

COLORADO TITLE BOARD

In the Matter of:

TITLE, BALLOT TITLE & SUBMISSION CLAUSE FOR PROPOSED INITIATIVE 2021-2022 #16: "LAWS CONCERNING CRUELTY TO ANIMALS"

MOTION FOR REHEARING

In accordance with C.R.S. § 1-40-107(1)(a)(I), the Colorado registered electors signed below hereby request a rehearing before the Colorado Title Board (the "**Board**") with respect to Proposed Initiative 2021-2022 #16, regarding "Laws Concerning Cruelty to Animals" (the "**Initiative**"). As set forth below, Movants respectfully object to the title, ballot title and submission clause approved by the board based on the following:

I. BACKGROUND

Following a hearing held March 17, 2021, the Board designated and fixed the following title for the Initiative:

A change to the Colorado Revised Statutes concerning expanding prohibitions against cruelty to animals, and, in connection therewith, expanding the definition of "livestock" to include fish; expanding the definition of "sexual act with an animal" to include intrusion or penetration into an animal's anus or genitals with an object or part of a person's body and allowing an exception only for care to improve the animal's health and eliminating the existing exception for animal husbandry practices; defining the "natural lifespan" for certain species of livestock and providing that slaughtering those animals is not animal cruelty if done according to acceptable animal husbandry practices after the animal has lived 1/4 of the natural lifespan; removing several exceptions to the animal cruelty statutes, including exceptions for animal husbandry; and providing that, in case of a conflict, the cruelty to animals statutes supersede statutes concerning animal care.

Likewise, the ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be a change to the Colorado Revised Statutes concerning expanding prohibitions against cruelty to animals, and, in connection therewith, expanding the definition of "livestock" to include fish; expanding the definition of "sexual act with an animal" to include intrusion or penetration into an animal's anus or genitals with an object or part of a person's body and allowing an exception only for care to improve the animal's health and eliminating the existing exception for animal husbandry practices; defining the "natural lifespan" for certain species of livestock and providing that slaughtering those animals is not animal cruelty if done according to acceptable animal husbandry practices after the animal has lived 1/4 of the natural lifespan; removing several exceptions to the animal cruelty statutes, including exceptions for animal husbandry; and providing that, in case of a conflict, the cruelty to animals statutes supersede statutes concerning animal care?

Shall there be a change to the Colorado Revised Statutes concerning expanding prohibitions against cruelty to animals, and, in connection therewith, expanding the definition of “livestock” to include fish; expanding the definition of “sexual act with an animal” to include intrusion or penetration into an animal’s anus or genitals with an object or part of a person’s body and allowing an exception only for care to improve the animal’s health and eliminating the existing exception for animal husbandry practices **and veterinary practices such as spaying, neutering, artificial insemination, and breeding**; defining the “natural lifespan” for certain species of livestock and providing that slaughtering those animals is not animal cruelty if done according to acceptable animal husbandry practices after the animal has lived 1/4 of the natural lifespan; removing several exceptions to the animal cruelty statutes, including exceptions for animal husbandry; and providing that, in case of a conflict, the cruelty to animals statutes supersede statutes concerning animal care?

B. The Initiative impermissibly addresses multiple subjects.

The Initiative addresses at least two separate and distinct subjects. It is therefore prohibited by article V, section 5 of the Colorado Constitution and the Board should decline to fix a title for it.

Each initiative that proposes an amendment to the State Constitution shall contain only one subject, clearly expressed in the title set for that initiative. See Cob. Const. Art. V., § 1(5.5) (the “Single Subject Rule”); see also C.R.S. § 1-40-106.5 (single-subject requirements for initiated measures); In re Title, Ballot Title, Submission Clause, 974 P.2d 458, 463 (Cob. 1999) (proposed initiative violates single subject rule where it “has at least two distinct and separate purposes which are not dependent upon or connected with each other.”).

In the February 15, 2021 Memorandum from the Legislative Council staff and Office of Legislative Legal Services under “Purposes,” it is stated:

The *major purposes* of the [Initiative] appear to be:

1. Update language in the criminal cruelty to animal statutes (sections 18-9-201, 18-9-201.5, and 18-9-202, Colorado Revised Statutes) to create greater protections for animals from suffering and exploitation by raising the standard of care; and
2. Extending certain portions of the criminal cruelty to animal statutes to include, in certain instances, livestock, and criminalizing actions that are currently considered legal animal husbandry practices.

Movants would agree that the two stated purposes are contained in the Initiative but would assert that there are two more purposes; the first of which would amend the language and requirements contained in Chapter 12 of Colorado Revised Statutes known as the Colorado Veterinary Practice Act. The Initiative seeks to amend what constitutes cruelty to animals and to prohibit individuals from performing certain practices. What it also does by inference is to prohibit current practices by licensed veterinarians which will result in potential criminal violations for practices which are currently allowed for and regulated through the Colorado Veterinary Practice Act. The second purpose is that it creates a new statutory criterion describing the lifespan of certain animals without any scientific basis which is arbitrary and capricious standards and could potentially be in violation of the interstate commerce doctrines.

Finally, the Initiative would override and contradict all the existing laws and regulations regarding fisheries and practices. This must be considered as a separate and distinct subject.

The Single Subject Rule prohibits attempts to roll together multiple subjects in order to attract the votes of those who would favor one of those subjects but would oppose the others. *See, e.g., In re Proposed Initiative for 2005-2006 #74, 136 P.3d 237, 242 (Colo. 2006); In re Proposed Initiative for 1997-1998 #84, 961 P.2d 456, 458 (Colo. 1998).* The Initiative combines the two subjects identified in the Memorandum with the additional purposes listed above, potentially attracting voters who might support changing what constitutes cruelty to animals but would not support limiting what is allowed by licensed veterinarians and livestock stewards for the care of all animals. Therefore, the Board should determine that the Initiative violates the Single Subject Rule and that a title cannot be set for it.

Respectfully submitted this 24th day of March, 2021 by the Movants indicated below. (Signature pages provided in counterparts.)

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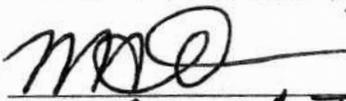
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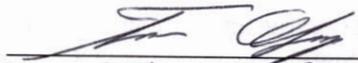
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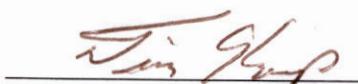
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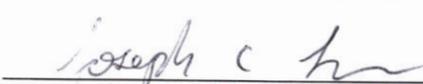

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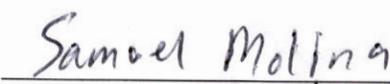
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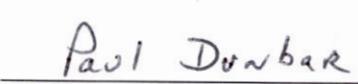

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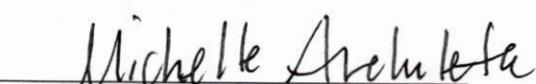

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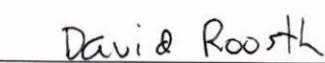

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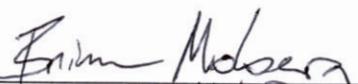

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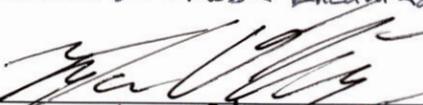

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 24th day of March, 2021, a true and correct copy of the MOTION FOR REHEARING was filed with the Colorado Secretary of State and served via U.S. Mail, postage prepaid, to the following:

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