



To: Shemia Fagan
Oregon Secretary of State
255 Capitol St. NE
Salem, OR 97266

Re: Initiative Petition 2022-013- Draft Ballot Title Comments

Date: June 3, 2021

Dear Secretary Fagan:

As an Oregon elector, I, Keely Hopkins write to comment on the Attorney General's draft ballot title for Initiative Petition 2020-013 ("IP13"). I also submit these comments in my capacity as the Pacific States Assistant Manager for the Congressional Sportsmen's Foundation (CSF) and on behalf of over 940,000 sportsmen and women throughout the state of Oregon.

Since 1989, CSF has dedicated itself to the mission of working with Congress, governors, and state legislatures to protect and advance hunting, angling, recreational shooting and trapping. The unique and collective force of the Congressional Sportsmen's Caucus, the Governors Sportsmen's Caucus, and the National Assembly of Sportsmen's Caucuses, working closely with CSF, and with the support of major hunting, recreational fishing and shooting, and trapping organizations, serves as an unprecedented network of pro-sportsmen elected officials that advance the conservation interests of America's hunters and anglers.

BACKGROUND & IMPLICATIONS OF IP13 IF PASSED

Oregon's hunters, anglers, and trappers have long played a vital role in funding conservation and wildlife management efforts throughout the state. Under the American System of Conservation Funding (ASCF), a unique "user pays-public benefits" structure, Oregon's sportsmen and women generate tens of millions of dollars each year for the Oregon Department of Fish and Wildlife (ODFW). These funds are generated through fishing and hunting license sales and through the purchase of sporting-related goods. Under the Pittman-Robertson Act, Oregonians pay an 11% excise tax on sporting-related goods, which in turn funds a large portion of the state's wildlife management, conservation, and research efforts. In 2020 alone, Oregon's

outdoorsmen and women generated over \$76.9 million dollars in funding for ODFW—providing 48% of the agency’s budget and making sportsmen the primary funders of state-level conservation efforts across the state. This critical conservation funding benefits all Oregonians by protecting and enhancing fish and wildlife habitat and populations, supporting recreational access to public and private lands, and improving water and land conservation.

Currently in Oregon, the Department of Fish and Wildlife manages fish and wildlife populations using a science-based, comprehensive management plan that strives for an ecological balance that allows for all species to flourish. This management plan includes the use of hunting and fishing as a necessary tool to ensure certain populations are kept at objective management levels, thereby increasing the survival rates of other species.

In addition to providing vital conservation funding and management tools, hunting and fishing provides Oregonian’s opportunities to participate in the outdoors and procure natural, nutrient-rich food for themselves and their families. For generations, Oregonians from across the state have relied on Oregon’s rich natural bounty to provide fresh meat and fish for their families. In 2020, Oregon’s 949,000 paid hunting and fishing license holders purchased over 2 million permits and tags to participate in these outdoor pursuits.

If passed, IP13 would criminalize all hunting, fishing and trapping in Oregon, amongst many other prohibitions (including livestock production/ breeding, domestic animal breeding, rodeos, pest control, research and education, etc.). These restrictions would immediately impact Oregon’s 940,000 sportsmen and women who participate in the outdoors in support of conservation efforts, food procurement, and tradition, but it would also have a profound impact on the state’s ability to manage and protect its natural resources, wildlife, and public lands. Without sportsmen-generated revenue through license and tag sales, along with excise the tax revenue generated through Pittman-Robertson for sporting-related purchases, ODFW would have their budget drastically cut by almost one half. ODFW, the primary stewards of protecting and enhancing our states wildlife and their habitat, would lose over \$50 million dollars annually from hunting and fishing license sales alone. IP13 would also bulldoze through ODFW’s comprehensive management plan by removing well-regulated harvests as a tool to maintain objective wildlife and fish populations.

THE CAPTION

To be statutorily compliant, ORS 250.035(2)(a) requires the Attorney General to prepare a ballot title contains “a caption of not more than 15 words that reasonably identifies the subject matter of the state measure”. The “subject matter” is the “actual major effect” of the matter, as identified by the Oregon Supreme Court in *Lavey v. Kroger* (2011). Furthermore, as explained in *Rasmussen v. Kroger* (2011), “To identify the ‘actual major effect’ of a measure, the court examines the text of the proposed measure to determine the changes that the proposed measure would enact in the context of existing law and then examines the caption to determine whether the caption reasonably identifies those effects”. As held in *Tower v. Myers* (2006), a caption that is underinclusive because it does not notify readers of all the major effects of an initiative, is statutorily noncompliant.

The caption prepared by the Attorney General for IP13 states:

Prohibits injuring or killing animals, most breeding practices; self-defense exceptions. Redefines animal abuse crimes

The proposed caption does not adequately convey the actual major effects of the ballot initiative as required under ORS 250.035(2)(a) and relevant case law. Upon reading the proposed ballot title, Oregon voters would not be alerted to the major effects of the proposed initiative. As discussed above, IP13 would have an “actual major effect” on conservation funding in the state, the ability of Oregonians to procure food through hunting and fishing activities, and the state’s ability to comprehensively manage wildlife and fish populations. Additionally, IP13 would criminalize most animal breeding practices, including for domestic animals and horses, along with animal husbandry practices that includes humane livestock slaughter.

As such, we would recommend the following caption:

Criminalizes hunting, fishing, livestock breeding/ slaughter, animal breeding. Reduces conservation funding; limits science-based wildlife management.

RESULT OF “YES” VOTE

ORS 250.035(2)(b) requires that a ballot title contain a “simple and understandable statement of not more than 25 words that describe the result if the state measure is approved”. As interpreted by the Oregon Supreme Court in *Novick v. Myers* (2004), the purpose of this section is to “notify petition signers and voters of the result or results of enactment that would have the greatest importance to the people of Oregon.”

The proposed yes statement prepared by the Attorney General for IP13 states:

“Yes” vote prohibits intentional injuring/ killing of animals, including farming, hunting, fishing, research/ teaching; self- defense exception. Redefines animal crimes, criminalizes most breeding practices.

The proposed yes statement by the Attorney General reflects the same errors of the proposed caption and fails to adequately notify Oregon voters as to the primary results of IP13 if enacted. While the proposed yes statement does articulate the prohibition of hunting, fishing, and farming, it fails to address long term effects that would be of great importance to the people of Oregon. By restricting fishing and hunting in the state, funding for conservation efforts and wildlife management would be severely impacted due to reduced revenue for the Oregon Department of Fish and Wildlife. Additionally, hunting and fishing provides a necessary tool for the department to implement science-based management by maintaining species at their objective population levels. The proposed restrictions around common animal breeding practices would criminalize research and educational teaching opportunities, not just as a misdemeanor infraction, but as a felony crime.

Considering the above, we recommend the following caption:

“Yes vote” criminalizes hunting, fishing, food production via livestock breeding/slaughter, animal breeding practices, research, more. Reduces funding/ restricts state-based conservation and science-based wildlife management.

RESULT OF “NO” VOTE

In *Towers v Myers* (2006), the Oregon Supreme Court articulated that ORS 250.035(2)(c) requires a ballot title to contain a “simple and understandable statement of not more than 25 words that describes the result if the state measure” is rejected and must also accurately identify the subject matter of the measure.

The proposed no statement prepared by the Attorney General for IP13 states:

“No” vote retains current law allowing injury/ death to animals by killing livestock, hunting, fishing, animal husbandry, other lawful activities. No restrictions on breeding practices.

For the same reasons articulated in the caption and yes statement, we recommend the following caption:

“No” vote allows hunting, fishing, ranching, research, other lawful activities. Continues existing science-based wildlife management, conservation funding. Retains existing criminal penalties for animal cruelty/ abuse.

SUMMARY

ORS 250.035(2)(d) requires a “concise and impartial statement of not more than 125 words summarizing the state measure and its major effects. As determined in *Mabon v Myers* (2001), quoting *Fred Meyer, Inc. v. Roberts* (1989), the goal of the summary is to “help voters to understand what will happen if the measure is approved” and the “breadth of its impact”.

The summary prepared by the Attorney General for IP13 states:

Under current law, many activities that do or may kill or injure animals are lawful, not crimes, such as good animal husbandry practices; slaughtering livestock and poultry; fishing, hunting, and trapping; rodeos; animal research and teaching. Proposed measure removes most exceptions to crimes of animal abuse, animal neglect, sexual abuse of animals. Includes mammals, birds, reptiles, amphibians, fish. Redefines animal abuse to include any intentional, knowing, reckless physical injury or death to animals; exception for defense against apparent threat of immediate violence by an animal. Eliminates defense to animal neglect crimes for practices currently authorized by law. Criminalizes animal breeding practices for domestic, livestock, and equine animals that involve touching the mouth, anus, sexual organs of the animal; exception for good veterinary practices. Other provisions

The summary of the Attorney General carries forward the same concerns raised in the caption, yes statement, and no statement.

Therefore, we recommend the following summary:

Current law allows hunting, fishing, food production via livestock breeding/ slaughter, research, education, and more. State level conservation efforts are funded from hunting and fishing licenses/tag sales, providing over \$50 million dollars annually to the Oregon Department of Fish & Wildlife for conservation, habitat restoration, species protection and recovery, public land access, and other management efforts. The proposed measure removes this state level conservation funding by prohibiting hunting and fishing, and redefines animal abuse to include any intentional, knowing, reckless physical injury or death to animals. Includes all mammals, birds, reptiles, amphibians, fish. Effectively outlaws food-producing livestock operations, rodeos, pest control, and more. Criminalizes most animal breeding practices for domestic, livestock, and equine animals; creates a felony for K-12/ college level education around animal breeding.

CONCLUSION

We understand that it is a challenging task to concisely articulate a ballot title for a very troubling, sweeping measure that would severely impact Oregon's wildlife management tools, conservation funding, and food procurement methods. Thank you for the opportunity to provide comments on the draft ballot title, and for your thoughtful consideration of these comments.

Sincerely,



Keely Hopkins
Pacific States Assistant Manager
Congressional Sportsmen's Foundation