



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

Re: Initiative Petition 2024-03- Draft Ballot Title Comments

Date: May 26, 2022

Dear Secretary Fagan:

Thank you for the opportunity to comment on the Attorney General's draft ballot title for Initiative Petition 2024-03 ("IP3"). I am submitting these comments in my capacity as the Pacific States Manager for the Congressional Sportsmen's Foundation (CSF) and on behalf of over 949,000 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 IP3 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 and Dingell-

Johnson/Wallop-Breaux Acts, Oregonians pay a 10-11% 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. That includes the use of hunting and fishing as a necessary tool to ensure certain populations are kept at objective management levels.

In addition to providing vital conservation funding and management tools, hunting and fishing provide 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, IP3 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 the Pittman-Robertson and Dingell-Johnson/Wallop-Breaux Acts for sporting-related purchases, ODFW would have their budget drastically by around 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. IP3 would also bulldoze through ODFW's comprehensive management plan by removing well-regulated harvests as a tool to maintain wildlife and fish population objectives.

CSF appreciates the attention and consideration to the comments submitted in June 2021 regarding IP3's initial iteration as IP13. Many of the concerns that we raised were noted and incorporated into IP13's revised language. Because of this, we only have a few requests for further specificity due to the additional language in IP3.

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 IP3 states:

Criminalizes injuring or killing animals, including killing for food, hunting, fishing; criminalizes breeding practices. Exceptions

We understand that capturing the major points of this initiative in fifteen words is a challenging task, but would suggest the following revision:

Criminalizes injuring/ killing animals, including killing accidentally, or for food, hunting, fishing; criminalizes breeding.

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 IP3 states:

“Yes” vote criminalizes injuring or killing animals, including farming, ranching, hunting, fishing, trapping, pest control, research/teaching. Exceptions for veterinary practices, self-defense. Criminalizes breeding practices.

The language of IP3 goes further into the animal abuse statutes than its predecessor and therefore necessitates changes to the “Yes” vote section. IP3 removes references to, and definition of, “good animal husbandry”. As such, it should be noted that a “Yes” vote will also criminalize training, handling, and care of domestic pets, livestock, and equine.

The modification of Section 4, ORS 167.320, (1)(b) with the removal of the word ‘Cruelly’ also removes intention and implies that any death of an animal, even accidental, would be a criminal offense as animal abuse in the first degree. This should be noted as a major effect in the “Yes” vote section.

Additionally, the detrimental effects of the initiative’s removal of the exemption for wildlife management practices should be noted due to the extreme consequences it will have on the

Oregon Department of Fish and Wildlife’s ability to conduct research and management actions for the betterment of the state’s wildlife resources.

Considering the above, we recommend the following caption:

“Yes” vote criminalizes injuring/ killing animals, including accidentally, farming, ranching, hunting/ trapping, fishing, pest control, research/ teaching, wildlife management/ research. Criminalizes training/ handling techniques, breeding.

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 IP3 states:

“No” vote retains current law allowing injury/death in various circumstances, including for purposes of farming for food, hunting, fishing, trapping, pest control, animal research.

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

“No” vote retains current law allowing injury/ death, including accidentally, farming, ranching, hunting/ trapping, fishing, pest control, research/ teaching, wildlife management/ research. Maintains handling/ training.

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 IP3 states:

Under current law, many activities that do or may kill or injure animals are lawful, including animal husbandry practices; slaughtering livestock and poultry; animal breeding practices; fishing, hunting, and trapping; wildlife management practices; rodeos; scientific and agricultural research and teaching; control of vermin and nuisance animals; reasonable handling, training techniques. Proposed measure would make those practices, and other common practices involving animals, criminal offenses if injury/death occurs. Criminalizes animal breeding practices for domestic, livestock, and equine animals that involve impregnation; masturbation; touching mouth, anus, or sexual organs of the animal. Exception for “good veterinary practices” (undefined) and self-

defense. Applies to mammals, birds, reptiles, amphibians, fish. Eliminating hunting/fishing licenses would remove funding from wildlife conservation efforts by Department of Fish and Wildlife. Other provisions.

As previously stated, we appreciate the consideration shown to previous comments regarding the IP13 language that provided a good baseline for comments regarding the new IP3 language. Due to the additional language and proposed changes in IP3, we would suggest a few edits to this section to define the overall effects of the initiative more clearly.

With the removal of all references to, and definition of, “good animal husbandry”, the language should be adjusted within the summary to better explain these effects. Additionally, the specific language describing breeding practices is unnecessary and utilizes a portion of the limited word count that could be better used to explain other impacts more fully. For example, the proposed changes to Section 8 (ORS 167.333) regarding breeding would classify these actions as a Class C Felony, which is information that should be communicated to the voting public.

Lastly, we propose changing the phrase “good veterinary practices” to “some veterinary practices”. If passed, the language in the initiative restricts the common veterinary practices of utilizing animal owners, or their agents, to perform prescribed care and treatment.

Therefore, we recommend the following summary:

Under current law, common practices that do or may kill or injure animals are lawful, including accidental death; lawful hunting, fishing, and trapping; wildlife management practices, including research and population monitoring; slaughtering of livestock and poultry; rodeos; scientific or agricultural research, teaching involving animals, aquaculture; control of pests and nuisance animals. Proposed measure would make those practices criminal offenses if death/injury occurs. Criminalizes reasonable handling/training techniques, including training for domestic pets. Criminalizes animal breeding practices for domestic, wildlife, livestock, and equine as felony offense. Applies to all mammals, birds, reptiles, amphibians, fish. Elimination of hunting/fishing licenses would remove majority of funding from wildlife conservation efforts by Department of Fish and Wildlife. Exception for some veterinary practices and self- defense. Other provisions.

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 M. Hopkins

Keely Hopkins
Pacific States Manager
Congressional Sportsmen's Foundation