

<p>Colorado Supreme Court 2 East 14th Avenue Denver, CO 80203</p>	
<p>Original Proceeding Pursuant to § 1-40-107(2), C.R.S. (2015) Appeal from the Ballot Title Board</p>	<p>▲ COURT USE ONLY ▲</p>
<p>In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2015-2016 #126</p> <p>Petitioner: John Grayson Robinson,</p> <p>v.</p> <p>Respondents: James Rodriguez and Lewis Tulper,</p> <p>and</p> <p>Title Board: Suzanne Staiert, David Blake, and Sharon Eubanks.</p>	<p>Supreme Court Case No.:</p>
<p><i>Attorneys for Petitioner John Grayson Robinson</i></p> <p>Thomas M. Rogers III, #28809 Hermine Kallman, #45115 LEWIS ROCA ROTHGERBER CHRISTIE LLP 1200 Seventeenth Street, Suite 3000 Denver, CO 80202 Phone: 303.623.9000 Fax: 303.623.9222 Email: trogers@lrrc.com hkallman@lrrc.com</p>	
<p>PETITION FOR REVIEW OF FINAL ACTION OF TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2015-2016 #126 ("LIMIT ON SPECIFIED LIQUOR LICENSES")</p>	

Petitioner John Grayson Robinson, a registered elector of the State of Colorado, through his counsel Lewis Roca Rothgerber Christie LLP and pursuant to C.R.S. § 1-40-107(2), respectfully petitions this Court to review the actions of the Ballot Title Setting Board with respect to the setting of the title and submission clause for Proposed Initiative 2015-2016 #126 (“Limit on Specified Liquor Licenses”), and states:

STATEMENT OF THE CASE

I. Procedural History of Proposed Initiative #126

On March 23, 2016, Proponents James Rodriguez and Lewis Tulper filed Proposed Initiative 2015-2016 #126 (the “Initiative”) with the Office of Legislative Council. The review and comment meeting was held under C.R.S. § 1-40-105(1) on April 6, 2016. On April 8, Proponents submitted the original, amended, and final versions of the Initiative to the Secretary of State for title setting. On April 20, 2016, the Title Board set the Initiative’s title. On April 27, 2016, Petitioner timely filed a Motion for Rehearing on the basis that the Title Board lacked jurisdiction to set title because the measure violates the single subject requirement of article V, section 1(5.5) of the Colorado Constitution and C.R.S. § 1-40-106.5. The Title Board held a rehearing on April 28, 2016 and denied the Petitioner’s motion.

II. Jurisdiction

Petitioner is entitled to Colorado Supreme Court review of the Title Board's actions in setting the Initiative's title. C.R.S. § 1-40-107(2). Petitioner filed a timely Motion for Rehearing, *see* C.R.S. § 1-40-107(1), and subsequently filed this Petition for Review within seven days from the date of the rehearing, *see* C.R.S. § 1-40-107(2). As required by C.R.S. § 1-40-107(2), attached to this Petition for Review are certified copies of: 1) the Proponents' original, amended, and final draft of the Initiative; 2) the title set by the Title Board on April 20, 2016; (3) the Motion for Rehearing filed by the Petitioner; and (4) the ruling on the Motion for Rehearing as reflected by the title and submission clause set by the Board after rehearing. Petitioner respectfully submits that the Title Board erred in denying his motion for rehearing on the issue set forth below. For these reasons, this matter is properly before the Colorado Supreme Court.

GROUND FOR APPEAL

The Title Board lacked jurisdiction to set title for Initiative 126, as it contains multiple subjects that are not necessarily or properly connected to each other. Specifically, the Initiative contains two subjects: (1) it seeks to specify a maximum of ten license limit for two types of liquor licenses; and (2) it seeks to

expand the list of additional types of licenses a retail liquor store licensee and a liquor-licensed drugstore licensee may own.

PRAYER FOR RELIEF

Petitioner respectfully requests that this Court determine that the Proposed Initiative 2015-2016 #126 contains multiple incongruous subjects, and the Title Board lacked jurisdiction to set title for the Initiative.

Respectfully submitted this 5th day of May, 2016.

LEWIS ROCA ROTHGERBER CHRISTIE LLP

s/ Thomas M. Rogers III

Thomas M. Rogers III

Hermine Kallman

Attorneys for Petitioner John Grayson Robinson

CERTIFICATE OF SERVICE

I hereby certify that on May 5, 2016, a true and correct copy of the foregoing was served on the following via email and U.S. Mail as follows:

Scott Gessler
1624 Market Street, Suite 202
Denver, CO 80202
sgessler@klendagesslerblue.com
Attorney for Respondents James Rodriguez and Lewis Tulper

LeeAnn Morrill
Office of the Attorney General
1300 Broadway, 6th Floor
Denver, CO 80203
Leeann.morrill@state.co.us
Attorney for the Title Board

s/Jonelle Martinez



STATE OF COLORADO

DEPARTMENT OF
STATE

CERTIFICATE

I, **WAYNE W. WILLIAMS**, Secretary of State of the State of Colorado, do hereby certify that:

the attached are true and exact copies of the filed text, motion for rehearing, and the rulings thereon of the Title Board for Proposed Initiative "2015-2016 #126 'Limits on Specified Liquor Licenses'"....

..... **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 2nd day of May, 2016.



Wayne W. Williams

SECRETARY OF STATE

RECEIVED

APR 08 2016

S. WARD
9:35 A.M.

Proposed Initiative 126 -- Final

Colorado Secretary of State

Change to Colorado Revised Statutes Limiting Liquor Stores and Drug Stores to Ten Licenses.

Text of Measure:

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

SECTION 1. In Colorado Revised Statutes, 12-47-407, amend (4) as follows:

12-47-407. Retail liquor store license.

(4) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (4), it is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in a retail liquor store to conduct, own either in whole or in part, or be directly or indirectly interested in any other business licensed pursuant to this article. ; ~~except that such a person~~

(b) (I) AN OWNER, PART OWNER, SHAREHOLDER, OR PERSON INTERESTED DIRECTLY OR INDIRECTLY IN A RETAIL LIQUOR STORE may have an interest in:

(A) An arts license ~~or~~ GRANTED UNDER THIS ARTICLE;

(B) An airline public transportation system license granted under this article; ;
or ~~in~~

(C) A financial institution referred to in section 12-47-308 (4).

(II) AN OWNER SHALL BE LIMITED TO A MAXIMUM OF TEN LICENSES ISSUED UNDER THIS SECTION AND SECTION 12-47-408 COMBINED.

SECTION 2. In Colorado Revised Statutes, 12-47-408, amend (4) as follows:

12-47-408. Liquor-licensed drugstore license.

(4) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (4), it is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in a liquor-licensed drugstore to conduct, own either in whole or in part, or be directly or indirectly interested in any other business licensed pursuant to this article.; ~~except that such a person~~

(b) (I) AN OWNER, PART OWNER, SHAREHOLDER, OR PERSON INTERESTED DIRECTLY OR INDIRECTLY IN A LIQUOR-LICENSED DRUGSTORE may have an interest in:

(A) An arts license ~~or~~ GRANTED UNDER THIS ARTICLE;

(B) An airline public transportation system license granted under this article; ~~;~~
or ~~it~~

(C) A financial institution referred to in section 12-47-308(4).

(II) AN OWNER SHALL BE LIMITED TO A MAXIMUM OF TEN LICENSES ISSUED UNDER THIS SECTION AND SECTION 12-47-407 COMBINED.

SECTION 3. Effective date. This act takes effect January 1, 2017.

RECEIVED

APR 08 2016

S. WARD

9:35 A.M.

Proposed Initiative 126 -- Amended

Colorado Secretary of State

Change to Colorado Revised Statutes Limiting Liquor Stores and Drug Stores to Ten Licenses.

Text of Measure:

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

SECTION 1. In Colorado Revised Statutes, 12-47-407, **add amend** (4.5) as follows:

§ 12-47-407. Retail liquor store license.

~~(4.5) NOTWITHSTANDING ANY OTHER PROVISION) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SECTION, AN SUBSECTION (4), it is unlawful for any owner ~~of~~, part owner, shareholder, or person interested directly or indirectly in a retail liquor store to conduct, own either in whole or in part, or be directly or indirectly interested in any other business licensed pursuant to this article. ; except that such a person~~

~~(b) (I) AN OWNER, PART OWNER, SHAREHOLDER, OR PERSON INTERESTED DIRECTLY OR INDIRECTLY IN A RETAIL LIQUOR STORE may have an interest in:~~

~~(A) An arts license ~~of~~ GRANTED UNDER THIS ARTICLE;~~

~~(B) An airline public transportation system license granted under this article; ; or in~~

~~(C) A financial institution referred to in section 12-47-308 (4).~~

~~(II) AN OWNER SHALL BE LIMITED TO A MAXIMUM OF TEN LICENSES ISSUED UNDER § 12-47-407 THIS SECTION AND § SECTION 12-47-408 COMBINED. EACH ADDITIONAL LICENSE SHALL BE SUBJECT TO ALL LICENSING REQUIREMENTS IN THIS ARTICLE.~~

SECTION 2. In Colorado Revised Statutes, 12-47-408, **add amend** (4.5) as follows:

§ 12-47-408. Liquor-licensed drugstore license.

~~(4.5) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, AN OWNER OF (4) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (4), it is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in a liquor-licensed drugstore to conduct, own either in whole or in part, or be directly or indirectly interested in any other business licensed pursuant to this article. except that such a person~~

~~(b) (I) AN OWNER, PART OWNER, SHAREHOLDER, OR PERSON INTERESTED DIRECTLY OR INDIRECTLY IN A LIQUOR-LICENSED DRUGSTORE may have an interest in:~~

~~(A) An arts license ~~or~~ GRANTED UNDER THIS ARTICLE;~~

~~(B) An airline public transportation system license granted under this article; ; or in~~

~~(C) A financial institution referred to in section 12-47-308(4).~~

~~(II) AN OWNER SHALL BE LIMITED TO A MAXIMUM OF TEN LICENSES ISSUED UNDER ~~§THIS SECTION AND SECTION 12-47-407 AND § 12-47-408~~ COMBINED. EACH ADDITIONAL LICENSE SHALL BE SUBJECT TO ALL LICENSING REQUIREMENTS IN THIS ARTICLE.~~

SECTION 3. Effective date. ~~This act takes effect~~ January 1, 2017.

RECEIVED

APR 08 2016

S. WARD

9:35 A.M.

Proposed Initiative 126 -- Original

Colorado Secretary of State

Change to Colorado Revised Statutes Limiting Liquor Stores and Drug Stores to Ten Licenses.

Text of Measure:

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

SECTION 1. In Colorado Revised Statutes, 12-47-407, **add** (4.5) as follows:

§ 12-47-407. **Retail liquor store license**

(4.5) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, AN OWNER OF A RETAIL LIQUOR STORE LICENSE SHALL BE LIMITED TO A MAXIMUM OF TEN LICENSES UNDER § 12-47-407 AND § 12-47-408 COMBINED. EACH ADDITIONAL LICENSE SHALL BE SUBJECT TO ALL LICENSING REQUIREMENTS IN THIS ARTICLE.

SECTION 2. In Colorado Revised Statutes, 12-47-408, **add** (4.5) as follows:

§ 12-47-408. **Liquor-licensed drugstore license**

(4.5) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, AN OWNER OF A LIQUOR-LICENSED DRUGSTORE LICENSE SHALL BE LIMITED TO A MAXIMUM OF TEN LICENSES UNDER § 12-47-407 AND § 12-47-408 COMBINED. EACH ADDITIONAL LICENSE SHALL BE SUBJECT TO ALL LICENSING REQUIREMENTS IN THIS ARTICLE.

SECTION 3. **Effective date.** January 1, 2017.

Ballot Title Setting Board

Proposed Initiative 2015-2016 #126¹

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

A change to the Colorado Revised Statutes permitting an owner of a licensed retail liquor store or liquor-licensed drugstore under the "Colorado Liquor Code" to own a maximum of ten such licenses combined.

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

Shall there be a change to the Colorado Revised Statutes permitting an owner of a licensed retail liquor store or liquor-licensed drugstore under the "Colorado Liquor Code" to own a maximum of ten such licenses combined?

Hearing April 20, 2016:

Single subject approved; staff draft amended; titles set.

Hearing adjourned 12:57 p.m.

¹ Unofficially captioned "**Limit on Specified Liquor Licenses**" by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

RECEIVED

APR 27 2016

S. WARD
12:07 P.M.

BEFORE COLORADO STATE TITLE SETTING BOARD

Colorado Secretary of State

In re Ballot Title and Submission Clause for 2015-2016 Initiative #126 ("Limit on Specified Liquor Licenses")

JOHN GRAYSON ROBINSON, Objector.

MOTION FOR REHEARING

Pursuant to C.R.S. § 1-40-107, Objector, John Grayson Robinson, a registered elector of the State of Colorado, through his legal counsel, Lewis Roca Rothgerber Christie LLP, submits this Motion for Rehearing of the Title Board's April 20, 2016 decision to set a title for 2015-2016 Initiative #126 (the "Initiative"), and states:

The Board Lacks Jurisdiction to Set Title for the Initiative

The Initiative violates the single subject requirement of article V, section 1(5.5) of the Colorado Constitution and C.R.S. § 1-40-106.5 because it contains multiple subjects. Specifically, the measure changes the current limit of one license for a retail liquor store licensee under C.R.S. § 12-47-407; (2) changes current law that prohibits a retail liquor store licensee from owning any other type of Article 47 license except as specified; (3) changes the current limit of one license for a liquor-licensed drugstore licensee under C.R.S. § 12-47-408; and (4) changes current law that prohibits a liquor-licensed drugstore licensee from owning any other type of Article 47 license except as specified.

WHEREFORE, Objector respectfully requests that the Title Board set Initiative 126 for rehearing pursuant to C.R.S. § 1-40-107(1).

DATED: April 27, 2016.

s/Hermine Kallman

Thomas M. Rogers III

Hermine Kallman

LEWIS ROCA ROTHGERBER CHRISTIE LLP

1200 Seventeenth St., Suite 3000

Denver, CO 80202

Phone: (303) 623-9000

Fax: (303) 623-9222

Email: trogers@lrrc.com

hkallman@lrrc.com

Address of Objector:

John Grayson Robinson

23752 E. Hinsdale Place

Aurora, CO 80016

CERTIFICATE OF SERVICE

I hereby certify that on April 27, 2016, a true and correct copy of this **MOTION FOR REHEARING** was served on proponents via U.S. Mail as follows:

James Rodriguez
8000 East Girard Avenue, #317
Denver, CO

Lewis Tulper
6284 South Iola Court
Englewood, CO
Proponents

Scott Gessler
1624 Market Street, Suite 202,
Denver, CO 80202
Attorney for Proponents

s/Jonelle Martinez

Ballot Title Setting Board

Proposed Initiative 2015-2016 #126¹

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

A change to the Colorado Revised Statutes permitting an owner of a licensed retail liquor store or liquor-licensed drugstore under the "Colorado Liquor Code" to own a maximum of ten such licenses combined.

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

Shall there be a change to the Colorado Revised Statutes permitting an owner of a licensed retail liquor store or liquor-licensed drugstore under the "Colorado Liquor Code" to own a maximum of ten such licenses combined?

*Hearing April 20, 2016:
Single subject approved; staff draft amended; titles set.
Hearing adjourned 12:57 p.m.*

*Rehearing April 28, 2016:
Motion for Rehearing denied.
Hearing adjourned 11:48 a.m.*

¹ Unofficially captioned "**Limit on Specified Liquor Licenses**" by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.