITY LICENSED TO PURCHASE MARIJUANA; MANUFACTURE, PREPARE, AND PACKAGE MARIJUANA PRODUCTS; AND SELL MARIJUANA AND MARIJUANA PRODUCTS TO OTHER MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO RETAIL MARIJUANA STORES, BUT NOT TO CONSUMERS.

(j) "MARIJUANA PRODUCTS" MEANS CONCENTRATED MARIJUANA PRODUCTS AND MARIJUANA PRODUCTS THAT ARE COMPRISED OF MARIJUANA AND OTHER INGREDIENTS AND ARE INTENDED FOR USE OR CONSUMPTION, SUCH AS, BUT NOT LIMITED TO, EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES.

(k) "MARIJUANA TESTING FACILITY" MEANS AN ENTITY LICENSED TO ANALYZE AND CERTIFY THE SAFETY AND POTENCY OF MARIJUANA.

(l) "MEDICAL MARIJUANA CENTER" MEANS AN ENTITY LICENSED BY A STATE AGENCY TO SELL MARIJUANA AND MARIJUANA PRODUCTS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

(m) "RETAIL MARIJUANA STORE" MEANS AN ENTITY LICENSED TO PURCHASE MARIJUANA FROM MARIJUANA CULTIVATION FACILITIES AND MARIJUANA AND MARIJUANA PRODUCTS FROM MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS.

(n) "UNREASONABLY IMPRACTICABLE" MEANS THAT THE MEASURES NECESSARY TO COMPLY WITH THE REGULATIONS REQUIRE SUCH A HIGH INVESTMENT OF RISK, MONEY, TIME, OR ANY OTHER RESOURCE OR ASSET THAT THE OPERATION OF A MARIJUANA ESTABLISHMENT IS NOT WORTHY OF BEING CARRIED OUT IN PRACTICE BY A REASONABLY PRUDENT BUSINESSPERSON.

**(3) Personal use of marijuana.** NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING ACTS ARE NOT UNLAWFUL AND SHALL NOT BE AN OFFENSE UNDER COLORADO LAW OR THE LAW OF ANY LOCALITY WITHIN COLORADO OR BE A BASIS FOR SEIZURE OR FORFEITURE OF ASSETS UNDER COLORADO LAW FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER:

(a) POSSESSING, USING, DISPLAYING, PURCHASING, OR TRANSPORTING MARIJUANA ACCESSORIES OR ONE OUNCE OR LESS OF MARIJUANA.

(b) POSSESSING, GROWING, PROCESSING, OR TRANSPORTING NO MORE THAN SIX MARIJUANA PLANTS, WITH THREE OR FEWER BEING MATURE, FLOWERING PLANTS, AND POSSESSION OF THE MARIJUANA PRODUCED BY THE PLANTS ON THE PREMISES WHERE THE PLANTS WERE GROWN, PROVIDED THAT THE GROWING TAKES PLACE IN AN ENCLOSED, LOCKED SPACE, IS NOT CONDUCTED OPENLY OR PUBLICLY, AND IS NOT MADE AVAILABLE FOR SALE.

(c) TRANSFER OF ONE OUNCE OR LESS OF MARIJUANA WITHOUT REMUNERATION TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

(d) CONSUMPTION OF MARIJUANA, PROVIDED THAT NOTHING IN THIS SECTION SHALL PERMIT CONSUMPTION THAT IS CONDUCTED OPENLY AND PUBLICLY OR IN A MANNER THAT ENDANGERS OTHERS.

(e) ASSISTING ANOTHER PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER IN ANY OF THE ACTS DESCRIBED IN PARAGRAPHS (a) THROUGH (d) OF THIS SUBSECTION.

**(4) Lawful operation of marijuana-related facilities.** NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING ACTS ARE NOT UNLAWFUL AND SHALL NOT BE AN OFFENSE UNDER COLORADO LAW OR BE A BASIS FOR SEIZURE OR FORFEITURE OF ASSETS UNDER COLORADO LAW FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER:

(a) MANUFACTURE, POSSESSION, OR PURCHASE OF MARIJUANA ACCESSORIES OR THE SALE OF MARIJUANA ACCESSORIES TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

(b) POSSESSING, DISPLAYING, OR TRANSPORTING MARIJUANA OR MARIJUANA PRODUCTS; PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY; PURCHASE OF MARIJUANA OR MARIJUANA PRODUCTS FROM A MARIJUANA PRODUCT MANUFACTURING FACILITY; OR SALE OF MARIJUANA OR MARIJUANA PRODUCTS TO CONSUMERS, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A RETAIL MARIJUANA STORE OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE OR AGENT OF A LICENSED RETAIL MARIJUANA STORE.

(c) CULTIVATING, HARVESTING, PROCESSING, PACKAGING, TRANSPORTING, DISPLAYING, OR POSSESSING MARIJUANA; DELIVERY OR TRANSFER OF MARIJUANA TO A MARIJUANA TESTING FACILITY; SELLING MARIJUANA TO A MARIJUANA CULTIVATION FACILITY, A MARIJUANA PRODUCT MANUFACTURING FACILITY, OR A RETAIL MARIJUANA STORE; OR THE PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A MARIJUANA CULTIVATION FACILITY OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA CULTIVATION FACILITY.

(d) PACKAGING, PROCESSING, TRANSPORTING, MANUFACTURING, DISPLAYING, OR POSSESSING MARIJUANA OR MARIJUANA PRODUCTS; DELIVERY OR TRANSFER OF MARIJUANA OR MARIJUANA PRODUCTS TO A MARIJUANA TESTING FACILITY; SELLING MARIJUANA OR MARIJUANA PRODUCTS TO A RETAIL MARIJUANA STORE OR A MARIJUANA PRODUCT MANUFACTURING FACILITY; THE PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY; OR THE PURCHASE OF MARIJUANA OR MARIJUANA PRODUCTS FROM A MARIJUANA PRODUCT MANUFACTURING FACILITY, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO



OPERATE A MARIJUANA PRODUCT MANUFACTURING FACILITY OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA PRODUCT MANUFACTURING FACILITY.

(e) POSSESSING, CULTIVATING, PROCESSING, REPACKAGING, STORING, TRANSPORTING, DISPLAYING, TRANSFERRING OR DELIVERING MARIJUANA OR MARIJUANA PRODUCTS IF THE PERSON HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A MARIJUANA TESTING FACILITY OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA TESTING FACILITY.

(f) LEASING OR OTHERWISE ALLOWING THE USE OF PROPERTY OWNED, OCCUPIED OR CONTROLLED BY ANY PERSON, CORPORATION OR OTHER ENTITY FOR ANY OF THE ACTIVITIES CONDUCTED LAWFULLY IN ACCORDANCE WITH PARAGRAPHS (a) THROUGH (e) OF THIS SUBSECTION.

**(5) Regulation of marijuana.**

(a) NOT LATER THAN JULY 1, 2013, THE DEPARTMENT SHALL ADOPT REGULATIONS NECESSARY FOR IMPLEMENTATION OF THIS SECTION. SUCH REGULATIONS SHALL NOT PROHIBIT THE OPERATION OF MARIJUANA ESTABLISHMENTS, EITHER EXPRESSLY OR THROUGH REGULATIONS THAT MAKE THEIR OPERATION UNREASONABLY IMPRACTICABLE. SUCH REGULATIONS SHALL INCLUDE:

(I) PROCEDURES FOR THE ISSUANCE, RENEWAL, SUSPENSION, AND REVOCATION OF A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT, WITH SUCH PROCEDURES SUBJECT TO ALL REQUIREMENTS OF ARTICLE 4 OF TITLE 24 OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION;

(II) A SCHEDULE OF APPLICATION, LICENSING AND RENEWAL FEES, PROVIDED, APPLICATION FEES SHALL NOT EXCEED FIVE THOUSAND DOLLARS, WITH THIS UPPER LIMIT ADJUSTED ANNUALLY FOR INFLATION, UNLESS THE DEPARTMENT DETERMINES A GREATER FEE IS NECESSARY TO CARRY OUT ITS RESPONSIBILITIES UNDER THIS SECTION, AND PROVIDED FURTHER, AN ENTITY THAT IS LICENSED UNDER THE COLORADO MEDICAL MARIJUANA CODE TO CULTIVATE OR SELL MARIJUANA OR TO MANUFACTURE MARIJUANA PRODUCTS AT THE TIME THIS SECTION TAKES EFFECT AND THAT CHOOSES TO APPLY FOR A SEPARATE MARIJUANA ESTABLISHMENT LICENSE SHALL NOT BE REQUIRED TO PAY AN APPLICATION FEE GREATER THAN FIVE HUNDRED DOLLARS TO APPLY FOR A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION;

(III) QUALIFICATIONS FOR LICENSURE THAT ARE DIRECTLY AND DEMONSTRABLY RELATED TO THE OPERATION OF A MARIJUANA ESTABLISHMENT;

(IV) SECURITY REQUIREMENTS FOR MARIJUANA ESTABLISHMENTS;

(V) REQUIREMENTS TO PREVENT THE SALE OR DIVERSION OF MARIJUANA AND MARIJUANA PRODUCTS TO PERSONS UNDER THE AGE OF TWENTY-ONE;

(VI) LABELING REQUIREMENTS FOR MARIJUANA AND MARIJUANA PRODUCTS SOLD OR DISTRIBUTED BY A MARIJUANA ESTABLISHMENT;

(VII) HEALTH AND SAFETY REGULATIONS AND STANDARDS FOR THE MANUFACTURE OF MARIJUANA PRODUCTS AND THE CULTIVATION OF MARIJUANA;

(VIII) RESTRICTIONS ON THE ADVERTISING AND DISPLAY OF MARIJUANA AND MARIJUANA PRODUCTS; AND

**(IX) CIVIL PENALTIES FOR THE FAILURE TO COMPLY WITH REGULATIONS MADE PURSUANT TO THIS SECTION.**

**(b) IN ORDER TO ENSURE THE MOST SECURE, RELIABLE, AND ACCOUNTABLE SYSTEM FOR THE PRODUCTION AND DISTRIBUTION OF MARIJUANA AND MARIJUANA PRODUCTS IN ACCORDANCE WITH THIS SUBSECTION, IN ANY COMPETITIVE APPLICATION PROCESS THE DEPARTMENT SHALL HAVE AS A PRIMARY CONSIDERATION WHETHER AN APPLICANT:**

**(I) HAS PRIOR EXPERIENCE PRODUCING OR DISTRIBUTING MARIJUANA OR MARIJUANA PRODUCTS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE IN THE LOCALITY IN WHICH THE APPLICANT SEEKS TO OPERATE A MARIJUANA ESTABLISHMENT; AND**

**(II) HAS, DURING THE EXPERIENCE DESCRIBED IN SUBPARAGRAPH (I), COMPLIED CONSISTANTLY WITH SECTION 14 OF THIS ARTICLE, THE PROVISIONS OF THE COLORADO MEDICAL MARIJUANA CODE AND CONFORMING REGULATIONS.**

**(c) IN ORDER TO ENSURE THAT INDIVIDUAL PRIVACY IS PROTECTED, NOTWITHSTANDING PARAGRAPH (a), THE DEPARTMENT SHALL NOT REQUIRE A CONSUMER TO PROVIDE A RETAIL MARIJUANA STORE WITH PERSONAL INFORMATION OTHER THAN GOVERNMENT-ISSUED IDENTIFICATION TO DETERMINE THE CONSUMER'S AGE, AND A RETAIL MARIJUANA STORE SHALL NOT BE REQUIRED TO ACQUIRE AND RECORD PERSONAL INFORMATION ABOUT CONSUMERS OTHER THAN INFORMATION TYPICALLY ACQUIRED IN A FINANCIAL TRANSACTION CONDUCTED AT A RETAIL LIQUOR STORE.**

**(d) THE GENERAL ASSEMBLY SHALL ENACT AN EXCISE TAX TO BE LEVIED UPON MARIJUANA SOLD OR OTHERWISE TRANSFERRED BY A MARIJUANA CULTIVATION FACILITY TO A MARIJUANA PRODUCT MANUFACTURING FACILITY OR TO A RETAIL MARIJUANA STORE AT A RATE NOT TO EXCEED FIFTEEN PERCENT PRIOR TO JANUARY 1, 2017 AND AT A RATE TO BE DETERMINED BY THE GENERAL ASSEMBLY THEREAFTER, AND SHALL DIRECT THE DEPARTMENT TO ESTABLISH PROCEDURES FOR THE COLLECTION OF ALL TAXES LEVIED; PROVIDED, NO SUCH EXCISE TAX SHALL BE LEVIED UPON MARIJUANA INTENDED FOR SALE AT MEDICAL MARIJUANA CENTERS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE;**

**(e) NOT LATER THAN OCTOBER 1, 2013, EACH LOCALITY SHALL ENACT AN ORDINANCE OR REGULATION SPECIFYING THE ENTITY WITHIN THE LOCALITY THAT IS RESPONSIBLE FOR PROCESSING APPLICATIONS SUBMITTED FOR A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT WITHIN THE BOUNDARIES OF THE LOCALITY AND FOR THE ISSUANCE OF SUCH LICENSES SHOULD THE ISSUANCE BY THE LOCALITY BECOME NECESSARY BECAUSE OF A FAILURE BY THE DEPARTMENT TO ADOPT REGULATIONS PURSUANT TO PARAGRAPH (a) OR BECAUSE OF A FAILURE BY THE DEPARTMENT TO PROCESS AND ISSUE LICENSES AS REQUIRED BY PARAGRAPH (g).**

**(f) A LOCALITY MAY ENACT ORDINANCES OR REGULATIONS, NOT IN CONFLICT WITH THIS SECTION OR WITH REGULATIONS OR LEGISLATION ENACTED PURSUANT TO THIS SECTION, GOVERNING THE TIME, PLACE, MANNER AND NUMBER OF MARIJUANA ESTABLISHMENT OPERATIONS; ESTABLISHING PROCEDURES FOR THE ISSUANCE,**

SUSPENSION, AND REVOCATION OF A LICENSE ISSUED BY THE LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i), SUCH PROCEDURES TO BE SUBJECT TO ALL REQUIREMENTS OF ARTICLE 4 OF TITLE 24 OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION; ESTABLISHING A SCHEDULE OF ANNUAL OPERATING, LICENSING, AND APPLICATION FEES FOR MARIJUANA ESTABLISHMENTS, PROVIDED, THE APPLICATION FEE SHALL ONLY BE DUE IF AN APPLICATION IS SUBMITTED TO A LOCALITY IN ACCORDANCE WITH PARAGRAPH (i) AND A LICENSING FEE SHALL ONLY BE DUE IF A LICENSE IS ISSUED BY A LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i); AND ESTABLISHING CIVIL PENALTIES FOR VIOLATION OF AN ORDINANCE OR REGULATION GOVERNING THE TIME, PLACE, AND MANNER OF A MARIJUANA ESTABLISHMENT THAT MAY OPERATE IN SUCH LOCALITY. A LOCALITY MAY PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES THROUGH THE ENACTMENT OF AN ORDINANCE OR THROUGH AN INITIATED OR REFERRED MEASURE; PROVIDED, ANY INITIATED OR REFERRED MEASURE TO PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES MUST APPEAR ON A GENERAL ELECTION BALLOT DURING AN EVEN NUMBERED YEAR.

(g) EACH APPLICATION FOR AN ANNUAL LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT SHALL BE SUBMITTED TO THE DEPARTMENT. THE DEPARTMENT SHALL:

(I) BEGIN ACCEPTING AND PROCESSING APPLICATIONS ON OCTOBER 1, 2013;

(II) IMMEDIATELY FORWARD A COPY OF EACH APPLICATION AND HALF OF THE LICENSE APPLICATION FEE TO THE LOCALITY IN WHICH THE APPLICANT DESIRES TO OPERATE THE MARIJUANA ESTABLISHMENT;

(III) ISSUE AN ANNUAL LICENSE TO THE APPLICANT BETWEEN FORTY-FIVE AND NINETY DAYS AFTER RECEIPT OF AN APPLICATION UNLESS THE DEPARTMENT FINDS THE APPLICANT IS NOT IN COMPLIANCE WITH REGULATIONS ENACTED PURSUANT TO PARAGRAPH (a) OR THE DEPARTMENT IS NOTIFIED BY THE RELEVANT LOCALITY THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) AND IN EFFECT AT THE TIME OF APPLICATION, PROVIDED, WHERE A LOCALITY HAS ENACTED A NUMERICAL LIMIT ON THE NUMBER OF MARIJUANA ESTABLISHMENTS AND A GREATER NUMBER OF APPLICANTS SEEK LICENSES, THE DEPARTMENT SHALL SOLICIT AND CONSIDER INPUT FROM THE LOCALITY AS TO THE LOCALITY'S PREFERENCE OR PREFERENCES FOR LICENSURE; AND

(IV) UPON DENIAL OF AN APPLICATION, NOTIFY THE APPLICANT IN WRITING OF THE SPECIFIC REASON FOR ITS DENIAL.

(h) IF THE DEPARTMENT DOES NOT ISSUE A LICENSE TO AN APPLICANT WITHIN NINETY DAYS OF RECEIPT OF THE APPLICATION FILED IN ACCORDANCE WITH PARAGRAPH (g) AND DOES NOT NOTIFY THE APPLICANT OF THE SPECIFIC REASON FOR ITS DENIAL, IN WRITING AND WITHIN SUCH TIME PERIOD, OR IF THE DEPARTMENT HAS ADOPTED REGULATIONS PURSUANT TO PARAGRAPH (a) AND HAS ACCEPTED APPLICATIONS PURSUANT TO PARAGRAPH (g) BUT HAS NOT ISSUED ANY LICENSES BY JANUARY 1, 2014, THE APPLICANT MAY RESUBMIT ITS APPLICATION DIRECTLY TO THE LOCALITY, PURSUANT TO PARAGRAPH (e), AND THE LOCALITY MAY ISSUE AN ANNUAL LICENSE TO THE APPLICANT. A

LOCALITY ISSUING A LICENSE TO AN APPLICANT SHALL DO SO WITHIN NINETY DAYS OF RECEIPT OF THE RESUBMITTED APPLICATION UNLESS THE LOCALITY FINDS AND NOTIFIES THE APPLICANT THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) IN EFFECT AT THE TIME THE APPLICATION IS RESUBMITTED AND THE LOCALITY SHALL NOTIFY THE DEPARTMENT IF AN ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT. IF AN APPLICATION IS SUBMITTED TO A LOCALITY UNDER THIS PARAGRAPH, THE DEPARTMENT SHALL FORWARD TO THE LOCALITY THE APPLICATION FEE PAID BY THE APPLICANT TO THE DEPARTMENT UPON REQUEST BY THE LOCALITY. A LICENSE ISSUED BY A LOCALITY IN ACCORDANCE WITH THIS PARAGRAPH SHALL HAVE THE SAME FORCE AND EFFECT AS A LICENSE ISSUED BY THE DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (g) AND THE HOLDER OF SUCH LICENSE SHALL NOT BE SUBJECT TO REGULATION OR ENFORCEMENT BY THE DEPARTMENT DURING THE TERM OF THAT LICENSE. A SUBSEQUENT OR RENEWED LICENSE MAY BE ISSUED UNDER THIS PARAGRAPH ON AN ANNUAL BASIS ONLY UPON RESUBMISSION TO THE LOCALITY OF A NEW APPLICATION SUBMITTED TO THE DEPARTMENT PURSUANT TO PARAGRAPH (g). NOTHING IN THIS PARAGRAPH SHALL LIMIT SUCH RELIEF AS MAY BE AVAILABLE TO AN AGGRIEVED PARTY UNDER SECTION 24-4-104, C.R.S., OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION.

(i) IF THE DEPARTMENT DOES NOT ADOPT REGULATIONS REQUIRED BY PARAGRAPH (a), AN APPLICANT MAY SUBMIT AN APPLICATION DIRECTLY TO A LOCALITY AFTER OCTOBER 1, 2013 AND THE LOCALITY MAY ISSUE AN ANNUAL LICENSE TO THE APPLICANT. A LOCALITY ISSUING A LICENSE TO AN APPLICANT SHALL DO SO WITHIN NINETY DAYS OF RECEIPT OF THE APPLICATION UNLESS IT FINDS AND NOTIFIES THE APPLICANT THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) IN EFFECT AT THE TIME OF APPLICATION AND SHALL NOTIFY THE DEPARTMENT IF AN ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT. A LICENSE ISSUED BY A LOCALITY IN ACCORDANCE WITH THIS PARAGRAPH SHALL HAVE THE SAME FORCE AND EFFECT AS A LICENSE ISSUED BY THE DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (g) AND THE HOLDER OF SUCH LICENSE SHALL NOT BE SUBJECT TO REGULATION OR ENFORCEMENT BY THE DEPARTMENT DURING THE TERM OF THAT LICENSE. A SUBSEQUENT OR RENEWED LICENSE MAY BE ISSUED UNDER THIS PARAGRAPH ON AN ANNUAL BASIS IF THE DEPARTMENT HAS NOT ADOPTED REGULATIONS REQUIRED BY PARAGRAPH (a) AT LEAST NINETY DAYS PRIOR TO THE DATE UPON WHICH SUCH SUBSEQUENT OR RENEWED LICENSE WOULD BE EFFECTIVE OR IF THE DEPARTMENT HAS ADOPTED REGULATIONS PURSUANT TO PARAGRAPH (a) BUT HAS NOT, AT LEAST NINETY DAYS AFTER THE ADOPTION OF SUCH REGULATIONS, ISSUED LICENSES PURSUANT TO PARAGRAPH (g).

**(6) Employers, driving, minors and control of property.**

(a) NOTHING IN THIS SECTION IS INTENDED TO REQUIRE AN EMPLOYER TO PERMIT OR ACCOMMODATE THE USE, CONSUMPTION, POSSESSION, TRANSFER, DISPLAY, TRANSPORTATION, SALE OR GROWING OF MARIJUANA IN THE WORKPLACE OR TO AFFECT THE ABILITY OF EMPLOYERS TO HAVE POLICIES RESTRICTING THE USE OF MARIJUANA BY EMPLOYEES.

(b) NOTHING IN THIS SECTION IS INTENDED TO ALLOW DRIVING UNDER THE INFLUENCE OF MARIJUANA OR DRIVING WHILE IMPAIRED BY MARIJUANA OR TO SUPERSEDE STATUTORY LAWS RELATED TO DRIVING UNDER THE INFLUENCE OF MARIJUANA OR DRIVING WHILE IMPAIRED BY MARIJUANA, NOR SHALL THIS SECTION PREVENT THE STATE FROM ENACTING AND IMPOSING PENALTIES FOR DRIVING UNDER THE INFLUENCE OF OR WHILE IMPAIRED BY MARIJUANA.

(c) NOTHING IN THIS SECTION IS INTENDED TO PERMIT THE TRANSFER OF MARIJUANA, WITH OR WITHOUT REMUNERATION, TO A PERSON UNDER THE AGE OF TWENTY-ONE OR TO ALLOW A PERSON UNDER THE AGE OF TWENTY-ONE TO PURCHASE, POSSESS, USE, TRANSPORT, GROW, OR CONSUME MARIJUANA.

(d) NOTHING IN THIS SECTION SHALL PROHIBIT A PERSON, EMPLOYER, SCHOOL, HOSPITAL, DETENTION FACILITY, CORPORATION OR ANY OTHER ENTITY WHO OCCUPIES, OWNS OR CONTROLS A PROPERTY FROM PROHIBITING OR OTHERWISE REGULATING THE POSSESSION, CONSUMPTION, USE, DISPLAY, TRANSFER, DISTRIBUTION, SALE, TRANSPORTATION, OR GROWING OF MARIJUANA ON OR IN THAT PROPERTY.

**(7) Medical marijuana provisions unaffected.** NOTHING IN THIS SECTION SHALL BE CONSTRUED:

(a) TO LIMIT ANY PRIVILEGES OR RIGHTS OF A MEDICAL MARIJUANA PATIENT, PRIMARY CAREGIVER, OR LICENSED ENTITY AS PROVIDED IN SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE;

(b) TO PERMIT A MEDICAL MARIJUANA CENTER TO DISTRIBUTE MARIJUANA TO A PERSON WHO IS NOT A MEDICAL MARIJUANA PATIENT;

(c) TO PERMIT A MEDICAL MARIJUANA CENTER TO PURCHASE MARIJUANA OR MARIJUANA PRODUCTS IN A MANNER OR FROM A SOURCE NOT AUTHORIZED UNDER THE COLORADO MEDICAL MARIJUANA CODE;

(d) TO PERMIT ANY MEDICAL MARIJUANA CENTER LICENSED PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE TO OPERATE ON THE SAME PREMISES AS A RETAIL MARIJUANA STORE.; OR

(e) TO DISCHARGE THE DEPARTMENT, THE COLORADO BOARD OF HEALTH, OR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FROM THEIR STATUTORY AND CONSTITUTIONAL DUTIES TO REGULATE MEDICAL MARIJUANA PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

**(8) Self-executing, severability, conflicting provisions.** ALL PROVISIONS OF THIS SECTION ARE SELF-EXECUTING EXCEPT AS SPECIFIED HEREIN, ARE SEVERABLE, AND, EXCEPT WHERE OTHERWISE INDICATED IN THE TEXT, SHALL SUPERSEDE CONFLICTING STATE STATUTORY, LOCAL CHARTER, ORDINANCE, OR RESOLUTION, AND OTHER STATE AND LOCAL PROVISIONS.

**(9) Effective date.** UNLESS OTHERWISE PROVIDED BY THIS SECTION, ALL PROVISIONS OF THIS SECTION SHALL BECOME EFFECTIVE UPON OFFICIAL DECLARATION OF THE VOTE HEREON BY PROCLAMATION OF THE GOVERNOR, PURSUANT TO SECTION 1(4) OF ARTICLE V.

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**Proponent Representative 1**

**Name:** Mason Tvert  
**Physical Address:** 1441 Humboldt Street #101, Denver, Colorado 80218  
**Mailing Address:** P.O. Box 40332, Denver, Colorado 80204  
**Phone:** 303-861-0033  
**Fax:** 303-861-0915  
**E-mail:** mason@saferchoice.org

**Proponent Representative 2**

**Name:** Brian Vicente  
**Physical Address:** 949 B Pennsylvania St., Denver, Colorado 80203  
**Mailing Address:** P.O. Box 18768, Denver, Colorado 80218  
**Phone:** 303-860-4501  
**Fax:** 303-860-4505  
**E-mail:** brian@sensiblecolorado.org

**Ballot Title Setting Board**

**Proposed Initiative 2011-2012 #32<sup>1</sup>**

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.*

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<sup>1</sup> 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.



**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 text, motion for rehearing, titles, and the rulings thereon of the Title Board on Proposed Initiative "2011-2012 #33".....

..... **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 8<sup>th</sup> day of July, 2011.

A handwritten signature in cursive script, appearing to read "Scott Gessler", is written over a horizontal line.

SECRETARY OF STATE



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MOTION FOR REHEARING

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June 22, 2011

Colorado Secretary of State  
Attn: Title Board  
1700 Broadway, Suite 200  
Denver, CO 80290  
Phone: (303) 894-2200, press "3"  
Fax: (303) 869-4861  
Web: [www.sos.state.co.us](http://www.sos.state.co.us)  
Email: [initiatives@sos.state.co.us](mailto:initiatives@sos.state.co.us)

RECEIVED

JUN 22 2011 3:57 P.M.

Colorado Secretary of State

Dear Sirs:

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

1. The title is misleading.

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

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

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

II. The titles include an impermissible catch phrase

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

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

Sincerely,

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

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Certificate of Service

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

**Cesiah Gomez**

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

To whom it may concern,

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

Sincerely,

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

RECEIVED

JUN 03 2011  
1:24 PM

Be it Enacted by the People of the State of Colorado  
Colorado Secretary of State

Article XVIII of the constitution of the state of Colorado is amended BY THE ADDITION OF A NEW SECTION to read:

**Section 16. Personal use and regulation of marijuana**

**(1) Purpose and findings.**

(a) IN THE INTEREST OF THE EFFICIENT USE OF LAW ENFORCEMENT RESOURCES, ENHANCING REVENUE FOR PUBLIC PURPOSES, AND INDIVIDUAL FREEDOM, THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT THE USE OF MARIJUANA SHOULD BE LEGAL FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER AND TAXED IN A MANNER SIMILAR TO ALCOHOL.

(b) IN THE INTEREST OF THE HEALTH AND PUBLIC SAFETY OF OUR CITIZENRY, THE PEOPLE OF THE STATE OF COLORADO FURTHER FIND AND DECLARE THAT MARIJUANA SHOULD BE REGULATED IN A MANNER SIMILAR TO ALCOHOL SO THAT:

- (I) INDIVIDUALS WILL HAVE TO SHOW PROOF OF AGE BEFORE PURCHASING MARIJUANA;
- (II) SELLING, DISTRIBUTING, OR TRANSFERRING MARIJUANA TO MINORS AND OTHER INDIVIDUALS UNDER THE AGE OF TWENTY-ONE SHALL REMAIN ILLEGAL;
- (III) DRIVING UNDER THE INFLUENCE OF MARIJUANA SHALL REMAIN ILLEGAL;
- (IV) LEGITIMATE, TAXPAYING BUSINESS PEOPLE, AND NOT CRIMINAL ACTORS, WILL CONDUCT SALES OF MARIJUANA; AND
- (V) MARIJUANA SOLD IN THIS STATE WILL BE LABELED AND SUBJECT TO ADDITIONAL REGULATIONS TO ENSURE THAT CONSUMERS ARE INFORMED AND PROTECTED.

(c) THE PEOPLE OF THE STATE OF COLORADO FURTHER FIND AND DECLARE THAT IT IS NECESSARY TO ENSURE CONSISTENCY AND FAIRNESS IN THE APPLICATION OF THIS SECTION THROUGHOUT THE STATE AND THAT, THEREFORE, THE MATTERS ADDRESSED BY THIS SECTION ARE, EXCEPT AS SPECIFIED HEREIN, MATTERS OF STATEWIDE CONCERN.

**(2) Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES,

(a) "COLORADO MEDICAL MARIJUANA CODE" MEANS ARTICLE 43.3 OF TITLE 12, COLORADO REVISED STATUTES.

(b) "CONSUMER" MEANS A PERSON TWENTY-ONE YEARS OF AGE OR OLDER WHO PURCHASES MARIJUANA OR MARIJUANA PRODUCTS FOR PERSONAL USE BY PERSONS TWENTY-ONE YEARS OF AGE OR OLDER, BUT NOT FOR RESALE TO OTHERS.

(c) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE OR ITS SUCCESSOR AGENCY.

(d) "LOCALITY" MEANS A COUNTY, MUNICIPALITY, OR CITY AND COUNTY.

(e) "MARIJUANA" OR "MARIHUANA" MEANS ALL PARTS OF THE PLANT OF THE GENUS CANNABIS WHETHER GROWING OR NOT, THE SEEDS THEREOF, THE RESIN EXTRACTED FROM ANY PART OF THE PLANT, AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF THE PLANT, ITS SEEDS, OR ITS RESIN, INCLUDING MARIHUANA CONCENTRATE. "MARIJUANA" OR "MARIHUANA" DOES NOT INCLUDE FIBER PRODUCED FROM THE STALKS, OIL, OR CAKE MADE FROM THE SEEDS OF THE PLANT, STERILIZED SEED OF THE PLANT WHICH IS INCAPABLE OF GERMINATION, OR THE

WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH MARIJUANA TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK, OR OTHER PRODUCT.

(f) "MARIJUANA ACCESSORIES" MEANS ANY EQUIPMENT, PRODUCTS, OR MATERIALS OF ANY KIND WHICH ARE USED, INTENDED FOR USE, OR DESIGNED FOR USE IN PLANTING, PROPAGATING, CULTIVATING, GROWING, HARVESTING, COMPOSTING, MANUFACTURING, COMPOUNDING, CONVERTING, PRODUCING, PROCESSING, PREPARING, TESTING, ANALYZING, PACKAGING, REPACKAGING, STORING, VAPORIZING, OR CONTAINING MARIJUANA, OR FOR INGESTING, INHALING, OR OTHERWISE INTRODUCING MARIJUANA INTO THE HUMAN BODY.

(g) "MARIJUANA CULTIVATION FACILITY" MEANS AN ENTITY LICENSED TO CULTIVATE, PREPARE, AND PACKAGE MARIJUANA AND SELL MARIJUANA TO RETAIL MARIJUANA STORES, TO MARIJUANA PRODUCT MANUFACTURING FACILITIES, AND TO OTHER MARIJUANA CULTIVATION FACILITIES, BUT NOT TO CONSUMERS.

(h) "MARIJUANA ESTABLISHMENT" MEANS A MARIJUANA CULTIVATION FACILITY, A MARIJUANA TESTING FACILITY, A MARIJUANA PRODUCT MANUFACTURING FACILITY, OR A RETAIL MARIJUANA STORE.

(i) "MARIJUANA PRODUCT MANUFACTURING FACILITY" MEANS AN ENTITY LICENSED TO PURCHASE MARIJUANA; MANUFACTURE, PREPARE, AND PACKAGE MARIJUANA PRODUCTS; AND SELL MARIJUANA AND MARIJUANA PRODUCTS TO OTHER MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO RETAIL MARIJUANA STORES, BUT NOT TO CONSUMERS.

(j) "MARIJUANA PRODUCTS" MEANS CONCENTRATED MARIJUANA PRODUCTS AND MARIJUANA PRODUCTS THAT ARE COMPRISED OF MARIJUANA AND OTHER INGREDIENTS AND ARE INTENDED FOR USE OR CONSUMPTION, SUCH AS, BUT NOT LIMITED TO, EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES.

(k) "MARIJUANA TESTING FACILITY" MEANS AN ENTITY LICENSED TO ANALYZE AND CERTIFY THE SAFETY AND POTENCY OF MARIJUANA.

(l) "MEDICAL MARIJUANA CENTER" MEANS AN ENTITY LICENSED BY A STATE AGENCY TO SELL MARIJUANA AND MARIJUANA PRODUCTS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

(m) "RETAIL MARIJUANA STORE" MEANS AN ENTITY LICENSED TO PURCHASE MARIJUANA FROM MARIJUANA CULTIVATION FACILITIES AND MARIJUANA AND MARIJUANA PRODUCTS FROM MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS.

(n) "UNREASONABLY IMPRACTICABLE" MEANS THAT THE MEASURES NECESSARY TO COMPLY WITH THE REGULATIONS REQUIRE SUCH A HIGH INVESTMENT OF RISK, MONEY, TIME, OR ANY OTHER RESOURCE OR ASSET THAT THE OPERATION OF A MARIJUANA ESTABLISHMENT IS NOT WORTHY OF BEING CARRIED OUT IN PRACTICE BY A REASONABLY PRUDENT BUSINESSPERSON.

**(3) Personal use of marijuana.** NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING ACTS ARE NOT UNLAWFUL AND SHALL NOT BE AN OFFENSE UNDER COLORADO LAW OR THE LAW OF ANY LOCALITY WITHIN COLORADO OR BE A BASIS FOR SEIZURE OR FORFEITURE OF ASSETS UNDER COLORADO LAW FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER:

(a) POSSESSING, USING, DISPLAYING, PURCHASING, OR TRANSPORTING MARIJUANA ACCESSORIES OR ONE OUNCE OR LESS OF MARIJUANA.

(b) POSSESSING, GROWING, PROCESSING, OR TRANSPORTING NO MORE THAN SIX MARIJUANA PLANTS, WITH THREE OR FEWER BEING MATURE, FLOWERING PLANTS, AND POSSESSION OF THE MARIJUANA PRODUCED BY THE PLANTS ON THE PREMISES WHERE THE PLANTS WERE GROWN, PROVIDED THAT THE GROWING TAKES PLACE IN AN ENCLOSED, LOCKED SPACE, IS NOT CONDUCTED OPENLY OR PUBLICLY, AND IS NOT MADE AVAILABLE FOR SALE.

(c) TRANSFER OF ONE OUNCE OR LESS OF MARIJUANA WITHOUT REMUNERATION TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

(d) CONSUMPTION OF MARIJUANA, PROVIDED THAT NOTHING IN THIS SECTION SHALL PERMIT CONSUMPTION THAT IS CONDUCTED OPENLY AND PUBLICLY OR IN A MANNER THAT ENDANGERS OTHERS.

(e) ASSISTING ANOTHER PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER IN ANY OF THE ACTS DESCRIBED IN PARAGRAPHS (a) THROUGH (d) OF THIS SUBSECTION.

**(4) Lawful operation of marijuana-related facilities.** NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING ACTS ARE NOT UNLAWFUL AND SHALL NOT BE AN OFFENSE UNDER COLORADO LAW OR BE A BASIS FOR SEIZURE OR FORFEITURE OF ASSETS UNDER COLORADO LAW FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER:

(a) MANUFACTURE, POSSESSION, OR PURCHASE OF MARIJUANA ACCESSORIES OR THE SALE OF MARIJUANA ACCESSORIES TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

(b) POSSESSING, DISPLAYING, OR TRANSPORTING MARIJUANA OR MARIJUANA PRODUCTS; PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY; PURCHASE OF MARIJUANA OR MARIJUANA PRODUCTS FROM A MARIJUANA PRODUCT MANUFACTURING FACILITY; OR SALE OF MARIJUANA OR MARIJUANA PRODUCTS TO CONSUMERS, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A RETAIL MARIJUANA STORE OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE OR AGENT OF A LICENSED RETAIL MARIJUANA STORE.

(c) CULTIVATING, HARVESTING, PROCESSING, PACKAGING, TRANSPORTING, DISPLAYING, OR POSSESSING MARIJUANA; DELIVERY OR TRANSFER OF MARIJUANA TO A MARIJUANA TESTING FACILITY; SELLING MARIJUANA TO A MARIJUANA CULTIVATION FACILITY, A MARIJUANA PRODUCT MANUFACTURING FACILITY, OR A RETAIL MARIJUANA STORE; OR THE PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A MARIJUANA CULTIVATION FACILITY OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA CULTIVATION FACILITY.

(d) PACKAGING, PROCESSING, TRANSPORTING, MANUFACTURING, DISPLAYING, OR POSSESSING MARIJUANA OR MARIJUANA PRODUCTS; DELIVERY OR TRANSFER OF MARIJUANA OR MARIJUANA PRODUCTS TO A MARIJUANA TESTING FACILITY; SELLING MARIJUANA OR MARIJUANA PRODUCTS TO A RETAIL MARIJUANA STORE OR A MARIJUANA PRODUCT MANUFACTURING FACILITY; THE PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY; OR THE PURCHASE OF MARIJUANA OR MARIJUANA PRODUCTS FROM A MARIJUANA PRODUCT MANUFACTURING FACILITY, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO

OPERATE A MARIJUANA PRODUCT MANUFACTURING FACILITY OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA PRODUCT MANUFACTURING FACILITY.

(e) POSSESSING, CULTIVATING, PROCESSING, REPACKAGING, STORING, TRANSPORTING, DISPLAYING, TRANSFERRING OR DELIVERING MARIJUANA OR MARIJUANA PRODUCTS IF THE PERSON HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A MARIJUANA TESTING FACILITY OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA TESTING FACILITY.

(f) LEASING OR OTHERWISE ALLOWING THE USE OF PROPERTY OWNED, OCCUPIED OR CONTROLLED BY ANY PERSON, CORPORATION OR OTHER ENTITY FOR ANY OF THE ACTIVITIES CONDUCTED LAWFULLY IN ACCORDANCE WITH PARAGRAPHS (a) THROUGH (e) OF THIS SUBSECTION.

**(5) Regulation of marijuana.**

(a) NOT LATER THAN JULY 1, 2013, THE DEPARTMENT SHALL ADOPT REGULATIONS NECESSARY FOR IMPLEMENTATION OF THIS SECTION. SUCH REGULATIONS SHALL NOT PROHIBIT THE OPERATION OF MARIJUANA ESTABLISHMENTS, EITHER EXPRESSLY OR THROUGH REGULATIONS THAT MAKE THEIR OPERATION UNREASONABLY IMPRACTICABLE. SUCH REGULATIONS SHALL INCLUDE:

(I) PROCEDURES FOR THE ISSUANCE, RENEWAL, SUSPENSION, AND REVOCATION OF A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT, WITH SUCH PROCEDURES SUBJECT TO ALL REQUIREMENTS OF ARTICLE 4 OF TITLE 24 OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION;

(II) A SCHEDULE OF APPLICATION, LICENSING AND RENEWAL FEES, PROVIDED, APPLICATION FEES SHALL NOT EXCEED FIVE THOUSAND DOLLARS, WITH THIS UPPER LIMIT ADJUSTED ANNUALLY FOR INFLATION, UNLESS THE DEPARTMENT DETERMINES A GREATER FEE IS NECESSARY TO CARRY OUT ITS RESPONSIBILITIES UNDER THIS SECTION, AND PROVIDED FURTHER, AN ENTITY THAT IS LICENSED UNDER THE COLORADO MEDICAL MARIJUANA CODE TO CULTIVATE OR SELL MARIJUANA OR TO MANUFACTURE MARIJUANA PRODUCTS AT THE TIME THIS SECTION TAKES EFFECT AND THAT CHOOSES TO APPLY FOR A SEPARATE MARIJUANA ESTABLISHMENT LICENSE SHALL NOT BE REQUIRED TO PAY AN APPLICATION FEE GREATER THAN FIVE HUNDRED DOLLARS TO APPLY FOR A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION;

(III) QUALIFICATIONS FOR LICENSURE THAT ARE DIRECTLY AND DEMONSTRABLY RELATED TO THE OPERATION OF A MARIJUANA ESTABLISHMENT;

(IV) SECURITY REQUIREMENTS FOR MARIJUANA ESTABLISHMENTS;

(V) REQUIREMENTS TO PREVENT THE SALE OR DIVERSION OF MARIJUANA AND MARIJUANA PRODUCTS TO PERSONS UNDER THE AGE OF TWENTY-ONE;

(VI) LABELING REQUIREMENTS FOR MARIJUANA AND MARIJUANA PRODUCTS SOLD OR DISTRIBUTED BY A MARIJUANA ESTABLISHMENT;

(VII) HEALTH AND SAFETY REGULATIONS AND STANDARDS FOR THE MANUFACTURE OF MARIJUANA PRODUCTS AND THE CULTIVATION OF MARIJUANA;

(VIII) RESTRICTIONS ON THE ADVERTISING AND DISPLAY OF MARIJUANA AND MARIJUANA PRODUCTS; AND

(IX) CIVIL PENALTIES FOR THE FAILURE TO COMPLY WITH REGULATIONS MADE PURSUANT TO THIS SECTION.

(b) IN ORDER TO ENSURE THE MOST SECURE, RELIABLE, AND ACCOUNTABLE SYSTEM FOR THE PRODUCTION AND DISTRIBUTION OF MARIJUANA AND MARIJUANA PRODUCTS IN ACCORDANCE WITH THIS SUBSECTION, IN ANY COMPETITIVE APPLICATION PROCESS THE DEPARTMENT SHALL HAVE AS A PRIMARY CONSIDERATION WHETHER AN APPLICANT:

(I) HAS PRIOR EXPERIENCE PRODUCING OR DISTRIBUTING MARIJUANA OR MARIJUANA PRODUCTS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE IN THE LOCALITY IN WHICH THE APPLICANT SEEKS TO OPERATE A MARIJUANA ESTABLISHMENT; AND

(II) HAS, DURING THE EXPERIENCE DESCRIBED IN SUBPARAGRAPH (I), COMPLIED CONSISTANTLY WITH SECTION 14 OF THIS ARTICLE, THE PROVISIONS OF THE COLORADO MEDICAL MARIJUANA CODE AND CONFORMING REGULATIONS.

(c) IN ORDER TO ENSURE THAT INDIVIDUAL PRIVACY IS PROTECTED, NOTWITHSTANDING PARAGRAPH (a), THE DEPARTMENT SHALL NOT REQUIRE A CONSUMER TO PROVIDE A RETAIL MARIJUANA STORE WITH PERSONAL INFORMATION OTHER THAN GOVERNMENT-ISSUED IDENTIFICATION TO DETERMINE THE CONSUMER'S AGE, AND A RETAIL MARIJUANA STORE SHALL NOT BE REQUIRED TO ACQUIRE AND RECORD PERSONAL INFORMATION ABOUT CONSUMERS OTHER THAN INFORMATION TYPICALLY ACQUIRED IN A FINANCIAL TRANSACTION CONDUCTED AT A RETAIL LIQUOR STORE.

(d) THE GENERAL ASSEMBLY MAY ENACT AN EXCISE TAX TO BE LEVIED UPON MARIJUANA SOLD OR OTHERWISE TRANSFERRED BY A MARIJUANA CULTIVATION FACILITY TO A MARIJUANA PRODUCT MANUFACTURING FACILITY OR TO A RETAIL MARIJUANA STORE AT A RATE NOT TO EXCEED FIFTEEN PERCENT PRIOR TO JANUARY 1, 2017 AND AT A RATE TO BE DETERMINED BY THE GENERAL ASSEMBLY THEREAFTER, AND, IF AN EXCISE TAX IS ENACTED, SHALL DIRECT THE DEPARTMENT TO ESTABLISH PROCEDURES FOR THE COLLECTION OF ALL TAXES LEVIED. PROVIDED, THE FIRST FORTY MILLION DOLLARS IN REVENUE RAISED ANNUALLY FROM ANY SUCH EXCISE TAX SHALL BE CREDITED TO THE PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE FUND CREATED BY ARTICLE 43.7 OF TITLE 22, C.R.S., OR ANY SUCCESSOR FUND DEDICATED TO A SIMILAR PURPOSE. PROVIDED FURTHER, NO SUCH EXCISE TAX SHALL BE LEVIED UPON MARIJUANA INTENDED FOR SALE AT MEDICAL MARIJUANA CENTERS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE;

(e) NOT LATER THAN OCTOBER 1, 2013, EACH LOCALITY SHALL ENACT AN ORDINANCE OR REGULATION SPECIFYING THE ENTITY WITHIN THE LOCALITY THAT IS RESPONSIBLE FOR PROCESSING APPLICATIONS SUBMITTED FOR A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT WITHIN THE BOUNDARIES OF THE LOCALITY AND FOR THE ISSUANCE OF SUCH LICENSES SHOULD THE ISSUANCE BY THE LOCALITY BECOME NECESSARY BECAUSE OF A FAILURE BY THE DEPARTMENT TO ADOPT REGULATIONS PURSUANT TO PARAGRAPH (a) OR BECAUSE OF A FAILURE BY THE DEPARTMENT TO PROCESS AND ISSUE LICENSES AS REQUIRED BY PARAGRAPH (g).



(f) A LOCALITY MAY ENACT ORDINANCES OR REGULATIONS, NOT IN CONFLICT WITH THIS SECTION OR WITH REGULATIONS OR LEGISLATION ENACTED PURSUANT TO THIS SECTION, GOVERNING THE TIME, PLACE, MANNER AND NUMBER OF MARIJUANA ESTABLISHMENT OPERATIONS; ESTABLISHING PROCEDURES FOR THE ISSUANCE, SUSPENSION, AND REVOCATION OF A LICENSE ISSUED BY THE LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i), SUCH PROCEDURES TO BE SUBJECT TO ALL REQUIREMENTS OF ARTICLE 4 OF TITLE 24 OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION; ESTABLISHING A SCHEDULE OF ANNUAL OPERATING, LICENSING, AND APPLICATION FEES FOR MARIJUANA ESTABLISHMENTS, PROVIDED, THE APPLICATION FEE SHALL ONLY BE DUE IF AN APPLICATION IS SUBMITTED TO A LOCALITY IN ACCORDANCE WITH PARAGRAPH (i) AND A LICENSING FEE SHALL ONLY BE DUE IF A LICENSE IS ISSUED BY A LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i); AND ESTABLISHING CIVIL PENALTIES FOR VIOLATION OF AN ORDINANCE OR REGULATION GOVERNING THE TIME, PLACE, AND MANNER OF A MARIJUANA ESTABLISHMENT THAT MAY OPERATE IN SUCH LOCALITY. A LOCALITY MAY PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES THROUGH THE ENACTMENT OF AN ORDINANCE OR THROUGH AN INITIATED OR REFERRED MEASURE; PROVIDED, ANY INITIATED OR REFERRED MEASURE TO PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES MUST APPEAR ON A GENERAL ELECTION BALLOT DURING AN EVEN NUMBERED YEAR.

(g) EACH APPLICATION FOR AN ANNUAL LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT SHALL BE SUBMITTED TO THE DEPARTMENT. THE DEPARTMENT SHALL:

(I) BEGIN ACCEPTING AND PROCESSING APPLICATIONS ON OCTOBER 1, 2013;

(II) IMMEDIATELY FORWARD A COPY OF EACH APPLICATION AND HALF OF THE LICENSE APPLICATION FEE TO THE LOCALITY IN WHICH THE APPLICANT DESIRES TO OPERATE THE MARIJUANA ESTABLISHMENT;

(III) ISSUE AN ANNUAL LICENSE TO THE APPLICANT BETWEEN FORTY-FIVE AND NINETY DAYS AFTER RECEIPT OF AN APPLICATION UNLESS THE DEPARTMENT FINDS THE APPLICANT IS NOT IN COMPLIANCE WITH REGULATIONS ENACTED PURSUANT TO PARAGRAPH (a) OR THE DEPARTMENT IS NOTIFIED BY THE RELEVANT LOCALITY THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) AND IN EFFECT AT THE TIME OF APPLICATION, PROVIDED, WHERE A LOCALITY HAS ENACTED A NUMERICAL LIMIT ON THE NUMBER OF MARIJUANA ESTABLISHMENTS AND A GREATER NUMBER OF APPLICANTS SEEK LICENSES, THE DEPARTMENT SHALL SOLICIT AND CONSIDER INPUT FROM THE LOCALITY AS TO THE LOCALITY'S PREFERENCE OR PREFERENCES FOR LICENSURE; AND

(IV) UPON DENIAL OF AN APPLICATION, NOTIFY THE APPLICANT IN WRITING OF THE SPECIFIC REASON FOR ITS DENIAL.

(h) IF THE DEPARTMENT DOES NOT ISSUE A LICENSE TO AN APPLICANT WITHIN NINETY DAYS OF RECEIPT OF THE APPLICATION FILED IN ACCORDANCE WITH PARAGRAPH (g) AND DOES NOT NOTIFY THE APPLICANT OF THE SPECIFIC REASON FOR ITS DENIAL, IN WRITING AND WITHIN SUCH TIME PERIOD, OR IF THE DEPARTMENT HAS ADOPTED

REGULATIONS PURSUANT TO PARAGRAPH (a) AND HAS ACCEPTED APPLICATIONS PURSUANT TO PARAGRAPH (g) BUT HAS NOT ISSUED ANY LICENSES BY JANUARY 1, 2014, THE APPLICANT MAY RESUBMIT ITS APPLICATION DIRECTLY TO THE LOCALITY, PURSUANT TO PARAGRAPH (e), AND THE LOCALITY MAY ISSUE AN ANNUAL LICENSE TO THE APPLICANT. A LOCALITY ISSUING A LICENSE TO AN APPLICANT SHALL DO SO WITHIN NINETY DAYS OF RECEIPT OF THE RESUBMITTED APPLICATION UNLESS THE LOCALITY FINDS AND NOTIFIES THE APPLICANT THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) IN EFFECT AT THE TIME THE APPLICATION IS RESUBMITTED AND THE LOCALITY SHALL NOTIFY THE DEPARTMENT IF AN ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT. IF AN APPLICATION IS SUBMITTED TO A LOCALITY UNDER THIS PARAGRAPH, THE DEPARTMENT SHALL FORWARD TO THE LOCALITY THE APPLICATION FEE PAID BY THE APPLICANT TO THE DEPARTMENT UPON REQUEST BY THE LOCALITY. A LICENSE ISSUED BY A LOCALITY IN ACCORDANCE WITH THIS PARAGRAPH SHALL HAVE THE SAME FORCE AND EFFECT AS A LICENSE ISSUED BY THE DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (g) AND THE HOLDER OF SUCH LICENSE SHALL NOT BE SUBJECT TO REGULATION OR ENFORCEMENT BY THE DEPARTMENT DURING THE TERM OF THAT LICENSE. A SUBSEQUENT OR RENEWED LICENSE MAY BE ISSUED UNDER THIS PARAGRAPH ON AN ANNUAL BASIS ONLY UPON RESUBMISSION TO THE LOCALITY OF A NEW APPLICATION SUBMITTED TO THE DEPARTMENT PURSUANT TO PARAGRAPH (g). NOTHING IN THIS PARAGRAPH SHALL LIMIT SUCH RELIEF AS MAY BE AVAILABLE TO AN AGGRIEVED PARTY UNDER SECTION 24-4-104, C.R.S., OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION.

(i) IF THE DEPARTMENT DOES NOT ADOPT REGULATIONS REQUIRED BY PARAGRAPH (a), AN APPLICANT MAY SUBMIT AN APPLICATION DIRECTLY TO A LOCALITY AFTER OCTOBER 1, 2013 AND THE LOCALITY MAY ISSUE AN ANNUAL LICENSE TO THE APPLICANT. A LOCALITY ISSUING A LICENSE TO AN APPLICANT SHALL DO SO WITHIN NINETY DAYS OF RECEIPT OF THE APPLICATION UNLESS IT FINDS AND NOTIFIES THE APPLICANT THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) IN EFFECT AT THE TIME OF APPLICATION AND SHALL NOTIFY THE DEPARTMENT IF AN ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT. A LICENSE ISSUED BY A LOCALITY IN ACCORDANCE WITH THIS PARAGRAPH SHALL HAVE THE SAME FORCE AND EFFECT AS A LICENSE ISSUED BY THE DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (g) AND THE HOLDER OF SUCH LICENSE SHALL NOT BE SUBJECT TO REGULATION OR ENFORCEMENT BY THE DEPARTMENT DURING THE TERM OF THAT LICENSE. A SUBSEQUENT OR RENEWED LICENSE MAY BE ISSUED UNDER THIS PARAGRAPH ON AN ANNUAL BASIS IF THE DEPARTMENT HAS NOT ADOPTED REGULATIONS REQUIRED BY PARAGRAPH (a) AT LEAST NINETY DAYS PRIOR TO THE DATE UPON WHICH SUCH SUBSEQUENT OR RENEWED LICENSE WOULD BE EFFECTIVE OR IF THE DEPARTMENT HAS ADOPTED REGULATIONS PURSUANT TO PARAGRAPH (a) BUT HAS NOT, AT LEAST NINETY DAYS AFTER THE ADOPTION OF SUCH REGULATIONS, ISSUED LICENSES PURSUANT TO PARAGRAPH (g).

**(6) Employers, driving, minors and control of property.**

(a) NOTHING IN THIS SECTION IS INTENDED TO REQUIRE AN EMPLOYER TO PERMIT OR ACCOMMODATE THE USE, CONSUMPTION, POSSESSION, TRANSFER, DISPLAY, TRANSPORTATION, SALE OR GROWING OF MARIJUANA IN THE WORKPLACE OR TO AFFECT THE ABILITY OF EMPLOYERS TO HAVE POLICIES RESTRICTING THE USE OF MARIJUANA BY EMPLOYEES.

(b) NOTHING IN THIS SECTION IS INTENDED TO ALLOW DRIVING UNDER THE INFLUENCE OF MARIJUANA OR DRIVING WHILE IMPAIRED BY MARIJUANA OR TO SUPERSEDE STATUTORY LAWS RELATED TO DRIVING UNDER THE INFLUENCE OF MARIJUANA OR DRIVING WHILE IMPAIRED BY MARIJUANA, NOR SHALL THIS SECTION PREVENT THE STATE FROM ENACTING AND IMPOSING PENALTIES FOR DRIVING UNDER THE INFLUENCE OF OR WHILE IMPAIRED BY MARIJUANA.

(c) NOTHING IN THIS SECTION IS INTENDED TO PERMIT THE TRANSFER OF MARIJUANA, WITH OR WITHOUT REMUNERATION, TO A PERSON UNDER THE AGE OF TWENTY-ONE OR TO ALLOW A PERSON UNDER THE AGE OF TWENTY-ONE TO PURCHASE, POSSESS, USE, TRANSPORT, GROW, OR CONSUME MARIJUANA.

(d) NOTHING IN THIS SECTION SHALL PROHIBIT A PERSON, EMPLOYER, SCHOOL, HOSPITAL, DETENTION FACILITY, CORPORATION OR ANY OTHER ENTITY WHO OCCUPIES, OWNS OR CONTROLS A PROPERTY FROM PROHIBITING OR OTHERWISE REGULATING THE POSSESSION, CONSUMPTION, USE, DISPLAY, TRANSFER, DISTRIBUTION, SALE, TRANSPORTATION, OR GROWING OF MARIJUANA ON OR IN THAT PROPERTY.

**(7) Medical marijuana provisions unaffected.** NOTHING IN THIS SECTION SHALL BE CONSTRUED:

(a) TO LIMIT ANY PRIVILEGES OR RIGHTS OF A MEDICAL MARIJUANA PATIENT, PRIMARY CAREGIVER, OR LICENSED ENTITY AS PROVIDED IN SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE;

(b) TO PERMIT A MEDICAL MARIJUANA CENTER TO DISTRIBUTE MARIJUANA TO A PERSON WHO IS NOT A MEDICAL MARIJUANA PATIENT;

(c) TO PERMIT A MEDICAL MARIJUANA CENTER TO PURCHASE MARIJUANA OR MARIJUANA PRODUCTS IN A MANNER OR FROM A SOURCE NOT AUTHORIZED UNDER THE COLORADO MEDICAL MARIJUANA CODE;

(d) TO PERMIT ANY MEDICAL MARIJUANA CENTER LICENSED PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE TO OPERATE ON THE SAME PREMISES AS A RETAIL MARIJUANA STORE.; OR

(e) TO DISCHARGE THE DEPARTMENT, THE COLORADO BOARD OF HEALTH, OR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FROM THEIR STATUTORY AND CONSTITUTIONAL DUTIES TO REGULATE MEDICAL MARIJUANA PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

**(8) Self-executing, severability, conflicting provisions.** ALL PROVISIONS OF THIS SECTION ARE SELF-EXECUTING EXCEPT AS SPECIFIED HEREIN, ARE SEVERABLE, AND, EXCEPT WHERE OTHERWISE INDICATED IN THE TEXT, SHALL SUPERSEDE CONFLICTING

STATE STATUTORY, LOCAL CHARTER, ORDINANCE, OR RESOLUTION, AND OTHER STATE AND LOCAL PROVISIONS.

**(9) Effective date.** UNLESS OTHERWISE PROVIDED BY THIS SECTION, ALL PROVISIONS OF THIS SECTION SHALL BECOME EFFECTIVE UPON OFFICIAL DECLARATION OF THE VOTE HEREON BY PROCLAMATION OF THE GOVERNOR, PURSUANT TO SECTION 1(4) OF ARTICLE V.

---

**Proponent Representative 1**

**Name:** Mason Tvert  
**Physical Address:** 1441 Humboldt Street #101, Denver, Colorado 80218  
**Mailing Address:** P.O. Box 40332, Denver, Colorado 80204  
**Phone:** 303-861-0033  
**Fax:** 303-861-0915  
**E-mail:** mason@saferchoice.org

**Proponent Representative 2**

**Name:** Brian Vicente  
**Physical Address:** 949 B Pennsylvania St., Denver, Colorado 80203  
**Mailing Address:** P.O. Box 18768, Denver, Colorado 80218  
**Phone:** 303-860-4501  
**Fax:** 303-860-4505  
**E-mail:** brian@sensiblecolorado.org

**Ballot Title Setting Board**

**Proposed Initiative 2011-2012 #33<sup>1</sup>**

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.*

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<sup>1</sup> 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.



**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 text, motion for rehearing, titles, and the rulings thereon of the Title Board on Proposed Initiative "2011-2012 #34".....

..... **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 8<sup>th</sup> day of July, 2011.

A handwritten signature in cursive script, appearing to read "Scott Gessler", is written over a horizontal line.

SECRETARY OF STATE

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## MOTION FOR REHEARING

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June 22, 2011

Colorado Secretary of State  
Attn: Title Board  
1700 Broadway, Suite 200  
Denver, CO 80290  
Phone: (303) 894-2200, press "3"  
Fax: (303) 869-4861  
Web: [www.sos.state.co.us](http://www.sos.state.co.us)  
Email: [initiatives@sos.state.co.us](mailto:initiatives@sos.state.co.us)

**RECEIVED**  
JUN 22 2011 3:57 P.M.  
Colorado Secretary of State

Dear Sirs:

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

I. The title is misleading.

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

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

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

II. The titles include an impermissible catch phrase

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

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

Sincerely,

Corey Donahue  
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 your time.

Sincerely,

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

RECEIVED

JUN 03 2011

11:00 AM  
11:00 PM

#34-Final

Be it Enacted by the People of the State of Colorado  
Colorado Secretary of State

Article XVIII of the constitution of the state of Colorado is amended BY THE ADDITION OF A NEW SECTION to read:

**Section 16. Personal use and regulation of marijuana**

**(1) Purpose and findings.**

(a) IN THE INTEREST OF THE EFFICIENT USE OF LAW ENFORCEMENT RESOURCES, ENHANCING REVENUE FOR PUBLIC PURPOSES, AND INDIVIDUAL FREEDOM, THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT THE USE OF MARIJUANA SHOULD BE LEGAL FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER AND TAXED IN A MANNER SIMILAR TO ALCOHOL.

(b) IN THE INTEREST OF THE HEALTH AND PUBLIC SAFETY OF OUR CITIZENRY, THE PEOPLE OF THE STATE OF COLORADO FURTHER FIND AND DECLARE THAT MARIJUANA SHOULD BE REGULATED IN A MANNER SIMILAR TO ALCOHOL SO THAT:

(I) INDIVIDUALS WILL HAVE TO SHOW PROOF OF AGE BEFORE PURCHASING MARIJUANA;

(II) SELLING, DISTRIBUTING, OR TRANSFERRING MARIJUANA TO MINORS AND OTHER INDIVIDUALS UNDER THE AGE OF TWENTY-ONE SHALL REMAIN ILLEGAL;

(III) DRIVING UNDER THE INFLUENCE OF MARIJUANA SHALL REMAIN ILLEGAL;

(IV) LEGITIMATE, TAXPAYING BUSINESS PEOPLE, AND NOT CRIMINAL ACTORS, WILL CONDUCT SALES OF MARIJUANA; AND

(V) MARIJUANA SOLD IN THIS STATE WILL BE LABELED AND SUBJECT TO ADDITIONAL REGULATIONS TO ENSURE THAT CONSUMERS ARE INFORMED AND PROTECTED.

(c) THE PEOPLE OF THE STATE OF COLORADO FURTHER FIND AND DECLARE THAT IT IS NECESSARY TO ENSURE CONSISTENCY AND FAIRNESS IN THE APPLICATION OF THIS SECTION THROUGHOUT THE STATE AND THAT, THEREFORE, THE MATTERS ADDRESSED BY THIS SECTION ARE, EXCEPT AS SPECIFIED HEREIN, MATTERS OF STATEWIDE CONCERN.

**(2) Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES,  
(a) "COLORADO MEDICAL MARIJUANA CODE" MEANS ARTICLE 43.3 OF TITLE 12, COLORADO REVISED STATUTES.

(b) "CONSUMER" MEANS A PERSON TWENTY-ONE YEARS OF AGE OR OLDER WHO PURCHASES MARIJUANA OR MARIJUANA PRODUCTS FOR PERSONAL USE BY PERSONS TWENTY-ONE YEARS OF AGE OR OLDER, BUT NOT FOR RESALE TO OTHERS.

(c) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE OR ITS SUCCESSOR AGENCY.

(d) "LOCALITY" MEANS A COUNTY, MUNICIPALITY, OR CITY AND COUNTY.

(e) "MARIJUANA" OR "MARIHUANA" MEANS ALL PARTS OF THE PLANT OF THE GENUS CANNABIS WHETHER GROWING OR NOT, THE SEEDS THEREOF, THE RESIN EXTRACTED FROM ANY PART OF THE PLANT, AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF THE PLANT, ITS SEEDS, OR ITS RESIN, INCLUDING MARIHUANA CONCENTRATE. "MARIJUANA" OR "MARIHUANA" DOES NOT INCLUDE FIBER PRODUCED FROM THE STALKS, OIL, OR CAKE MADE FROM THE SEEDS OF THE PLANT, STERILIZED SEED OF THE PLANT WHICH IS INCAPABLE OF GERMINATION, OR THE

WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH MARIJUANA TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK, OR OTHER PRODUCT.

(f) "MARIJUANA ACCESSORIES" MEANS ANY EQUIPMENT, PRODUCTS, OR MATERIALS OF ANY KIND WHICH ARE USED, INTENDED FOR USE, OR DESIGNED FOR USE IN PLANTING, PROPAGATING, CULTIVATING, GROWING, HARVESTING, COMPOSTING, MANUFACTURING, COMPOUNDING, CONVERTING, PRODUCING, PROCESSING, PREPARING, TESTING, ANALYZING, PACKAGING, REPACKAGING, STORING, VAPORIZING, OR CONTAINING MARIJUANA, OR FOR INGESTING, INHALING, OR OTHERWISE INTRODUCING MARIJUANA INTO THE HUMAN BODY.

(g) "MARIJUANA CULTIVATION FACILITY" MEANS AN ENTITY LICENSED TO CULTIVATE, PREPARE, AND PACKAGE MARIJUANA AND SELL MARIJUANA TO RETAIL MARIJUANA STORES, TO MARIJUANA PRODUCT MANUFACTURING FACILITIES, AND TO OTHER MARIJUANA CULTIVATION FACILITIES, BUT NOT TO CONSUMERS.

(h) "MARIJUANA ESTABLISHMENT" MEANS A MARIJUANA CULTIVATION FACILITY, A MARIJUANA TESTING FACILITY, A MARIJUANA PRODUCT MANUFACTURING FACILITY, OR A RETAIL MARIJUANA STORE.

(i) "MARIJUANA PRODUCT MANUFACTURING FACILITY" MEANS AN ENTITY LICENSED TO PURCHASE MARIJUANA; MANUFACTURE, PREPARE, AND PACKAGE MARIJUANA PRODUCTS; AND SELL MARIJUANA AND MARIJUANA PRODUCTS TO OTHER MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO RETAIL MARIJUANA STORES, BUT NOT TO CONSUMERS.

(j) "MARIJUANA PRODUCTS" MEANS CONCENTRATED MARIJUANA PRODUCTS AND MARIJUANA PRODUCTS THAT ARE COMPRISED OF MARIJUANA AND OTHER INGREDIENTS AND ARE INTENDED FOR USE OR CONSUMPTION, SUCH AS, BUT NOT LIMITED TO, EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES.

(k) "MARIJUANA TESTING FACILITY" MEANS AN ENTITY LICENSED TO ANALYZE AND CERTIFY THE SAFETY AND POTENCY OF MARIJUANA.

(l) "MEDICAL MARIJUANA CENTER" MEANS AN ENTITY LICENSED BY A STATE AGENCY TO SELL MARIJUANA AND MARIJUANA PRODUCTS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

(m) "RETAIL MARIJUANA STORE" MEANS AN ENTITY LICENSED TO PURCHASE MARIJUANA FROM MARIJUANA CULTIVATION FACILITIES AND MARIJUANA AND MARIJUANA PRODUCTS FROM MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS.

(n) "UNREASONABLY IMPRACTICABLE" MEANS THAT THE MEASURES NECESSARY TO COMPLY WITH THE REGULATIONS REQUIRE SUCH A HIGH INVESTMENT OF RISK, MONEY, TIME, OR ANY OTHER RESOURCE OR ASSET THAT THE OPERATION OF A MARIJUANA ESTABLISHMENT IS NOT WORTHY OF BEING CARRIED OUT IN PRACTICE BY A REASONABLY PRUDENT BUSINESSPERSON.

**(3) Personal use of marijuana.** NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING ACTS ARE NOT UNLAWFUL AND SHALL NOT BE AN OFFENSE UNDER COLORADO LAW OR THE LAW OF ANY LOCALITY WITHIN COLORADO OR BE A BASIS FOR SEIZURE OR FORFEITURE OF ASSETS UNDER COLORADO LAW FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER:

(a) POSSESSING, USING, DISPLAYING, PURCHASING, OR TRANSPORTING MARIJUANA ACCESSORIES OR ONE OUNCE OR LESS OF MARIJUANA.

(b) POSSESSING, GROWING, PROCESSING, OR TRANSPORTING NO MORE THAN SIX MARIJUANA PLANTS, WITH THREE OR FEWER BEING MATURE, FLOWERING PLANTS, AND POSSESSION OF THE MARIJUANA PRODUCED BY THE PLANTS ON THE PREMISES WHERE THE PLANTS WERE GROWN, PROVIDED THAT THE GROWING TAKES PLACE IN AN ENCLOSED, LOCKED SPACE, IS NOT CONDUCTED OPENLY OR PUBLICLY, AND IS NOT MADE AVAILABLE FOR SALE.

(c) TRANSFER OF ONE OUNCE OR LESS OF MARIJUANA WITHOUT REMUNERATION TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

(d) CONSUMPTION OF MARIJUANA, PROVIDED THAT NOTHING IN THIS SECTION SHALL PERMIT CONSUMPTION THAT IS CONDUCTED OPENLY AND PUBLICLY OR IN A MANNER THAT ENDANGERS OTHERS.

(e) ASSISTING ANOTHER PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER IN ANY OF THE ACTS DESCRIBED IN PARAGRAPHS (a) THROUGH (d) OF THIS SUBSECTION.

**(4) Lawful operation of marijuana-related facilities.** NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING ACTS ARE NOT UNLAWFUL AND SHALL NOT BE AN OFFENSE UNDER COLORADO LAW OR BE A BASIS FOR SEIZURE OR FORFEITURE OF ASSETS UNDER COLORADO LAW FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER:

(a) MANUFACTURE, POSSESSION, OR PURCHASE OF MARIJUANA ACCESSORIES OR THE SALE OF MARIJUANA ACCESSORIES TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

(b) POSSESSING, DISPLAYING, OR TRANSPORTING MARIJUANA OR MARIJUANA PRODUCTS; PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY; PURCHASE OF MARIJUANA OR MARIJUANA PRODUCTS FROM A MARIJUANA PRODUCT MANUFACTURING FACILITY; OR SALE OF MARIJUANA OR MARIJUANA PRODUCTS TO CONSUMERS, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A RETAIL MARIJUANA STORE OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE OR AGENT OF A LICENSED RETAIL MARIJUANA STORE.

(c) CULTIVATING, HARVESTING, PROCESSING, PACKAGING, TRANSPORTING, DISPLAYING, OR POSSESSING MARIJUANA; DELIVERY OR TRANSFER OF MARIJUANA TO A MARIJUANA TESTING FACILITY; SELLING MARIJUANA TO A MARIJUANA CULTIVATION FACILITY, A MARIJUANA PRODUCT MANUFACTURING FACILITY, OR A RETAIL MARIJUANA STORE; OR THE PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A MARIJUANA CULTIVATION FACILITY OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA CULTIVATION FACILITY.

(d) PACKAGING, PROCESSING, TRANSPORTING, MANUFACTURING, DISPLAYING, OR POSSESSING MARIJUANA OR MARIJUANA PRODUCTS; DELIVERY OR TRANSFER OF MARIJUANA OR MARIJUANA PRODUCTS TO A MARIJUANA TESTING FACILITY; SELLING MARIJUANA OR MARIJUANA PRODUCTS TO A RETAIL MARIJUANA STORE OR A MARIJUANA PRODUCT MANUFACTURING FACILITY; THE PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY; OR THE PURCHASE OF MARIJUANA OR MARIJUANA PRODUCTS FROM A MARIJUANA PRODUCT MANUFACTURING FACILITY, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO

OPERATE A MARIJUANA PRODUCT MANUFACTURING FACILITY OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA PRODUCT MANUFACTURING FACILITY.

(e) POSSESSING, CULTIVATING, PROCESSING, REPACKAGING, STORING, TRANSPORTING, DISPLAYING, TRANSFERRING OR DELIVERING MARIJUANA OR MARIJUANA PRODUCTS IF THE PERSON HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A MARIJUANA TESTING FACILITY OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA TESTING FACILITY.

(f) LEASING OR OTHERWISE ALLOWING THE USE OF PROPERTY OWNED, OCCUPIED OR CONTROLLED BY ANY PERSON, CORPORATION OR OTHER ENTITY FOR ANY OF THE ACTIVITIES CONDUCTED LAWFULLY IN ACCORDANCE WITH PARAGRAPHS (a) THROUGH (e) OF THIS SUBSECTION.

**(5) Regulation of marijuana.**

(a) NOT LATER THAN JULY 1, 2013, THE DEPARTMENT SHALL ADOPT REGULATIONS NECESSARY FOR IMPLEMENTATION OF THIS SECTION. SUCH REGULATIONS SHALL NOT PROHIBIT THE OPERATION OF MARIJUANA ESTABLISHMENTS, EITHER EXPRESSLY OR THROUGH REGULATIONS THAT MAKE THEIR OPERATION UNREASONABLY IMPRACTICABLE. SUCH REGULATIONS SHALL INCLUDE:

(I) PROCEDURES FOR THE ISSUANCE, RENEWAL, SUSPENSION, AND REVOCATION OF A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT, WITH SUCH PROCEDURES SUBJECT TO ALL REQUIREMENTS OF ARTICLE 4 OF TITLE 24 OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION;

(II) A SCHEDULE OF APPLICATION, LICENSING AND RENEWAL FEES, PROVIDED, APPLICATION FEES SHALL NOT EXCEED FIVE THOUSAND DOLLARS, WITH THIS UPPER LIMIT ADJUSTED ANNUALLY FOR INFLATION, UNLESS THE DEPARTMENT DETERMINES A GREATER FEE IS NECESSARY TO CARRY OUT ITS RESPONSIBILITIES UNDER THIS SECTION, AND PROVIDED FURTHER, AN ENTITY THAT IS LICENSED UNDER THE COLORADO MEDICAL MARIJUANA CODE TO CULTIVATE OR SELL MARIJUANA OR TO MANUFACTURE MARIJUANA PRODUCTS AT THE TIME THIS SECTION TAKES EFFECT AND THAT CHOOSES TO APPLY FOR A SEPARATE MARIJUANA ESTABLISHMENT LICENSE SHALL NOT BE REQUIRED TO PAY AN APPLICATION FEE GREATER THAN FIVE HUNDRED DOLLARS TO APPLY FOR A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION;

(III) QUALIFICATIONS FOR LICENSURE THAT ARE DIRECTLY AND DEMONSTRABLY RELATED TO THE OPERATION OF A MARIJUANA ESTABLISHMENT;

(IV) SECURITY REQUIREMENTS FOR MARIJUANA ESTABLISHMENTS;

(V) REQUIREMENTS TO PREVENT THE SALE OR DIVERSION OF MARIJUANA AND MARIJUANA PRODUCTS TO PERSONS UNDER THE AGE OF TWENTY-ONE;

(VI) LABELING REQUIREMENTS FOR MARIJUANA AND MARIJUANA PRODUCTS SOLD OR DISTRIBUTED BY A MARIJUANA ESTABLISHMENT;

(VII) HEALTH AND SAFETY REGULATIONS AND STANDARDS FOR THE MANUFACTURE OF MARIJUANA PRODUCTS AND THE CULTIVATION OF MARIJUANA;

(VIII) RESTRICTIONS ON THE ADVERTISING AND DISPLAY OF MARIJUANA AND MARIJUANA PRODUCTS; AND

(IX) CIVIL PENALTIES FOR THE FAILURE TO COMPLY WITH REGULATIONS MADE PURSUANT TO THIS SECTION.

(b) IN ORDER TO ENSURE THE MOST SECURE, RELIABLE, AND ACCOUNTABLE SYSTEM FOR THE PRODUCTION AND DISTRIBUTION OF MARIJUANA AND MARIJUANA PRODUCTS IN ACCORDANCE WITH THIS SUBSECTION, IN ANY COMPETITIVE APPLICATION PROCESS THE DEPARTMENT SHALL HAVE AS A PRIMARY CONSIDERATION WHETHER AN APPLICANT:

(I) HAS PRIOR EXPERIENCE PRODUCING OR DISTRIBUTING MARIJUANA OR MARIJUANA PRODUCTS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE IN THE LOCALITY IN WHICH THE APPLICANT SEEKS TO OPERATE A MARIJUANA ESTABLISHMENT; AND

(II) HAS, DURING THE EXPERIENCE DESCRIBED IN SUBPARAGRAPH (I), COMPLIED CONSISTANTLY WITH SECTION 14 OF THIS ARTICLE, THE PROVISIONS OF THE COLORADO MEDICAL MARIJUANA CODE AND CONFORMING REGULATIONS.

(c) IN ORDER TO ENSURE THAT INDIVIDUAL PRIVACY IS PROTECTED, NOTWITHSTANDING PARAGRAPH (a), THE DEPARTMENT SHALL NOT REQUIRE A CONSUMER TO PROVIDE A RETAIL MARIJUANA STORE WITH PERSONAL INFORMATION OTHER THAN GOVERNMENT-ISSUED IDENTIFICATION TO DETERMINE THE CONSUMER'S AGE, AND A RETAIL MARIJUANA STORE SHALL NOT BE REQUIRED TO ACQUIRE AND RECORD PERSONAL INFORMATION ABOUT CONSUMERS OTHER THAN INFORMATION TYPICALLY ACQUIRED IN A FINANCIAL TRANSACTION CONDUCTED AT A RETAIL LIQUOR STORE.

(d) THE GENERAL ASSEMBLY SHALL ENACT AN EXCISE TAX TO BE LEVIED UPON MARIJUANA SOLD OR OTHERWISE TRANSFERRED BY A MARIJUANA CULTIVATION FACILITY TO A MARIJUANA PRODUCT MANUFACTURING FACILITY OR TO A RETAIL MARIJUANA STORE AT A RATE NOT TO EXCEED FIFTEEN PERCENT PRIOR TO JANUARY 1, 2017 AND AT A RATE TO BE DETERMINED BY THE GENERAL ASSEMBLY THEREAFTER, AND SHALL DIRECT THE DEPARTMENT TO ESTABLISH PROCEDURES FOR THE COLLECTION OF ALL TAXES LEVIED. PROVIDED, THE FIRST FORTY MILLION DOLLARS IN REVENUE RAISED ANNUALLY FROM ANY SUCH EXCISE TAX SHALL BE CREDITED TO THE PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE FUND CREATED BY ARTICLE 43.7 OF TITLE 22, C.R.S., OR ANY SUCCESSOR FUND DEDICATED TO A SIMILAR PURPOSE. PROVIDED FURTHER, NO SUCH EXCISE TAX SHALL BE LEVIED UPON MARIJUANA INTENDED FOR SALE AT MEDICAL MARIJUANA CENTERS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE;

(e) NOT LATER THAN OCTOBER 1, 2013, EACH LOCALITY SHALL ENACT AN ORDINANCE OR REGULATION SPECIFYING THE ENTITY WITHIN THE LOCALITY THAT IS RESPONSIBLE FOR PROCESSING APPLICATIONS SUBMITTED FOR A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT WITHIN THE BOUNDARIES OF THE LOCALITY AND FOR THE ISSUANCE OF SUCH LICENSES SHOULD THE ISSUANCE BY THE LOCALITY BECOME NECESSARY BECAUSE OF A FAILURE BY THE DEPARTMENT TO ADOPT REGULATIONS PURSUANT TO PARAGRAPH (a) OR BECAUSE OF A FAILURE BY THE DEPARTMENT TO PROCESS AND ISSUE LICENSES AS REQUIRED BY PARAGRAPH (g).

(f) A LOCALITY MAY ENACT ORDINANCES OR REGULATIONS, NOT IN CONFLICT WITH THIS SECTION OR WITH REGULATIONS OR LEGISLATION ENACTED PURSUANT TO THIS SECTION, GOVERNING THE TIME, PLACE, MANNER AND NUMBER OF MARIJUANA ESTABLISHMENT OPERATIONS; ESTABLISHING PROCEDURES FOR THE ISSUANCE, SUSPENSION, AND REVOCATION OF A LICENSE ISSUED BY THE LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i), SUCH PROCEDURES TO BE SUBJECT TO ALL REQUIREMENTS OF ARTICLE 4 OF TITLE 24 OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION; ESTABLISHING A SCHEDULE OF ANNUAL OPERATING, LICENSING, AND APPLICATION FEES FOR MARIJUANA ESTABLISHMENTS, PROVIDED, THE APPLICATION FEE SHALL ONLY BE DUE IF AN APPLICATION IS SUBMITTED TO A LOCALITY IN ACCORDANCE WITH PARAGRAPH (i) AND A LICENSING FEE SHALL ONLY BE DUE IF A LICENSE IS ISSUED BY A LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i); AND ESTABLISHING CIVIL PENALTIES FOR VIOLATION OF AN ORDINANCE OR REGULATION GOVERNING THE TIME, PLACE, AND MANNER OF A MARIJUANA ESTABLISHMENT THAT MAY OPERATE IN SUCH LOCALITY. A LOCALITY MAY PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES THROUGH THE ENACTMENT OF AN ORDINANCE OR THROUGH AN INITIATED OR REFERRED MEASURE; PROVIDED, ANY INITIATED OR REFERRED MEASURE TO PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES MUST APPEAR ON A GENERAL ELECTION BALLOT DURING AN EVEN NUMBERED YEAR.

(g) EACH APPLICATION FOR AN ANNUAL LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT SHALL BE SUBMITTED TO THE DEPARTMENT. THE DEPARTMENT SHALL:

(I) BEGIN ACCEPTING AND PROCESSING APPLICATIONS ON OCTOBER 1, 2013;

(II) IMMEDIATELY FORWARD A COPY OF EACH APPLICATION AND HALF OF THE LICENSE APPLICATION FEE TO THE LOCALITY IN WHICH THE APPLICANT DESIRES TO OPERATE THE MARIJUANA ESTABLISHMENT;

(III) ISSUE AN ANNUAL LICENSE TO THE APPLICANT BETWEEN FORTY-FIVE AND NINETY DAYS AFTER RECEIPT OF AN APPLICATION UNLESS THE DEPARTMENT FINDS THE APPLICANT IS NOT IN COMPLIANCE WITH REGULATIONS ENACTED PURSUANT TO PARAGRAPH (a) OR THE DEPARTMENT IS NOTIFIED BY THE RELEVANT LOCALITY THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) AND IN EFFECT AT THE TIME OF APPLICATION, PROVIDED, WHERE A LOCALITY HAS ENACTED A NUMERICAL LIMIT ON THE NUMBER OF MARIJUANA ESTABLISHMENTS AND A GREATER NUMBER OF APPLICANTS SEEK LICENSES, THE DEPARTMENT SHALL SOLICIT AND CONSIDER INPUT FROM THE LOCALITY AS TO THE LOCALITY'S PREFERENCE OR PREFERENCES FOR LICENSURE; AND

(IV) UPON DENIAL OF AN APPLICATION, NOTIFY THE APPLICANT IN WRITING OF THE SPECIFIC REASON FOR ITS DENIAL.

(h) IF THE DEPARTMENT DOES NOT ISSUE A LICENSE TO AN APPLICANT WITHIN NINETY DAYS OF RECEIPT OF THE APPLICATION FILED IN ACCORDANCE WITH PARAGRAPH (g) AND DOES NOT NOTIFY THE APPLICANT OF THE SPECIFIC REASON FOR ITS DENIAL, IN WRITING AND WITHIN SUCH TIME PERIOD, OR IF THE DEPARTMENT HAS ADOPTED

REGULATIONS PURSUANT TO PARAGRAPH (a) AND HAS ACCEPTED APPLICATIONS PURSUANT TO PARAGRAPH (g) BUT HAS NOT ISSUED ANY LICENSES BY JANUARY 1, 2014, THE APPLICANT MAY RESUBMIT ITS APPLICATION DIRECTLY TO THE LOCALITY, PURSUANT TO PARAGRAPH (e), AND THE LOCALITY MAY ISSUE AN ANNUAL LICENSE TO THE APPLICANT. A LOCALITY ISSUING A LICENSE TO AN APPLICANT SHALL DO SO WITHIN NINETY DAYS OF RECEIPT OF THE RESUBMITTED APPLICATION UNLESS THE LOCALITY FINDS AND NOTIFIES THE APPLICANT THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) IN EFFECT AT THE TIME THE APPLICATION IS RESUBMITTED AND THE LOCALITY SHALL NOTIFY THE DEPARTMENT IF AN ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT. IF AN APPLICATION IS SUBMITTED TO A LOCALITY UNDER THIS PARAGRAPH, THE DEPARTMENT SHALL FORWARD TO THE LOCALITY THE APPLICATION FEE PAID BY THE APPLICANT TO THE DEPARTMENT UPON REQUEST BY THE LOCALITY. A LICENSE ISSUED BY A LOCALITY IN ACCORDANCE WITH THIS PARAGRAPH SHALL HAVE THE SAME FORCE AND EFFECT AS A LICENSE ISSUED BY THE DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (g) AND THE HOLDER OF SUCH LICENSE SHALL NOT BE SUBJECT TO REGULATION OR ENFORCEMENT BY THE DEPARTMENT DURING THE TERM OF THAT LICENSE. A SUBSEQUENT OR RENEWED LICENSE MAY BE ISSUED UNDER THIS PARAGRAPH ON AN ANNUAL BASIS ONLY UPON RESUBMISSION TO THE LOCALITY OF A NEW APPLICATION SUBMITTED TO THE DEPARTMENT PURSUANT TO PARAGRAPH (g). NOTHING IN THIS PARAGRAPH SHALL LIMIT SUCH RELIEF AS MAY BE AVAILABLE TO AN AGGRIEVED PARTY UNDER SECTION 24-4-104, C.R.S., OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION.

(i) IF THE DEPARTMENT DOES NOT ADOPT REGULATIONS REQUIRED BY PARAGRAPH (a), AN APPLICANT MAY SUBMIT AN APPLICATION DIRECTLY TO A LOCALITY AFTER OCTOBER 1, 2013 AND THE LOCALITY MAY ISSUE AN ANNUAL LICENSE TO THE APPLICANT. A LOCALITY ISSUING A LICENSE TO AN APPLICANT SHALL DO SO WITHIN NINETY DAYS OF RECEIPT OF THE APPLICATION UNLESS IT FINDS AND NOTIFIES THE APPLICANT THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) IN EFFECT AT THE TIME OF APPLICATION AND SHALL NOTIFY THE DEPARTMENT IF AN ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT. A LICENSE ISSUED BY A LOCALITY IN ACCORDANCE WITH THIS PARAGRAPH SHALL HAVE THE SAME FORCE AND EFFECT AS A LICENSE ISSUED BY THE DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (g) AND THE HOLDER OF SUCH LICENSE SHALL NOT BE SUBJECT TO REGULATION OR ENFORCEMENT BY THE DEPARTMENT DURING THE TERM OF THAT LICENSE. A SUBSEQUENT OR RENEWED LICENSE MAY BE ISSUED UNDER THIS PARAGRAPH ON AN ANNUAL BASIS IF THE DEPARTMENT HAS NOT ADOPTED REGULATIONS REQUIRED BY PARAGRAPH (a) AT LEAST NINETY DAYS PRIOR TO THE DATE UPON WHICH SUCH SUBSEQUENT OR RENEWED LICENSE WOULD BE EFFECTIVE OR IF THE DEPARTMENT HAS ADOPTED REGULATIONS PURSUANT TO PARAGRAPH (a) BUT HAS NOT, AT LEAST NINETY DAYS AFTER THE ADOPTION OF SUCH REGULATIONS, ISSUED LICENSES PURSUANT TO PARAGRAPH (g).

**(6) Employers, driving, minors and control of property.**



(a) NOTHING IN THIS SECTION IS INTENDED TO REQUIRE AN EMPLOYER TO PERMIT OR ACCOMMODATE THE USE, CONSUMPTION, POSSESSION, TRANSFER, DISPLAY, TRANSPORTATION, SALE OR GROWING OF MARIJUANA IN THE WORKPLACE OR TO AFFECT THE ABILITY OF EMPLOYERS TO HAVE POLICIES RESTRICTING THE USE OF MARIJUANA BY EMPLOYEES.

(b) NOTHING IN THIS SECTION IS INTENDED TO ALLOW DRIVING UNDER THE INFLUENCE OF MARIJUANA OR DRIVING WHILE IMPAIRED BY MARIJUANA OR TO SUPERSEDE STATUTORY LAWS RELATED TO DRIVING UNDER THE INFLUENCE OF MARIJUANA OR DRIVING WHILE IMPAIRED BY MARIJUANA, NOR SHALL THIS SECTION PREVENT THE STATE FROM ENACTING AND IMPOSING PENALTIES FOR DRIVING UNDER THE INFLUENCE OF OR WHILE IMPAIRED BY MARIJUANA.

(c) NOTHING IN THIS SECTION IS INTENDED TO PERMIT THE TRANSFER OF MARIJUANA, WITH OR WITHOUT REMUNERATION, TO A PERSON UNDER THE AGE OF TWENTY-ONE OR TO ALLOW A PERSON UNDER THE AGE OF TWENTY-ONE TO PURCHASE, POSSESS, USE, TRANSPORT, GROW, OR CONSUME MARIJUANA.

(d) NOTHING IN THIS SECTION SHALL PROHIBIT A PERSON, EMPLOYER, SCHOOL, HOSPITAL, DETENTION FACILITY, CORPORATION OR ANY OTHER ENTITY WHO OCCUPIES, OWNS OR CONTROLS A PROPERTY FROM PROHIBITING OR OTHERWISE REGULATING THE POSSESSION, CONSUMPTION, USE, DISPLAY, TRANSFER, DISTRIBUTION, SALE, TRANSPORTATION, OR GROWING OF MARIJUANA ON OR IN THAT PROPERTY.

**(7) Medical marijuana provisions unaffected.** NOTHING IN THIS SECTION SHALL BE CONSTRUED:

(a) TO LIMIT ANY PRIVILEGES OR RIGHTS OF A MEDICAL MARIJUANA PATIENT, PRIMARY CAREGIVER, OR LICENSED ENTITY AS PROVIDED IN SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE;

(b) TO PERMIT A MEDICAL MARIJUANA CENTER TO DISTRIBUTE MARIJUANA TO A PERSON WHO IS NOT A MEDICAL MARIJUANA PATIENT;

(c) TO PERMIT A MEDICAL MARIJUANA CENTER TO PURCHASE MARIJUANA OR MARIJUANA PRODUCTS IN A MANNER OR FROM A SOURCE NOT AUTHORIZED UNDER THE COLORADO MEDICAL MARIJUANA CODE;

(d) TO PERMIT ANY MEDICAL MARIJUANA CENTER LICENSED PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE TO OPERATE ON THE SAME PREMISES AS A RETAIL MARIJUANA STORE.; OR

(e) TO DISCHARGE THE DEPARTMENT, THE COLORADO BOARD OF HEALTH, OR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FROM THEIR STATUTORY AND CONSTITUTIONAL DUTIES TO REGULATE MEDICAL MARIJUANA PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

**(8) Self-executing, severability, conflicting provisions.** ALL PROVISIONS OF THIS SECTION ARE SELF-EXECUTING EXCEPT AS SPECIFIED HEREIN, ARE SEVERABLE, AND, EXCEPT WHERE OTHERWISE INDICATED IN THE TEXT, SHALL SUPERSEDE CONFLICTING

STATE STATUTORY, LOCAL CHARTER, ORDINANCE, OR RESOLUTION, AND OTHER STATE AND LOCAL PROVISIONS.

**(9) Effective date.** UNLESS OTHERWISE PROVIDED BY THIS SECTION, ALL PROVISIONS OF THIS SECTION SHALL BECOME EFFECTIVE UPON OFFICIAL DECLARATION OF THE VOTE HEREON BY PROCLAMATION OF THE GOVERNOR, PURSUANT TO SECTION 1(4) OF ARTICLE V.

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**Proponent Representative 1**

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**Proponent Representative 2**

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**Ballot Title Setting Board**

**Proposed Initiative 2011-2012 #34<sup>1</sup>**

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.*

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<sup>1</sup> 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.



**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 text, motion for rehearing, titles, and the rulings thereon of the Title Board on Proposed Initiative "2011-2012 #35".....

..... **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 8<sup>th</sup> day of July, 2011.

A handwritten signature in cursive script, appearing to read "Scott Gessler", is written over a horizontal line.

SECRETARY OF STATE

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## MOTION FOR REHEARING

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June 22, 2011

Colorado Secretary of State  
Attn: Title Board  
1700 Broadway, Suite 200  
Denver, CO 80290  
Phone: (303) 894-2200, press "3"  
Fax: (303) 869-4861  
Web: [www.sos.state.co.us](http://www.sos.state.co.us)  
Email: [initiatives@sos.state.co.us](mailto:initiatives@sos.state.co.us)

**RECEIVED**  
JUN 22 2011 3:57 P.M.  
Colorado Secretary of State

Dear Sirs:

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

1. The title is misleading.

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

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

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

II. The titles include an impermissible catch phrase

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

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

Sincerely,

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

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Certificate of Service

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

**Cesiah Gomez**

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

To whom it may concern,

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

Sincerely,

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

JUN 03 2011

Be it Enacted by the People of the State of Colorado Colorado Secretary of State

Article XVIII of the constitution of the state of Colorado is amended BY THE ADDITION OF A NEW SECTION to read:

**Section 16. Personal use and regulation of marijuana**

**(1) Purpose and findings.**

(a) IN THE INTEREST OF THE EFFICIENT USE OF LAW ENFORCEMENT RESOURCES, ENHANCING REVENUE FOR PUBLIC PURPOSES, AND INDIVIDUAL FREEDOM, THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT THE USE OF MARIJUANA SHOULD BE LEGAL FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER AND TAXED IN A MANNER SIMILAR TO ALCOHOL.

(b) IN THE INTEREST OF THE HEALTH AND PUBLIC SAFETY OF OUR CITIZENRY, THE PEOPLE OF THE STATE OF COLORADO FURTHER FIND AND DECLARE THAT MARIJUANA SHOULD BE REGULATED IN A MANNER SIMILAR TO ALCOHOL SO THAT:

(I) INDIVIDUALS WILL HAVE TO SHOW PROOF OF AGE BEFORE PURCHASING MARIJUANA;

(II) SELLING, DISTRIBUTING, OR TRANSFERRING MARIJUANA TO MINORS AND OTHER INDIVIDUALS UNDER THE AGE OF TWENTY-ONE SHALL REMAIN ILLEGAL;

(III) DRIVING UNDER THE INFLUENCE OF MARIJUANA SHALL REMAIN ILLEGAL;

(IV) LEGITIMATE, TAXPAYING BUSINESS PEOPLE, AND NOT CRIMINAL ACTORS, WILL CONDUCT SALES OF MARIJUANA; AND

(V) MARIJUANA SOLD IN THIS STATE WILL BE LABELED AND SUBJECT TO ADDITIONAL REGULATIONS TO ENSURE THAT CONSUMERS ARE INFORMED AND PROTECTED.

(c) IN THE INTEREST OF ENACTING RATIONAL POLICIES FOR THE TREATMENT OF ALL VARIATIONS OF THE CANNABIS PLANT, THE PEOPLE OF COLORADO FURTHER FIND AND DECLARE THAT INDUSTRIAL HEMP SHOULD BE REGULATED SEPARATELY FROM STRAINS OF CANNABIS WITH HIGHER DELTA-9 TETRAHYDROCANNABINOL (THC) CONCENTRATIONS.

(d) THE PEOPLE OF THE STATE OF COLORADO FURTHER FIND AND DECLARE THAT IT IS NECESSARY TO ENSURE CONSISTENCY AND FAIRNESS IN THE APPLICATION OF THIS SECTION THROUGHOUT THE STATE AND THAT, THEREFORE, THE MATTERS ADDRESSED BY THIS SECTION ARE, EXCEPT AS SPECIFIED HEREIN, MATTERS OF STATEWIDE CONCERN.

**(2) Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES,

(a) "COLORADO MEDICAL MARIJUANA CODE" MEANS ARTICLE 43.3 OF TITLE 12, COLORADO REVISED STATUTES.

(b) "CONSUMER" MEANS A PERSON TWENTY-ONE YEARS OF AGE OR OLDER WHO PURCHASES MARIJUANA OR MARIJUANA PRODUCTS FOR PERSONAL USE BY PERSONS TWENTY-ONE YEARS OF AGE OR OLDER, BUT NOT FOR RESALE TO OTHERS.

(c) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE OR ITS SUCCESSOR AGENCY.

(d) "INDUSTRIAL HEMP" MEANS THE PLANT OF THE GENUS CANNABIS AND ANY PART OF SUCH PLANT, WHETHER GROWING OR NOT, WITH A DELTA-9 TETRAHYDROCANNABINOL CONCENTRATION THAT DOES NOT EXCEED THREE-TENTHS PERCENT ON A DRY WEIGHT BASIS.



(e) "LOCALITY" MEANS A COUNTY, MUNICIPALITY, OR CITY AND COUNTY.

(f) "MARIJUANA" OR "MARIHUANA" MEANS ALL PARTS OF THE PLANT OF THE GENUS CANNABIS WHETHER GROWING OR NOT, THE SEEDS THEREOF, THE RESIN EXTRACTED FROM ANY PART OF THE PLANT, AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF THE PLANT, ITS SEEDS, OR ITS RESIN, INCLUDING MARIHUANA CONCENTRATE. "MARIJUANA" OR "MARIHUANA" DOES NOT INCLUDE INDUSTRIAL HEMP, NOR DOES IT INCLUDE FIBER PRODUCED FROM THE STALKS, OIL, OR CAKE MADE FROM THE SEEDS OF THE PLANT, STERILIZED SEED OF THE PLANT WHICH IS INCAPABLE OF GERMINATION, OR THE WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH MARIJUANA TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK, OR OTHER PRODUCT.

(g) "MARIJUANA ACCESSORIES" MEANS ANY EQUIPMENT, PRODUCTS, OR MATERIALS OF ANY KIND WHICH ARE USED, INTENDED FOR USE, OR DESIGNED FOR USE IN PLANTING, PROPAGATING, CULTIVATING, GROWING, HARVESTING, COMPOSTING, MANUFACTURING, COMPOUNDING, CONVERTING, PRODUCING, PROCESSING, PREPARING, TESTING, ANALYZING, PACKAGING, REPACKAGING, STORING, VAPORIZING, OR CONTAINING MARIJUANA, OR FOR INGESTING, INHALING, OR OTHERWISE INTRODUCING MARIJUANA INTO THE HUMAN BODY.

(h) "MARIJUANA CULTIVATION FACILITY" MEANS AN ENTITY LICENSED TO CULTIVATE, PREPARE, AND PACKAGE MARIJUANA AND SELL MARIJUANA TO RETAIL MARIJUANA STORES, TO MARIJUANA PRODUCT MANUFACTURING FACILITIES, AND TO OTHER MARIJUANA CULTIVATION FACILITIES, BUT NOT TO CONSUMERS.

(i) "MARIJUANA ESTABLISHMENT" MEANS A MARIJUANA CULTIVATION FACILITY, A MARIJUANA TESTING FACILITY, A MARIJUANA PRODUCT MANUFACTURING FACILITY, OR A RETAIL MARIJUANA STORE.

(j) "MARIJUANA PRODUCT MANUFACTURING FACILITY" MEANS AN ENTITY LICENSED TO PURCHASE MARIJUANA; MANUFACTURE, PREPARE, AND PACKAGE MARIJUANA PRODUCTS; AND SELL MARIJUANA AND MARIJUANA PRODUCTS TO OTHER MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO RETAIL MARIJUANA STORES, BUT NOT TO CONSUMERS.

(k) "MARIJUANA PRODUCTS" MEANS CONCENTRATED MARIJUANA PRODUCTS AND MARIJUANA PRODUCTS THAT ARE COMPRISED OF MARIJUANA AND OTHER INGREDIENTS AND ARE INTENDED FOR USE OR CONSUMPTION, SUCH AS, BUT NOT LIMITED TO, EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES.

(l) "MARIJUANA TESTING FACILITY" MEANS AN ENTITY LICENSED TO ANALYZE AND CERTIFY THE SAFETY AND POTENCY OF MARIJUANA.

(m) "MEDICAL MARIJUANA CENTER" MEANS AN ENTITY LICENSED BY A STATE AGENCY TO SELL MARIJUANA AND MARIJUANA PRODUCTS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

(n) "RETAIL MARIJUANA STORE" MEANS AN ENTITY LICENSED TO PURCHASE MARIJUANA FROM MARIJUANA CULTIVATION FACILITIES AND MARIJUANA AND MARIJUANA PRODUCTS FROM MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS.

(o) "UNREASONABLY IMPRACTICABLE" MEANS THAT THE MEASURES NECESSARY TO COMPLY WITH THE REGULATIONS REQUIRE SUCH A HIGH INVESTMENT OF RISK, MONEY, TIME, OR ANY OTHER RESOURCE OR ASSET THAT THE OPERATION OF A MARIJUANA

ESTABLISHMENT IS NOT WORTHY OF BEING CARRIED OUT IN PRACTICE BY A REASONABLY PRUDENT BUSINESSPERSON.

**(3) Personal use of marijuana.** NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING ACTS ARE NOT UNLAWFUL AND SHALL NOT BE AN OFFENSE UNDER COLORADO LAW OR THE LAW OF ANY LOCALITY WITHIN COLORADO OR BE A BASIS FOR SEIZURE OR FORFEITURE OF ASSETS UNDER COLORADO LAW FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER:

(a) POSSESSING, USING, DISPLAYING, PURCHASING, OR TRANSPORTING MARIJUANA ACCESSORIES OR ONE OUNCE OR LESS OF MARIJUANA.

(b) POSSESSING, GROWING, PROCESSING, OR TRANSPORTING NO MORE THAN SIX MARIJUANA PLANTS, WITH THREE OR FEWER BEING MATURE, FLOWERING PLANTS, AND POSSESSION OF THE MARIJUANA PRODUCED BY THE PLANTS ON THE PREMISES WHERE THE PLANTS WERE GROWN, PROVIDED THAT THE GROWING TAKES PLACE IN AN ENCLOSED, LOCKED SPACE, IS NOT CONDUCTED OPENLY OR PUBLICLY, AND IS NOT MADE AVAILABLE FOR SALE.

(c) TRANSFER OF ONE OUNCE OR LESS OF MARIJUANA WITHOUT REMUNERATION TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

(d) CONSUMPTION OF MARIJUANA, PROVIDED THAT NOTHING IN THIS SECTION SHALL PERMIT CONSUMPTION THAT IS CONDUCTED OPENLY AND PUBLICLY OR IN A MANNER THAT ENDANGERS OTHERS.

(e) ASSISTING ANOTHER PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER IN ANY OF THE ACTS DESCRIBED IN PARAGRAPHS (a) THROUGH (d) OF THIS SUBSECTION.

**(4) Lawful operation of marijuana-related facilities.** NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING ACTS ARE NOT UNLAWFUL AND SHALL NOT BE AN OFFENSE UNDER COLORADO LAW OR BE A BASIS FOR SEIZURE OR FORFEITURE OF ASSETS UNDER COLORADO LAW FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER:

(a) MANUFACTURE, POSSESSION, OR PURCHASE OF MARIJUANA ACCESSORIES OR THE SALE OF MARIJUANA ACCESSORIES TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

(b) POSSESSING, DISPLAYING, OR TRANSPORTING MARIJUANA OR MARIJUANA PRODUCTS; PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY; PURCHASE OF MARIJUANA OR MARIJUANA PRODUCTS FROM A MARIJUANA PRODUCT MANUFACTURING FACILITY; OR SALE OF MARIJUANA OR MARIJUANA PRODUCTS TO CONSUMERS, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A RETAIL MARIJUANA STORE OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE OR AGENT OF A LICENSED RETAIL MARIJUANA STORE.

(c) CULTIVATING, HARVESTING, PROCESSING, PACKAGING, TRANSPORTING, DISPLAYING, OR POSSESSING MARIJUANA; DELIVERY OR TRANSFER OF MARIJUANA TO A MARIJUANA TESTING FACILITY; SELLING MARIJUANA TO A MARIJUANA CULTIVATION FACILITY, A MARIJUANA PRODUCT MANUFACTURING FACILITY, OR A RETAIL MARIJUANA STORE; OR THE PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A MARIJUANA CULTIVATION FACILITY OR IS ACTING

IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA CULTIVATION FACILITY.

(d) PACKAGING, PROCESSING, TRANSPORTING, MANUFACTURING, DISPLAYING, OR POSSESSING MARIJUANA OR MARIJUANA PRODUCTS; DELIVERY OR TRANSFER OF MARIJUANA OR MARIJUANA PRODUCTS TO A MARIJUANA TESTING FACILITY; SELLING MARIJUANA OR MARIJUANA PRODUCTS TO A RETAIL MARIJUANA STORE OR A MARIJUANA PRODUCT MANUFACTURING FACILITY; THE PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY; OR THE PURCHASE OF MARIJUANA OR MARIJUANA PRODUCTS FROM A MARIJUANA PRODUCT MANUFACTURING FACILITY, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A MARIJUANA PRODUCT MANUFACTURING FACILITY OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA PRODUCT MANUFACTURING FACILITY.

(e) POSSESSING, CULTIVATING, PROCESSING, REPACKAGING, STORING, TRANSPORTING, DISPLAYING, TRANSFERRING OR DELIVERING MARIJUANA OR MARIJUANA PRODUCTS IF THE PERSON HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A MARIJUANA TESTING FACILITY OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA TESTING FACILITY.

(f) LEASING OR OTHERWISE ALLOWING THE USE OF PROPERTY OWNED, OCCUPIED OR CONTROLLED BY ANY PERSON, CORPORATION OR OTHER ENTITY FOR ANY OF THE ACTIVITIES CONDUCTED LAWFULLY IN ACCORDANCE WITH PARAGRAPHS (a) THROUGH (e) OF THIS SUBSECTION.

**(5) Regulation of marijuana.**

(a) NOT LATER THAN JULY 1, 2013, THE DEPARTMENT SHALL ADOPT REGULATIONS NECESSARY FOR IMPLEMENTATION OF THIS SECTION. SUCH REGULATIONS SHALL NOT PROHIBIT THE OPERATION OF MARIJUANA ESTABLISHMENTS, EITHER EXPRESSLY OR THROUGH REGULATIONS THAT MAKE THEIR OPERATION UNREASONABLY IMPRACTICABLE. SUCH REGULATIONS SHALL INCLUDE:

(I) PROCEDURES FOR THE ISSUANCE, RENEWAL, SUSPENSION, AND REVOCATION OF A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT, WITH SUCH PROCEDURES SUBJECT TO ALL REQUIREMENTS OF ARTICLE 4 OF TITLE 24 OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION;

(II) A SCHEDULE OF APPLICATION, LICENSING AND RENEWAL FEES, PROVIDED, APPLICATION FEES SHALL NOT EXCEED FIVE THOUSAND DOLLARS, WITH THIS UPPER LIMIT ADJUSTED ANNUALLY FOR INFLATION, UNLESS THE DEPARTMENT DETERMINES A GREATER FEE IS NECESSARY TO CARRY OUT ITS RESPONSIBILITIES UNDER THIS SECTION, AND PROVIDED FURTHER, AN ENTITY THAT IS LICENSED UNDER THE COLORADO MEDICAL MARIJUANA CODE TO CULTIVATE OR SELL MARIJUANA OR TO MANUFACTURE MARIJUANA PRODUCTS AT THE TIME THIS SECTION TAKES EFFECT AND THAT CHOOSES TO APPLY FOR A SEPARATE MARIJUANA ESTABLISHMENT LICENSE SHALL NOT BE REQUIRED TO PAY AN APPLICATION FEE GREATER THAN FIVE HUNDRED DOLLARS TO APPLY FOR A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION;

(III) QUALIFICATIONS FOR LICENSURE THAT ARE DIRECTLY AND DEMONSTRABLY RELATED TO THE OPERATION OF A MARIJUANA ESTABLISHMENT;

- (IV) SECURITY REQUIREMENTS FOR MARIJUANA ESTABLISHMENTS;
- (V) REQUIREMENTS TO PREVENT THE SALE OR DIVERSION OF MARIJUANA AND MARIJUANA PRODUCTS TO PERSONS UNDER THE AGE OF TWENTY-ONE;
- (VI) LABELING REQUIREMENTS FOR MARIJUANA AND MARIJUANA PRODUCTS SOLD OR DISTRIBUTED BY A MARIJUANA ESTABLISHMENT;
- (VII) HEALTH AND SAFETY REGULATIONS AND STANDARDS FOR THE MANUFACTURE OF MARIJUANA PRODUCTS AND THE CULTIVATION OF MARIJUANA;
- (VIII) RESTRICTIONS ON THE ADVERTISING AND DISPLAY OF MARIJUANA AND MARIJUANA PRODUCTS; AND
- (IX) CIVIL PENALTIES FOR THE FAILURE TO COMPLY WITH REGULATIONS MADE PURSUANT TO THIS SECTION.

(b) IN ORDER TO ENSURE THE MOST SECURE, RELIABLE, AND ACCOUNTABLE SYSTEM FOR THE PRODUCTION AND DISTRIBUTION OF MARIJUANA AND MARIJUANA PRODUCTS IN ACCORDANCE WITH THIS SUBSECTION, IN ANY COMPETITIVE APPLICATION PROCESS THE DEPARTMENT SHALL HAVE AS A PRIMARY CONSIDERATION WHETHER AN APPLICANT:

(I) HAS PRIOR EXPERIENCE PRODUCING OR DISTRIBUTING MARIJUANA OR MARIJUANA PRODUCTS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE IN THE LOCALITY IN WHICH THE APPLICANT SEEKS TO OPERATE A MARIJUANA ESTABLISHMENT; AND

(II) HAS, DURING THE EXPERIENCE DESCRIBED IN SUBPARAGRAPH (I), COMPLIED CONSISTANTLY WITH SECTION 14 OF THIS ARTICLE, THE PROVISIONS OF THE COLORADO MEDICAL MARIJUANA CODE AND CONFORMING REGULATIONS.

(c) IN ORDER TO ENSURE THAT INDIVIDUAL PRIVACY IS PROTECTED, NOTWITHSTANDING PARAGRAPH (a), THE DEPARTMENT SHALL NOT REQUIRE A CONSUMER TO PROVIDE A RETAIL MARIJUANA STORE WITH PERSONAL INFORMATION OTHER THAN GOVERNMENT-ISSUED IDENTIFICATION TO DETERMINE THE CONSUMER'S AGE, AND A RETAIL MARIJUANA STORE SHALL NOT BE REQUIRED TO ACQUIRE AND RECORD PERSONAL INFORMATION ABOUT CONSUMERS OTHER THAN INFORMATION TYPICALLY ACQUIRED IN A FINANCIAL TRANSACTION CONDUCTED AT A RETAIL LIQUOR STORE.

(d) THE GENERAL ASSEMBLY MAY ENACT AN EXCISE TAX TO BE LEVIED UPON MARIJUANA SOLD OR OTHERWISE TRANSFERRED BY A MARIJUANA CULTIVATION FACILITY TO A MARIJUANA PRODUCT MANUFACTURING FACILITY OR TO A RETAIL MARIJUANA STORE AT A RATE NOT TO EXCEED FIFTEEN PERCENT PRIOR TO JANUARY 1, 2017 AND AT A RATE TO BE DETERMINED BY THE GENERAL ASSEMBLY THEREAFTER, AND, IF AN EXCISE TAX IS ENACTED, SHALL DIRECT THE DEPARTMENT TO ESTABLISH PROCEDURES FOR THE COLLECTION OF ALL TAXES LEVIED. PROVIDED, THE FIRST FORTY MILLION DOLLARS IN REVENUE RAISED ANNUALLY FROM ANY SUCH EXCISE TAX SHALL BE CREDITED TO THE PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE FUND CREATED BY ARTICLE 43.7 OF TITLE 22, C.R.S., OR ANY SUCCESSOR FUND DEDICATED TO A SIMILAR PURPOSE. PROVIDED FURTHER, NO SUCH EXCISE TAX SHALL BE LEVIED UPON MARIJUANA INTENDED FOR SALE AT MEDICAL MARIJUANA CENTERS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

(e) NOT LATER THAN OCTOBER 1, 2013, EACH LOCALITY SHALL ENACT AN ORDINANCE OR REGULATION SPECIFYING THE ENTITY WITHIN THE LOCALITY THAT IS RESPONSIBLE FOR PROCESSING APPLICATIONS SUBMITTED FOR A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT WITHIN THE BOUNDARIES OF THE LOCALITY AND FOR THE ISSUANCE OF SUCH LICENSES SHOULD THE ISSUANCE BY THE LOCALITY BECOME NECESSARY BECAUSE OF A FAILURE BY THE DEPARTMENT TO ADOPT REGULATIONS PURSUANT TO PARAGRAPH (a) OR BECAUSE OF A FAILURE BY THE DEPARTMENT TO PROCESS AND ISSUE LICENSES AS REQUIRED BY PARAGRAPH (g).

(f) A LOCALITY MAY ENACT ORDINANCES OR REGULATIONS, NOT IN CONFLICT WITH THIS SECTION OR WITH REGULATIONS OR LEGISLATION ENACTED PURSUANT TO THIS SECTION, GOVERNING THE TIME, PLACE, MANNER AND NUMBER OF MARIJUANA ESTABLISHMENT OPERATIONS; ESTABLISHING PROCEDURES FOR THE ISSUANCE, SUSPENSION, AND REVOCATION OF A LICENSE ISSUED BY THE LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i), SUCH PROCEDURES TO BE SUBJECT TO ALL REQUIREMENTS OF ARTICLE 4 OF TITLE 24 OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION; ESTABLISHING A SCHEDULE OF ANNUAL OPERATING, LICENSING, AND APPLICATION FEES FOR MARIJUANA ESTABLISHMENTS, PROVIDED, THE APPLICATION FEE SHALL ONLY BE DUE IF AN APPLICATION IS SUBMITTED TO A LOCALITY IN ACCORDANCE WITH PARAGRAPH (i) AND A LICENSING FEE SHALL ONLY BE DUE IF A LICENSE IS ISSUED BY A LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i); AND ESTABLISHING CIVIL PENALTIES FOR VIOLATION OF AN ORDINANCE OR REGULATION GOVERNING THE TIME, PLACE, AND MANNER OF A MARIJUANA ESTABLISHMENT THAT MAY OPERATE IN SUCH LOCALITY. A LOCALITY MAY PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES THROUGH THE ENACTMENT OF AN ORDINANCE OR THROUGH AN INITIATED OR REFERRED MEASURE; PROVIDED, ANY INITIATED OR REFERRED MEASURE TO PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES MUST APPEAR ON A GENERAL ELECTION BALLOT DURING AN EVEN NUMBERED YEAR.

(g) EACH APPLICATION FOR AN ANNUAL LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT SHALL BE SUBMITTED TO THE DEPARTMENT. THE DEPARTMENT SHALL:

(I) BEGIN ACCEPTING AND PROCESSING APPLICATIONS ON OCTOBER 1, 2013;

(II) IMMEDIATELY FORWARD A COPY OF EACH APPLICATION AND HALF OF THE LICENSE APPLICATION FEE TO THE LOCALITY IN WHICH THE APPLICANT DESIRES TO OPERATE THE MARIJUANA ESTABLISHMENT;

(III) ISSUE AN ANNUAL LICENSE TO THE APPLICANT BETWEEN FORTY-FIVE AND NINETY DAYS AFTER RECEIPT OF AN APPLICATION UNLESS THE DEPARTMENT FINDS THE APPLICANT IS NOT IN COMPLIANCE WITH REGULATIONS ENACTED PURSUANT TO PARAGRAPH (a) OR THE DEPARTMENT IS NOTIFIED BY THE RELEVANT LOCALITY THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) AND IN EFFECT AT THE TIME OF APPLICATION, PROVIDED, WHERE A LOCALITY HAS ENACTED A NUMERICAL LIMIT ON THE NUMBER OF MARIJUANA ESTABLISHMENTS AND A GREATER NUMBER OF APPLICANTS SEEK LICENSES, THE

DEPARTMENT SHALL SOLICIT AND CONSIDER INPUT FROM THE LOCALITY AS TO THE LOCALITY'S PREFERENCE OR PREFERENCES FOR LICENSURE; AND

(IV) UPON DENIAL OF AN APPLICATION, NOTIFY THE APPLICANT IN WRITING OF THE SPECIFIC REASON FOR ITS DENIAL.

(h) IF THE DEPARTMENT DOES NOT ISSUE A LICENSE TO AN APPLICANT WITHIN NINETY DAYS OF RECEIPT OF THE APPLICATION FILED IN ACCORDANCE WITH PARAGRAPH (g) AND DOES NOT NOTIFY THE APPLICANT OF THE SPECIFIC REASON FOR ITS DENIAL, IN WRITING AND WITHIN SUCH TIME PERIOD, OR IF THE DEPARTMENT HAS ADOPTED REGULATIONS PURSUANT TO PARAGRAPH (a) AND HAS ACCEPTED APPLICATIONS PURSUANT TO PARAGRAPH (g) BUT HAS NOT ISSUED ANY LICENSES BY JANUARY 1, 2014, THE APPLICANT MAY RESUBMIT ITS APPLICATION DIRECTLY TO THE LOCALITY, PURSUANT TO PARAGRAPH (e), AND THE LOCALITY MAY ISSUE AN ANNUAL LICENSE TO THE APPLICANT. A LOCALITY ISSUING A LICENSE TO AN APPLICANT SHALL DO SO WITHIN NINETY DAYS OF RECEIPT OF THE RESUBMITTED APPLICATION UNLESS THE LOCALITY FINDS AND NOTIFIES THE APPLICANT THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) IN EFFECT AT THE TIME THE APPLICATION IS RESUBMITTED AND THE LOCALITY SHALL NOTIFY THE DEPARTMENT IF AN ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT. IF AN APPLICATION IS SUBMITTED TO A LOCALITY UNDER THIS PARAGRAPH, THE DEPARTMENT SHALL FORWARD TO THE LOCALITY THE APPLICATION FEE PAID BY THE APPLICANT TO THE DEPARTMENT UPON REQUEST BY THE LOCALITY. A LICENSE ISSUED BY A LOCALITY IN ACCORDANCE WITH THIS PARAGRAPH SHALL HAVE THE SAME FORCE AND EFFECT AS A LICENSE ISSUED BY THE DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (g) AND THE HOLDER OF SUCH LICENSE SHALL NOT BE SUBJECT TO REGULATION OR ENFORCEMENT BY THE DEPARTMENT DURING THE TERM OF THAT LICENSE. A SUBSEQUENT OR RENEWED LICENSE MAY BE ISSUED UNDER THIS PARAGRAPH ON AN ANNUAL BASIS ONLY UPON RESUBMISSION TO THE LOCALITY OF A NEW APPLICATION SUBMITTED TO THE DEPARTMENT PURSUANT TO PARAGRAPH (g). NOTHING IN THIS PARAGRAPH SHALL LIMIT SUCH RELIEF AS MAY BE AVAILABLE TO AN AGGRIEVED PARTY UNDER SECTION 24-4-104, C.R.S., OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION.

(i) IF THE DEPARTMENT DOES NOT ADOPT REGULATIONS REQUIRED BY PARAGRAPH (a), AN APPLICANT MAY SUBMIT AN APPLICATION DIRECTLY TO A LOCALITY AFTER OCTOBER 1, 2013 AND THE LOCALITY MAY ISSUE AN ANNUAL LICENSE TO THE APPLICANT. A LOCALITY ISSUING A LICENSE TO AN APPLICANT SHALL DO SO WITHIN NINETY DAYS OF RECEIPT OF THE APPLICATION UNLESS IT FINDS AND NOTIFIES THE APPLICANT THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) IN EFFECT AT THE TIME OF APPLICATION AND SHALL NOTIFY THE DEPARTMENT IF AN ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT. A LICENSE ISSUED BY A LOCALITY IN ACCORDANCE WITH THIS PARAGRAPH SHALL HAVE THE SAME FORCE AND EFFECT AS A LICENSE ISSUED BY THE DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (g) AND THE HOLDER OF SUCH LICENSE SHALL NOT BE SUBJECT TO REGULATION OR ENFORCEMENT BY THE DEPARTMENT DURING THE TERM OF THAT LICENSE. A SUBSEQUENT OR RENEWED LICENSE MAY BE ISSUED UNDER THIS PARAGRAPH ON AN ANNUAL BASIS IF THE DEPARTMENT HAS NOT ADOPTED REGULATIONS REQUIRED BY

PARAGRAPH (a) AT LEAST NINETY DAYS PRIOR TO THE DATE UPON WHICH SUCH SUBSEQUENT OR RENEWED LICENSE WOULD BE EFFECTIVE OR IF THE DEPARTMENT HAS ADOPTED REGULATIONS PURSUANT TO PARAGRAPH (a) BUT HAS NOT, AT LEAST NINETY DAYS AFTER THE ADOPTION OF SUCH REGULATIONS, ISSUED LICENSES PURSUANT TO PARAGRAPH (g).

(j) NOT LATER THAN JULY 1, 2014, THE GENERAL ASSEMBLY SHALL ENACT LEGISLATION GOVERNING THE CULTIVATION, PROCESSING AND SALE OF INDUSTRIAL HEMP.

**(6) Employers, driving, minors and control of property.**

(a) NOTHING IN THIS SECTION IS INTENDED TO REQUIRE AN EMPLOYER TO PERMIT OR ACCOMMODATE THE USE, CONSUMPTION, POSSESSION, TRANSFER, DISPLAY, TRANSPORTATION, SALE OR GROWING OF MARIJUANA IN THE WORKPLACE OR TO AFFECT THE ABILITY OF EMPLOYERS TO HAVE POLICIES RESTRICTING THE USE OF MARIJUANA BY EMPLOYEES.

(b) NOTHING IN THIS SECTION IS INTENDED TO ALLOW DRIVING UNDER THE INFLUENCE OF MARIJUANA OR DRIVING WHILE IMPAIRED BY MARIJUANA OR TO SUPERSEDE STATUTORY LAWS RELATED TO DRIVING UNDER THE INFLUENCE OF MARIJUANA OR DRIVING WHILE IMPAIRED BY MARIJUANA, NOR SHALL THIS SECTION PREVENT THE STATE FROM ENACTING AND IMPOSING PENALTIES FOR DRIVING UNDER THE INFLUENCE OF OR WHILE IMPAIRED BY MARIJUANA.

(c) NOTHING IN THIS SECTION IS INTENDED TO PERMIT THE TRANSFER OF MARIJUANA, WITH OR WITHOUT REMUNERATION, TO A PERSON UNDER THE AGE OF TWENTY-ONE OR TO ALLOW A PERSON UNDER THE AGE OF TWENTY-ONE TO PURCHASE, POSSESS, USE, TRANSPORT, GROW, OR CONSUME MARIJUANA.

(d) NOTHING IN THIS SECTION SHALL PROHIBIT A PERSON, EMPLOYER, SCHOOL, HOSPITAL, DETENTION FACILITY, CORPORATION OR ANY OTHER ENTITY WHO OCCUPIES, OWNS OR CONTROLS A PROPERTY FROM PROHIBITING OR OTHERWISE REGULATING THE POSSESSION, CONSUMPTION, USE, DISPLAY, TRANSFER, DISTRIBUTION, SALE, TRANSPORTATION, OR GROWING OF MARIJUANA ON OR IN THAT PROPERTY.

**(7) Medical marijuana provisions unaffected.** NOTHING IN THIS SECTION SHALL BE CONSTRUED:

(a) TO LIMIT ANY PRIVILEGES OR RIGHTS OF A MEDICAL MARIJUANA PATIENT, PRIMARY CAREGIVER, OR LICENSED ENTITY AS PROVIDED IN SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE;

(b) TO PERMIT A MEDICAL MARIJUANA CENTER TO DISTRIBUTE MARIJUANA TO A PERSON WHO IS NOT A MEDICAL MARIJUANA PATIENT;

(c) TO PERMIT A MEDICAL MARIJUANA CENTER TO PURCHASE MARIJUANA OR MARIJUANA PRODUCTS IN A MANNER OR FROM A SOURCE NOT AUTHORIZED UNDER THE COLORADO MEDICAL MARIJUANA CODE;

(d) TO PERMIT ANY MEDICAL MARIJUANA CENTER LICENSED PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE TO OPERATE ON THE SAME PREMISES AS A RETAIL MARIJUANA STORE.; OR

(e) TO DISCHARGE THE DEPARTMENT, THE COLORADO BOARD OF HEALTH, OR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FROM THEIR STATUTORY AND CONSTITUTIONAL DUTIES TO REGULATE MEDICAL MARIJUANA PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

**(8) Self-executing, severability, conflicting provisions.** ALL PROVISIONS OF THIS SECTION ARE SELF-EXECUTING EXCEPT AS SPECIFIED HEREIN, ARE SEVERABLE, AND, EXCEPT WHERE OTHERWISE INDICATED IN THE TEXT, SHALL SUPERSEDE CONFLICTING STATE STATUTORY, LOCAL CHARTER, ORDINANCE, OR RESOLUTION, AND OTHER STATE AND LOCAL PROVISIONS.

**(9) Effective date.** UNLESS OTHERWISE PROVIDED BY THIS SECTION, ALL PROVISIONS OF THIS SECTION SHALL BECOME EFFECTIVE UPON OFFICIAL DECLARATION OF THE VOTE HEREON BY PROCLAMATION OF THE GOVERNOR, PURSUANT TO SECTION 1(4) OF ARTICLE V.

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**Proponent Representative 1**

**Name:** Mason Tvert  
**Physical Address:** 1441 Humboldt Street #101, Denver, Colorado 80218  
**Mailing Address:** P.O. Box 40332, Denver, Colorado 80204  
**Phone:** 303-861-0033  
**Fax:** 303-861-0915  
**E-mail:** mason@safertools.org

**Proponent Representative 2**

**Name:** Brian Vicente  
**Physical Address:** 949 B Pennsylvania St., Denver, Colorado 80203  
**Mailing Address:** P.O. Box 18768, Denver, Colorado 80218  
**Phone:** 303-860-4501  
**Fax:** 303-860-4505  
**E-mail:** brian@sensiblecolorado.org



## Ballot Title Setting Board

### Proposed Initiative 2011-2012 #35<sup>1</sup>

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.*

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<sup>1</sup> 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.



**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 text, motion for rehearing, titles, and the rulings thereon of the Title Board on Proposed Initiative "2011-2012 #36".....

..... **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 8<sup>th</sup> day of July, 2011.

A handwritten signature in cursive script, appearing to read "Scott Gessler", is written over a horizontal line.

SECRETARY OF STATE

## 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](http://www.sos.state.co.us)  
Email: [initiatives@sos.state.co.us](mailto:initiatives@sos.state.co.us)

RECEIVED

JUN 22 2011 3:51 P.M.

Colorado Secretary of State

Dear Sirs:

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

I. The title is misleading.

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

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

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

II. The titles include an impermissible catch phrase

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

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

Sincerely,

Corey Donahue  
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@safertools.org>  
Brian Vicente, Sensible <brian@sensiblecolorado.org>

**Cesiah Gomez**

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

To whom it may concern,

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

Sincerely,

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

JUN 03 2011

Be it Enacted by the People of the State of Colorado  
Colorado Secretary of State

Article XVIII of the constitution of the state of Colorado is amended BY THE  
ADDITION OF A NEW SECTION to read:

**Section 16. Personal use and regulation of marijuana**

**(1) Purpose and findings.**

(a) IN THE INTEREST OF THE EFFICIENT USE OF LAW ENFORCEMENT RESOURCES, ENHANCING REVENUE FOR PUBLIC PURPOSES, AND INDIVIDUAL FREEDOM, THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT THE USE OF MARIJUANA SHOULD BE LEGAL FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER AND TAXED IN A MANNER SIMILAR TO ALCOHOL.

(b) IN THE INTEREST OF THE HEALTH AND PUBLIC SAFETY OF OUR CITIZENRY, THE PEOPLE OF THE STATE OF COLORADO FURTHER FIND AND DECLARE THAT MARIJUANA SHOULD BE REGULATED IN A MANNER SIMILAR TO ALCOHOL SO THAT:

(I) INDIVIDUALS WILL HAVE TO SHOW PROOF OF AGE BEFORE PURCHASING MARIJUANA;

(II) SELLING, DISTRIBUTING, OR TRANSFERRING MARIJUANA TO MINORS AND OTHER INDIVIDUALS UNDER THE AGE OF TWENTY-ONE SHALL REMAIN ILLEGAL;

(III) DRIVING UNDER THE INFLUENCE OF MARIJUANA SHALL REMAIN ILLEGAL;

(IV) LEGITIMATE, TAXPAYING BUSINESS PEOPLE, AND NOT CRIMINAL ACTORS, WILL CONDUCT SALES OF MARIJUANA; AND

(V) MARIJUANA SOLD IN THIS STATE WILL BE LABELED AND SUBJECT TO ADDITIONAL REGULATIONS TO ENSURE THAT CONSUMERS ARE INFORMED AND PROTECTED.

(c) IN THE INTEREST OF ENACTING RATIONAL POLICIES FOR THE TREATMENT OF ALL VARIATIONS OF THE CANNABIS PLANT, THE PEOPLE OF COLORADO FURTHER FIND AND DECLARE THAT INDUSTRIAL HEMP SHOULD BE REGULATED SEPARATELY FROM STRAINS OF CANNABIS WITH HIGHER DELTA-9 TETRAHYDROCANNABINOL (THC) CONCENTRATIONS.

(d) THE PEOPLE OF THE STATE OF COLORADO FURTHER FIND AND DECLARE THAT IT IS NECESSARY TO ENSURE CONSISTENCY AND FAIRNESS IN THE APPLICATION OF THIS SECTION THROUGHOUT THE STATE AND THAT, THEREFORE, THE MATTERS ADDRESSED BY THIS SECTION ARE, EXCEPT AS SPECIFIED HEREIN, MATTERS OF STATEWIDE CONCERN.

**(2) Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES,

(a) "COLORADO MEDICAL MARIJUANA CODE" MEANS ARTICLE 43.3 OF TITLE 12, COLORADO REVISED STATUTES.

(b) "CONSUMER" MEANS A PERSON TWENTY-ONE YEARS OF AGE OR OLDER WHO PURCHASES MARIJUANA OR MARIJUANA PRODUCTS FOR PERSONAL USE BY PERSONS TWENTY-ONE YEARS OF AGE OR OLDER, BUT NOT FOR RESALE TO OTHERS.

(c) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE OR ITS SUCCESSOR AGENCY.

(d) "INDUSTRIAL HEMP" MEANS THE PLANT OF THE GENUS CANNABIS AND ANY PART OF SUCH PLANT, WHETHER GROWING OR NOT, WITH A DELTA-9 TETRAHYDROCANNABINOL CONCENTRATION THAT DOES NOT EXCEED THREE-TENTHS PERCENT ON A DRY WEIGHT BASIS.

(e) "LOCALITY" MEANS A COUNTY, MUNICIPALITY, OR CITY AND COUNTY.

(f) "MARIJUANA" OR "MARIHUANA" MEANS ALL PARTS OF THE PLANT OF THE GENUS CANNABIS WHETHER GROWING OR NOT, THE SEEDS THEREOF, THE RESIN EXTRACTED FROM ANY PART OF THE PLANT, AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF THE PLANT, ITS SEEDS, OR ITS RESIN, INCLUDING MARIHUANA CONCENTRATE. "MARIJUANA" OR "MARIHUANA" DOES NOT INCLUDE INDUSTRIAL HEMP, NOR DOES IT INCLUDE FIBER PRODUCED FROM THE STALKS, OIL, OR CAKE MADE FROM THE SEEDS OF THE PLANT, STERILIZED SEED OF THE PLANT WHICH IS INCAPABLE OF GERMINATION, OR THE WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH MARIJUANA TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK, OR OTHER PRODUCT.

(g) "MARIJUANA ACCESSORIES" MEANS ANY EQUIPMENT, PRODUCTS, OR MATERIALS OF ANY KIND WHICH ARE USED, INTENDED FOR USE, OR DESIGNED FOR USE IN PLANTING, PROPAGATING, CULTIVATING, GROWING, HARVESTING, COMPOSTING, MANUFACTURING, COMPOUNDING, CONVERTING, PRODUCING, PROCESSING, PREPARING, TESTING, ANALYZING, PACKAGING, REPACKAGING, STORING, VAPORIZING, OR CONTAINING MARIJUANA, OR FOR INGESTING, INHALING, OR OTHERWISE INTRODUCING MARIJUANA INTO THE HUMAN BODY.

(h) "MARIJUANA CULTIVATION FACILITY" MEANS AN ENTITY LICENSED TO CULTIVATE, PREPARE, AND PACKAGE MARIJUANA AND SELL MARIJUANA TO RETAIL MARIJUANA STORES, TO MARIJUANA PRODUCT MANUFACTURING FACILITIES, AND TO OTHER MARIJUANA CULTIVATION FACILITIES, BUT NOT TO CONSUMERS.

(i) "MARIJUANA ESTABLISHMENT" MEANS A MARIJUANA CULTIVATION FACILITY, A MARIJUANA TESTING FACILITY, A MARIJUANA PRODUCT MANUFACTURING FACILITY, OR A RETAIL MARIJUANA STORE.

(j) "MARIJUANA PRODUCT MANUFACTURING FACILITY" MEANS AN ENTITY LICENSED TO PURCHASE MARIJUANA; MANUFACTURE, PREPARE, AND PACKAGE MARIJUANA PRODUCTS; AND SELL MARIJUANA AND MARIJUANA PRODUCTS TO OTHER MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO RETAIL MARIJUANA STORES, BUT NOT TO CONSUMERS.

(k) "MARIJUANA PRODUCTS" MEANS CONCENTRATED MARIJUANA PRODUCTS AND MARIJUANA PRODUCTS THAT ARE COMPRISED OF MARIJUANA AND OTHER INGREDIENTS AND ARE INTENDED FOR USE OR CONSUMPTION, SUCH AS, BUT NOT LIMITED TO, EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES.

(l) "MARIJUANA TESTING FACILITY" MEANS AN ENTITY LICENSED TO ANALYZE AND CERTIFY THE SAFETY AND POTENCY OF MARIJUANA.

(m) "MEDICAL MARIJUANA CENTER" MEANS AN ENTITY LICENSED BY A STATE AGENCY TO SELL MARIJUANA AND MARIJUANA PRODUCTS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

(n) "RETAIL MARIJUANA STORE" MEANS AN ENTITY LICENSED TO PURCHASE MARIJUANA FROM MARIJUANA CULTIVATION FACILITIES AND MARIJUANA AND MARIJUANA PRODUCTS FROM MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS.

(o) "UNREASONABLY IMPRACTICABLE" MEANS THAT THE MEASURES NECESSARY TO COMPLY WITH THE REGULATIONS REQUIRE SUCH A HIGH INVESTMENT OF RISK, MONEY, TIME, OR ANY OTHER RESOURCE OR ASSET THAT THE OPERATION OF A MARIJUANA

ESTABLISHMENT IS NOT WORTHY OF BEING CARRIED OUT IN PRACTICE BY A REASONABLY PRUDENT BUSINESSPERSON.

**(3) Personal use of marijuana.** NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING ACTS ARE NOT UNLAWFUL AND SHALL NOT BE AN OFFENSE UNDER COLORADO LAW OR THE LAW OF ANY LOCALITY WITHIN COLORADO OR BE A BASIS FOR SEIZURE OR FORFEITURE OF ASSETS UNDER COLORADO LAW FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER:

(a) POSSESSING, USING, DISPLAYING, PURCHASING, OR TRANSPORTING MARIJUANA ACCESSORIES OR ONE OUNCE OR LESS OF MARIJUANA.

(b) POSSESSING, GROWING, PROCESSING, OR TRANSPORTING NO MORE THAN SIX MARIJUANA PLANTS, WITH THREE OR FEWER BEING MATURE, FLOWERING PLANTS, AND POSSESSION OF THE MARIJUANA PRODUCED BY THE PLANTS ON THE PREMISES WHERE THE PLANTS WERE GROWN, PROVIDED THAT THE GROWING TAKES PLACE IN AN ENCLOSED, LOCKED SPACE, IS NOT CONDUCTED OPENLY OR PUBLICLY, AND IS NOT MADE AVAILABLE FOR SALE.

(c) TRANSFER OF ONE OUNCE OR LESS OF MARIJUANA WITHOUT REMUNERATION TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

(d) CONSUMPTION OF MARIJUANA, PROVIDED THAT NOTHING IN THIS SECTION SHALL PERMIT CONSUMPTION THAT IS CONDUCTED OPENLY AND PUBLICLY OR IN A MANNER THAT ENDANGERS OTHERS.

(e) ASSISTING ANOTHER PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER IN ANY OF THE ACTS DESCRIBED IN PARAGRAPHS (a) THROUGH (d) OF THIS SUBSECTION.

**(4) Lawful operation of marijuana-related facilities.** NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING ACTS ARE NOT UNLAWFUL AND SHALL NOT BE AN OFFENSE UNDER COLORADO LAW OR BE A BASIS FOR SEIZURE OR FORFEITURE OF ASSETS UNDER COLORADO LAW FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER:

(a) MANUFACTURE, POSSESSION, OR PURCHASE OF MARIJUANA ACCESSORIES OR THE SALE OF MARIJUANA ACCESSORIES TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

(b) POSSESSING, DISPLAYING, OR TRANSPORTING MARIJUANA OR MARIJUANA PRODUCTS; PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY; PURCHASE OF MARIJUANA OR MARIJUANA PRODUCTS FROM A MARIJUANA PRODUCT MANUFACTURING FACILITY; OR SALE OF MARIJUANA OR MARIJUANA PRODUCTS TO CONSUMERS, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A RETAIL MARIJUANA STORE OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE OR AGENT OF A LICENSED RETAIL MARIJUANA STORE.

(c) CULTIVATING, HARVESTING, PROCESSING, PACKAGING, TRANSPORTING, DISPLAYING, OR POSSESSING MARIJUANA; DELIVERY OR TRANSFER OF MARIJUANA TO A MARIJUANA TESTING FACILITY; SELLING MARIJUANA TO A MARIJUANA CULTIVATION FACILITY, A MARIJUANA PRODUCT MANUFACTURING FACILITY, OR A RETAIL MARIJUANA STORE; OR THE PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A MARIJUANA CULTIVATION FACILITY OR IS ACTING



IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA CULTIVATION FACILITY.

(d) PACKAGING, PROCESSING, TRANSPORTING, MANUFACTURING, DISPLAYING, OR POSSESSING MARIJUANA OR MARIJUANA PRODUCTS; DELIVERY OR TRANSFER OF MARIJUANA OR MARIJUANA PRODUCTS TO A MARIJUANA TESTING FACILITY; SELLING MARIJUANA OR MARIJUANA PRODUCTS TO A RETAIL MARIJUANA STORE OR A MARIJUANA PRODUCT MANUFACTURING FACILITY; THE PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY; OR THE PURCHASE OF MARIJUANA OR MARIJUANA PRODUCTS FROM A MARIJUANA PRODUCT MANUFACTURING FACILITY, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A MARIJUANA PRODUCT MANUFACTURING FACILITY OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA PRODUCT MANUFACTURING FACILITY.

(e) POSSESSING, CULTIVATING, PROCESSING, REPACKAGING, STORING, TRANSPORTING, DISPLAYING, TRANSFERRING OR DELIVERING MARIJUANA OR MARIJUANA PRODUCTS IF THE PERSON HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A MARIJUANA TESTING FACILITY OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA TESTING FACILITY.

(f) LEASING OR OTHERWISE ALLOWING THE USE OF PROPERTY OWNED, OCCUPIED OR CONTROLLED BY ANY PERSON, CORPORATION OR OTHER ENTITY FOR ANY OF THE ACTIVITIES CONDUCTED LAWFULLY IN ACCORDANCE WITH PARAGRAPHS (a) THROUGH (e) OF THIS SUBSECTION.

**(5) Regulation of marijuana.**

(a) NOT LATER THAN JULY 1, 2013, THE DEPARTMENT SHALL ADOPT REGULATIONS NECESSARY FOR IMPLEMENTATION OF THIS SECTION. SUCH REGULATIONS SHALL NOT PROHIBIT THE OPERATION OF MARIJUANA ESTABLISHMENTS, EITHER EXPRESSLY OR THROUGH REGULATIONS THAT MAKE THEIR OPERATION UNREASONABLY IMPRACTICABLE. SUCH REGULATIONS SHALL INCLUDE:

(I) PROCEDURES FOR THE ISSUANCE, RENEWAL, SUSPENSION, AND REVOCATION OF A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT, WITH SUCH PROCEDURES SUBJECT TO ALL REQUIREMENTS OF ARTICLE 4 OF TITLE 24 OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION;

(II) A SCHEDULE OF APPLICATION, LICENSING AND RENEWAL FEES, PROVIDED, APPLICATION FEES SHALL NOT EXCEED FIVE THOUSAND DOLLARS, WITH THIS UPPER LIMIT ADJUSTED ANNUALLY FOR INFLATION, UNLESS THE DEPARTMENT DETERMINES A GREATER FEE IS NECESSARY TO CARRY OUT ITS RESPONSIBILITIES UNDER THIS SECTION, AND PROVIDED FURTHER, AN ENTITY THAT IS LICENSED UNDER THE COLORADO MEDICAL MARIJUANA CODE TO CULTIVATE OR SELL MARIJUANA OR TO MANUFACTURE MARIJUANA PRODUCTS AT THE TIME THIS SECTION TAKES EFFECT AND THAT CHOOSES TO APPLY FOR A SEPARATE MARIJUANA ESTABLISHMENT LICENSE SHALL NOT BE REQUIRED TO PAY AN APPLICATION FEE GREATER THAN FIVE HUNDRED DOLLARS TO APPLY FOR A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION;

(III) QUALIFICATIONS FOR LICENSURE THAT ARE DIRECTLY AND DEMONSTRABLY RELATED TO THE OPERATION OF A MARIJUANA ESTABLISHMENT;

- (IV) SECURITY REQUIREMENTS FOR MARIJUANA ESTABLISHMENTS;
- (V) REQUIREMENTS TO PREVENT THE SALE OR DIVERSION OF MARIJUANA AND MARIJUANA PRODUCTS TO PERSONS UNDER THE AGE OF TWENTY-ONE;
- (VI) LABELING REQUIREMENTS FOR MARIJUANA AND MARIJUANA PRODUCTS SOLD OR DISTRIBUTED BY A MARIJUANA ESTABLISHMENT;
- (VII) HEALTH AND SAFETY REGULATIONS AND STANDARDS FOR THE MANUFACTURE OF MARIJUANA PRODUCTS AND THE CULTIVATION OF MARIJUANA;
- (VIII) RESTRICTIONS ON THE ADVERTISING AND DISPLAY OF MARIJUANA AND MARIJUANA PRODUCTS; AND
- (IX) CIVIL PENALTIES FOR THE FAILURE TO COMPLY WITH REGULATIONS MADE PURSUANT TO THIS SECTION.

(b) IN ORDER TO ENSURE THE MOST SECURE, RELIABLE, AND ACCOUNTABLE SYSTEM FOR THE PRODUCTION AND DISTRIBUTION OF MARIJUANA AND MARIJUANA PRODUCTS IN ACCORDANCE WITH THIS SUBSECTION, IN ANY COMPETITIVE APPLICATION PROCESS THE DEPARTMENT SHALL HAVE AS A PRIMARY CONSIDERATION WHETHER AN APPLICANT:

(I) HAS PRIOR EXPERIENCE PRODUCING OR DISTRIBUTING MARIJUANA OR MARIJUANA PRODUCTS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE IN THE LOCALITY IN WHICH THE APPLICANT SEEKS TO OPERATE A MARIJUANA ESTABLISHMENT; AND

(II) HAS, DURING THE EXPERIENCE DESCRIBED IN SUBPARAGRAPH (I), COMPLIED CONSISTANTLY WITH SECTION 14 OF THIS ARTICLE, THE PROVISIONS OF THE COLORADO MEDICAL MARIJUANA CODE AND CONFORMING REGULATIONS.

(c) IN ORDER TO ENSURE THAT INDIVIDUAL PRIVACY IS PROTECTED, NOTWITHSTANDING PARAGRAPH (a), THE DEPARTMENT SHALL NOT REQUIRE A CONSUMER TO PROVIDE A RETAIL MARIJUANA STORE WITH PERSONAL INFORMATION OTHER THAN GOVERNMENT-ISSUED IDENTIFICATION TO DETERMINE THE CONSUMER'S AGE, AND A RETAIL MARIJUANA STORE SHALL NOT BE REQUIRED TO ACQUIRE AND RECORD PERSONAL INFORMATION ABOUT CONSUMERS OTHER THAN INFORMATION TYPICALLY ACQUIRED IN A FINANCIAL TRANSACTION CONDUCTED AT A RETAIL LIQUOR STORE.

(d) THE GENERAL ASSEMBLY SHALL ENACT AN EXCISE TAX TO BE LEVIED UPON MARIJUANA SOLD OR OTHERWISE TRANSFERRED BY A MARIJUANA CULTIVATION FACILITY TO A MARIJUANA PRODUCT MANUFACTURING FACILITY OR TO A RETAIL MARIJUANA STORE AT A RATE NOT TO EXCEED FIFTEEN PERCENT PRIOR TO JANUARY 1, 2017 AND AT A RATE TO BE DETERMINED BY THE GENERAL ASSEMBLY THEREAFTER, AND SHALL DIRECT THE DEPARTMENT TO ESTABLISH PROCEDURES FOR THE COLLECTION OF ALL TAXES LEVIED; PROVIDED, NO SUCH EXCISE TAX SHALL BE LEVIED UPON MARIJUANA INTENDED FOR SALE AT MEDICAL MARIJUANA CENTERS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

(e) NOT LATER THAN OCTOBER 1, 2013, EACH LOCALITY SHALL ENACT AN ORDINANCE OR REGULATION SPECIFYING THE ENTITY WITHIN THE LOCALITY THAT IS RESPONSIBLE FOR PROCESSING APPLICATIONS SUBMITTED FOR A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT WITHIN THE BOUNDARIES OF THE LOCALITY AND FOR THE

ISSUANCE OF SUCH LICENSES SHOULD THE ISSUANCE BY THE LOCALITY BECOME NECESSARY BECAUSE OF A FAILURE BY THE DEPARTMENT TO ADOPT REGULATIONS PURSUANT TO PARAGRAPH (a) OR BECAUSE OF A FAILURE BY THE DEPARTMENT TO PROCESS AND ISSUE LICENSES AS REQUIRED BY PARAGRAPH (g).

(f) A LOCALITY MAY ENACT ORDINANCES OR REGULATIONS, NOT IN CONFLICT WITH THIS SECTION OR WITH REGULATIONS OR LEGISLATION ENACTED PURSUANT TO THIS SECTION, GOVERNING THE TIME, PLACE, MANNER AND NUMBER OF MARIJUANA ESTABLISHMENT OPERATIONS; ESTABLISHING PROCEDURES FOR THE ISSUANCE, SUSPENSION, AND REVOCATION OF A LICENSE ISSUED BY THE LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i), SUCH PROCEDURES TO BE SUBJECT TO ALL REQUIREMENTS OF ARTICLE 4 OF TITLE 24 OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION; ESTABLISHING A SCHEDULE OF ANNUAL OPERATING, LICENSING, AND APPLICATION FEES FOR MARIJUANA ESTABLISHMENTS, PROVIDED, THE APPLICATION FEE SHALL ONLY BE DUE IF AN APPLICATION IS SUBMITTED TO A LOCALITY IN ACCORDANCE WITH PARAGRAPH (i) AND A LICENSING FEE SHALL ONLY BE DUE IF A LICENSE IS ISSUED BY A LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i); AND ESTABLISHING CIVIL PENALTIES FOR VIOLATION OF AN ORDINANCE OR REGULATION GOVERNING THE TIME, PLACE, AND MANNER OF A MARIJUANA ESTABLISHMENT THAT MAY OPERATE IN SUCH LOCALITY. A LOCALITY MAY PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES THROUGH THE ENACTMENT OF AN ORDINANCE OR THROUGH AN INITIATED OR REFERRED MEASURE; PROVIDED, ANY INITIATED OR REFERRED MEASURE TO PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES MUST APPEAR ON A GENERAL ELECTION BALLOT DURING AN EVEN NUMBERED YEAR.

(g) EACH APPLICATION FOR AN ANNUAL LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT SHALL BE SUBMITTED TO THE DEPARTMENT. THE DEPARTMENT SHALL:

(I) BEGIN ACCEPTING AND PROCESSING APPLICATIONS ON OCTOBER 1, 2013;

(II) IMMEDIATELY FORWARD A COPY OF EACH APPLICATION AND HALF OF THE LICENSE APPLICATION FEE TO THE LOCALITY IN WHICH THE APPLICANT DESIRES TO OPERATE THE MARIJUANA ESTABLISHMENT;

(III) ISSUE AN ANNUAL LICENSE TO THE APPLICANT BETWEEN FORTY-FIVE AND NINETY DAYS AFTER RECEIPT OF AN APPLICATION UNLESS THE DEPARTMENT FINDS THE APPLICANT IS NOT IN COMPLIANCE WITH REGULATIONS ENACTED PURSUANT TO PARAGRAPH (a) OR THE DEPARTMENT IS NOTIFIED BY THE RELEVANT LOCALITY THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) AND IN EFFECT AT THE TIME OF APPLICATION, PROVIDED, WHERE A LOCALITY HAS ENACTED A NUMERICAL LIMIT ON THE NUMBER OF MARIJUANA ESTABLISHMENTS AND A GREATER NUMBER OF APPLICANTS SEEK LICENSES, THE DEPARTMENT SHALL SOLICIT AND CONSIDER INPUT FROM THE LOCALITY AS TO THE LOCALITY'S PREFERENCE OR PREFERENCES FOR LICENSURE; AND

(IV) UPON DENIAL OF AN APPLICATION, NOTIFY THE APPLICANT IN WRITING OF THE SPECIFIC REASON FOR ITS DENIAL.

(h) IF THE DEPARTMENT DOES NOT ISSUE A LICENSE TO AN APPLICANT WITHIN NINETY DAYS OF RECEIPT OF THE APPLICATION FILED IN ACCORDANCE WITH PARAGRAPH (g) AND DOES NOT NOTIFY THE APPLICANT OF THE SPECIFIC REASON FOR ITS DENIAL, IN WRITING AND WITHIN SUCH TIME PERIOD, OR IF THE DEPARTMENT HAS ADOPTED REGULATIONS PURSUANT TO PARAGRAPH (a) AND HAS ACCEPTED APPLICATIONS PURSUANT TO PARAGRAPH (g) BUT HAS NOT ISSUED ANY LICENSES BY JANUARY 1, 2014, THE APPLICANT MAY RESUBMIT ITS APPLICATION DIRECTLY TO THE LOCALITY, PURSUANT TO PARAGRAPH (e), AND THE LOCALITY MAY ISSUE AN ANNUAL LICENSE TO THE APPLICANT. A LOCALITY ISSUING A LICENSE TO AN APPLICANT SHALL DO SO WITHIN NINETY DAYS OF RECEIPT OF THE RESUBMITTED APPLICATION UNLESS THE LOCALITY FINDS AND NOTIFIES THE APPLICANT THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) IN EFFECT AT THE TIME THE APPLICATION IS RESUBMITTED AND THE LOCALITY SHALL NOTIFY THE DEPARTMENT IF AN ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT. IF AN APPLICATION IS SUBMITTED TO A LOCALITY UNDER THIS PARAGRAPH, THE DEPARTMENT SHALL FORWARD TO THE LOCALITY THE APPLICATION FEE PAID BY THE APPLICANT TO THE DEPARTMENT UPON REQUEST BY THE LOCALITY. A LICENSE ISSUED BY A LOCALITY IN ACCORDANCE WITH THIS PARAGRAPH SHALL HAVE THE SAME FORCE AND EFFECT AS A LICENSE ISSUED BY THE DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (g) AND THE HOLDER OF SUCH LICENSE SHALL NOT BE SUBJECT TO REGULATION OR ENFORCEMENT BY THE DEPARTMENT DURING THE TERM OF THAT LICENSE. A SUBSEQUENT OR RENEWED LICENSE MAY BE ISSUED UNDER THIS PARAGRAPH ON AN ANNUAL BASIS ONLY UPON RESUBMISSION TO THE LOCALITY OF A NEW APPLICATION SUBMITTED TO THE DEPARTMENT PURSUANT TO PARAGRAPH (g). NOTHING IN THIS PARAGRAPH SHALL LIMIT SUCH RELIEF AS MAY BE AVAILABLE TO AN AGGRIEVED PARTY UNDER SECTION 24-4-104, C.R.S., OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION.

(i) IF THE DEPARTMENT DOES NOT ADOPT REGULATIONS REQUIRED BY PARAGRAPH (a), AN APPLICANT MAY SUBMIT AN APPLICATION DIRECTLY TO A LOCALITY AFTER OCTOBER 1, 2013 AND THE LOCALITY MAY ISSUE AN ANNUAL LICENSE TO THE APPLICANT. A LOCALITY ISSUING A LICENSE TO AN APPLICANT SHALL DO SO WITHIN NINETY DAYS OF RECEIPT OF THE APPLICATION UNLESS IT FINDS AND NOTIFIES THE APPLICANT THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) IN EFFECT AT THE TIME OF APPLICATION AND SHALL NOTIFY THE DEPARTMENT IF AN ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT. A LICENSE ISSUED BY A LOCALITY IN ACCORDANCE WITH THIS PARAGRAPH SHALL HAVE THE SAME FORCE AND EFFECT AS A LICENSE ISSUED BY THE DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (g) AND THE HOLDER OF SUCH LICENSE SHALL NOT BE SUBJECT TO REGULATION OR ENFORCEMENT BY THE DEPARTMENT DURING THE TERM OF THAT LICENSE. A SUBSEQUENT OR RENEWED LICENSE MAY BE ISSUED UNDER THIS PARAGRAPH ON AN ANNUAL BASIS IF THE DEPARTMENT HAS NOT ADOPTED REGULATIONS REQUIRED BY PARAGRAPH (a) AT LEAST NINETY DAYS PRIOR TO THE DATE UPON WHICH SUCH SUBSEQUENT OR RENEWED LICENSE WOULD BE EFFECTIVE OR IF THE DEPARTMENT HAS ADOPTED REGULATIONS PURSUANT TO PARAGRAPH (a) BUT HAS NOT, AT LEAST NINETY

DAYS AFTER THE ADOPTION OF SUCH REGULATIONS, ISSUED LICENSES PURSUANT TO PARAGRAPH (g).

(j) NOT LATER THAN JULY 1, 2014, THE GENERAL ASSEMBLY SHALL ENACT LEGISLATION GOVERNING THE CULTIVATION, PROCESSING AND SALE OF INDUSTRIAL HEMP.

**(6) Employers, driving, minors and control of property.**

(a) NOTHING IN THIS SECTION IS INTENDED TO REQUIRE AN EMPLOYER TO PERMIT OR ACCOMMODATE THE USE, CONSUMPTION, POSSESSION, TRANSFER, DISPLAY, TRANSPORTATION, SALE OR GROWING OF MARIJUANA IN THE WORKPLACE OR TO AFFECT THE ABILITY OF EMPLOYERS TO HAVE POLICIES RESTRICTING THE USE OF MARIJUANA BY EMPLOYEES.

(b) NOTHING IN THIS SECTION IS INTENDED TO ALLOW DRIVING UNDER THE INFLUENCE OF MARIJUANA OR DRIVING WHILE IMPAIRED BY MARIJUANA OR TO SUPERSEDE STATUTORY LAWS RELATED TO DRIVING UNDER THE INFLUENCE OF MARIJUANA OR DRIVING WHILE IMPAIRED BY MARIJUANA, NOR SHALL THIS SECTION PREVENT THE STATE FROM ENACTING AND IMPOSING PENALTIES FOR DRIVING UNDER THE INFLUENCE OF OR WHILE IMPAIRED BY MARIJUANA.

(c) NOTHING IN THIS SECTION IS INTENDED TO PERMIT THE TRANSFER OF MARIJUANA, WITH OR WITHOUT REMUNERATION, TO A PERSON UNDER THE AGE OF TWENTY-ONE OR TO ALLOW A PERSON UNDER THE AGE OF TWENTY-ONE TO PURCHASE, POSSESS, USE, TRANSPORT, GROW, OR CONSUME MARIJUANA.

(d) NOTHING IN THIS SECTION SHALL PROHIBIT A PERSON, EMPLOYER, SCHOOL, HOSPITAL, DETENTION FACILITY, CORPORATION OR ANY OTHER ENTITY WHO OCCUPIES, OWNS OR CONTROLS A PROPERTY FROM PROHIBITING OR OTHERWISE REGULATING THE POSSESSION, CONSUMPTION, USE, DISPLAY, TRANSFER, DISTRIBUTION, SALE, TRANSPORTATION, OR GROWING OF MARIJUANA ON OR IN THAT PROPERTY.

**(7) Medical marijuana provisions unaffected.** NOTHING IN THIS SECTION SHALL BE CONSTRUED:

(a) TO LIMIT ANY PRIVILEGES OR RIGHTS OF A MEDICAL MARIJUANA PATIENT, PRIMARY CAREGIVER, OR LICENSED ENTITY AS PROVIDED IN SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE;

(b) TO PERMIT A MEDICAL MARIJUANA CENTER TO DISTRIBUTE MARIJUANA TO A PERSON WHO IS NOT A MEDICAL MARIJUANA PATIENT;

(c) TO PERMIT A MEDICAL MARIJUANA CENTER TO PURCHASE MARIJUANA OR MARIJUANA PRODUCTS IN A MANNER OR FROM A SOURCE NOT AUTHORIZED UNDER THE COLORADO MEDICAL MARIJUANA CODE;

(d) TO PERMIT ANY MEDICAL MARIJUANA CENTER LICENSED PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE TO OPERATE ON THE SAME PREMISES AS A RETAIL MARIJUANA STORE.; OR

(e) TO DISCHARGE THE DEPARTMENT, THE COLORADO BOARD OF HEALTH, OR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FROM THEIR STATUTORY AND CONSTITUTIONAL DUTIES TO REGULATE MEDICAL MARIJUANA PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

**(8) Self-executing, severability, conflicting provisions.** ALL PROVISIONS OF THIS SECTION ARE SELF-EXECUTING EXCEPT AS SPECIFIED HEREIN, ARE SEVERABLE, AND, EXCEPT WHERE OTHERWISE INDICATED IN THE TEXT, SHALL SUPERSEDE CONFLICTING STATE STATUTORY, LOCAL CHARTER, ORDINANCE, OR RESOLUTION, AND OTHER STATE AND LOCAL PROVISIONS.

**(9) Effective date.** UNLESS OTHERWISE PROVIDED BY THIS SECTION, ALL PROVISIONS OF THIS SECTION SHALL BECOME EFFECTIVE UPON OFFICIAL DECLARATION OF THE VOTE HEREON BY PROCLAMATION OF THE GOVERNOR, PURSUANT TO SECTION 1(4) OF ARTICLE V.

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**Proponent Representative 1**

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**Proponent Representative 2**

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**Ballot Title Setting Board**

**Proposed Initiative 2011-2012 #36<sup>1</sup>**

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.*

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<sup>1</sup> 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.