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## MEMORANDUM

**TO:** James Rodriguez and Lewis Tulper  
**FROM:** Legislative Council Staff and Office of Legislative Legal Services  
**DATE:** April 1, 2016  
**SUBJECT:** Proposed initiative measure 2015-2016 #126, concerning Limiting Liquor Stores and Drug Stores to Ten Licenses

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.

### Purposes

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

1. To specify that an owner of a retail liquor store or a liquor-licensed drugstore is limited to a maximum of ten retail liquor store and liquor-licensed drugstore licenses combined; and

2. To specify that any additional liquor licenses issued to a retail liquor store or liquor-licensed drugstore owner are subject to all licensing requirements in the "Colorado Liquor Code."

## **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. Under current law, in sections 12-47-407 (4) and 12-47-408 (4), Colorado Revised Statutes, an owner, part owner, shareholder, or person interested directly or indirectly in a retail liquor store or liquor-licensed drugstore, respectively, cannot "conduct, own either in whole or in part, or be directly or indirectly interested in any other business licensed pursuant to this article . . ."
  - a. Is the intent of the measure to make an exception to this prohibition against having an interest in other liquor-licensed businesses?
  - b. Is the intent of the exception to allow a retail liquor store owner or liquor-licensed drugstore owner to have an interest only in other retail liquor stores or liquor-licensed drugstores that are licensed to sell alcohol beverages in sealed containers for off-premises consumption, but not in licensed manufacturing or wholesale businesses or in businesses licensed to sell alcohol beverages for on-premises consumption?
  - c. Is the intent to only apply the exception to a full owner of a retail liquor store or liquor-licensed drugstore, but not to a "part owner, shareholder, or person interested directly or indirectly" in a retail liquor store or liquor-licensed drugstore? If the exception is intended to apply to the broader group specified in sections 12-47-407 (4) and 12-47-408 (4), Colorado Revised Statutes, would the proponents consider modifying the language to reflect that intent?
  - d. Is the intent of the measure to allow a current retail liquor store owner to have an interest in nine additional retail liquor stores or liquor-licensed drugstores, for a total of not more than ten licenses? Or can the owner have an interest in ten additional retail liquor stores or liquor-licensed drugstores, for a total of not more than eleven licenses?

- e. Generally, when creating an exception to a requirement or prohibition in the law, the preferred drafting practice is to create the exception in the specific provision of law. For example, both sections 12-47-407 (4) and 12-47-408 (4), Colorado Revised Statutes, contain exceptions to the prohibition against multiple licenses that allow a retail liquor store or liquor-licensed drugstore owner to have an interest in an arts license or an airline public transportation system license. Rather than creating a new subsection (4.5) in sections 12-47-407 and 12-47-408, Colorado Revised Statutes, would the proponents consider amending subsection (4) in those statutes to add the exception proposed in the measure to the actual statutory provision to which the exception would apply? For example, the measure could propose to amend section 12-47-407 (4), Colorado Revised Statutes, as follows so as to incorporate the exception in the provision to which it applies:

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

- (I) An arts license ~~or~~ GRANTED UNDER THIS ARTICLE;
- (II) An airline public transportation system license granted under this article;
- (III) A MAXIMUM OF TEN LICENSES ISSUED UNDER THIS SECTION AND SECTION 12-47-408; or ~~in~~
- (IV) A financial institution referred to in section 12-47-308 (4).

## 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. It is standard drafting practice when referencing statutory sections to include the word "section" before the number. For example, "section 24-35-204.5." Additionally, the word "section" is spelled out rather than using the section symbol "§."
2. It is standard drafting practice when referencing statutory sections to include the words "Colorado Revised Statutes" after the number. For example, "section 24-35-204.5, Colorado Revised Statutes."
3. When referring to the section of statute that the measure is amending, the proper form for the reference is "this section" rather than referring to the section number. For example, in section 1 of the measure, rather than referring to "LICENSES UNDER § 12-47-407 AND § 12-47-408," the proper format is "LICENSES UNDER THIS SECTION AND SECTION 12-47-408." In section 2 of the measure, the proper format would be ""LICENSES UNDER THIS SECTION AND SECTION 12-47-407."
4. The proper format for an effective date clause is as follows:

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