

SUPREME COURT OF THE STATE OF OREGON

Yugler v. Myers

333 Or. 330 (2002) · No. SC S49042 · Decided February 7, 2002

SUMMARY

The Oregon Supreme Court reviewed a challenge to the Attorney General’s certified ballot title for Initiative Petition 126 (2002). The court rejected the petitioner’s arguments and certified the ballot title, which concerned limiting government damage recoveries and liability for persons lawfully manufacturing, distributing, selling, promoting, or advertising lawful products.

CASE DETAILS

COURT	Supreme Court of the State of Oregon
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Oregon
DECIDED	February 7, 2002
DOCKET	SC S49042
DISPOSITION	other
PROCEDURAL POSTURE	Petition to review the Attorney General's certified ballot title for Initiative Petition 126 (2002).
STANDARD OF REVIEW	The court reviews the Attorney General's certified ballot title to determine whether it substantially complies with ORS 250.035(2)(a) through (d), under the standard specified in ORS 250.085(5).
PRECEDENTIAL VALUE	Published Oregon Supreme Court opinion; precedential.
PARTIES	Richard Yugler v. Hardy Myers, Attorney General, State of Oregon

TOPICS

- election law
- appellate procedure
- constitutional law
- standard of review

PRACTICE AREAS

- election law
- constitutional law
- appellate procedure

QUESTIONS PRESENTED

1. Whether the Attorney General's certified ballot title for Initiative Petition 126 substantially complied with the requirements of ORS 250.035(2)(a) through (d).

HOLDINGS

1. The certified ballot title substantially complied with the requirements of ORS 250.035(2)(a) through (d), and the petitioner's challenges were not well taken.

KEY QUOTATIONS

“We review the Attorney General's certified ballot title to determine whether it substantially complies with the requirements of ORS 250.035(2)(a) to (d).” (333 Or. at 330)

“Ballot title certified. This decision shall become effective in accordance with ORAP 11.30(11).” (333 Or. at 330)

FACTUAL BACKGROUND

Initiative Petition 126 (2002) proposed constitutional amendments concerning liability for persons and entities that lawfully manufacture, distribute, sell, promote, or advertise lawful products. The Attorney General certified a ballot title describing the measure's effect, including limitations on government damage recoveries and liability for damages arising from abuse or unlawful use of products. Petitioner challenged various aspects of that certified title.

PROCEDURAL HISTORY

The Attorney General certified a ballot title for a proposed initiative measure. Richard Yugler petitioned the Oregon Supreme Court to review various aspects of that certified ballot title. The court rejected petitioner's arguments and certified a ballot title to the Secretary of State.

DISPOSITION

other

OPINION

PER CURIAM.

Filed: February 7, 2002 IN THE SUPREME COURT OF THE STATE OF OREGON RICHARD YUGLER, Petitioner, v. HARDY MYERS, Attorney General, State of Oregon, Respondent. (SC S49042) En Banc On petition to review ballot title. Argued and submitted January 16, 2002. Thomas K. Doyle, Portland, argued the cause and filed the petition for petitioner. Brendan C. Dunn, Assistant Attorney General, Salem, argued the cause and filed the answering memorandum for respondent.

With him on the answering memorandum were Hardy Myers, Attorney General, and Michael D. Reynolds, Solicitor General. PER CURIAM Ballot title certified. This decision shall become

effective in accordance with ORAP 11.30(11). PER CURIAM In this ballot title review proceeding, petitioner challenges various aspects of the Attorney General's certified ballot title for a proposed initiative measure, which the Secretary of State has denominated as Initiative Petition 126 (2002).

We review the Attorney General's certified ballot title to determine whether it substantially complies with the requirements of ORS 250.035(2)(a) to (d). See ORS 250.085(5) (setting out standard of review). We have considered petitioner's arguments and determine that they are not well taken.

Accordingly, we certify to the Secretary of State the following ballot title for the proposed measure: AMENDS CONSTITUTION: PROHIBITS, UNDER SPECIFIED CIRCUMSTANCES, RECOVERING DAMAGES FROM PERSONS LAWFULLY MANUFACTURING, DISTRIBUTING, SELLING, ADVERTISING LAWFUL PRODUCTS RESULT OF "YES" VOTE: "Yes" vote prohibits government recoveries for lawfully manufacturing, distributing, selling, advertising lawful products; immunizes persons conducting those activities against claims for product's abuse, unlawful use.

RESULT OF "NO" VOTE: "No" vote rejects: prohibiting government recoveries for lawfully manufacturing, distributing, selling, advertising lawful products; immunizing persons conducting those activities when product is abused, unlawfully used. SUMMARY: Amends Constitution.

Under current law, persons manufacturing, distributing, selling, advertising products may be liable for compensatory damages and, when acting with malice or sufficient indifference, may be liable for punitive damages; damages may be reduced, barred by contributory negligence; sixty percent of all punitive damages go to state; settlement with tobacco manufacturers requires payments to state.

Measure provides that no person, organization, or business enterprise lawfully manufacturing, distributing, promoting, or advertising lawful products shall be liable for damages resulting from another's abuse, unlawful use of those products. Measure prohibits state, local, taxing governments from claiming, or accepting in settlement, damages from persons, organizations, or business enterprises for lawfully manufacturing, distributing, selling, promoting, advertising any lawful product.

Does not prevent prosecutions, injunctions otherwise available. Other provisions. Ballot title certified. This decision shall become effective in accordance with ORAP 11.30(11).