

Title 12 Recodification Study
Working Group Meetings - Non-DORA Agencies
Thursday, July 21, 2016
11:00 AM and 1:30 PM
HCR107

Dept.	Article & Topic	Staff
Revenue	Art. 6 Automobiles Art. 15 Commercial Driving Schools	Jery Payne jery.payne@state.co.us 303-866-2157
	Art. 34, Pt. 1 Anatomical Gifts	Jane Ritter jane.ritter@state.co.us 303.866.4342
	Art. 47.1 Limited Gaming Art. 60 Racing	Esther van Mourik esther.vanmourik@state.co.us 303-866-4215
	Art. 43.3 Medical Marijuana Art. 43.4 Retail Marijuana	Michael Dohr michael.dohr@state.co.us 303-866-4347
	Arts. 46-48 (excluding 47.1 & 47.2) Alcohol Beverages	Christy Chase christy.chase@state.co.us 303-866-2008 Jane Ritter jane.ritter@state.co.us 303.866.4342

Persons present:

Michael Steppat, Axiom Strategies, Inc.
Megan Wagner, Brandeberry-McKenna Public Affairs
Erin Goff, Axiom Strategies, Inc.
Flavio Quintana, Director, Enforcement Division – Gaming, DOR
Ceri Williams, Attorney General’s Office
Jennifer Anderson, Attorney General’s Office
Eric Meyer, Attorney General’s Office
Randall Cherry, Attorney General’s Office
Bruce Zulauf, Director – Auto Industry Division, DOR
Lynda Atkins, Attorney General’s Office, Liquor Enforcement Division
Patrick Maroney, Director – Liquor Enforcement Division, DOR
Alan Call, Attorney General’s Office
Brock Herzberg, Capitol Focus LLC
Jean Robinson, DOR
Jordan Wellington, Vicente Sederberg
Kristen Thomson, Heizer Paul LLP
Shannon Fender, Sewald Hanfling Public Affairs
Matt Mortier, CO DOI
Melissa Osse, Axiom Strategies

Donia Amick, Legislative Director, DOR
Nick Hoover, Colorado Restaurant Association

Article 6—Automobiles

OLLS suggested moving this article to Title 42, the Vehicles and Traffic title. Bruce Zulauf voiced his concern that a move out of Title 12 could create a lot of unknowns (such as whether the Division would continue to remain responsible for all its current duties). Mr. Zulauf also indicated that the article has quite a bit of licensing and enforcement in it, which he thought fit well in Title 12. He indicated that he personally didn't see that the change needed to happen. Additionally, he mentioned that such a move could be burdensome because of the amount of paperwork, rules, and forms that make reference to the current citations.

Jennifer Gilroy, OLLS Revisor of Statutes, did point out that even if this article were to remain in Title 12, the reality will be that the recodification of the other articles will mean that Article 6 would likely be renumbered. This means that staying in Title 12 because of citation concerns in rules and forms will probably not solve that problem.

Mr. Zulauf indicated he would like to think about the move a little more but seemed more appeased with the information that this would be a totally non-substantive move – i.e. most of the unknowns that he's worried about would hopefully not come to fruition.

Article 15—Commercial Driving Schools

OLLS suggested moving this to Title 42, the Vehicles and Traffic title. The meeting attendees had no objections and indicated that such a move seemed to be acceptable.

Article 34, Part 1—Anatomical Gifts

OLLS suggested moving this to part to Title 15, Article 19 or creating a new article in Title 15. There were no stakeholders present to discuss. The department's representatives in attendance had no objections.

Article 47.1—Limited Gaming; Article 60—Racing

OLLS suggested moving both articles to Title 39. Flavio Quintana said he was pleased to hear that the recodification is not intended to change the statutes to affect operations; they do enforcement work as well as regulatory compliance work and a lot of licensing (similar to what Mr. Zulauf explained with the auto industry division).

While the logic behind this suggested move was evident, Ceri Williams had concerns about the applicability of Title 39's common provisions article. If Articles 47.1 and 60

were moved to Title 39, it would have to be made very clear that such common provisions did not generally apply to limited gaming and racing.

Jennifer Gilroy suggested instead that these articles and perhaps medical and retail marijuana might be moved to a new title. This was met with enthusiasm by the department and the other representatives in the room. A stakeholder meeting will be scheduled to further discuss the matter and to invite representatives from the lottery division to see if they would be more appropriately found in the new title as well and from the Governor's office to discuss the relocation of Article 47.2, the Tribal-state Gaming Compact article.

Ms. Williams asked whether there could be a way to redo rules outside the Administrative Procedures Act to make changes to all of the statutory references.

OLLS subsequently looked into this and has made preliminary plans to present the recommendation that such changes be treated like "scriveners errors" to the Committee on Legal Services at their September meeting.

The representative from the racing division liked the idea of a new title and adding racing to it. Racing does have the authority to enter into an interstate compact in statute, so we may want to think about where to put that.

Article 43.3—Medical Marijuana; Article 43.4—Retail Marijuana

OLLS suggested moving both articles to a new title that would contain other non-tax provisions related to the Department of Revenue, like limited gaming, racing, and alcohol. OLLS also suggested the articles could be added to Title 39, left in Title 12, or moved to Title 24.

OLLS also suggested that the marijuana provisions could be reorganized during this process. A reorganization could involve combining all of the common provisions between the medical and retail codes into one place and then having a place for all of the provisions that are different for medical and retail marijuana. Reorganization could also involve organizing the statutes in a more logical fashion and cleaning up the rule-making sections for both medical and retail marijuana so the provisions are easier to navigate and find.

There was a robust discussion regarding reorganization with support to try to do a non-substantive reorganization. Jordan Wellington strongly supported a reorganization. The AG's representatives indicated an interest in a non-substantive reorganization and wanted to make sure there would be a way to redo the rules outside the Administrative Procedures Act to make changes to all of the new statutory references. The marijuana industry representatives present thought a reorganization would be

helpful, but also wanted to discuss it further. OLLS will organize a stakeholder meeting to further explore the recodification proposal.

Articles 46 to 48 (excluding Article 47.1 and 47.2) —Alcohol Beverages

OLLS suggested moving the articles to a new title that would contain other non-tax provisions related to the Department of Revenue, like limited gaming, racing, and marijuana. OLLS also suggested the articles could be added to Title 39 or could be left in Title 12.

The representatives in the room agreed that it makes sense to move the liquor articles to a new title. Other representatives were okay with the proposal, so long as there are no substantive changes to the statutes.

Ed DeCecco asked whether the department representatives would be open to moving the excise tax provisions from the liquor code to Title 39. Patrick Maroney indicated that the idea would need some consideration but might make sense, since it is not liquor enforcement but tax compliance.

There was a question about what would happen with bills to amend current law while the restructuring bills are moving through the process – that would be addressed by special types of enactment clauses that the drafters will have to pay careful attention to. An industry representative indicated that a further meeting with stakeholders would be beneficial.