

<p>COLORADO SUPREME COURT 2 East 14th Avenue, Denver, Colorado 80203</p>	
<p>Original Proceeding Colo. Rev. Stat. § 1-40-107(2) Appeal from the Ballot Title Board</p>	
<p>In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2021- 2022 #100</p> <p>Petitioners: STEVEN WARD and LEVI MENDYK</p> <p>v.</p> <p>Respondents/Proponents: ROBERT SCHRAEDER and JOEL ALLEN CATHEY, Proponents,</p> <p>and</p> <p>Ballot Title Setting Board: THERESA CONLEY, JULIE PELEGRIN, and DAVID POWELL</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Attorneys for Petitioners:</p> <p>Suzanne Taheri (# 23411) MAVEN LAW GROUP 6501 E. Belleview Ave., Suite 375 Englewood, Colorado 80111 Phone: 303.218.7150 Email: staheri@mavenlawgroup.com</p>	<p>Case No.: 2022SA135</p>
<p style="text-align: center;">Petitioners' Answer Brief</p>	

CERTIFICATE OF COMPLIANCE

I certify that this brief complies with all requirements of Colorado Appellate Rules 28 and 32, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that:

The brief complies with the applicable word limits set forth in Colorado Appellate Rule 28(g).

It contains **657** words (opening brief does not exceed 9,500 words).

The brief complies with the standard of review requirements set forth in Colorado Appellate Rule 28(a)(7)(A).

For each issue raised by Petitioner, the brief contains under a separate heading before the discussion of the issue, a concise statement: (1) of the applicable standard of appellate review with citation to authority; and (2) whether the issue was preserved, and, if preserved, the precise location in the record where the issue was raised and where the court ruled, not to an entire document.

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of Colorado Appellate Rules 28 and 32.

s/ Suzanne Taheri

Suzanne Taheri

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Petitioners Steven Ward and Levi Mendyk (Petitioners/Proponents) hereby respectfully submit this Answer Brief opposing the title, ballot title, and submission clause (the “Title”) set by the Title Board for Proposed Initiative 2021-2022 #100 (“Proposed Initiative”).

ARGUMENT

I. The Proposed Initiative has a hidden purpose.

The Proposed Initiative modestly increases the amount of liquor store licenses a licensee may hold, from 4¹ to 12. It significantly decreases the number of licenses a liquor-licensed drugstore licensee may hold significantly from an unlimited number² to 12, and significantly decreases the number of licenses for retail sales of fermented malt beverages from an unlimited number³ to 12.

The purpose, which is hidden from voters in this measure, is to significantly reduce convenient access to retail alcohol sales to customers and promote the business interests of liquor stores.

¹ In current statute the number of licenses allowed increases over time for liquor stores and liquor licensed drug stores. Liquor store licensees are permitted 3 licenses currently and 4 starting in 2027. C.R.S. § 44-3-409(4)(b).

² Liquor-licensed drugstore licensees are permitted 8 licenses currently and an unlimited number starting in 2037. 44-3-410(4)(b)(IV).

³ Fermented malt beverage licenses are currently unlimited per licensee. C.R.S. § 4-4-104(1)(c)(I)(A).

For example, no longer will most customers be able to stop into their corner convenience store to grab a six-pack of beer, because these corporate license holders will only be allowed to sell beer in 12 of their stores in the entire state of Colorado. Likewise, most of the customer who normally add beer to their shopping cart at the grocery store will no longer have this option, because stores like Safeway and King Soopers, as corporate licensees, will only be allowed to sell beer in 12 of their stores in the entire state. Liquor store licensees, however, will be expanding their businesses and be able to triple their number of locations.

The Proposed Initiative is not simply a change concerning the number of retail alcohol beverage licenses that a licensee may hold, but hides a central purpose of the measure from the voters, which is to decrease access to alcohol retail sales outside of liquor stores. The Proposed Initiative does not meet single subject requirements because its provisions conceal a hidden central purpose. See *VanWinkle v. Sage (In re Title, Ballot Title & Submission Clause for 2021-2022 #1)*, 489 P.3d 1217, 1222 (Colo. 2021) (“We must examine sufficiently an initiative’s central theme to determine whether it contains hidden purposes under a broad theme.”).

It is not clear that the Proposed Initiative will overall reduce consumer access liquor and voters will be misled. This is a “surreptitious provision coiled up

in the folds of a complex initiative” that would cause voter surprise. See *Kemper v. Hamilton (In re Title, Ballot Title, & Submission Clause for 2011-2012 #45)*, 274 P.3d 576, 580 (Colo. 2012) (quotations omitted). This not an effect that the provision *may* have, which is not required to be in the title, but is an effect it will have and that will surprise voters.

II. The Title does not summarize a central feature of the Proposed Initiative

The Title does not summarize the overall significant reduction in convenient access to retail alcohol sales in grocery stores and convenience stores. The Title language must “enable[e] informed voter choice” by explaining a central feature of the initiative that is “difficult to comprehend” from its text. *Outcalt v. Bruce (In re Title, Ballot Title & Submission Clause, & Summary for 1999-2000 No. 37)*, 977 P.2d 845, 846 (Colo. 1999) (citation omitted) (holding the titles and summary were not clear because they failed to convey to voters the initiative's likely impact on state spending on state programs).

CONCLUSION

For these reasons and the reasons presented in Petitioner’s Opening Brief, Petitioners respectfully request that the Court should vacate the titles and remand

with instructions to return the Initiative to proponents for lack of jurisdiction or, in the alternative, with instructions to correct the deficient titles.

Dated: May 16, 2022

Respectfully submitted,

s/Suzanne Taheri

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CERTIFICATE OF SERVICE

I hereby certify that on May 16, 2022, I electronically filed a true and correct copy of this **Petitioners' Opening Brief** with the Clerk of Court via the Colorado Courts E-Filing System which will send notification of such filing upon counsel of record:

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