

STATE OF COLORADO

Colorado General Assembly

Mike Mauer, Director
Legislative Council Staff

Colorado Legislative Council
200 East Colfax Avenue Suite 029
Denver, Colorado 80203-1716
Telephone 303-866-3521
Facsimile 303-866-3855
TDD 303-866-3472



Dan L. Cartin, Director
Office of Legislative Legal Services

Office of Legislative Legal Services
200 East Colfax Avenue Suite 091
Denver, Colorado 80203-1716
Telephone 303-866-2045
Facsimile 303-866-4157
Email: olls.ga@state.co.us

MEMORANDUM

TO: Charlie Brown and Jeff Julin

FROM: Legislative Council Staff and Office of Legislative Legal Services

DATE: March 15, 2016

SUBJECT: Proposed initiative measure 2105-2016 #115, concerning a change to the Colorado Beer Code definition of fermented malt beverages to include all beer products

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Colorado Legislative Council and the Office of Legislative Legal Services to "review and comment" on initiative petitions for proposed laws and amendments to the Colorado constitution. We hereby submit our comments to you regarding the appended proposed initiative.

The purpose of this statutory requirement of the directors of Legislative Council and the Office of Legislative Legal Services is to provide comments intended to aid proponents in determining the language of their proposal and to avail the public of knowledge of the contents of the proposal. Our first objective is to be sure we understand your intent and your objective in proposing the amendment. We hope that the statements and questions contained in this memorandum will provide a basis for discussion and understanding of the proposal.

An earlier version of this proposed initiative, proposed initiative 2015-2016 #111, was the subject of a memorandum dated February 29, 2016. Proposed initiative 2015-2016 #111 was discussed at a public meeting on March 4, 2016. The substantive and technical comments and questions raised in this memorandum will not include comments and questions that were addressed at the earlier meeting, except as necessary to fully understand the issues raised by the revised proposed initiative.

However, the prior comments and questions that are not restated here continue to be relevant and are hereby incorporated by reference in this memorandum.

Purposes

The major purposes of the proposed amendment to the **Colorado Revised Statutes** appear to be:

1. In the legislative declaration in the "Colorado Beer Code," article 46 of title 12, Colorado Revised Statutes, to:
 - a. Specify that only persons licensed under article 46 or 47 of title 12, Colorado Revised Statutes, are allowed to manufacture, import, or sell fermented malt beverages; and
 - b. Eliminate the maximum alcohol content limit for fermented malt beverages manufactured or sold in the state;
2. To modify the definition of "fermented malt beverages" to:
 - a. Include all beer and malt liquors; and
 - b. Eliminate the 3.2 percent by weight or 4 percent by volume maximum alcohol content limit for fermented malt beverages;
3. To repeal a provision in the "Colorado Liquor Code" making it unlawful for a person licensed under the "Colorado Beer Code" to sell, deliver, or possess any beverage containing more than 3.2 percent alcohol by weight or 4 percent alcohol by volume; and
4. To specify that the measure takes effect on July 1, 2017.

Substantive Comments and Questions

The substance of the proposed initiative raises the following comments and questions:

1. Article V, section 1 (5.5) of the Colorado constitution requires all proposed initiatives to have a single subject. What is the single subject of the proposed initiative?
2. It appears that in section 1 of the measure, amending section 12-46-102, Colorado Revised Statutes, in subsection (1), the measure adds the phrase "and article 47 of this title" to the first sentence. What is the purpose and intent of adding that phrase? Does this phrase permit persons licensed under article 47 of

- title 12, Colorado Revised Statutes, to manufacture, import, or sell a product those licensees are not currently authorized to manufacture, import, or sell?
3. What is the intent in and effect of repealing section 12-47-901 (8), Colorado Revised Statutes?
 4. Given the proposed change to the statutory definition of "fermented malt beverage" in section 12-46-103 (1), Colorado Revised Statutes, which removes the alcohol content limit on fermented malt beverages, should article 46 of title 12 continue to distinguish "fermented malt beverages" from "malt liquors"?

Technical Comments

The following comments address technical issues raised by the form of the proposed initiative. These comments will be read aloud at the public meeting only if the proponents so request. You will have the opportunity to ask questions about these comments at the review and comment meeting. Please consider revising the proposed initiative as suggested below.

1. In amending clauses, the instruction word appears in **bold-faced type**. For section 1, the amending clause should appear as "In Colorado Revised Statutes, **amend** 12-46-102 as follows:" In the amending clauses for sections 2 and 3 of the measure, the instruction words "amend" and "repeal" should appear in **bold-faced type** as "**amend**" and "**repeal**."
2. In section 1 of the measure, in section 12-46-102 (2), Colorado Revised Statutes, the word "REQUIRES" should be "REQUIRE" to ensure subject-verb agreement with the subject of the sentence, i.e., "fermented malt beverages and malt liquors."
3. For purposes of section 3 of the measure, when striking statutory provisions, it is standard drafting practice to only strike the statutory language but not the subsection number.