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September 7, 2022

Kirstin Beatty  
149 Central Park Drive  
Holyoke, MA 01040

Re: Initiative Petition No. 22-10, Initiative Petition for a Law Relative to Less  
Chemicals for Ecosystems

Dear Ms. Beatty:

In accordance with the provisions of Article 48 of the Amendments to the Massachusetts Constitution, we have reviewed the above-referenced initiative petition, which was submitted to the Attorney General on or before the first Wednesday of August this year. I regret that we are unable to certify that the proposed law complies with Article 48. Our decision, as with all decisions on certification of initiative petitions, is based solely on art. 48's legal standards and does not reflect the Attorney General's policy views on the merits of the proposed law.

Below, we describe the proposed law and then explain why we cannot certify it because it does not "propose a law" in proper form for submission to the people, as required under Article 48. *See* Amend. Art. 48, The Init., Pt. II, § 3.

### Description of Petition

The stated purpose of the proposed law is to "limit chemical risks," protect ecosystems, and "reduce hazardous industrial chemicals in our environment." The petition would advance these goals by urging the Legislature to: (1) adopt a protocol similar to the European Union's for regulation of chemicals; (2) prohibit the sale in the Commonwealth of any product that does not meet the chemical safety standards of the European Union; (3) adopt restrictions on chemical substances that are in place in the European Union; (4) enact legislation relative to chemicals in consumer products and products for children; (5) tax lithium and other toxic batteries; (6) implement an ecologically based mosquito control program; (7) ban use of certain pesticides, herbicides, and fertilizers; (8) restrict use of pesticides, herbicides, and fertilizers in wetlands; (9) limit pesticides to organic alternatives; (10) adopt a new plastic bottle deposit program; (11) impose a consumer sales tax on plastic; (12) require reduction then a complete ban on all plastic items in the Commonwealth; (13) support development of bioremediation of chemical pollution; and (14) support prevention of chemical pollution and pharmaceutical pollution. The remaining provisions of the petition relate to methods of implementation.



The Proposed Law is Not in Proper Form for Submission to the Voters

The Attorney General's duty of certification under Amend. Art. 48 requires her to determine whether "the measure and the title thereof are in proper form for submission to the people." See Amend. Art. 48, The Init., Pt. II, § 3. An initiative petition that does not propose a law (or a constitutional amendment) is not in proper form for certification by the Attorney General. See Amend. Art. 48, The Init., Part II, § 1 ("An initiative petition shall set forth the full text of the ... law ... which is proposed by the petition."); Paisner v. Attorney General, 390 Mass. 593, 598-599 (1983) (to be in proper form for submission to the voters, initiatives under Article 48 must propose either a constitutional amendment or a law). For purposes of Article 48, the Supreme Judicial Court has described a law "as including a measure with binding effect, or as importing 'a general rule of conduct with appropriate means for its enforcement by some authority possessing sovereign power over the subject; it implies command and not entreaty.'" Mazzone v. Attorney General, 432 Mass. 515, 530-31 (2000) (citing Opinion of the Justices to the House of Representatives, 262 Mass. 604, 605 (1928)).

This petition does not propose a law that voters could enact without further legislative implementation. Rather, it urges the adoption of legislation to implement a variety of policy goals. Initiative petitions brought under Art. 48 are not requests for the Legislature to act but rather are laws (or constitutional amendments) proposed by citizen-legislators. As such, they must be capable of enactment in the exact form in which they are presented to voters. This petition does not propose a law that voters could enact without further legislative implementation. Thus, the measure does not meet the definition of a "law" set forth in Mazzone. It is simply a "nonbinding expression of opinion" and not a "law" that may be proposed via art. 48. See Paisner, 390 Mass. at 601.

For this reason, we are unable to certify that Petition No. 22-10 meets the constitutional requirements for certification set by Amendment Article 48.<sup>1</sup>

Very truly yours,



Anne Sterman  
Deputy Chief, Government Bureau  
617-963-2524

cc: William Francis Galvin, Secretary of the Commonwealth

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<sup>1</sup> Although we do not base our decision on the relatedness requirement of Article 48, we note that this petition is quite broad and touches on a number of subjects. While the subjects could all be said to relate to pollution reduction, a reviewing court might consider this general topic unreasonably broad. General subjects of initiative petitions that the Supreme Judicial Court has rejected as unacceptably broad include promoting the humane treatment of dogs, Carney v. Attorney Gen., 447 Mass. 218, 224 (2006); elementary and secondary education, Gray v. Attorney Gen., 474 Mass. 638, 647-649 (2016); and regulation of hospitals, Oberlies v. Attorney Gen., 479 Mass. 823, 836 (2018). If you choose to resubmit your petition in the future, you may want to narrow its focus to minimize the risk of a relatedness challenge under Article 48.