

COLORADO SUPREME COURT  
2 East 14th Avenue  
Denver, CO 80203

Original Proceeding Pursuant to  
§ 1-40-107(2), C.R.S. (2021-2022)  
Appeal from the Ballot Title Board

In the Matter of the Title, Ballot Title, and  
Submission Clause for Proposed Initiative  
2021-2022 #100

**Petitioners:** Steven Ward and Levi  
Mendyk,

v.

**Respondents:** Robert Schraeder and Joel  
Allen Cathey,

**and**

**Title Board:** Theresa Conley, Julie  
Pelegrin, and David Powell.

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Case No. 2022SA135

**THE TITLE BOARD'S ANSWER BRIEF**

## CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all requirements of C.A.R. 28 and C.A.R. 32, including all formatting requirements set forth in these rules. Specifically, I certify that:

The brief complies with the word limits set forth in C.A.R. 28(g) or C.A.R. 28.1(g).

It contains 564 words.

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28 or 28.1, and C.A.R. 32.

*s/ Michael Kotlarczyk*

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## INTRODUCTION

The Court should affirm the Title Board’s single subject determination and title for 2021-2022 #100 for the reasons stated in its opening brief. The Board rests on its single subject arguments from that brief. Petitioners narrowed their objections to the title set by the Board from the seven objections listed in their petition for review to two objections in their opening brief. The Board briefly responds below to those two objections.

## ARGUMENT

Petitioners identified seven objections to the title in their petition for review. *See* Pet’n for Review (May 5, 2022) at 4-5. In their opening brief, Petitioners advanced just two objections. Pet’rs Op. Br. May 10, 2022) at 7. Both are without merit.

First, Petitioners argue that the title does not “fairly, accurately, and completely describe that licenses for liquor-licensed drugstores . . . will be reduced from an unlimited number (as permitted in 2037) to 12.” *Id.* But the title clearly states that the measure “decreas[es] the number

of liquor-licensed drugstore licenses” to 12. Current law provides for a gradual increase over the next 15 years: currently, a licensee may hold up to 8 licenses; in 2027, up to 13 licenses; in 2032, up to 20 licenses; and in 2037, an unlimited number of licenses. *See* Record at 2-3 (amending § 44-3-410, C.R.S. (2021)). Rather than list all of these changes, or just the final change 15 years from now, the title summarized the measure by saying it “decreas[es]” the number of licenses. This was an appropriate exercise of the Board’s duty “to summarize the central features of a proposed initiative.” *In re Title, Ballot Title & Submission Clause for 2013-2014 #90*, 2014 CO 63, ¶ 24.

Second, Petitioners argue that the title should specify that the measure “affects convenience stores as well as grocery stores.” Pet’rs Op. Br. at 8. Petitioners did not identify this issue in their petition for review and so it arguably is not properly before the Court at all. *See* Pet’n for Review at 4-5; *see also People v. Naranjo*, 2017 CO 87, ¶ 16 n.2 (“[W]e need not address issues not raised in the petition for certiorari review[.]”). But even assuming it is, the Title Board is not required to

include this level of detail about the effects of the measure. For one, “[i]t is well-established that the titles and summary need not spell out every detail of a proposed initiative.” *In re Title, Ballot Title & Submission Clause for 1997-1998 #74*, 962 P.2d 927, 930 (Colo. 1998). For another, “the Title Board is not required to explain the meaning or potential effects of the proposed initiative on the current statutory scheme.” *In re 2013-2014 #90*, 2014 CO 63, ¶ 24; *see also In re Title, Ballot Title & Submission Clause Pertaining to Sale of Table Wine*, 646 P.2d 916, 921 (Colo. 1982) (“There is no requirement that every possible effect be included within the title[.]”). The title set by the Board is not misleading just because it does not detail the effects of the measure on convenience stores.

## CONCLUSION

The Court should affirm the Title Board’s decision that 2021-2022 #100 contains a single subject for the reasons stated in the Board’s opening brief. The Court should also affirm the title set by the Board

because the Board properly exercised its discretion in drafting a title that accurately summarizes the central features of the measure.

Respectfully submitted on this 16<sup>th</sup> day of May, 2022.

PHILIP J. WEISER  
Attorney General

*/s/Michael Kotlarczyk*

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**CERTIFICATE OF SERVICE**

This is to certify that I have duly served the foregoing **THE TITLE BOARD'S ANSWER BRIEF** upon the following parties electronically via CCEF, at Denver, Colorado, this 16th day of May, 2022, addressed as follows:

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