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MEMORANDUM

TO: Blake Harrison, John Grayson Robinson, and Trey Rogers

FROM: Legislative Council Staff and Office of Legislative Legal Services

DATE: December 9, 2015

SUBJECT: Proposed initiative measure 2015-2016 #61, concerning food store 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.

This initiative was submitted with proposed initiative 2015-2016 #60. The comments and questions raised in this memorandum will not include comments and questions that were addressed in the memorandum for proposed initiative 2015-2016 #60, except as necessary to fully understand the issues raised by the revised proposed initiative. Comments and questions addressed in those other memorandum may also be relevant, and those questions and comments are hereby incorporated by reference in this memorandum. Only new comments and questions are included in this memorandum.

An earlier version of this proposed initiative, proposed initiative 2015-2016 #52, was the subject of a memorandum dated November 16, 2015. Proposed initiative 2015-2016 #52 was discussed at a public meeting on November 18, 2015. 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. To create a food store license in the Colorado Liquor Code that would allow food stores to sell only malt and vinous liquors in sealed containers for off-premises consumption;
2. To require food stores selling malt and vinous liquors to purchase the liquor products only from licensed wholesalers;
3. To specify that a person who owns an interest in a retail business licensed under the Colorado Liquor Code is not precluded from conducting, owning, or having an interest in one or more licensed food stores;
4. To permit a business that holds a valid fermented malt beverage retailer's license in effect on July 1, 2017, to apply to the local licensing authority for a food store license if the licensee otherwise complies with the requirements for a food store license;
5. To specify that, when reviewing and making a determination on a food store license application submitted by a currently-licensed fermented malt beverage retailer, the local licensing authority may:
 - a. Deem as proven the satisfactory nature of the applicant's character, record, or reputation if the applicant, at the time of application, has a valid, unexpired fermented malt beverage retailer license and is not subject to any pending administrative or criminal proceedings; and
 - b. Consider the reasonable requirements of the neighborhood and the desires of its adult inhabitant in accordance with current law;

6. To require the state licensing authority to adopt rules and other findings as necessary to implement food store licenses;
7. To define a food store as an establishment, other than a restaurant, that offers food items for sale at retail and that generates at least 25% of its annual gross sales income, excluding income from fuel products and lottery ticket sales, from the sale of food items;
8. To define food items as any raw, cooked, or processed edible substance, ice, and nonalcohol beverage intended for human consumption;
9. To authorize the state licensing authority and local licensing authorities to issue food store licenses;
10. To establish state and local license fees for food store licenses;
11. To prohibit a food store employee who is under 21 years of age from selling malt or vinous liquors;
12. To repeal, as of January 1, 2019, provisions of law authorizing local licensing authorities to issue licenses under the Colorado Beer Code that authorize the sale of fermented malt beverages either for consumption off the licensed premises or for consumption on and off the licenses premises; and
13. To specify that the measure takes effect 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?

Technical Comments

There are no additional technical comments raised in this memorandum that were not addressed at the earlier meeting on November 18, 2015, or in the memorandum for proposed initiative 201502016 #60.