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SUMMARY

Drug Law changes

- Revises the penalties for the offense of possession of marijuana.
- Repeals the offense of illegal use or possession of marijuana drug paraphernalia and limits the scope of the offense of illegal use or possession of drug paraphernalia to prevent its application to marijuana or hashish.
- Exempts cultivators, processors, testing laboratories, registered patients, adult use consumers, and other persons whose conduct is in accordance the Marijuana Control Law as enacted by the bill from specified Drug Offense Laws.

Marijuana Control Law

Division of Marijuana Control in the Department of Commerce

- Merges the current Medical Marijuana Control Program into a newly created Division of Marijuana Control (DMC) in the Department of Commerce and establishes transition provisions regarding the continuation of licenses, rules, and determinations until subsequently changed.
- Requires, beginning 240 days after the bill's effective date, the Department of Commerce to provide for the licensure of marijuana cultivators, processors, retail dispensaries (moved over from the Board of Pharmacy), and laboratories that test marijuana.
- Requires, beginning 240 days after the bill's effective date, the Department of Commerce to also provide for the registration of medical marijuana patients and their caregivers (moved over from the Board of Pharmacy).

- Expands the rules the Department of Commerce must adopt under the Medical Marijuana Control Program to apply to adult marijuana consumers (adult use consumers) and revises the requirement that the Department adopt rules as follows:
 - Expands the duty to establish standards and procedures for the sale of marijuana by making it apply to adult use consumers by retail dispensaries;
 - Expand the number of cultivator licenses and eliminates limits on the number of retail dispensary licenses;
 - Includes in the reasons for which a license may be suspended, revoked, or not renewed or issued, and the reasons for which a civil penalty may be imposed on a license holder, the failure to begin operating within two years of receiving a license;
 - Expands the duty to establish training requirements to also include training requirements for employees of cultivators, processors, and testing laboratories;
 - Eliminates fees for registrants;
 - Prohibits the Department from adopting rules prohibiting multiple license ownership.

Rights of registered patients and adult use consumers

Registered patients

- Permits a registered patient to possess the amount of medical marijuana specified in Department of Commerce rule, replacing a limit of a 90-day supply.
- Authorizes the Department to approve methods of using medical marijuana, other than smoking or combustion.
- Moves the ability to add additional qualifying conditions from the State Medical Board to the Department and expands the statutory list of qualifying medical conditions to include: arthritis, migraines, autism spectrum disorder, opioid use disorder, spasticity or chronic muscle spasms, any disease or condition for which hospice care is recommended, and any terminal illness.

Adult use consumers

- Expressly permits adult use consumers to do the following:
 - Consume or use marijuana, including by vaporization, smoking, and combustion of marijuana;
 - Possess, use, display, purchase, or transport not more than 50 grams of marijuana, with not more than 8 grams being in the form of marijuana concentrate;
 - Transfer 25 grams or less of marijuana without remuneration to another adult use consumer;
 - Cultivate, grow, process, and transport not more than six marijuana plants per household without a license and possess marijuana produced by the plants on the premises where the plants were grown, subject to specified restrictions.

- Protects the holder of an occupational license from professional disciplinary action solely for engaging in professional or occupational activities related to marijuana.

Permissible forms of marijuana

- Expands the forms of marijuana that may be manufactured by licensed processors and dispensed.
- Increases the cap on permitted tetrahydrocannabinol (THC) content of extracts from not more than 70% to not more than 90%.

Alternate form or use

- Requires the Department of Commerce to either approve or deny the petition within 60 days of receipt (moved over from the Board of Pharmacy), eliminates the ability for petitions to be consolidated, and eliminates the duty to consult with experts or review relevant scientific evidence.

Marijuana-related licenses

- Expands marijuana-related license authorities and restrictions to apply to all marijuana, from only medical marijuana, and to apply to adult use consumers, from only medical marijuana patients and caregivers.
- Requires the Department of Commerce, to the extent possible, to issue a sufficient number of cultivator and processor licenses to ensure an adequate supply of marijuana and medical marijuana and to issue a sufficient number of testing laboratory licenses to ensure cultivators and processors are able to receive reliable and timely testing results.
- Requires the Department, before issuing additional cultivator, processor, testing laboratories, or retail dispensary licenses, to first conduct a study to determine whether there has been prior discrimination in the issuance of Ohio marijuana-related licenses and take necessary and appropriate actions to address and remedy any identified prior discrimination when issuing licenses.
- Revises the provision requiring the revocation of a license if the licensee relocates within 500 feet of a school, church, public library, public playground, or public park to instead require the DMC to deny the request for relocation.

Retail dispensaries

- Beginning 240 days after the bill's effective date, authorizes licensed retail dispensaries to dispense or sell marijuana and paraphernalia to adult use consumers.
- Expands the number of retail dispensary licenses and expands the criteria the Department must consider when establishing the number of retail dispensary licenses to additionally include the number of potential adult use consumers.
- Requires the Department, after January 1, 2027, to review the number of licensed retail dispensaries on at least a biennial basis and, after review, to license additional retail

dispensary licenses after considering anticipated market growth and consumer demand, the supply of marijuana, the geographic distribution of retail dispensaries.

- Expands the authority of marijuana retail dispensaries to apply to all marijuana, to additionally obtain marijuana from cultivators and from other retail dispensaries, if the retail dispensaries have common ownership, and to additionally dispense or sell marijuana paraphernalia.
- Requires a licensed retail dispensary to (1) dispense or sell marijuana to an adult use consumer only upon a showing of a current, valid identification card, (2) report to an electronic database information the Department requires, and (3) label the package containing marijuana with the specified information.

Cultivators

- Expands the number of factors the Department must consider when establishing the number of cultivator licenses that will be permitted at any one time to include the number of potential adult use consumers and the production capacity of existing licensed cultivators.
- Requires the Department to review and approve expansion plans to permit level I cultivators to expand their marijuana cultivation area to up to 100,000 square feet and to permit level II cultivators to expand their marijuana cultivation area to up to 15,000 square feet, areas larger than currently permitted under the Administrative Code.
- Permits cultivators to deliver or sell marijuana to retail dispensaries.
- Creates an exception to the prohibition against a licensed cultivator from cultivating marijuana for a household to permit a licensed cultivator, like any other adult use consumer, to grow up to six marijuana plants per household.
- Requires a licensed cultivator to comply with specified packaging and labelling requirements when delivering or selling marijuana to a licensed retail dispensary.

Processors

- Permits licensed processors to obtain marijuana from other processors and from retail dispensaries.

Laboratories

- Requires the Department to specify when testing must be conducted, determine the minimum amount of marijuana that must be tested, and specify the manner in which testing is to be conducted and test results are provided.
- Permits laboratories to obtain marijuana from one or more licensed cultivators, processors, and retail dispensaries and conduct marijuana testing in the manner specified by the Department.

- Requires licensed laboratories, when testing medical marijuana, to test the medical marijuana for potency, homogeneity, and contamination and prepare a report of the test results.

License application procedure

- Expands the application procedure for cultivator, processor, laboratory, and retail dispensary licenses from medical marijuana to all marijuana; but changes the retail dispensary licensing entity from the Board of Pharmacy to the Department.
- Requires applicants to apply for a license for each location from which it seeks to operate.
- Eliminates a requirement that the Department issue not less than 15% of cultivator, processor, or laboratory licenses to entities that are owned and controlled by U.S. citizens who are Ohio residents and are members of economically disadvantaged groups.

Advertising

- Authorizes the Department to adopt rules regulating the advertisements of cultivators, processors, retail dispensaries, and testing laboratories to prevent advertisements that are false, misleading, or targeted to minors.
- Prohibits the Department from adopting rules regarding advertising, including rules that require pre-approval, restrict the licensee from engaging in noncommercial speech, advertising in a specific medium, or engaging directly with consumers.

Enforcement and discipline

- Eliminates the ability to inspect the premises of an applicant for licensure or holder of a current, valid retail dispensary without prior notice to the applicant or license holder.
- Eliminates the authority to suspend, suspend without prior hearing, revoke, or refuse to renew a medical marijuana patient's registration.

Criminal records checks

- Requires the Department to determine which individuals must complete a criminal records check, rather than specifying which individuals must complete a criminal records check as under current law.

Workers' compensation

- Eliminates a provision specifying that nothing in the Medical Marijuana Law affects the Administrator of Workers' Compensation's authority to grant rebates or discounts on premium rates to employers that participate in a drug-free workplace program the Administrator establishes.
- Prohibits the Administrator from requiring an employer, as a condition of granting rebates or discounts on premium rates to an employer that participates in a drug-free

workplace or workplace safety program, to require the employer's employees to submit to a drug test for marijuana.

Occupational licensing

- Prohibits, unless an exception applies, a state agency that issues an occupational license from refusing to issue an initial license based solely or in part on an individual's legal marijuana use and from disciplining a license holder for obtaining, possessing, or using marijuana as permitted under the bill.
- Allows a state agency, if the law governing the applicable occupation requires or permits the state agency to do so, to refuse to issue a license to an individual or discipline a license holder for practicing the occupation under the influence of marijuana or for the impairment of the ability to practice the occupation because of marijuana use.

Local governments

- Permits municipal corporations and boards of township trustees to prohibit, or limit the number of, cultivators, processors, or retail dispensaries licensed under the Marijuana Control Law within the jurisdiction, subject to specified limitations.

Criminal prohibitions

- Prohibits any person, including a retail dispensary, from:
 - Recklessly distributing marijuana or paraphernalia to an underage person (under 21);
 - Recklessly distributing marijuana or paraphernalia in any place that does not have conspicuously posted signs regarding underage marijuana distribution;
 - Knowingly furnishing false information regarding the identity of an underage person to obtain marijuana for that person;
 - Recklessly distributing marijuana over the internet or through another remote method without age verification.
- Specifies that the above distribution prohibitions do not apply in relation to underage persons who are registered medical marijuana patients.

Closed-loop payment processing system

- Repeals authority of the Department to establish a closed-loop payment processing system under which the state creates accounts to be used only by registered patients and caregivers at licensed dispensaries as well as by all license holders under the Medical Marijuana Control Program.

Taxation

- Levies a 10% state sales and use tax rate on the sale or use of adult use marijuana, instead of the 5.75% rate that applies to other property and services subject to the tax, including medical marijuana.

- Requires adult use marijuana state sales and use tax revenue to be distributed as follows:
 - 50% to the GRF;
 - 25% to the Department of Public Safety to combat illegal drug trafficking;
 - 25% to the Department of Mental Health and Addiction Services to combat substance abuse and addiction.
- Exempts the sale or use of adult use marijuana from local sales and use taxes.

Urge Congress to enact federal legislation

- Urges the U.S. Congress to enact the Common Sense Cannabis Reform for Veterans, Small Businesses, and Medical Professionals Act, or similar legislation, that limits the application of certain federal laws to the distribution and consumption of marijuana, and removes marijuana from Schedule I of the Controlled Substances Schedules.

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DETAILED ANALYSIS

Drug Offense Law changes

The bill makes a number of changes to the criminal laws relating to drug use:

- It revises the penalties relating to possession of marijuana or hashish;
- It repeals the offense of illegal use or possession of marijuana drug paraphernalia and limits the scope of the offense of illegal use or possession of drug paraphernalia to prevent its application to marijuana or hashish;
- It exempts persons who are complying with the new law from the application of specified criminal prohibitions.

Possession of marijuana or hashish

Under existing law, the offense of possession of marijuana prohibits a person from knowingly obtaining, possessing, or using a controlled substance or its analog, when the controlled substance is marijuana or hashish.

The bill exempts from this prohibition possession of less than 50 grams of marijuana, less than 8 grams of hashish in a solid form, or less than 2 grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form. In addition, it revises the penalties for possession for smaller amounts of marijuana and hashish:¹

Current law		The bill	
Amount	Penalty	Amount	Penalty
Less than 100 grams of marijuana	Minor misdemeanor	Less than 50 grams of marijuana	Exempted
100 - 200 grams of marijuana	Fourth degree misdemeanor	50 - 200 grams of marijuana	Minor misdemeanor

¹ R.C. 2925.11.

Current law		The bill	
Amount	Penalty	Amount	Penalty
200 grams or greater	Fifth degree felony to second degree felony, depending on amount	Same	Same
Less than 5 grams of hashish in a solid form or less than 1 gram of hashish in a liquid concentrate	Minor misdemeanor	Less than 8 grams of hashish in a solid form or less than 2 grams of hashish in a liquid concentrate	Exempted
5 - 10 grams of hashish in a solid form or 1 - 2 grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form	Fourth degree misdemeanor	8 - 10 grams of hashish in a solid form or 2 - 4 grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form	Fourth degree misdemeanor
10 - 50 grams of hashish in a solid form or 2 - 10 grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form	Fifth degree felony	10 - 50 grams of hashish in a solid form or 4 - 10 grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form	Fifth degree felony
50 grams or greater of hashish in a solid form or 10 grams or greater of hashish in a liquid concentrate, liquid extract, or liquid distillate form	Third degree felony or second degree felony, depending on amount	Same	Same

Drug paraphernalia offenses

The bill repeals the offense of illegal use or possession of marijuana drug paraphernalia, which prohibits a person from knowingly using, or possessing with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body marijuana.²

² R.C. 2925.141, repealed, with conforming changes in R.C. 109.572, 2925.38, and 4510.17.

In the continuing offense of illegal use or possession of drug paraphernalia, the bill also revises the definition of “drug paraphernalia” to exclude items relating to marijuana and hashish. The offense generally prohibits a person from:

1. Knowingly using, or possessing with purpose to use, drug paraphernalia;
2. Knowingly selling, or possessing or manufacturing with purpose to sell, drug paraphernalia, if the person reasonably should know that it will be used as such;
3. Placing an advertisement if the person knows that the purpose of the advertisement is to promote the illegal sale of equipment, products, or materials that is intended or designed for use as drug paraphernalia.³

Exemptions from application

The bill exempts cultivators, processors, testing laboratories, registered patients, adult use consumers, and other persons whose conduct is in accordance with the Marijuana Control Law (R.C. Chapter 3796) from the application of the Drug Laws relating to corrupting another with drugs, trafficking in drugs, illegal cultivation of marijuana, possession of marijuana, possessing drug abuse instruments, illegal use or possession of drug paraphernalia, and illegal dispensing of drug samples.

Corrupting another with drugs

The continuing offense of corrupting another with drugs prohibits, in pertinent part, a person from knowingly doing any of the following:

1. By force, threat, or deception, administering to another or inducing or causing another to use a controlled substance (marijuana is a controlled substance);
2. By any means, administering or furnishing to another or inducing or causing another to use a controlled substance, and thereby causing the other person to suffer serious physical harm or become drug dependent;
3. By any means, doing any of the following to a juvenile who is at least two years the offender’s junior, when the offender knows the juvenile’s age or is reckless in that regard:
 - a. Furnish or administer a controlled substance to a juvenile;
 - b. Induce or cause a juvenile to use a controlled substance;
 - c. Induce or cause a juvenile to commit a felony drug abuse offense;
4. By any means, using a juvenile, whether or not the offender knows the juvenile’s age, to perform certain activities to prevent the detection or arrest of a person in the commission of a felony drug abuse offense;

³ R.C. 2925.14.

5. By any means, furnishing or administering a controlled substance to a pregnant woman or inducing or causing a pregnant woman to use a controlled substance, when the offender knows that the woman is pregnant or is reckless in that regard.⁴

Trafficking in drugs

The various drug trafficking offenses prohibit a person from knowingly doing any of the following:

1. Selling or offering to sell a controlled substance or its analog;
2. Preparing for shipment, shipping, preparing for distribution, or distributing a controlled substance or its analog, when the offender knows or has reasonable cause to believe that the controlled substance or analog is intended for sale or resale.⁵

Illegal cultivation of marijuana

The offense of illegal cultivation of marijuana prohibits a person from knowingly cultivating marijuana or knowingly manufacturing or otherwise engaging in any part of the production of a controlled substance, when the controlled substance is marijuana.⁶

Possession of marijuana

The offense of possession of marijuana prohibits a person from knowingly obtaining, possessing, or using a controlled substance or its analog, when the controlled substance is marijuana or hashish.⁷

Possessing drug abuse instruments

The offense of possessing drug abuse instruments prohibits a person from knowingly making, obtaining, possessing, or using anything the customary and primary purpose of which is for the administration or use of a dangerous drug, other than marijuana, when the thing involved is a hypodermic or syringe and the thing involved has been used by the offender to unlawfully administer or use a dangerous drug, other than marijuana, or to prepare a dangerous drug, other than marijuana, for unlawful administration or use.⁸

Illegal use or possession of drug paraphernalia

The offense of illegal use or possession of drug paraphernalia generally prohibits a person from:

1. Knowingly using, or possessing with purpose to use, drug paraphernalia;

⁴ R.C. 2925.02.

⁵ R.C. 2925.03.

⁶ R.C. 2925.04.

⁷ R.C. 2925.11.

⁸ R.C. 2925.12.

2. Knowingly selling, or possessing or manufacturing with purpose to sell, drug paraphernalia, if the person reasonably should know that it will be used as such;
3. Placing an advertisement if the person knows that the purpose of the advertisement is to promote the illegal sale of equipment, products, or materials that is intended or designed for use as drug paraphernalia.⁹

Illegal dispensing of drug samples

The offense of illegal dispensing of drug samples prohibits a person from knowingly furnishing another a sample drug.¹⁰

Marijuana Control Law

Overview and creation of the Division of Marijuana Control

The bill legalizes limited use and possession of marijuana and merges the current Medical Marijuana Control Program into a newly created Division of Marijuana Control (DMC) in the Department of Commerce. Consequently, references in the current Medical Marijuana Control Program Law are generally broadened to simply refer to marijuana, reserving the distinction of medical marijuana only when needed. The Board of Pharmacy's duties are transferred to DMC, which will run the Medical Marijuana Program. (See "**Transition provisions**," below.)

Beginning 240 days after the bill's effective date, the Department must provide for the licensure of marijuana cultivators, processors, retail dispensaries (moved over from the Board of Pharmacy), and laboratories that test marijuana. The Department also must provide for the registration of medical marijuana patients and their caregivers (moved over from the Board of Pharmacy). The Department, through DMC, must regulate the operations of marijuana cultivators, processors, retail dispensaries, testing laboratories, and the employees of each.¹¹

Adoption of rules

Current law requires the Department and the Board of Pharmacy to adopt rules establishing standards and procedures for the Medical Marijuana Control Program. On the bill's effective date, the Department must adopt rules, in accordance with the Administrative Procedures Act, establishing standards and procedures for DMC's regulation of medical marijuana (existing) and adult use marijuana (new). The rules adopted by the Board of Pharmacy regulating the Medical Marijuana Control Program in existence on the effective date of the bill continue in effect until repealed or amended by the Department of Commerce.¹²

⁹ R.C. 2925.14.

¹⁰ R.C. 2925.36.

¹¹ R.C. 3796.02 with conforming changes in R.C. 3796.032, 3796.07, 3796.08, 3796.14, 3796.15, 3796.16, 3796.17, 3796.23, 3796.24, 3796.27, 3796.28, 3796.29, and 4729.24.

¹² R.C. 3796.03(A) and Section 4(E) of the bill.

Continuing subjects

The rules must continue to do all of the following:

- Establish standards and procedures for the sale of marijuana to adult use consumers (persons who are 21 or older) and medical marijuana to registered patients by retail dispensaries;
- Establish standards and procedures for the licensure of cultivators, processors, testing laboratories, and retail dispensaries;
- Establish application procedures and fees for licenses it issues;
- Specify both the conditions that must be met to be eligible for licensure and the criminal offenses for which an applicant will be disqualified from licensure;
- Establish a license renewal schedule, renewal procedures, and renewal fees;
- Establish standards under which a license suspension may be lifted;
- Specify if a license holder existed at a location before a school, church, public library, public playground, or public park became established within 500 feet of the license holder, may remain in operation or must relocate to retain its license;
- Establish procedures for registration of patients and caregivers and requirements that must be met to be eligible for registration;
- Specify the paraphernalia or other accessories that may be used in the administration to a registered patient of medical marijuana;
- Establish procedures for the issuance of patient or caregiver identification cards;
- Specify the forms of or methods of using marijuana that are attractive to children;
- Specify the criminal offenses for which a person will be disqualified from employment with a license holder and which of those offenses will not disqualify a person from employment with a license holder if the person was convicted of the offense more than five years before the date the employment begins;
- Establish standards and procedures for the testing of marijuana by a licensed laboratory.

Revised subjects

The bill revises the existing requirements for rules that:

1. Establish the number of cultivator licenses that will be permitted at any one time (see “**Cultivators**,” below);
2. Specify reasons for which a license may be suspended, including without prior hearing, revoked, or not be renewed or issued and the reasons for which a civil penalty may be imposed on a license holder. The bill additionally requires that these reasons include the failure to begin operating within two years of receiving a license unless the Department determines, in its discretion, that the license holder has demonstrated it

has taken significant steps to become operational within two years and has identified a date by which it will begin operating.

3. Establish training requirements. Existing law requires the Board of Pharmacy to establish training requirements for employees of retail dispensaries. The bill additionally requires that training requirements be established for employees of cultivators, processors, and testing laboratories.

Eliminated subjects

The bill eliminates the requirement that rules be adopted that:

- Establish fees for registration;
- Establish the number of retail dispensary licenses that will be permitted at any one time;
- Establish standards under which a registration may be suspended and that suspension may be lifted;
- Specify, by form and tetrahydrocannabinol content, a maximum 90-day supply of medical marijuana that may be possessed.

Other subjects

In addition, the Department may adopt any other rules it considers necessary for DMC's administration and the implementation and enforcement of the Adult Marijuana Use Law. When adopting rules, the Department must consider standards and procedures that have been found to be best practices relative to the use and regulation of marijuana.¹³

Prohibited subjects

Subject to the Ohio Monopoly Law, the rules the Department adopts cannot prohibit any person from either of the following:

- Influencing or controlling the activities of more than one cultivator, processor, or retail dispensary license issued pursuant to the bill;
- Holding an ownership, investment, or other financial interest in more than one cultivator, processor, or retail dispensary license issued pursuant to the bill.

In addition, the rules are not subject to the requirement that, through June 30, 2023, a state agency may not adopt a new regulatory restriction unless it simultaneously removes two or more other existing regulatory restrictions.¹⁴

¹³ R.C. 3796.01, 3796.03(B), (D), and (E); R.C. 3796.04, repealed.

¹⁴ R.C. 3796.03(I) and (J) and R.C. 121.95(F), not in the bill.

Rights of registered patients and adult use consumers

Generally

The bill expands the rights currently given to medical marijuana registered patients to apply to adult use consumers and conform to the other changes made by the bill (see “**Drug Offense Law changes**,” above). Generally, an adult use consumer and a patient registered who obtains marijuana or medical marijuana from a licensed retail dispensary may use marijuana and possess paraphernalia.

Registered medical marijuana patients

Registered patients continue to have the right to possess and use medical marijuana and paraphernalia. Under current law, the amount of medical marijuana possessed by a registered patient cannot exceed a 90-day supply, as adopted in Board of Pharmacy rule. The bill revises this right to permit a registered patient to possess the amount specified in Department of Commerce rule.

Under continuing law, the smoking or combustion of medical marijuana is prohibited, but the vaporization of medical marijuana is permitted. This differs for adult use, see “**Adult use consumers**,” below. The bill authorizes the Department to approve additional methods of using medical marijuana, other than smoking or combustion.

Under continuing law, a person may register for medical marijuana if the person has a qualifying medical condition. Existing law specifies certain conditions but permits the State Medical Board to add additional qualifying medical conditions. In February 2021, the State Medical Board added arthritis, chronic migraines, and complex region pain syndrome.

The bill expands the statutory list of qualifying medical conditions and moves the ability to add additional qualifying conditions from the State Medical Board to the Department. The additional statutory qualifying medical conditions include:

- Arthritis;
- Migraines;
- Autism spectrum disorder;
- Opioid use disorder;
- Spasticity or chronic muscle spasms;
- Any disease or condition for which hospice care is recommended by a treating physician;
- Any terminal illness.

The continuing statutory list of “qualifying medical condition” means any of the following:

1. Acquired immune deficiency syndrome;
2. Alzheimer’s disease;

3. Amyotrophic lateral sclerosis;
4. Cancer;
5. Chronic traumatic encephalopathy;
6. Crohn's disease;
7. Epilepsy or another seizure disorder;
8. Fibromyalgia;
9. Glaucoma;
10. Hepatitis C;
11. Inflammatory bowel disease;
12. Multiple sclerosis;
13. Pain that is either intractable or chronic and severe;
14. Parkinson's disease;
15. Positive status for HIV;
16. Post-traumatic stress disorder;
17. Sickle cell anemia;
18. Spinal cord disease or injury;
19. Tourette's syndrome;
20. Traumatic brain injury;
21. Ulcerative colitis.¹⁵

As part of the transition to the Department of Commerce, the bill specifies that unless removed by the Department within 60 days of the bill's effective date, any qualifying medical conditions added by the State Medical Board that existed immediately prior to being repealed by the bill, continues to be a qualifying medical condition.¹⁶

In addition, under continuing law, the State Board of Pharmacy may establish and maintain a drug database to monitor the misuse and diversion of controlled substances. Under current law, this includes medical marijuana, the bill eliminates medical marijuana monitoring through the Board's drug database and eliminates the requirement that dispensaries submit information to the Board for this purpose. The bill also eliminates the requirement that a

¹⁵ R.C. 3796.01, 3796.03(C), 3796.24, and 4776.01; R.C. 4731.302, repealed.

¹⁶ Section 4(E) of the bill.

physician seeking to prescribe medical marijuana to a patient obtain and review a report from the database on the medical marijuana patient.¹⁷

Adult use consumers

The bill expressly permits adult use consumers to use vaporization, smoking, and combustion of marijuana. Under the bill, adult use consumers may do all of the following:

1. Possess, use, display, purchase, or transport not more than 50 grams of marijuana, with not more than 8 grams being in the form of marijuana concentrate (the resin extracted from any part of the plant of the genus *cannabis* and every compound, manufacture, salt, derivative, mixture, or preparation of that resin; it does not include the weight of any other ingredient combined with marijuana concentrate);
2. Subject to the Ohio Smoking Ban law, consume or use marijuana, including by combustion or smoking;
3. Transfer 25 grams or less of marijuana without remuneration to another adult use consumer;
4. Without the need to obtain a license, cultivate, grow, process, and transport not more than six marijuana plants per household, with three or fewer of such plants being mature flowering plants, and possess marijuana produced by the plants on the premises where the plants were grown or cultivated, provided that the growing and cultivation takes place in an enclosed, locked space, is not conducted openly or publicly (a venue, area, or space that is open to the public without restriction, including age restrictions), and is not made available for sale;
5. Assist another adult use consumer in any of the acts specified in (1) to (3) above.

The above rights do not authorize an adult use consumer or a registered patient to operate a vehicle, watercraft, or aircraft while under the influence of marijuana. Otherwise, registered patients and adult use consumers are not subject to arrest or criminal prosecution for engaging in any of the activities authorized under the Marijuana Control Law.¹⁸

Under current law, the use, possession, administration, cultivation, processing, testing, or dispensing of medical marijuana in accordance with the Medical Marijuana Control Program is not to be used as the sole or primary reason for taking action under any criminal or civil statute in the forfeiture or seizure of any property or asset. The bill expands this provision to apply to all marijuana and to additionally apply to transporting, sale, delivery, or transferring marijuana in accordance with the Marijuana Control Law.

Under the bill, the Marijuana Control Law does not require any public place to accommodate a registered patient's or adult use consumer's use of marijuana or prohibit any

¹⁷ R.C. 4729.75, 4729.772, 4729.80, 4729.84, 4729.85, 4731.30, and 4731.301; R.C. 4729.771, repealed.

¹⁸ R.C. 3796.01, 3796.06(B) and (C), and 3796.22.

public place from accommodating a registered patient's or adult use consumer's use of marijuana.

Under the bill, the holder of an occupational license is not subject to professional disciplinary action solely for engaging in professional or occupational activities related to marijuana, expanded from medical marijuana.¹⁹

Permissible form of marijuana

Manufacturing and dispensing

The bill expands the forms of marijuana that may be manufactured by licensed processors and dispensed under the bill to include:

- Pills;
- Capsules;
- Suppositories;
- Oral pouches;
- Oral strips;
- Oral and topical sprays;
- Salves, lotions, or similar topical cosmetic products;
- Inhalers;
- Beverages.

Under current law the only forms of medical marijuana that can be dispensed are oils, tinctures, plant material, edibles, patches, and any other form approved by the Board of Pharmacy. The bill moves the approval of the alternate form to the Department.

Any form or method that is considered attractive to children continues to be prohibited. With respect to tetrahydrocannabinol (THC) content, plant material continues to have a cap of permitted THC content of not more than 35%. The bill increases the cap on permitted THC content of extracts from not more than 70% to not more than 90%. THC content is the sum of the amount of delta-9-THC and 87.7% of the amount of delta-9 tetrahydrocannabinolic acid present in the product or plant material.²⁰

Alternate form or use

Current law permits a person to submit a petition to the Board of Pharmacy requesting that an additional form of or method of using medical-marijuana be approved. The bill expands this approval to also include adult use consumers and moves the approval authority to the

¹⁹ R.C. 3796.24 and 4776.01.

²⁰ R.C. 3796.06(A), (D), and (E).

Department. But, continuing law, unchanged by the bill, prohibits a petition from seeking approval of a medical marijuana use method that involves smoking or combustion.

The bill requires the Department to either approve or deny the petition within 60 days of receipt. In moving the authority over to the Department from the Board of Pharmacy, the bill does not transfer two provisions:

- The Board’s authority to consolidate the review of petitions for the same or similar forms or methods.
- The Board’s duty to consult with one or more experts and review any relevant scientific evidence in making its determination.²¹

Marijuana-related licenses – generally

As noted above, the Department must establish the number of licenses that will be permitted at any one time.

To the extent possible, the bill requires the Department to issue a sufficient number of cultivator and processor licenses to ensure an adequate supply of marijuana and medical marijuana. In addition, it must issue a sufficient number of testing laboratory licenses to ensure cultivators and processors are able to receive reliable and timely testing results.

Before the Department issues additional cultivator, processor, testing laboratories, or retail dispensary licenses, the bill requires it to first conduct a study to determine whether there has been prior discrimination in the issuance of Ohio marijuana-related licenses, including whether the effects of marijuana prohibition have contributed to a lack of participation by racial or ethnic minorities in the medical marijuana industry. If the study establishes that there has been prior discrimination, the Department must take necessary and appropriate actions to address and remedy any identified discrimination when issuing licenses.²²

In addition, similar to licenses issued under the Medical Marijuana Control Program, a marijuana cultivator, processor, retail dispensary, or laboratory that tests medical marijuana cannot be relocated within 500 feet of real estate containing a school, church, public library, public playground, or public park. Under current law, if the relocation of a licensee results in the licensee being located within that 500-foot limit, the Department of Commerce or Board of Pharmacy is required to revoke the licensee’s license; the bill instead requires the request to relocate to be denied. As noted above, the Department must adopt rules determining what must occur when a school, etc., is established within 500 feet of the existing licensee.²³

²¹ R.C. 3796.061.

²² R.C. 3796.03(B), (G), and (H).

²³ R.C. 3796.30.

Retail dispensaries

Number of licenses

According to the Ohio Medical Marijuana Control Program, as of April 13, 2022, there were 58 retail dispensary licenses in Ohio.²⁴ Under the bill, prior to January 1, 2027, the Department may not issue more than one retail dispensary license per 60,000 Ohio residents, or 196 licenses (11,799,488/60,000).

The bill expands the criteria the Department must consider when establishing the number of retail dispensary licenses that will be permitted at any one time to include the number of potential adult use consumers. Currently, the criteria that must be considered are:

1. Ohio's population;
2. The number of patients seeking to use medical marijuana;
3. The geographic distribution of dispensary sites in an effort to ensure patient access to medical marijuana.

After January 1, 2027, the Department must review the number of licensed retail dispensaries at least every two years. After review, the Department may license additional retail dispensary licenses after considering all of the following:

- The anticipated market growth and consumer demand, including Ohio's population and the number of registered patients seeking to use medical marijuana;
- The supply of marijuana and marijuana-derived products produced by licensed cultivators and processors;
- The geographic distribution of retail dispensary sites in an effort to ensure patient access to medical marijuana.²⁵

Retail dispensary authority and duties

The bill expands the authority and duties of licensed retail dispensaries, particularly in relation to adult use consumers.

Authority

Under current law, a licensed retail dispensary may obtain medical marijuana from one or more processors. The bill expands this authority to apply to all marijuana and additionally permits the retail dispensary to obtain marijuana from cultivators and from other retail dispensaries, if the retail dispensaries have common ownership.

²⁴ [Medical Marijuana Dispensary Map](#) (click to download the spreadsheet), which is available on the Ohio Medical Marijuana Control Program's website: medicalmarijuana.ohio.gov.

²⁵ R.C. 3796.03(F) and 3796.05(B); [QuickFacts Ohio](#), which is available on the U.S. Census website: census.gov.

The bill expands the licensed retail dispensary's authority to dispense or sell marijuana to permit it to additionally dispense or sell paraphernalia (equipment, products, or materials used, intended for use, or designed for use in growing, harvesting, processing, preparing, testing, packaging, storing, vaporizing, or containing marijuana, or for introducing marijuana into the human body). In addition, it authorizes retail dispensaries to deliver marijuana, medical marijuana, paraphernalia, and accessories to registered patients and adult use consumers.

Beginning 240 days after the bill's effective date, the bill authorizes licensed retail dispensaries to dispense or sell marijuana and paraphernalia to adult use consumers.²⁶

Duties

The bill imposes additional duties on licensed retail dispensaries in relation to dispensing marijuana to adult use consumers; the duties in relation to dispensing medical marijuana remain unchanged. Under the bill, a licensed retail dispensary must do all of the following:

1. Dispense or sell only upon a showing of a current, valid identification card;
2. Report to the electronic database information the Department requires;
3. Label the package containing marijuana with the following information:
 - a. The name and address of the licensed processor and retail dispensary;
 - b. The date on which the marijuana was dispensed;
 - c. The quantity, strength, kind, or form of marijuana contained in the package;
 - d. Any other information the Department requires.

Under continuing law, a dispensary must use only employees who have met the Department's training requirements. And, similar to the dispensary's duties relating to medical marijuana registered patients, it is prohibited from making public any information it collects that identifies or would tend to identify any specific adult use consumer.

Finally, a retail dispensary licensee is not subject to arrest or criminal prosecution for engaging in any of the activities authorized under the Marijuana Control Law.²⁷

Cultivators

The Ohio Administrative Code defines a marijuana "cultivator" as an entity that has been issued a certificate of operation by the Department to grow, harvest, package, and transport medical marijuana as permitted under the Medical Marijuana Control Program. There

²⁶ R.C. 3796.20.

²⁷ R.C. 3796.20.

are two types of cultivators: Level I cultivators and Level II cultivators, with the difference between the two types of licenses being the size of the marijuana cultivation area.²⁸

Number of licenses

As of April 13, 2022, the Department had awarded 19 Level I cultivator licenses and 14 Level II cultivator licenses. The bill expands the number of factors the Department must consider when establishing the number of cultivator licenses that will be permitted at any one time to include the number of potential adult use consumers and the production capacity of existing licensed cultivators. The Department currently must consider Ohio's population and the number of patients seeking to use medical marijuana when establishing the number of Medical Marijuana Control Program cultivator licenses.²⁹

Marijuana cultivation area

Currently, there are two types of cultivators that are authorized to use different marijuana cultivation areas:

- Level I cultivators are permitted to operate up to 25,000 square feet of space designated as the marijuana cultivation area in the application, unless the Department approves requests for expansion. The Ohio Administrative Code currently permits the Department to approve two expansions of up to 25,000 additional square feet each. If the Department approves both expansions, the marijuana cultivation area may not exceed 75,000 square feet.
- Level II cultivators are cultivators that are permitted to operate up to 3,000 square feet of space designated as the marijuana cultivation area in the application, unless the Department approves requests for expansion. The Ohio Administrative Code currently permits the Department to approve two expansions of up to 3,000 square feet each. If the Department approves both expansions, the marijuana cultivation area may not exceed 9,000 square feet.

Under the bill, "marijuana cultivation area" means the enclosed areas in which marijuana is cultivated during the vegetative stage and flowering stage of the cultivation process. For purposes of calculating the marijuana cultivation area square footage, enclosed areas used solely for the storage and maintenance of mother plants, clones, or seedlings are not included.

Beginning on the bill's effective date, the Department must review and approve expansion plans to permit Level I cultivators to expand their marijuana cultivation area to up to

²⁸ O.A.C. 3796:2-1-01.

²⁹ R.C. 3796.03(B) and 3796.05(A) and (D); O.A.C. 3796:2-1-01; [How many cultivators have been licensed by the Department of Commerce?](#), which is available under the Frequently Asked Questions tab of the Ohio Medical Marijuana Control Program's website: medicalmarijuana.ohio.gov.

100,000 square feet and to permit Level II cultivators to expand their marijuana cultivation area to up to 15,000 square feet.³⁰

Cultivator authority and duties

The bill expands the authority and duties of licensed cultivators, particularly in relation to adult use consumers.

Authority

Under existing law, the holder of a current, valid cultivator license may cultivate medical marijuana. The bill expands this authority to apply to all marijuana and specifies that this authority includes the acquisition of seeds or clones necessary to begin cultivation of a particular cultivar or strain of marijuana.

Existing law also authorizes a licensed cultivator to deliver or sell medical marijuana to one or more licensed processors. The bill expands this provision to apply to all marijuana, and permits cultivators to deliver or sell marijuana to retail dispensaries.

The bill creates an exception to the prohibition against a licensed cultivator from cultivating marijuana for personal, family, or household use. Under the bill a licensed cultivator, like any other adult use consumer, is permitted to grow up to six marijuana plants per household (see “**Personal cultivation**,” below). In a similar vein, the bill specifies that a cultivator licensee is not subject to arrest or criminal prosecution for engaging in any of the activities authorized under the Marijuana Control Law.

Duties

When delivering or selling marijuana to a licensed retail dispensary, the bill requires a licensed cultivator to do all of the following:

1. Package the marijuana in accordance with the child-resistant effectiveness standards described in federal regulations;
2. Label the marijuana packaging with the product’s THC and cannabidiol content;
3. Comply with any packaging or labeling requirements established by the Department.

The bill expands the prohibition against a licensed cultivator from cultivating marijuana on public land, from simply medical marijuana to all marijuana.³¹

Processors

The bill expands the authority and duties of licensed processors, particularly in relation to adult use consumers.

³⁰ R.C. 3796.01(A) and 3796.05(D); O.A.C. 3796:1-1 and O.A.C. 3796:2-1-09.

³¹ R.C. 3796.18; 16 C.F.R. 1700.15(b).

Authority

Under current law, a licensed processor may obtain medical marijuana from one or more licensed cultivators. The bill expands this authority to apply to all marijuana and permits the licensed processor to also obtain marijuana from other processors (that do not need to be Ohio licensed processors, so possibly from out of state) and from retail dispensaries.

Current law also authorizes licensed processors to process the medical marijuana obtained into a form authorized for use and to deliver or sell processed marijuana to one or more licensed retail dispensaries. The bill expands this authority to apply to all marijuana.

Duties

The bill expands the following processor duties to apply to all marijuana:

1. Package the marijuana in accordance with federal child-resistant effectiveness standards;
2. Label the marijuana packaging with the product's THC and cannabidiol content;
3. Comply with any packaging or labeling requirements established by the Department.

Finally, the bill specifies that a processor licensee is not subject to arrest or criminal prosecution for engaging in any of the activities authorized under the Marijuana Control Law.³²

Laboratories

There are no limits under existing law on the number of testing laboratory licenses that the Department may award. The bill does not change this. When establishing standards and procedures for testing, the bill expands the scope to apply to all marijuana, not simply medical marijuana. The Department must specify when testing must be conducted, determine the minimum amount of marijuana that must be tested, and specify the manner in which testing is to be conducted and test results are provided.³³

The bill expands the authority and duties of licensed laboratories to include all marijuana. Under the bill, a licensed laboratory may do both of the following:

1. Obtain marijuana from one or more licensed cultivators, processors, and retail dispensaries;
2. Conduct marijuana testing in the manner specified by the Department.

When testing medical marijuana, a licensed laboratory must test the marijuana for potency, homogeneity, and contamination and prepare a report of the test results.

³² R.C. 3796.19; 16 C.F.R. 1700.15(b).

³³ R.C. 3796.05 (C); [How many testing laboratories will be licensed by the Department of Commerce?](#), which is available under the Frequently Asked Questions tab of the Ohio Medical Marijuana Control Program's website: medicalmarijuana.ohio.gov.

In addition, the bill adds that a laboratory licensee is not subject to arrest or criminal prosecution for engaging in any of the activities authorized under the Marijuana Control Law.³⁴

License application procedure

The bill expands cultivator, processor, laboratory, and retail dispensary licenses from medical marijuana to all marijuana. The process remains the same, except that the dispensary licensing entity is transferred from the Board of Pharmacy to the Department. Applicants file with the Department for each location from which it seeks to operate.

The Department must issue a license if all of the following conditions are met:

1. The report of the criminal records check with respect to the application demonstrates that the person subject to the criminal records check requirement has not been convicted of or pleaded guilty to any of a disqualifying offense.
2. The applicant demonstrates that it does not have an ownership or investment interest in or compensation arrangement with a licensed laboratory or an applicant for a license to conduct laboratory testing.
3. The applicant demonstrates that it does not share any corporate officers or employees with a licensed laboratory or an applicant for a license to conduct laboratory testing.
4. The applicant demonstrates that it will not be located within 500 feet of a school, church, public library, public playground, or public park.
5. The information provided to the Department demonstrates that the applicant is in compliance with the applicable Ohio tax laws.
6. The applicant meets all other licensure eligibility conditions the Department establishes in rule.

A license expires according to the renewal schedule established in rules adopted by the Department and may be renewed in accordance with the procedures established in those rules.

The bill eliminates the requirement that the Department issue not less than 15% of cultivator, processor, retail dispensary, or laboratory licenses to entities that are owned and controlled by U.S. citizens who are Ohio residents and are members of one of the following economically disadvantaged groups: Blacks or African Americans, American Indians, Hispanics or Latinos, and Asians. If no applications or an insufficient number of applications are submitted by such entities that meet current law's licensure requirements, the licenses are to be issued according to usual procedures.³⁵

³⁴ R.C. 3796.21.

³⁵ R.C. 3796.09 to 3796.12.

Advertising

The bill authorizes the Department to adopt rules regulating the advertisements of cultivators, processors, retail dispensaries, and testing laboratories to prevent advertisements that are false, misleading, or targeted to minors. But, the rules cannot do any of the following:

1. Require pre-approval by the Department of any advertisement;
2. Restrict any cultivator, processor, retail dispensary, or testing laboratory from engaging in noncommercial speech;
3. Restrict the ability of a cultivator, processor, retail dispensary, or testing laboratory from advertising in any specific medium, including advertisements placed on websites, billboards, apparel, or radio or television broadcasts, except that certain narrowly tailored time and place restrictions may be adopted to prevent advertising targeted to minors;
4. Restrict the ability of a cultivator, processor, retail dispensary, or testing laboratory from marketing, distributing, offering, selling, licensing, or causing to be marketed, distributed, offered, sold, or licensed, any apparel or other merchandise related to the sale of marijuana, except the Department may restrict the sale of such apparel or merchandise to a minor;
5. Restrict the ability of a cultivator, processor, retail dispensary, or testing laboratory from utilizing an advertisement that includes marijuana leaves or slang terms that refer to marijuana or marijuana strains;
6. Restrict the ability of a cultivator, processor, retail dispensary, or testing laboratory from making any statement, design, representation, picture, or illustration that is related to the efficacy of marijuana to treat any of the qualifying conditions identified for medical marijuana;
7. Restrict the ability of a cultivator, processor, retail dispensary, or testing laboratory from engaging directly with consumers, registered patients, or user-generated content or reviews.

For the purposes of this provision, “advertising” means any written or verbal statement, illustration, or depiction created to induce sales through the use of or a combination of letters, pictures, objects, lighting effects, illustrations, or other similar means. “Advertisement” includes brochures and promotional and other marketing materials.³⁶

Enforcement and discipline

Under the bill, similar to current law, the Department may do any of the following for any reason specified in rules:

- Suspend, suspend without prior hearing, revoke, or refuse to renew a marijuana license;

³⁶ R.C. 3796.01 and 3796.32.

- Refuse to issue a license;
- Impose on a license holder a civil penalty in an amount to be determined by the Department.

Under the bill, the Department may inspect the premises of an applicant for licensure or holder of a current, valid cultivator, processor, retailer, or laboratory license without prior notice to the applicant or license holder.

Under current law, the Board of Pharmacy can suspend, suspend without prior hearing, revoke, or refuse to renew a registration. This authority is eliminated and not transferred to the Department. With respect to a suspension without prior hearing, current law allows the Board to utilize a telephone conference call to review the allegations and take a vote; this ability is not transferred to the Department. The effect of this elimination is unclear, as unregistered marijuana use is permitted for adult use consumers.

Similar to current law, under the bill, the Department can suspend without prior hearing only if it finds clear and convincing evidence that continued distribution of marijuana presents a danger of immediate and serious harm to others. From the context, it appears that this provision is intended to apply to retail dispensaries only. The suspension remains in effect, unless lifted by the Department, until the Department issues its final adjudication order. If the Department does not issue the order within 90 days after the adjudication hearing, the suspension ends on the 91st day following the hearing.³⁷

Criminal records check of licensee owners, managers, and employees

Owners and managers

The bill revises the persons who must undergo a criminal records check. Currently, the Department or Board of Pharmacy, as applicable must require each of the following to complete a criminal records check:

- An administrator or other person responsible for the daily operation of the entity seeking the license;
- An owner or prospective owner, officer or prospective officer, or board member or prospective board member of the entity.

The bill instead requires the Department to determine which individuals must complete a criminal records check.³⁸

³⁷ R.C. 3796.14.

³⁸ R.C. 3796.12.

Employees

Similar to existing law regarding employees of medical marijuana licensees, the bill requires each person seeking employment with an entity licensed under the bill to request a criminal records check and permits employment only if the criminal records check report demonstrates that the person has not been convicted of the disqualifying offenses. Similar to existing law, an entity may employ a person if the disqualifying offense the person was convicted of is an offense the Department placed a five-year “lookback period” on and the person was convicted of the offense more than five years before the date the employment is to begin.³⁹

Rights of employers regarding registered patients and adult use consumers

Nothing in the Marijuana Control Law does any of the following (expanded from applying to medical marijuana only):

1. Requires an employer to permit or accommodate an employee’s use, possession, or distribution of marijuana;
2. Prohibits an employer from taking an adverse employment action against a person with respect to hire, terms, and conditions of employment because of that person’s use, possession, or distribution of marijuana;
3. Interferes with any federal restrictions on employment;
4. Permits a person to commence a cause of action against an employer for refusing to hire or otherwise taking an adverse employment action against a person with respect to hire, terms, and conditions of employment related to marijuana;
5. Prohibits an employer from establishing and enforcing a drug testing policy, zero-tolerance drug policy, or drug-free workplace policy.

In addition, it is not a violation of specified Ohio Civil Rights Laws if an employer discharges, refuses to hire, or otherwise discriminates against a person because of that person’s use of marijuana if the person’s use of marijuana is in violation of the employer’s drug-free workplace policy, zero-tolerance policy, or other formal program or policy regulating the use of marijuana.

Workers’ compensation

The bill eliminates a provision specifying that nothing in the Medical Marijuana Law affects the Administrator of Workers’ Compensation’s authority to grant rebates or discounts on premium rates to employers that participate in a drug-free workplace program established in accordance with rules adopted by the Administrator under the Workers’ Compensation

³⁹ R.C. 3796.13.

Law.⁴⁰ Instead, the bill prohibits the Administrator from requiring an employer, as a condition of granting rebates or discounts on premium rates to an employer that participates in a drug-free workplace or workplace safety program, to require the employer's employees to submit to a test to determine whether marijuana is present in an employee's system.⁴¹

Currently, the Administrator offers premium rebates to employers that participate in the Administrator's drug-free workplace program. Employers that participate in the program must drug test employees for marijuana and other substances under certain circumstances.⁴²

Occupational licensing

Unless an exception applies, the bill prohibits a state agency that issues a license to practice an occupation or profession from doing either of the following:

- Refusing to issue an initial license to an individual based solely or in part on the individual's legal use of marijuana;
- Disciplining a license holder for obtaining, possessing, or using marijuana as permitted under the bill.

However, if the law governing the applicable profession, occupation, or occupational activity requires or permits a state agency to do so, a state agency may refuse to issue a license to an individual or discipline a license holder for either of the following reasons:

- Practicing the applicable profession, occupation, or occupational activity while under the influence of marijuana;
- Impairment of the individual's or license holder's ability to practice the profession, occupation, or occupational activity because of marijuana use.

A "state agency" includes every organized body, office, or agency established by Ohio law for the exercise of any function of state government, but it does not include JobsOhio. A "license" is an authorization evidenced by a license, certificate, registration, permit, card, or other authority that is issued or conferred by a state agency to an individual by which the individual has or claims the privilege to engage in a profession, occupation, or occupational activity over which the state agency has jurisdiction.⁴³

⁴⁰ R.C. 3796.28.

⁴¹ R.C. 4123.34.

⁴² R.C. 4123.34; R.C. 4123.29, not in the bill; O.A.C. 4123-17-58, [Drug-Free Safety Program \(DFSP\) information](#), which is available on the Bureau of Workers' Compensation's website: bwc.ohio.gov, and Bureau of Workers' Compensation, [Drug-Free Workplace Self-Implementation Handbook \(PDF\)](#), which is available on the Bureau of Workers' Compensation's website: bwc.ohio.gov.

⁴³ R.C. 4743.11, by reference to R.C. 1.60, not in the bill.

Local governments

The bill permits municipal corporations and boards of township trustees to prohibit, or limit the number of, cultivators, processors, or retail dispensaries licensed under the Marijuana Control Law within the municipal corporation or within the unincorporated territory of the township, respectively. This parallels local authority given to municipal corporations and townships under the Medical Marijuana Control Program.

The bill expands the limitations on this local authority. Under current law, this authority does not authorize municipal corporations or boards of township trustees to limit research related to marijuana conducted at a state university, academic medical center, or private research and development organization as part of a research protocol approved by an institutional review board or equivalent entity. The bill additionally specifies that this authority does not authorize municipal corporations or boards of township trustees to limit, prohibit, or criminalize any of the following as authorized by the Marijuana Control Law:

1. Research of the type specified in current law;
2. Use, possession, or delivery of marijuana or medical marijuana by adult use consumers or registered patients in accordance with the Marijuana Control Law;
3. The six-plant possession rights described in paragraph 4 under **“Rights of adult use consumers and medical marijuana registered patients,”** above.⁴⁴

Criminal prohibitions

Distributing marijuana to an underage person

The bill prohibits any person, including a retail dispensary of marijuana and its agents, employees, and representatives, from doing any of the following:

1. Recklessly giving, selling, or otherwise distributing marijuana or paraphernalia to any person under 21;
2. Recklessly giving away, selling, or distributing marijuana or paraphernalia in any place that does not have posted in a conspicuous place a legibly printed sign in letters at least one-half inch high stating that giving, selling, or otherwise distributing marijuana to a person under 21 is prohibited by law unless the person is a registered medical marijuana patient under the Marijuana Control Law;
3. Knowingly furnishing any false information regarding the name, age, or other identification of any person under 21 with purpose to obtain marijuana for that person;
4. Recklessly giving, selling, or otherwise distributing marijuana over the internet or through another remote method without age verification.

⁴⁴ R.C. 3796.29.

It is not a violation of this prohibition for a person to give or otherwise distribute marijuana to a person under 21 if the underage person is a registered medical marijuana patient under the Marijuana Control Law.

A person who violates this prohibition is guilty of a fourth degree misdemeanor on a first offense and a third degree misdemeanor on a subsequent offense. Any marijuana that is illegally distributed to an underage person and that is used, possessed, purchased, or received by a person under 21 is subject to seizure and forfeiture as contraband.⁴⁵

Furnishing false information

The bill also prohibits a person who is 18 to 21 from knowingly furnishing false information concerning that person's name, age, or other identification for the purpose of obtaining marijuana products. A person who violates this prohibition is guilty of a fourth degree misdemeanor on a first offense and third degree misdemeanor on a subsequent offense.⁴⁶

Transition provisions

Not later than 240 days after the bill's effective date, the Medical Marijuana Control Program in the Board of Pharmacy is abolished. All records of the Medical Marijuana Control Program in the Board of Pharmacy must be transferred to the Department of Commerce Division of Marijuana Control, and all of its other assets and liabilities relating to the Medical Marijuana Control Program in the Board of Pharmacy are transferred to the Department of Commerce. The Division of Marijuana Control is successor to, and assumes the obligations of, the Medical Marijuana Control Program in the Board of Pharmacy. Any business commenced, but not completed by the Board of Pharmacy 240 days after the bill's effective date must be completed by the Director of Commerce in the same manner, and with the same effect, as if completed by the Board of Pharmacy. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer.

Any license issued by the Board of Pharmacy pursuant to the Medical Marijuana Control Program remains in effect for the remainder of the license's term, unless otherwise suspended or revoked. Renewals must be conducted through the Division of Marijuana Control.

Any form of marijuana approved by the Board of Pharmacy prior to the bill's effective date remains approved until the Department of Commerce revokes that approval. The Department of Commerce may revoke the approval of a form of marijuana made by the Board of Pharmacy prior to the bill's effective date. If the Department revokes approval, the Department must notify in writing the person who filed the petition requesting the additional form and post notice of that revocation on the Division of Marijuana Control's website.⁴⁷

⁴⁵ R.C. 3796.35(A) and (B) and 3796.99(A).

⁴⁶ R.C. 3796.35(C) and 3796.99(B).

⁴⁷ Section 4(A), (B), and (C) of the bill.

Closed-loop payment processing system – repealed

The bill repeals authority of the Department to establish a closed-loop payment processing system under which the state creates accounts to be used only by registered patients and caregivers at licensed dispensaries as well as by all license holders under the Medical Marijuana Control Program. The authority to create the closed-loop system was granted in 2016, and it does not appear that the Department has established such a system.⁴⁸

Taxation of adult use marijuana

Sales and use taxes are levied on the retail sales of some services and all tangible personal property (TPP), except TPP that is specifically exempted by law. As TPP, adult use marijuana automatically becomes subject to sales and use taxes upon legalization of its use under Ohio law.

The bill makes three changes to the sales and use taxes levied on the retail sales of adult use marijuana, including increasing the state tax rate applicable to such sales, modifying the distribution of collections from that tax, and exempting such sales from local sales and use taxes. The bill does not modify the taxation of medical marijuana.⁴⁹

State sales and use tax

Tax rate

In general, the state sales and use tax rate levied on TPP and services equals 5.75% of the purchase price of the product or service. Instead of imposing state sales and use tax at that same rate, the bill increases the rate levied on the sale of adult use marijuana to 10%.⁵⁰

Revenue distribution

Under current law, all state sales and use tax revenue, including medical marijuana tax revenue, is credited to the GRF.

Instead of distributing adult use marijuana tax revenue in the same manner, the bill, after deducting amounts for refunds, credits only one-half of such revenue to the GRF and splits the remaining one-half evenly between two new funds – one to be used by the Department of Public Safety to combat illegal drug trafficking in Ohio and the second to be used by the Department of Mental Health and Addiction Services to assist Ohioans suffering from chemical dependency and substance abuse.⁵¹

⁴⁸ R.C. 3796.031, repealed by the bill; H.B. 523 of the 131st General Assembly.

⁴⁹ R.C. 5739.01(RRR) and 5741.01(U).

⁵⁰ R.C. 5739.02 and 5741.02.

⁵¹ R.C. 5739.21, 5739.214, and 5741.03.

Local sales and use taxes

Under current law, all tangible personal property, including medical marijuana, and services subject to the state tax are also subject to local (i.e., county and transit authority) sales and uses taxes. The bill exempts the sales of adult use marijuana from all local sales and use taxes.⁵²

Urge Congress to enact the Common Sense Cannabis Reform for Veterans, Small Businesses, and Medical Professionals Act

The bill enacts a provision urging the U.S. Congress to enact H.R. 3105 of the 117th Congress, Common Sense Cannabis Reform for Veterans, Small Businesses, and Medical Professionals Act, or substantially similar legislation. H.R. 3105 limits the application of certain federal laws to the distribution and consumption of marijuana, and removes marijuana from Schedule I of the federal Controlled Substances Schedules, which would remove some barriers on marijuana businesses using the banking system. The bill also states that it is the intent of the General Assembly to urge Congress to protect the U.S. Constitution Second Amendment rights of Ohioans that are engaged in the legal use of cannabis under Ohio law.

The bill requires the Clerk of the Ohio House of Representatives to send a letter to the Speaker and Minority Leader of the United States House of Representatives, the President and Minority Leader of the United States Senate, the President of the United States, the Ohio congressional delegation, and the media urging the United States Congress to enact H.R. 3105 of the 117th Congress or substantially similar legislation and to protect the Second Amendment rights of Ohioans that are engaged in the legal use of cannabis.⁵³

HISTORY

Action	Date
Introduced	12-02-21

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⁵² R.C. 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 5741.023.

⁵³ Section 6 of the bill; [H.R. 3105](#), which is available on the U.S. Congress's website: [congress.gov](#).