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March 10, 2020

Via regular U.S. Mail and E-mail

Donald J. McTigue
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545 East Town St.
Columbus, Ohio 43215
dmctigue@electionlawgroup.com

Re: Submitted Petition for Initiated Constitutional Amendment to Add Article XV, Section 12 to the Ohio Constitution— “An Amendment to Regulate Marijuana Like Alcohol”

Dear Mr. McTigue,

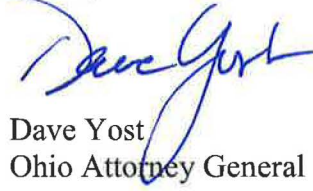
On March 2, 2020, I received a written petition containing (1) a copy of a proposed constitutional amendment to add Article XV, Section 12 to the Ohio Constitution, and (2) a summary of the same measure. This petition and summary were submitted to this Office in accordance with Ohio Revised Code (“ORC”) Section 3519.01(A). As you know, one of my statutory duties as Attorney General is to determine whether the submitted summary is a “fair and truthful statement of the proposed law or constitutional amendment.” ORC Section 3519.01(A). The Ohio Supreme Court has defined “summary” relative to an initiated petition as “a short, concise summing up,” which properly advises potential signers of a proposed measure’s character and purport. *State ex rel. Hubbell v. Bettman*, 124 Ohio St. 24 (1931). If I conclude that the summary is fair and truthful, I am to certify it as such within ten days of receipt of the petition. In this instance, the tenth day falls on Thursday, March 12, 2020.

Upon reviewing Section (A) of the proposed amendment and comparing it to the summary language, I am unable to certify the summary as a fair and truthful representation of the proposed amendment. Specifically, Section (A) of the proposed amendment lists several findings and declarations that the amendment proposes to be made by “the people of the state of Ohio”. The summary makes no mention of these findings and declarations. Thus, it completely fails to inform a potential signer that the amendment elevates these “findings and declarations” to a constitutional standard.

As you are aware, this is not the first time that I have rejected a summary as not being fair and truthful for its failure to include a proposed amendment’s significant findings and declarations. In November 2019 I rejected the summary submitted by your Office, “The Nursing Facility Patients’ Bill of Rights”. That summary also failed altogether to inform potential signers and voters of the factual findings that they were being asked to make, and was rejected.

It is significant to ask voters to make factual findings at the ballot box. A summary that fails to inform a signer of the existence of such findings and declarations does not fairly and truthfully reflect the amendment's import. Thus, without reaching the balance of the summary, and consistent with my past determination, I am unable to certify the summary as a fair and truthful statement of the proposed amendment. Finally, I recommend that the Petitioners carefully review and scrutinize the remainder of the summary to ensure that it accurately captures the proposed amendment's definitions, contents and purport before it is resubmitted to this Office.

Yours,



Dave Yost
Ohio Attorney General

cc: Committee to Represent the Petitioners

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