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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

**H.B. 160**  
**136<sup>th</sup> General Assembly**

## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Rep. Stewart

Nick Thomas, Research Analyst  
and other LSC staff

## SUMMARY

### Overview

- Repeals the Cannabis Control Law and combines regulations concerning the cultivation, processing, dispensing, use, and home grow of adult-use and medical marijuana into one chapter, referred to in this analysis as the Marijuana Control Law.
- Condenses the operations of the Division of Cannabis Control (DCC) and the Division of Marijuana Control (DMC) into DMC.

### Product regulations

- Prohibits possession or use of marijuana that is not acquired from a licensed Ohio dispensary or cultivated at the adult-use consumer's primary residence in accordance with the Marijuana Control Law.
- Eliminates DMC's authority to approve new forms of adult-use marijuana.
- Prohibits adult-use or medical marijuana that is attractive to children or bears the likeness or characteristics of a realistic or fictional human, animal, or fruit.
- Reduces allowable tetrahydrocannabinol (THC) levels in adult-use marijuana extracts from a maximum of 90% (or more) to a maximum of 70%.
- Eliminates DMC's authority to adjust or eliminate the THC limits.
- Prohibits a licensed dispensary from dispensing or selling more adult-use marijuana than can be legally possessed to the same adult-use consumer in the same day.
- Requires adult-use marijuana products to be packaged and labeled with certain information and warnings.

- Adds pre-rolled marijuana products as an allowable form of adult-use marijuana.

## **Home grow**

- Prohibits transfer of homegrown or adult-use marijuana by unlicensed persons, with or without remuneration.
- Prohibits cultivating homegrown marijuana at a childcare home, halfway house, or a residential premises occupied pursuant to a rental agreement that prohibits home grow.
- Prohibits cultivating, growing, or possessing homegrown marijuana on behalf of another person.

## **Adult-use consumers**

- Specifies that the possession limits do not apply to seeds, live plants, or clones being cultivated, grown, or processed in accordance with the home grow law.
- Requires adult-use and homegrown marijuana and marijuana paraphernalia to be transported in the trunk or behind the back row of seats in a place not easily accessible to the driver.
- Specifies that the smoking, combustion, and vaporization of adult-use and homegrown marijuana, and vaporization of medical marijuana, is prohibited in a place of public employment, a private residence that is a childcare home, a halfway home, or residential premises occupied pursuant to a rental agreement that prohibits such activities.
- Applies elevated penalties to persons who smoke, combust, or vaporize marijuana in a vehicle, streetcar, trackless trolley, watercraft, or aircraft.
- Enhances the criminal and administrative penalties for persons who knowingly distribute marijuana to a person under 21 years of age.

## **Licensing**

- Combines the adult-use and medical marijuana licenses and requires licensed cultivators, processors, dispensaries, and laboratories to work with both adult-use and medical marijuana.
- Modifies the eligibility criteria for licensure, and requires DMC to rank applicants that meet those criteria using an impartial and evidence-based process according to eligibility, suitability, and ability to operate.
- Requires DMC, if it uses a lottery system to issue licenses, to assign better odds to applicants that are highly rated under the ranking process.
- Specifies that “10(B) licenses” issued under the Cannabis Control Law before the bill’s effective date are subject to all procedures, requirements, and penalties that apply to the equivalent license under the Marijuana Control Law.
- Requires DMC to merge equivalent licenses issued to the same person and used at the same location.

- Eliminates level III adult-use cultivator licenses.
- Modifies the setback requirements concerning the location of dispensaries, cultivators, processors, and laboratories in relation to churches, schools, public libraries, public parks, and public playgrounds.
- Repeals the prohibition against dispensaries providing samples of adult-use marijuana products.
- Allows DMC to prohibit advertisements that are obscene, contain depictions of marijuana use, or promote marijuana as an intoxicant.
- Requires DMC's rules concerning advertisement of adult-use marijuana products to be no less stringent than the most stringent rules or laws regulating tobacco or alcohol sales.
- Prohibits adult-use and medical marijuana products from being marketed using any graphic, picture, or drawing that bears any resemblance to a cartoon character or popular figure whose target audience is children or youth.

### **Cultivators, processors, and dispensaries**

- Requires DMC to issue two types of cultivation licenses: a level I license that authorizes a cultivation area up to 100,000 square feet and a level II license that authorizes a cultivation area of up to 15,000 square feet.
- Allows DMC to expand the cultivation area of a license holder that was not allotted the maximum cultivation area so long as the total cultivation area does not exceed that maximum square footage.
- Repeals the prohibition against issuing more than one cultivator or processor license to the same person.
- Specifies that dispensaries can only accept government-issued identification as proof of the identity of a registered patient or caregiver or of the age of an adult-use consumer.
- Requires marijuana dispensaries to ensure a sufficient supply of medical marijuana products.
- Allows DMC to revoke a provisional dispensary license if the license holder does not obtain a certificate of operation within 18 months.
- Caps the number of active dispensaries at 350.
- Repeals the prohibition against issuing more than eight dispensary licenses to the same person.
- Requires DMC to issue dispensary licenses in a way that prevents oversaturation and to refrain from issuing a license for a facility that is within one-half mile of another dispensary.
- Prohibits DMC from issuing a license or approving a relocation to a location or facility for which a permit to sell beer or intoxicating liquor has been issued.

- Prohibits transferring a provisional license.

## **Employment with a license holder**

- Eliminates the requirement that a person seeking employment with an adult-use marijuana business obtain a license from DMC.
- Requires such a person to complete the same background check required for employees of medical marijuana businesses under current law.

## **Administration**

- Eliminates DMC authority to adopt rules concerning mobile ordering, delivery, technical standards for security and surveillance equipment, temporary and provisional licenses, changes in ownership or control of marijuana businesses, and educating the public about marijuana.
- Specifies that rules adopted under the Cannabis Control Law before the bill's effective date remain in effect until repealed or amended by DMC.
- Authorizes the Legislative Service Commission to renumber rules adopted under the Cannabis Control Law to account for its consolidation with the Medical Marijuana Control Law.
- Specifies that rules pending before the Common Sense Initiative or the Joint Committee on Agency Rule Review on the bill's effect date are considered to be proposed under the Marijuana Control Law.
- Exempts DMC rules from continuing law requirements concerning reduction of regulatory restrictions for 12 months following the bill's effective date.
- Allows the Ohio Investigative Unit (OIU) within the Department of Public Safety to assist DMC in enforcing the Marijuana Control Law.
- Modifies the criminal penalties imposed on persons who violate the Marijuana Control Law.

## **Cannabis Social Equity and Jobs Program**

- Repeals the Cannabis Social Equity and Jobs Program, which would have provided financial assistance and license application support to individuals adversely impacted by the enforcement of marijuana-related laws.

## **Local government authority**

- Expands local government authority to prohibit or limit the number of licensed marijuana cultivators, processors, dispensaries, or testing laboratories.

## **Employment**

- Specifies that a person who is discharged from employment for using marijuana is not eligible to serve a waiting period or be paid unemployment benefits for the duration of the person's unemployment.

## **Adult-use marijuana excise tax**

- Modifies how revenue from the 10% tax on adult-use marijuana is credited by dedicating 20% of the revenue to make temporary payments to dispensary-welcoming municipalities and townships and redirecting the rest to the GRF.
- Extends the tax to the sale of any marijuana by an unlicensed seller to a consumer.

## **Current agricultural use valuation**

- Makes land used to cultivate adult-use marijuana ineligible to be valued for property tax purposes as other agricultural land pursuant to its current agricultural use value.

## **Expungement of prior marijuana possession offenses**

- Permits a person who, prior to the bill's effective date, was convicted of or pled guilty to a marijuana possession offense involving an amount of marijuana that is now legal to possess to apply to the sentencing court to have the record of their conviction or guilty plea expunged.
- Specifies that unless indigent, the applicant must pay a filing fee of \$50, with \$30 of the fee designated to go to the state treasury and \$20 to go to the county general revenue fund.
- Requires the court that receives an application for expungement under the bill to set a date for a hearing and notify the prosecutor of the hearing and permits the prosecutor to file an objection.
- Requires the court, at the hearing, to determine whether the applicant has, prior to the bill's effective date, been convicted of or pleaded guilty to a marijuana possession offense involving an amount of marijuana that is now legal to possess and, if the prosecutor has filed an objection, to consider the reasons against granting the application.
- Requires the court to order expungement if the conviction meets eligibility requirements and, if the court orders the expungement, requires the court to send notice of the order to each public office or agency that the court has reason to believe may have an official record pertaining to the case.

## **Hemp with intoxicating properties**

- Reclassifies hemp products that have intoxicating properties as marijuana by narrowing the definitions of "hemp" and "hemp product" in the Hemp Law, thus allowing their sale only in licensed marijuana dispensaries.

- Specifically provides that a hemp product does not include a product with a total THC concentration of more than 0.3%, more than 0.5 mg of total THC per serving, and more than 2 mg of total THC per package.
- Specifically redefines “hemp” to refer to the percentage of total THC in the plant (0.3%), rather than only delta-9 THC (0.3%) as in current law.
- Specifies that rules governing hemp must include labeling standards for hemp and hemp products that are consistent with federal law governing poison prevention packaging standards.

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## DETAILED ANALYSIS

### Overview

The bill repeals the Cannabis Control Law, which took effect December 7, 2023, and merges regulations concerning cultivation, processing, dispensing, use, and home grow of adult-use marijuana with those concerning medical marijuana – collectively referred to in this analysis as the Marijuana Control Law.

The bill also combines the operations of the Division of Marijuana Control (DMC), which oversees the cultivation, processing, and dispensing of medical marijuana, with the Division of Cannabis Control (DCC), which performs the same functions respecting adult-use marijuana. The combined Division, which remains in the Department of Commerce (COM), is called DMC. The bill replaces all Revised Code references to DCC with DMC and all references to the Superintendent of Cannabis Control with the Superintendent of Marijuana Control. The change clarifies that one agency, DMC, oversees the entire Marijuana Control Law, covering both medical marijuana and adult-use marijuana.

The bill also makes numerous changes concerning the form and potency of adult-use marijuana products; home grow; possession, transfer, and transportation of adult-use marijuana; smoking, combustion, and vaporization; licensing; administration and enforcement; local government authority; and taxation of marijuana products.



## Product regulations

### Scope of legalization

Current law authorizes adults who are at least 21 years of age (“adult-use consumers”) to possess and use “adult-use cannabis” which is broadly defined to include any part of a cannabis plant.<sup>1</sup> The bill instead legalizes only the possession and use of the following:

- Medical marijuana cultivated, processed, dispensed, and tested for a medical purpose in accordance with the Marijuana Control Law;
- Adult-use marijuana cultivated, processed, dispensed, and tested in accordance with the Marijuana Control Law;
- Homegrown marijuana cultivated, grown, and processed at the adult-use consumer’s primary residence in accordance with the Marijuana Control Law.

The distinction is that, under the bill, it is illegal to use or possess marijuana acquired outside the confines of the Marijuana Control Law. For example, an adult-use consumer may legally possess and use marijuana acquired from an out-of-state dispensary under current law, whereas, under the bill, out-of-state marijuana is contraband. Similarly, current law allows an adult-use consumer to possess or use marijuana received from another adult-use consumer, without any exchange of payment, whereas the bill prohibits such an exchange.<sup>2</sup>

### Authorized forms

The bill retains all forms of adult-use marijuana allowed by current law: seeds, live plants, clones, oils, tinctures, plant material, edibles, patches, extracts, drops, lozenges, smoking or combustible products, vaporization products, beverages, pills, capsules, suppositories, oral pouches, oral strips, oral and topical sprays, salves, lotions or similar cosmetic products, and inhalers. The bill adds pre-rolled products as an authorized form of adult-use marijuana. However, the bill eliminates the authority of DMC to approve additional forms of adult-use marijuana.

The bill also retains the forms of medical marijuana allowed by current law: oils, tinctures, plant material, edibles, and patches. The bill retains the authority of DMC to approve additional forms of medical marijuana.<sup>3</sup>

Continuing law prohibits any form of medical marijuana that is considered attractive to children according to rules adopted by DMC. The bill extends the same prohibition to adult-use marijuana. Furthermore, the bill expressly prohibits adult-use marijuana or medical marijuana

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<sup>1</sup> R.C. 3780.01 and 3780.36, repealed.

<sup>2</sup> R.C. 3796.01, 3796.04, 3796.22, and 3796.221.

<sup>3</sup> R.C. 3796.06; R.C. 3780.04, repealed.

from being dispensed in a form that bears the likeness or characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.<sup>4</sup>

### **THC limits**

The bill reduces the amount of tetrahydrocannabinol (THC) allowed in adult-use marijuana products. Current law requires DMC to adopt rules that set THC limits for adult-use cannabis at no less than 35% for plant material and 90% for extracts. The bill specifies that the THC limits for adult-use marijuana are the same as the limits that apply to medical marijuana: 35% for plant material and 70% for extracts. The bill repeals the authority of DMC to increase or eliminate THC limits on adult-use marijuana.<sup>5</sup>

### **Limit on amount dispensed**

Current law prohibits a licensed dispensary from dispensing or selling more than the amount of adult-use cannabis that may be legally possessed. The bill specifies that this is a daily limit, as opposed to a limit for each transaction. Furthermore, the bill specifies that a dispensary that violates the prohibition is guilty of trafficking marijuana.<sup>6</sup>

### **Packaging and labeling**

Current law prohibits a retail dispensary from *accepting* any adult-use cannabis product from another license holder unless the product is packaged and labeled in compliance with DCC rules. The bill instead requires a licensed dispensary to *ensure* that the label of any package containing adult-use marijuana includes all of the following in accordance with rules adopted by DMC:

- The name and address of the processor and dispensary;
- A statement that the use of adult-use marijuana by individuals under 21 years of age is both harmful and illegal;
- The quantity, strength, kind, or form of adult-use marijuana contained in the package.<sup>7</sup>

### **Home grow**

Under continuing law, adult-use consumers may cultivate, grow, and possess up to six marijuana plants, with not more than 12 plants being grown per household. Home growers are currently permitted to transfer up to six plants to another adult-use consumer so long as the transfer is made without advertisement or remuneration. The bill prohibits any transfer of homegrown marijuana, with or without remuneration. No person other than a licensed dispensary may transfer adult-use or homegrown marijuana to adult-use consumers. The bill also specifies that any unlicensed person who engages in activities requiring a license, such as

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<sup>4</sup> R.C. 3796.06(D).

<sup>5</sup> R.C. 3796.06(E); R.C. 3780.03(C)(21), repealed.

<sup>6</sup> R.C. 3796.20(C)(2) and 3796.99(F).

<sup>7</sup> R.C. 3796.20(C)(3); R.C. 3780.15(B)(2), repealed.

transferring marijuana to another adult-use consumer, is guilty of trafficking in marijuana or the illegal cultivation of marijuana.<sup>8</sup>

Current law requires home grow to take place at the adult-use consumer's "primary residence," i.e., the residence of an individual in which the individual's habitation is fixed and to which, whenever the person is absent, the person has the intention of returning.<sup>9</sup> The bill applies the same requirement, but does not define primary residence. It also prohibits home grow at any of the following:

- A primary residence that is a childcare home or that is occupied pursuant to a rental agreement that prohibits home grow;
- A halfway house, community transitional housing facility, community residential center, or other similar facility licensed by the Division of Parole and Community Services (DPCS);
- A residential premises occupied pursuant to a rental agreement that prohibits home grow activities.

Cultivation, growth, or possession of homegrown marijuana on behalf of another person is explicitly prohibited by the bill.<sup>10</sup> Current law specifies that a person who grows more than double the allowable number of plants is guilty of the illegal trafficking in drugs and the illegal manufacture of drugs.<sup>11</sup> The bill specifies that a person who grows more than double the allowable number of plants is guilty of possession of marijuana.<sup>12</sup>

## **Adult-use consumers**

### **Possession**

Current law allows adult-use consumers to possess up to 2.5 ounces (70.87 grams) of marijuana in any form other than extract and up to 15 grams of adult-use extract. The bill is similar, but applies the possession limits to plant material (up to 2.5 ounces) and extracts (15 grams). Furthermore, the bill specifies that the possession limit for plant material does not apply to seeds, live plants, or clones being cultivated, grown, or processed in accordance with home grow law.

As described above, under "**Scope of legalization**," the possession limits under current law apply to "cannabis," which could include any marijuana, regardless of how it is acquired. The bill allows possession of only "homegrown marijuana" and "adult-use marijuana." That limits possession to marijuana acquired from a licensed dispensary or grown legally under

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<sup>8</sup> R.C. 3796.04 and 3796.99(E); R.C. 3780.29, repealed.

<sup>9</sup> R.C. 3780.01(A)(33) and 3780.29, repealed.

<sup>10</sup> R.C. 3796.04.

<sup>11</sup> R.C. 3780.29(F) and 3780.99(F), repealed.

<sup>12</sup> R.C. 3796.04(A)(1) and (E) and 3796.99(D).

the home grow law. Marijuana acquired elsewhere, like an out-of-state dispensary, cannot be legally possessed under the bill.<sup>13</sup>

### **Transfer and transportation**

Under current law, transfer or transportation of adult-use marijuana in amounts greater than the possession limits is considered the illegal trafficking of drugs.<sup>14</sup> Under the bill, any unlicensed person who transfers adult-use marijuana is guilty of illegal trafficking in marijuana.<sup>15</sup>

The bill prohibits any person from transporting marijuana or marijuana paraphernalia in a motor vehicle unless it is stored in the trunk of the vehicle or, if there is no trunk, behind the last upright seat of the vehicle or in an area not normally occupied by the driver or passengers and not easily accessible by the driver. Violation of the bill's transportation requirements is a minor misdemeanor.<sup>16</sup>

### **Paraphernalia and accessories**

Current law allows adult-use consumers to possess and use any marijuana "paraphernalia," which is defined as equipment, products, or materials used in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis into the human body.<sup>17</sup>

The bill repeals that definition and instead requires DMC to adopt rules specifying which marijuana paraphernalia and accessories may be used in the administration of adult-use marijuana and homegrown marijuana. The same rule-based requirement applies to medical marijuana under continuing law.<sup>18</sup>

### **Smoking, combustion, and vaporization**

#### **Generally**

Under continuing law, smoking or combustion of adult-use marijuana is subject to the same limitations that apply to smoking cigarettes, i.e., it is prohibited in public places and places of employment.<sup>19</sup> Smoking and combustion of medical marijuana is prohibited altogether.

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<sup>13</sup> R.C. 3796.04(D) and 3796.221; R.C. 3780.36(B), repealed.

<sup>14</sup> R.C. 3780.99(G), repealed.

<sup>15</sup> R.C. 3796.99(E).

<sup>16</sup> R.C. 3796.062 and 3796.99(I) and (J); R.C. 2925.141, not in the bill.

<sup>17</sup> R.C. 3780.01(A)(31), repealed.

<sup>18</sup> R.C. 3796.03(B)(10).

<sup>19</sup> R.C. Chapter 3794, not in the bill.

Furthermore, current law ascribes a criminal penalty for using adult-use cannabis in “public areas.”<sup>20</sup>

The bill repeals the general prohibition on public use, but specifies that smoking, combustion, and vaporization of adult-use and homegrown marijuana, and vaporization of medical marijuana, is prohibited anywhere other than privately owned real property that is used primarily for residential or agricultural purposes, including any dwellings, facilities, improvements, and appurtenances on such real property. Furthermore, smoking, combustion, and vaporization of adult-use or homegrown marijuana, and vaporization of medical marijuana, is prohibited in any of the following:

- A private residence that is a childcare home;
- A place where smoking, combustion, or vaporization is prohibited according to a lease agreement;
- A public place, place of employment, halfway house, community transitional housing facility, community residential center, or other similar facility licensed by DPCS.

Violation of the bill’s smoking, combustion, and vaporization provisions is a minor misdemeanor.<sup>21</sup>

### **In vehicles**

Continuing law explicitly prohibits an individual from operating a vehicle, motor vehicle, streetcar, trackless trolley, bike, watercraft, or aircraft while using adult-use marijuana or while under its influence. A person who operates a vehicle, streetcar, trackless trolley, watercraft, or aircraft while under the influence of marijuana is subject to the relevant OVI laws.<sup>22</sup>

Under current law, a passenger smoking, combusting, or vaporizing adult use cannabis in a vehicle, streetcar, trackless trolley, watercraft, or aircraft is guilty of a minor misdemeanor. The bill instead provides that such a passenger is subject to the following penalties:

- First-time offender: first degree misdemeanor; mandatory 3-day jail term (additional term up to 6 months); \$375 to \$1,075 fine; Class 7 driver’s license suspension (up to 1 year).
- Second-time offender (within ten years): first degree misdemeanor; mandatory ten-day jail term (additional term up to 6 months); \$525 to \$1,625 fine; Class 6 driver’s license suspension (3 months to 2 years).
- Third-time offender (within ten years): first degree misdemeanor; mandatory 30-day jail term (additional term up to 1 year); \$850 to \$2,750 fine; Class 5 driver’s license suspension (6 months to 3 years).

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<sup>20</sup> R.C. 3780.99(B).

<sup>21</sup> R.C. 3796.06(C) and 3796.99(B).

<sup>22</sup> R.C. 3796.99(A)(1).

- Fourth-time offender (within ten years): fourth degree felony; mandatory prison term of 1, 2, 3, 4, or 5 years; \$1,350 to \$10,500 fine; Class 4 driver's license suspension (1 to 5 years).
- One prior felony violation for the use of adult use cannabis as a passenger (regardless of when the offense occurred): third degree felony; mandatory prison term of 1, 2, 3, 4, or 5 years; \$1,350 to \$10,500 fine; Class 3 driver's license suspension (2 to 10 years).<sup>23</sup>

## **Underage use and false identification**

### **False identification**

Current law prohibits using a false identification to acquire or use adult-use marijuana. Violators of the prohibition are subject to the following penalties:

- First offense – fined between \$250 and \$1,000 and jailed for up to six months.
- Second offense – fined between \$500 and \$1,000 and jailed for up to six months. Also subject to a Class 7 driving suspension (a period of less than a year) or community service, at the discretion of the court.
- Third offense – fined between \$500 and \$1,000 and jailed for up to six months. Also subject to a Class 6 driving suspension (between 3 months and 2 years), driving suspension until the offender turns 21, or community service, at the discretion of the court.<sup>24</sup>

The bill maintains the same penalties but specifies that the financial sanctions are in lieu of any other financial sanctions or penalties that may apply to the violation. Continuing law, unchanged by the bill, specifies default financial sanctions for misdemeanors. Without the clarification, an offender might be subject to two sets of financial sanctions.<sup>25</sup>

### **Distribution to underage persons**

Under the bill, a person that knowingly transfers marijuana to another person under 21 years of age is guilty of a first degree misdemeanor for a first offense and a fifth degree felony for all subsequent offenses.<sup>26</sup> Current law applies the same initial penalty for an employee or agent of a licensed adult-use dispensary who knowingly sells cannabis to an individual under 21 years of age.<sup>27</sup> In effect, the bill extends the prohibition and corresponding penalties to all persons and increases the penalty for subsequent violations.

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<sup>23</sup> R.C. 3796.99(A)(2).

<sup>24</sup> R.C. 3780.99(C), repealed.

<sup>25</sup> R.C. 3796.06(G) and 3796.99(G).

<sup>26</sup> R.C. 3796.06(F) and 3796.99(C).

<sup>27</sup> R.C. 3780.99(E), repealed.

Under current law, DCC is permitted to suspend or revoke a cultivator, processor, or dispensary license for violations, including dispensing marijuana to an underage person.<sup>28</sup> The bill instead requires DMC to immediately revoke the license of any person who distributes marijuana to an underage person.<sup>29</sup>

### **Parents or guardians**

Current law prohibits parents or guardians from knowingly permitting their residence or private property to be used by underage persons to use marijuana. A first violation of this prohibition is a third-degree misdemeanor. Second and subsequent violations are a first degree misdemeanor. If the violation results in death or great bodily harm, the violation is a fourth degree felony. The bill repeals this prohibition and the corresponding penalties.<sup>30</sup>

### **Adverse actions against adult-use consumers**

Current law prohibits the following adverse actions against an adult-use consumer based solely on the consumer's use of adult-use marijuana or activities within the Cannabis Control Law:

- A state licensing board taking a disciplinary action against professional license holder;
- A court issuing an adjudication that a child is abused or neglected, an allocation of parental rights and responsibilities, or a parenting time order, unless there is clear and convincing evidence that the child is unsafe;
- Disqualifying a person from medical care, including with respect to a transplant waiting list;
- Taking action under any criminal or civil statute;
- Subjecting a person to a field sobriety test absent reasonable suspicion that the individual is under the influence;
- Rejecting a person as a tenant, unless required by federal law;
- Disqualifying an individual from a public benefit program.<sup>31</sup>

The bill retains most of the protections as applied to both adult-use consumers and medical marijuana patients. However, there are a few key differences. Under the bill, occupational license holders are protected from disciplinary action for engaging in professional or occupational activities related to medical or adult-use marijuana, but they are not protected in situations where personal use is involved.<sup>32</sup> The bill expands the express authority for landlords

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<sup>28</sup> R.C. 3780.26, repealed.

<sup>29</sup> R.C. 3796.06(F) and 3796.99(C)(2).

<sup>30</sup> R.C. 3780.36(G) and 3780.99(I), repealed.

<sup>31</sup> R.C. 3780.33(A) to (G), repealed.

<sup>32</sup> R.C. 3796.24(A); R.C. 3780.33(A), repealed.

to prohibit consumption of marijuana in a residential premises by combustion to include consumption of marijuana by smoking and vaporization and to include common areas.<sup>33</sup>

## Licensing

Under current law, licenses to cultivate, process, dispense, or test adult-use cannabis are distinct from licenses to cultivate, process, dispense, or test medical marijuana. The adult-use licenses have their own separate application and renewal procedures, eligibility criteria, fees, and process requirements. An operator could, in theory, choose to work with only adult-use cannabis or only medical marijuana. However, in practice, all current license holders are either “dual-use” – meaning that they cultivate, process, dispense, or test both medical marijuana and adult-use marijuana – or “medical only.”

As of January 7, 2025, DCC and DMC have issued the following licenses:

DMC Licenses	
License Category	Permitted Activities
37 cultivators	22 level I dual-use cultivators
	14 level II dual-use cultivators
	1 level I medical only cultivator
46 processors	44 dual-use processors
	2 medical only processors
212 dispensaries	128 operational dual-use dispensaries
	13 medical only provisional dispensaries
	71 dual-use provisional dispensaries
9 testing laboratories	7 dual-use testing laboratories
	2 medical only provisional laboratories

There are approximately 448,301 registered medical marijuana patients and 41,286 registered caregivers in Ohio.<sup>34</sup>

<sup>33</sup> R.C. 3796.24(F).

<sup>34</sup> [DCC Update: By the Numbers, January 2025](https://www.com.ohio.gov/divisions-and-programs/cannabis-control), which may be accessed by conducting a keyword search on DCC’s website: [com.ohio.gov/divisions-and-programs/cannabis-control](https://www.com.ohio.gov/divisions-and-programs/cannabis-control).



## Combine licenses

The bill combines the adult-use and medical licenses and requires license holders to work with both medical marijuana and adult-use marijuana.<sup>35</sup>

## Evaluation and ranking of applicants

Current law requires DMC or DCC, as applicable, to issue an adult-use or medical marijuana license to an applicant if all conditions for licensure are met. The bill eliminates that requirement and instead prohibits DMC from issuing a license to an applicant that does not meet all eligibility requirements. DMC must evaluate and prioritize applicants for licensure according to eligibility, suitability, and ability to operate.<sup>36</sup>

### Eligibility criteria

The table below describes the similarities and differences between the eligibility criteria that apply to medical and adult-use license applicants under current law, and those that apply to all license applicants under the bill.

License Eligibility Criteria		
Medical Licenses (Current Law)	Adult-Use Licenses (Current Law)	Marijuana Licenses (Under the Bill)
Criminal records check confirms that the applicant has not been convicted of or pleaded guilty to any disqualifying offenses identified by administrative rule (R.C. 3796.09(B)(1), 3796.10(B)(1), and 3796.03(B)(2)(b)).	Criminal records check confirms that the applicant has not been convicted of or pleaded guilty to any disqualifying offenses within five years of the date the application is submitted (R.C. 3780.11(B)(1)).  Defines “disqualifying offense” as: <ul style="list-style-type: none"> <li>▪ Any felony or first degree misdemeanor violation of the Drug Offenses Law, the Controlled Substances Law, or the Pharmacists and Dangerous Drugs Law;</li> <li>▪ Any theft or felony offense;</li> </ul>	Same as the adult-use licenses under current law (R.C. 3796.01(A)(21) and 3796.09(C)(1)).

<sup>35</sup> R.C. 3796.18(A)(2), 3796.19(A)(2), 3796.20(A)(2), and 3796.21.

<sup>36</sup> R.C. 3796.09 and 3796.10; R.C. 3780.11, repealed.

License Eligibility Criteria		
Medical Licenses (Current Law)	Adult-Use Licenses (Current Law)	Marijuana Licenses (Under the Bill)
	<ul style="list-style-type: none"> <li>▪ Any criminal violation of the Pure Food and Drug Law;</li> <li>▪ A crime of moral turpitude;</li> <li>▪ A violation of any substantially similar former law.</li> </ul> <p>“Disqualifying offense” does not include a misdemeanor related to marijuana possession, trafficking, illegal cultivation, illegal use or possession of drug paraphernalia, or other marijuana-related crimes (R.C. 3780.01(A)(17)).</p>	
Applicant does not have an ownership or investment interest in, or a compensation arrangement with, a testing laboratory (R.C. 3796.09(B)(2) and 3796.10(B)(2)).	Same as the medical licenses (R.C. 3780.11(B)(2)).	Similar to the medical licenses under current law, but further specifies that none of the applicant’s current or prospective owners, officers, board members, administrators, employees, agents, or affiliates who may significantly influence or control the applicant’s activities may have an ownership or investment interest in, or a compensation agreement with, a testing laboratory.  Specifies that the requirement does not apply to applicants for a testing laboratory license (R.C. 3796.09(C)(2) and 3796.10(C)(2)).
Applicant does not share corporate officers or employees with a testing laboratory	Same as the medical licenses (R.C. 3780.11(B)(3)).	Similar to the medical licenses under current law, but further specifies that none of the

License Eligibility Criteria		
Medical Licenses (Current Law)	Adult-Use Licenses (Current Law)	Marijuana Licenses (Under the Bill)
<i>(R.C. 3796.09(B)(3) and 3796.10(B)(3)).</i>		applicant's current or prospective owners, officers, board members, administrators, employees, agents, or affiliates who may significantly influence or control the applicant's activities may share any corporate officers or employees with a testing laboratory.  Specifies that the requirement does not apply to applicants for a testing laboratory license. <i>(R.C. 3796.09(C)(3) and 3796.10(C)(3)).</i>
Applicant's facility will not be located within 500 feet of a school, church, public library, public playground, or public park <i>(R.C. 3796.09(B)(4) and 3796.10(B)(4)).</i>	Similar to the medical licenses but includes an exception for existing medical license holders <i>(R.C. 3780.11(B)(6)).</i>	Same as the medical licenses under current law <i>(R.C. 3796.09(C)(4) and 3796.10(C)(4)).</i>
Applicant is in compliance with all applicable state tax laws <i>(R.C. 3796.09(B)(5) and 3796.10(B)(5)).</i>	Same as the medical licenses <i>(R.C. 3780.11(B)(7)).</i>	Same as the medical licenses under current law <i>(R.C. 3796.09(C)(5) and 3796.10(C)(6)).</i>
No provision.	No provision.	Applicant demonstrates sufficient liquid capital and ability to meet financial responsibility requirements <i>(R.C. 3796.09(C)(6) and 3796.10(C)(7)).</i>
No provision.	No provision.	Applicant demonstrates that the proposed facility is not located in a municipal corporation or township that prohibits marijuana operators <i>(R.C. 3796.09(C)(7) and 3796.10(C)(8)).</i>

License Eligibility Criteria		
Medical Licenses (Current Law)	Adult-Use Licenses (Current Law)	Marijuana Licenses (Under the Bill)
No provision.	No provision.	Application does not include false, misleading, or deceptive information and does not omit material information <i>(R.C. 3796.09(C)(8) and 3796.10(C)(9)).</i>
No provision.	No provision.	Applicant pays all fees required by DMC <i>(R.C. 3796.09(C)(9) and 3796.10(C)(10)).</i>
No provision.	No provision.	Applicant for a dispensary license demonstrates that the proposed facility is not located within 1/2 mile of another licensed dispensary and has not been issued a permit to sell beer or intoxicating liquor <i>(R.C. 3796.10(C)(5)).</i>
No provision.	Applicant for a testing laboratory license demonstrates that it does not have an ownership or investment interest in, a compensation agreement with, or share corporate officers or employees with, another adult-use license holder <i>(R.C. 3780.11(B)(4) and (5)).</i>	No provision.
No provision.	Applicant is not employed by a regulatory body of a governmental unit that has significant influence or control over the ability of the applicant to conduct business in Ohio <i>(R.C. 3780.11(B)(9)).</i>	No provision.
Applicant demonstrates compliance with all eligibility requirements prescribed by administrative rule	Same as the medical licenses <i>(R.C. 3780.11(B)(8)).</i>	Same as the medical licenses under current law

License Eligibility Criteria		
Medical Licenses (Current Law)	Adult-Use Licenses (Current Law)	Marijuana Licenses (Under the Bill)
<i>(R.C. 3796.09(B)(6) and 3796.10(B)(6)).</i>		<i>(R.C. 3796.09(C)(10) and 3796.10(C)(11)).</i>

### Ranking process

Should the number of applicants exceed the number of available licenses, the bill requires DMC to use an “impartial and evidenced based process” to rank applicants. The ranking process must take into account the applicant’s plans for business, operations, security, finances, environment, generating jobs, and economic development; the applicant’s principal place of business; the proposed location of the applicant’s facility; the applicant’s employment practices; the applicant’s plans to hire and educate Ohio residents, veterans, disabled persons, women, and minorities; the criminal records of all persons subject to the records check; the civil and administrative history of the applicant; and other criteria specified by law or administrative rule.<sup>37</sup>

### Lottery

The bill allows DMC to use a lottery system to issue licenses but specifies certain procedural conditions for that system. DMC must rank applicants into the following categories: highly exceeds, exceeds, meets, and does not meet. The number of applicants in each of the first three categories must be roughly equal, to the extent possible under the impartial, evidence-based process described above.

In conducting the lottery, DMC must give applicants in the “exceeds” category double the odds of being selected as compared to applicants in the “meets” category. Similarly, applicants in the “highly exceeds” category must receive double the odds of applicants in the “exceeds” category. Applicants in the “does not meet” category are ineligible for licensure.<sup>38</sup>

### Renewal applications

The bill specifies that applications for renewal are not subject to the ranking or lottery requirements. It furthermore prohibits DMC from denying a renewal application based solely on the location of the applicant’s existing facility in proximity to other license holders.<sup>39</sup>

<sup>37</sup> R.C. 3796.09(D) and 3796.10(D).

<sup>38</sup> R.C. 3796.09(E) and 3796.10(E).

<sup>39</sup> R.C. 3796.09(G) and 3796.10(G).

## 10(B) licenses

### Background

Current law guarantees licenses under the Cannabis Control Law for certain medical marijuana license holders (“10(B) licenses”). Specifically, DCC is required to issue the following licenses:

- For medical marijuana retail dispensaries, one adult-use dispensary license for the same location and, unless the applicant has common ownership or control with an adult-use cultivator or processor, one adult-use dispensary license for a different location;
- For level I medical marijuana cultivators, three adult-use dispensary licenses at locations specified in the application and one level I adult-use cultivator license for the same location as the medical cultivation facility;
- For level II medical marijuana cultivators, one adult-use dispensary license at a location specified in the application and one adult-use cultivator license for the same location as the medical cultivation facility;
- For medical marijuana processors, one adult-use processor license for the same location as the medical processor facility;
- For medical marijuana testing laboratories, one adult-use laboratory license for the same location as the medical marijuana testing laboratory.

Provisional license holders that do not receive a full certificate of operation by December 7, 2025, do not receive these guaranteed licenses.<sup>40</sup>

### Merge with medical licenses

The bill repeals the authority for DMC to issue 10(B) licenses but it preserves the validity of licenses issued before the bill’s effective date. All 10(B) licenses issued before the bill’s effective date must be treated the same as the equivalent license under the Marijuana Control Law. The table below addresses “equivalent licenses” for the purposes of the bill.

Equivalent Licenses	
10(B) License	Marijuana Control Law
Adult-use cultivator	Level I or level II cultivator license
Adult-use processor	Processor
Adult-use dispensary	Retail dispensary
Adult-use testing laboratory	Laboratory

<sup>40</sup> R.C. 3780.10, repealed.

The holder of a 10(B) license is subject to all procedures, requirements, and penalties that apply to the holder of the equivalent, non-10(B) license. If a 10(B) license issued before the effective date of the bill is held by the same person and used at the same location as an equivalent license, DCC is required to merge the licenses and treat them as the same license for all purposes, including expiration and renewal.<sup>41</sup>

### **Other adult-use licenses**

The bill eliminates DCC's authority to issue up to 50 additional adult-use dispensary licenses, and up to 40 level III cultivator licenses, with preference given to certified Cannabis Social Equity and Jobs Program participants. The Cannabis Social Equity and Jobs Program is repealed by the bill. Under current law, level III cultivators are authorized to develop a cultivation area of up to 5,000 square feet, or more if an expansion is approved by DMC. No level III adult-use cultivator licenses have been issued as of January 7, 2025.<sup>42</sup>

### **Disqualifying offenses**

Under the Cannabis Control Law, a "disqualifying offense" is any of the following:

- Any felony or first degree misdemeanor violation of the Drug Offenses Law, the Controlled Substances Law, or the Pharmacists and Dangerous Drugs Law;
- Any theft or felony offense;
- Any criminal violation of the Pure Food and Drug Law;
- A crime of moral turpitude;
- A violation of any substantially similar former law.

"Disqualifying offense" does not include a misdemeanor related to marijuana possession, trafficking, illegal cultivation, illegal use or possession of drug paraphernalia, or other marijuana-related crimes. Under the Medical Marijuana Law, DMC identifies the offenses that disqualify an applicant for licensure by rule.

The bill applies the Cannabis Control Law definition to all license applicants.<sup>43</sup>

### **Setback requirements**

Continuing law prohibits a cultivator, processor, dispensary, or laboratory from commencing operations at a facility located within 500 feet of a church, public library, public playground, public park, or school. Under current law, if a medical license holder requests to relocate within 500 feet of such a location, DCC is required to deny the request. However, current law allows relocation of an adult-use facility within 500 feet of a church, public library, public playground, public park, or school under certain limited circumstances:

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<sup>41</sup> R.C. 3796.33.

<sup>42</sup> R.C. 3780.10 and 3780.07(F), repealed.

<sup>43</sup> R.C. 3796.01(A)(20).

- If the license holder has a certificate of operation and is doing business under a different license at that same location (for example, if a licensed dispensary seeks to relocate to the same location at which it processes marijuana);
- Research related to adult-use cannabis at a state university, academic medical center, or private or public research and development organization;
- An expansion of a cultivation area allowed under the Cannabis Control Law.<sup>44</sup>

The bill repeals these exceptions. If a requested relocation of any marijuana facility would result in the facility being located within 500 feet of a church, public library, public playground, public park, or school, DMC is required to deny the request. However, the bill specifies that DMC is not required to revoke the license of an existing marijuana operator, or require that operator to relocate, if a church, public library, public playground, public park, or school is established on, or relocates to, a parcel within 500 feet of that operational marijuana facility.<sup>45</sup>

## **Samples**

Current law prohibits adult-use license holders from dispensing adult-use marijuana without remuneration, unless authorized by a DCC rule.<sup>46</sup> A person who violates that prohibition is guilty of the illegal dispensing of drug samples.<sup>47</sup> The bill repeals the prohibition and related penalty.

## **Advertising**

Current law authorizes DCC to adopt reasonable standards that prevent advertisements for adult-use marijuana that are false, targeted towards minors, promote excessive use, or promote illegal activity.<sup>48</sup> The bill expands DMC's rulemaking authority to medical marijuana advertisements. Furthermore, it allows DMC to prohibit advertisements that are obscene or indecent, contain depictions of marijuana use, or promote marijuana as an intoxicant.<sup>49</sup> Under the bill, neither adult-use nor medical marijuana may be marketed using any graphic, picture, or drawing that bears any resemblance to a cartoon character or popular figure whose target audience is children or youth.<sup>50</sup>

Current law prohibits rules that require preapproval of adult-use marijuana advertisements or that overly burden the legitimate commercial speech of license holders. The bill repeals that prohibition.<sup>51</sup> Furthermore, the bill specifies that any rules adopted regulating

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<sup>44</sup> R.C. 3780.07, repealed.

<sup>45</sup> R.C. 3796.30.

<sup>46</sup> R.C. 3780.20(B), repealed.

<sup>47</sup> R.C. 2925.36, not in the bill; R.C. 3780.99(H), repealed.

<sup>48</sup> R.C. 3780.21(A), repealed.

<sup>49</sup> R.C. 3796.32(A).

<sup>50</sup> R.C. 3796.32(D).

<sup>51</sup> R.C. 3780.21(B), repealed.



advertisements of adult-use marijuana must be no less stringent than the most stringent rules or laws regulating tobacco or alcohol sales.<sup>52</sup>

The bill maintains the current law authorization for DMC, at any time, to conduct an audit of an applicant's or license holder's published advertisements to ensure compliance with advertising laws.<sup>53</sup> If DMC determines that a person has violated the advertising laws or corresponding rules, DMC may require the person to stop using the advertisement and proceed with any enforcement action DMC deems "necessary and proper."<sup>54</sup>

## **Cultivators**

### **Cultivation area**

Under current law, there are three types of adult-use cultivator licenses:

- Level I – may cultivate up to 100,000 square feet;
- Level II – may cultivate up to 15,000 square feet;
- Level III – may cultivate up to 5,000 square feet.

All adult-use cultivators may request an increase in cultivation areas from DCC.<sup>55</sup>

The current law license "types" and cultivation area limitations for medical marijuana cultivators are prescribed by administrative rule as follows:

- Level I – may cultivate up to 25,000 square feet;
- Level II – may cultivate up to 3,000 square feet.

The bill eliminates the Level III cultivator license, but applies the square footage limitations for Level I and Level II adult-use cannabis cultivators to all cultivators. With the approval of DMC, a licensed cultivator may request and receive one or more expansions to the cultivator's cultivation area so long as the resulting total cultivation area, including all expansions, does not exceed the applicable maximum cultivation area for the license type.<sup>56</sup>

### **Permitted activities**

The bill allows a licensed cultivator to deliver or sell adult-use marijuana to any other license holder. Under current law, an adult-use cultivator is permitted to deliver, sell, or transfer adult-use cannabis to other cultivators, processors, or dispensaries, but not laboratories. Medical marijuana cultivators are currently permitted to deliver or sell medical marijuana only to license processors.

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<sup>52</sup> R.C. 3796.32(B).

<sup>53</sup> R.C. 3796.32(C); R.C. 3780.21(C), repealed.

<sup>54</sup> R.C. 3796.32(I).

<sup>55</sup> R.C. 3780.01(A)(19) to (23) and 3780.07(F), repealed.

<sup>56</sup> R.C. 3796.18(D) and (E).

The bill also retains a provision of the Cannabis Control Law that allows adult-use cultivators to acquire seeds, clones, plants, and other genetic material, and applies it to all licensed cultivators.<sup>57</sup>

### Packaging and labeling

The bill requires cultivators to identify, package, and label all marijuana products in accordance with the Marijuana Control Law before delivering or selling the products to a licensed processor.<sup>58</sup>

### Provisional licenses

The bill specifies that a provisional cultivator license (i.e., a temporary license that sets forth certain conditions to be met before the cultivator may begin operations) is not transferrable.<sup>59</sup>

### Multiple licenses

Current law prohibits DCC from issuing more than one adult-use cultivator license to the same person. The bill repeals that prohibition.<sup>60</sup>

## Processors

### Permitted activities

The bill modifies the activities that may be performed by a licensed processor as follows:

Processor Activities		
Medical Licenses (Current Law)	Adult-Use Licenses (Current Law)	Marijuana Licenses (Under the Bill)
Obtain medical marijuana from one or more licensed cultivators <i>(R.C. 3796.19(A)(1))</i> .	Obtain adult-use cannabis from any licensed cultivator, processor, or dispensary <i>(R.C. 3780.14(A)(1))</i> .	Obtain adult-use or medical marijuana from any license holder <i>(R.C. 3796.19(A)(1)(a))</i> .
Process medical marijuana obtained from one or more licensed cultivators into an allowable form <i>(R.C. 3796.19(A)(2))</i> .	Process adult-use cannabis into an allowable form <i>(R.C. 3780.14(A)(2))</i> .	Same as the medical licenses under current law but adds adult-use marijuana <i>(R.C. 3796.19(A)(1)(b))</i> .

<sup>57</sup> R.C. 3796.18(A)(1)(b) and (c); R.C. 3780.12 and 3780.13, repealed.

<sup>58</sup> R.C. 3796.18(C).

<sup>59</sup> R.C. 3796.09(H) and 3796.01(A)(18).

<sup>60</sup> R.C. 3780.10(F)(3), repealed.

Processor Activities		
Medical Licenses (Current Law)	Adult-Use Licenses (Current Law)	Marijuana Licenses (Under the Bill)
Deliver or sell medical marijuana to one or more licensed dispensaries ( <i>R.C. 3796.19(A)(3)</i> ).	Distribute, transfer, or sell adult-use cannabis to any licensed cultivator, processor, or dispensary ( <i>R.C. 3780.14(A)(3)</i> ).	Deliver, transfer, or sell processed adult-use or medical marijuana to other license holders ( <i>R.C. 3796.19(A)(1)(c)</i> ).
Comply with certain packaging and labeling requirements ( <i>R.C. 3796.19(B)</i> ).	No provision.	Similar to the medical licenses under current law, but adds additional packaging and labeling requirements (discussed below) and specifies that the processor must comply before delivering or selling the marijuana product to a dispensary ( <i>R.C. 3796.19(B)(3)</i> , <i>3796.03</i> , and <i>3796.32</i> ).

### Provisional licenses

The bill specifies that a provisional processor license is not transferrable.<sup>61</sup>

### Multiple licenses

Current law prohibits DCC from issuing more than one adult-use processor license to the same person. The bill repeals that prohibition.<sup>62</sup>

## Dispensaries

### Permitted activities

The bill modifies the activities that may be performed by a licensed dispensary as follows:

Dispensary Activities		
Medical Licenses (Current Law)	Adult-Use Licenses (Current Law)	All Licenses (Under the Bill)
Obtain medical marijuana from one or more processors ( <i>R.C. 3796.20(A)(1)</i> ).	Obtain adult-use cannabis from any licensed cultivator,	Obtain adult-use and medical marijuana from any license holder ( <i>R.C. 3796.20(A)(1)(a)</i> ).

<sup>61</sup> R.C. 3796.09(H).

<sup>62</sup> R.C. 3780.10(F)(3), repealed.

Dispensary Activities		
Medical Licenses (Current Law)	Adult-Use Licenses (Current Law)	All Licenses (Under the Bill)
	processor, or dispensary (R.C. 3780.15(A)(1)).	
Dispense or sell medical marijuana to registered patients and caregivers (R.C. 3796.20(A)(2)).	Distribute, transfer, or sell, adult-use cannabis to adult-use consumers or any licensed cultivator, processor, or dispensary (R.C. 3780.15(A)(2) and (4)).	Same as the medical licenses under current law, but adds dispensing adult-use marijuana to adult-use consumers (R.C. 3796.20(A)(1)(c)).
No provision.	Sell paraphernalia that may be used in the administration of adult-use cannabis (R.C. 3780.15(A)(4)).	Similar to the adult-use licenses under current law, but adds paraphernalia that may be used in the administration of medical marijuana (R.C. 3796.20(A)(1)(d)).
No provision.	Provide delivery of adult-use cannabis to adult-use consumers (R.C. 3780.15(A)(3)).	Similar to the adult-use licenses under current law but also allows delivery of medical marijuana (R.C. 3796.20(A)(1)(e)).

### Identification requirement

Current law requires both medical and adult-use dispensaries to check the consumer's identification before dispensing marijuana products. The bill specifies that the identification presented must be government-issued.<sup>63</sup>

### Medical marijuana supply

The bill also requires all dispensaries to ensure a sufficient supply of medical marijuana products necessary to meet demand.<sup>64</sup>

### Warning requirements

Current law requires adult-use dispensaries to maintain addiction services information materials available at the adult-use consumer's request.<sup>65</sup> No similar requirement applies to

<sup>63</sup> R.C. 3796.20(B)(1) and (C)(1); R.C. 3780.15(B)(1), repealed.

<sup>64</sup> R.C. 3796.20(B)(4).

<sup>65</sup> R.C. 3780.15(C), repealed.

medical dispensaries. The bill eliminates that requirement and instead mandates all dispensaries to prominently display both of the following:

- A statement that the use of adult-use or homegrown marijuana by underage individuals is both harmful and illegal;
- Information about the addictive qualities of marijuana and the potential negative health consequences associated with its use.<sup>66</sup>

### **Provisional licenses**

Under the bill, DMC is permitted to revoke a dispensary license for failure to secure a certificate of operation within 18 months after provisional licensure. However, DMC is required to grant up to two six-month extensions if the provisionally licensed dispensary demonstrates a good-faith effort at becoming operational.<sup>67</sup>

The bill specifies that a provisional dispensary license is not transferable.<sup>68</sup>

### **License caps**

Current law requires DCC, every two years, to review the number of adult-use cannabis licenses and issue additional licenses, dependent upon demand.<sup>69</sup> DCC is required to issue a report based on this review.<sup>70</sup> The bill removes the review requirement and report requirement and simply caps the total number of dispensaries (adult-use and medical marijuana) that may be operational at any given time at 350.<sup>71</sup>

The bill repeals a provision in current law that prohibits DCC from issuing more than eight dispensary licenses to any person.<sup>72</sup>

### **Location of facilities**

The bill requires DMC to issue dispensary licenses in such a way as to prevent oversaturation in any one geographic location. DMC is prohibited from issuing a license or approving a relocation that would result in a dispensary from being located within 1/2 mile of another dispensary or from issuing a license or approving a relocation to a location or facility for which a permit to sell beer or intoxicating liquor has been issued.<sup>73</sup>

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<sup>66</sup> R.C. 3796.20(D)(3).

<sup>67</sup> R.C. 3796.05(B)(2).

<sup>68</sup> R.C. 3796.10(H).

<sup>69</sup> R.C. 3780.10(E), repealed.

<sup>70</sup> R.C. 3780.10(F), repealed.

<sup>71</sup> R.C. 3796.05(B)(1).

<sup>72</sup> R.C. 3780.10(F)(3).

<sup>73</sup> R.C. 3796.05(B)(4).

## Employment with a license holder

Current law requires persons seeking employment with an adult-use cannabis license holder to obtain a license from DCC. Individuals seeking such a license must apply on a form prescribed by DCC and include two sets of the applicant's fingerprints and a photograph. DCC is required to charge an application fee to cover actual regulatory costs. The employment license is portable and authorizes the holder to work for any entity licensed under the Cannabis Control Law, so long as the person is registered with DCC for each location where the person works or is employed.<sup>74</sup>

The bill repeals the license and associated procedures and instead applies the same background check requirements prescribed by continuing law for persons seeking employment with licensed marijuana operators. Under the bill, the same disqualifying offenses that apply to license holders also apply to persons seeking employment with a license holder.<sup>75</sup>

## Administration

### Rules

The topics addressed by DMC rule under the bill are mostly similar to those required under the current Medical Marijuana Law. However, the bill eliminates the authority to determine the number of dispensaries that may operate at a given time and instead caps the number of active dispensaries at 350.<sup>76</sup> Furthermore, the bill eliminates the requirement for rules addressing what happens when a school, church, public library, public playground, or public park is established or relocates within 500 feet of an existing license holder. The bill specifies that, in that scenario, the license holder is not required to relocate its operations.<sup>77</sup>

The bill repeals the rulemaking requirements under the Cannabis Control Law. Some of those rule requirements closely resemble rules required under the bill. However, other Cannabis Control Law rules do not have a clear equivalent. For example, the bill repeals requirements that DCC adopt rules doing the following:

- Preventing practices detrimental to the public interest;
- Educating the public about adult-use cannabis;
- Allowing delivery and online or mobile ordering of adult-use cannabis products;
- Exempting institutional or private investors who do not have significant control or influence over a license applicant or license holder from licensing requirements;
- Establishing license and renewal fees based on the amount of funding needed to pay the actual cost of administering the Cannabis Control Law;

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<sup>74</sup> R.C. 3780.17, repealed.

<sup>75</sup> R.C. 3796.13, not in the bill; Section 3.

<sup>76</sup> R.C. 3796.03(B)(3) and 3796.05(B)(1).

<sup>77</sup> R.C. 3796.03(B)(4), and (B)(9) and 3796.30(C).

- Establishing temporary provisional licenses for persons who do not qualify for licensure due to exigent circumstances;
- Establishing a process for approving a change in ownership or a transfer of control of a license holder;
- Establishing a process for expanding a license holder's cultivation area;
- Establishing standards and procedures for laboratory testing;
- Establishing insurance or surety bond requirements for adult-use license holders;
- Prescribing technical standards for security and surveillance equipment and security service providers;
- Prescribing standards for recordkeeping and financial accounts.<sup>78</sup>

The Cannabis Control Law allows any citizen to commence an action in the Franklin County Court of Common Pleas to compel DCC to adopt rules related to adult-use cannabis, if it fails to do so within nine months after December 7, 2023. The bill repeals the right to a cause of action.<sup>79</sup>

The bill provides for the consolidation of rules adopted under the existing Medical Marijuana Control Law and the Cannabis Control Law. All rules adopted pursuant to the existing Cannabis Control Law that existed immediately prior to the effective date of the bill, and that are not in conflict with the requirements of the bill, are to continue in effect until repealed or amended by DMC. The bill authorizes the director of the Legislative Service Commission to renumber rules adopted under both the Medical Marijuana Control Law and the Cannabis Control Law as needed to facilitate the consolidation. Any rules pending before the Common Sense Initiative or the Joint Committee on Agency Rule Review on the effective date of the bill are to be treated as having been proposed under the Marijuana Control Law, as enacted by the bill. DMC rules adopted in the year following the bill's effective date are exempt from Ohio laws concerning the reduction of regulatory restrictions.<sup>80</sup>

## **Enforcement**

The Cannabis Control Law specifies that DCC is not required to enforce minor violations.<sup>81</sup> It also allows the Attorney General to bring an action to enforce the Cannabis Control Law upon receiving a written request from DCC. The bill repeals both of these provisions and a corresponding provision in the current Medical Marijuana Law.<sup>82</sup>

The bill places oversight of all marijuana license holders under the merged DMC, allowing DMC to suspend, suspend without prior hearing, revoke, or refuse to renew a marijuana license.

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<sup>78</sup> R.C. 3780.03, repealed.

<sup>79</sup> R.C. 3780.28, repealed.

<sup>80</sup> Section 4.

<sup>81</sup> R.C. 3780.26(E), repealed.

<sup>82</sup> R.C. 3796.15(B) and 3780.27, repealed.

Current law authorizes DMC, when suspending a retail dispensary license without a hearing, to use a telephone conference call to review the allegations and take a vote. The bill repeals this authority.<sup>83</sup>

The bill allows the Ohio Investigative Unit (OIU) within the Department of Public Safety to assist DMC in enforcing the Marijuana Control Law. It also specifies that OIU may not investigate or inspect a person or facility for an alleged violation unless the person is licensed under the Marijuana Control Law or OIU is invited by local law enforcement.<sup>84</sup>

### **Confidentiality**

The bill repeals provisions of the Cannabis Control Law related to confidentiality of information. The law explicitly states that all personal information collected under the Cannabis Control Law is confidential and not subject to public records request.<sup>85</sup>

### **Electronic database**

Current law requires DMC to establish and maintain an electronic database to monitor all medical and adult-use marijuana from its seed or clone source through its cultivation, processing, testing, and dispensing. The bill removes the requirement that adult-use marijuana be tracked in the database, but maintains the current law requirement related to medical marijuana. Any data collected in the database is prohibited from being released. However, the bill allows information that does not identify a specific patient, caregiver, or adult-use consumer to be released in summary, statistical, or aggregate form.<sup>86</sup>

### **Civil actions against DCC**

The bill repeals all of the following provisions related to a possible failure on the part of DCC to implement the requirements of the current Cannabis Control Law:

- Requirement that DCC begin accepting applications for adult-use licensure no later than June 7, 2024.<sup>87</sup>
- Specification that, if DCC fails to adopt rules related to adult-use cannabis by September 7, 2024, or fails to issue licenses by June 7, 2024, any citizen may bring a lawsuit to compel DMC to perform the actions mandated under the Cannabis Control Law.<sup>88</sup>

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<sup>83</sup> R.C. 3796.14(A)(4).

<sup>84</sup> R.C. 3796.01, 3796.14, 3796.15, 5502.01, 5502.13, and 5502.14.

<sup>85</sup> R.C. 3780.31, repealed.

<sup>86</sup> R.C. 3796.07.

<sup>87</sup> R.C. 3780.11(A), repealed.

<sup>88</sup> R.C. 3780.28(A), repealed.



- Authorization, if DCC fails to issue a license or a denial after an application has been filed, for the applicant to sue to compel DCC to carry out its duties, and also operate under a temporary license.<sup>89</sup>
- Specification that these provisions are not to be construed as authorizing marijuana operations under a license that has been suspended, denied, or revoked.<sup>90</sup>

### **Venue for legal challenges**

Current law requires actions challenging the constitutionality of the current Cannabis Control Law, rules adopted by DCC, or actions of DCC to be brought in the Franklin County Court of Common Pleas within 90 days after December 7, 2023, the effective date of the rule, or the date of the action, as applicable. It further specifies that the requirement does not apply to any claim within the original jurisdiction of the Ohio Supreme Court or a court of appeals. It also requires the Franklin County Court of Common Pleas to prioritize actions described above over any other civil claim before the Court. The bill repeals these requirements.<sup>91</sup>

### **Cannabis Social Equity and Jobs Program**

The bill repeals the Cannabis Social Equity and Jobs Program. The program, which has not yet been created by the Department of Development, would provide financial assistance and license application support to individuals most directly and adversely impacted by the enforcement of marijuana-related laws who are interested in starting or working in marijuana business entities.<sup>92</sup>

### **Local government authority**

Current law allows a municipal corporation or township to prohibit, or limit the number of, adult-use operators within the boundaries of the subdivision, subject to certain limitations. The bill retains similar authority, but specifies that a township or municipality cannot prohibit or limit the marijuana activities of a person who holds a medical marijuana license or adult-use license on the effective date of the bill nor can it prohibit or limit any activity authorized under the Marijuana Control Law, such as home grow.<sup>93</sup>

The bill repeals numerous limitations on municipal and township authority to regulate marijuana, current law provisions that:

- Prohibit a municipal corporation or township from prohibiting or limiting home grow or other activities authorized by the Cannabis Control Law.

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<sup>89</sup> R.C. 3780.28(B), repealed.

<sup>90</sup> R.C. 3780.28(C), repealed.

<sup>91</sup> R.C. 3780.28, repealed.

<sup>92</sup> R.C. 3780.18 and 3780.19, repealed.

<sup>93</sup> R.C. 3796.29; R.C. 3780.25(A), repealed.

- Prohibit a municipal corporation or township from prohibiting or limiting adult-use cultivators, processors, or dispensaries that are co-located on the same parcel or contiguous parcels as an existing medical marijuana cultivator or processor.
- Prohibit a municipal corporation or township from prohibiting or limiting a licensed medical marijuana dispensary that has its certificate of operation on December 7, 2023, from also operating an adult-use dispensary, unless the municipal corporation or township adopts a prohibiting or limiting ordinance or resolution within 120 days after the adult-use dispensary license is issued.
- Requires a dispensary to cease operations within 60 days after a municipal corporation or township passes an ordinance or resolution as described above unless the dispensary files a petition with the Board of Elections. The petition must be signed by the lessor of 100 qualified electors of the municipal corporation or township or 5% of the total amount of qualified electors of the municipal corporation or township. Following submission of such a petition, the issue of whether the adult-use dispensary may remain open must be placed on the next general election ballot. The dispensary may continue to operate until the issue is decided.
- Specifies that if the majority of qualified voters of the municipal corporation or township approve the dispensary's continued operations, the dispensary may continue to operate the municipal corporation or township may continue receiving host community cannabis funding.
- Specifies that if the majority of qualified voters of the municipal corporation or township vote to disapprove the dispensary's continued operations, the dispensary may request (and DCC must approve) relocation of its operations outside the municipal corporation or township. The dispensary must close its operations in the municipal corporation or township within 90 days after certification of the election results, or until its request to relocate is approved by DCC, whichever is later.<sup>94</sup>

## Employment

Current law requires that a person be considered to have been discharged from employment for just cause under the Unemployment Compensation Law if the person is discharged for using marijuana in violation of the employer's drug-free workplace policy, zero-tolerance policy, or other formal program or policy regulating marijuana use (a person who is discharged for just cause is disqualified from serving a waiting week or receiving benefits under the Unemployment Compensation Law for the duration of the person's unemployment unless an exception applies).<sup>95</sup> The bill also specifies that such a person is ineligible to serve a waiting period or be paid unemployment benefits for the duration of the person's unemployment.<sup>96</sup> The bill

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<sup>94</sup> R.C. 3780.25, repealed.

<sup>95</sup> R.C. 3780.35(B), repealed; R.C. 4141.29, not in the bill.

<sup>96</sup> R.C. 3796.28(B).

expands upon this by further specifying that it is not a violation of the Ohio Civil Rights Law if an employer discriminates against a person for marijuana use if that use violates the employer's drug-free workplace policy, zero-tolerance policy, or other formal program or policy regulating marijuana use.<sup>97</sup>

## **Adult-use marijuana excise tax**

Continuing law imposes a 10% excise tax on the retail sale of adult-use marijuana sold by licensed dispensaries. The bill changes how that revenue is allocated and extends the tax to illegal sales.

### **Revenue allocation**

Current law allocates revenue from the tax as follows:

- 36% to the Cannabis Social Equity and Jobs Program, which the bill repeals.
- 36% for the benefit of municipal corporations or townships that have adult-use dispensaries, based on the percentage of tax attributable to each municipal corporation or township.
- 25% to support efforts of the Department of Mental Health and Addiction Services (OhioMHAS) to alleviate substance abuse and related research, including by creating a hotline, which the bill repeals.
- 3% to support the operations of DCC and to defray the cost of the Department of Taxation in administering the tax.<sup>98</sup>

The bill reallocates the bulk of the revenue to the GRF but retains a temporary and limited allocations for municipal corporations and townships. Specifically, for FYs 2026 to 2030, 20% of the tax revenue must be paid to each municipal corporation and township that did not prohibit or limit the presence of adult-use dispensaries before March 1, 2025. As with the 36% local allocation under current law, this revenue is distributed in proportion to the percentage of total tax receipts attributable to dispensaries in each community.<sup>99</sup>

### **Tax on illegal sales**

The bill extends the 10% adult-use marijuana excise tax to persons that sell marijuana in any manner other than through a licensed adult-use or medical dispensary. The Tax Commissioner may enforce payment of this tax by assessing any illegal seller just as the Commissioner would do for a licensed dispensary that failed to remit the proper amount of tax.<sup>100</sup>

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<sup>97</sup> R.C. 3796.28(C).

<sup>98</sup> R.C. 3780.19, 3780.23, and 3780.30 repealed.

<sup>99</sup> R.C. 5739.21, 5739.27, and 5739.99.

<sup>100</sup> R.C. 5739.27(D).

## CAUV eligibility of land used for marijuana cultivation

Pursuant to authority granted in the Ohio Constitution, farmland may be valued at its current agricultural use value (“CAUV”) – its value considering only its use for agriculture – rather than its fair market value.<sup>101</sup> This usually results in a lower tax bill for farm owners because the land is often valued below its actual market value, particularly in areas where farmland is in demand for development purposes. The bill makes land used to cultivate adult-use marijuana ineligible to be valued for property tax purposes as other agricultural land pursuant to its CAUV. A similar exclusion already applies to lands used to cultivate medical marijuana under continuing law.<sup>102</sup>

## Expungement of prior marijuana possession offenses

The bill permits a person who, prior to the bill’s effective date, was convicted of or pled guilty to a marijuana possession offense involving an amount of marijuana that is now legal to possess to apply to the sentencing court at any time on or after the bill’s effective date to have the record of their conviction or guilty plea expunged.<sup>103</sup>

The application must do all of the following:<sup>104</sup>

1. Identify the applicant, the offense for which the expungement is sought, the date of the conviction or plea of guilty to that offense, and the court in which the conviction occurred or the plea of guilty was entered;
2. Include evidence that the offense was a marijuana possession offense involving an amount of marijuana that is now legal to possess, that the conviction or plea of guilty occurred prior to the bill’s effective date, and that the conduct that was the basis of the violation involved possession of not more than 15 grams of hashish and not more than 2.5 ounces of marijuana other than hashish;
3. Include a request for expungement of the record of conviction of that offense.

Upon the filing of an application, the payment of the \$50 fee described below under “**Filing fee,**” if applicable, the court must set a date for a hearing and notify the prosecutor for the case of the hearing.<sup>105</sup>

## Prosecutor objection; investigation

The prosecutor may file an objection with the court prior to the date set for the hearing, which must specify the reasons for believing a denial of the application is justified. The court must then direct its regular probation officer, a state probation officer, or the department of

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<sup>101</sup> Ohio Constitution, Article II, Section 36.

<sup>102</sup> R.C. 5713.30.

<sup>103</sup> R.C. 2953.321(B) and (C).

<sup>104</sup> R.C. 2953.321(C).

<sup>105</sup> R.C. 2953.321(D).

probation of the county in which the applicant resides to make inquiries and written reports as the court requires concerning the applicant.<sup>106</sup>

## Hearing

At the hearing, the court must do both of the following:<sup>107</sup>

- Determine whether the applicant has, prior to the bill's effective date, been convicted of or pleaded guilty to a marijuana possession offense and whether the conduct that was the basis for the violation involved possession of not more than 15 grams of hashish and not more than 2.5 ounces of marijuana other than hashish;
- If the prosecutor has filed an objection, consider the reasons against granting the application specified by the prosecutor in the objection.

If the court determines that the applicant, prior to the bill's effective date, had been convicted of or pleaded guilty to a marijuana possession offense and that the conduct that was the basis for the violation involved possession of not more than 15 grams of hashish and not more than 2.5 ounces of marijuana other than hashish, the court must order the expungement of all official records pertaining to the case and the deletion of all index references to the case and, if it does order the expungement, must send notice of the order to each public office or agency that the court has reason to believe may have an official record pertaining to the case.<sup>108</sup>

## Effect of court order

The proceedings in the case that is the subject of an order issued under the bill will be considered not to have occurred and the conviction or guilty plea of the person who is the subject of the proceedings must be expunged. The record of the conviction may not be used for any purpose, including, but not limited to, a statutorily prescribed criminal records check. The applicant may, and the court must, reply that no record exists with respect to the applicant upon any inquiry into the matter.<sup>109</sup>

## Filing fee

An applicant must pay a fee of \$50 upon filing the application for expungement under the bill. The court must pay \$30 of the fee into the state treasury and \$20 of the fee into the county general revenue fund.<sup>110</sup>

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<sup>106</sup> R.C. 2953.321(D).

<sup>107</sup> R.C. 2953.321(E).

<sup>108</sup> R.C. 2953.321(F).

<sup>109</sup> R.C. 2953.321(G), by reference to R.C. 109.572, not in the bill.

<sup>110</sup> R.C. 2953.321(H).

## Hemp with intoxicating properties

### Overview of current hemp regulations

Current law requires the Director of Agriculture to establish a Hemp Cultivation and Processing Program to monitor and regulate hemp cultivation and the processing of hemp into hemp products. Hemp is a variety of the plant *Cannabis sativa* L. (cannabis) that can be used in a variety of applications, such as paper, textiles, biofuel, animal feed, food, and personal care products. Both hemp and marijuana are derived from cannabis. However, hemp contains a lower concentration (0.3% or below) of cannabis's main psychoactive constituent, delta-9 tetrahydrocannabinol (THC).

Under the program, the Director must issue hemp cultivation licenses and hemp processing licenses to eligible applicants. Thus, any person who plants or harvests hemp, or processes and stores hemp on the site of cultivation until transported for sale, must obtain a hemp cultivation license. A person who converts hemp into a hemp product must obtain a hemp processing license. However, any person may possess, buy, or sell hemp or a hemp product without a license, provided the person is not cultivating or processing the hemp.<sup>111</sup>

### Narrowing of hemp definition

The bill reclassifies hemp products that have intoxicating properties as marijuana by narrowing the definitions of "hemp" and "hemp product" in the Hemp Law, thus allowing their sale only in licensed marijuana dispensaries. It specifically provides that a hemp product does not include a product with a total THC concentration of more than 0.3%, more than 0.5 mg of total THC per serving, and more than 2 mg of total THC per package.

The bill also specifically redefines "hemp" to refer to the percentage of total THC in the plant (0.3%), rather than only delta-9 THC (0.3%) as in current law. Finally, it defines both of the following:

1. "Tetrahydrocannabinol" means naturally occurring or synthetic equivalents, regardless of whether artificially or naturally derived, of the substances contained in the plant, or in the resinous extractives of cannabis, sp. or derivatives, and their isomers with similar chemical structure to delta-1-cis or trans tetrahydrocannabinol, and their optical isomers, salts and salts of isomers. "Tetrahydrocannabinol" includes delta-6-cis or trans THC, delta3,4-cis or trans THC, 9-hexahydrocannabinol, and delta-9-THC acetate. Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions, are included. "Tetrahydrocannabinol" does not include the following:
  - a. THCs approved by the U.S. FDA for marketing as a medication or recognized by the FDA as generally recognized as safe;
  - b. Cannabichromene (CBC);

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<sup>111</sup> R.C. Chapter 928.

- c. Cannabicyclol (CBL);
  - d. Cannabidiol (CBD);
  - e. Cannabidivarol (CBDV);
  - f. Cannabielsoin (CBE);
  - g. Cannabigerol (CBG);
  - h. Cannabigerovarin (CBGV);
  - i. Cannabinol (CBN);
  - j. Cannabivarin (CBV).
2. “Total THC” means the sum, after the application of any necessary conversion factor, of the percentage by weight of THC, including delta-9 THC, and the percentage by weight of tetrahydrocannabinolic acid.<sup>112</sup>

### Labeling and packaging

The bill specifies that rules governing hemp must include labeling standards for hemp and hemp products that are consistent with federal law governing poison prevention packaging standards.<sup>113</sup>

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## HISTORY

Action	Date
Introduced	03-06-25

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<sup>112</sup> R.C. 928.01 and 3719.01, not in the bill.

<sup>113</sup> R.C. 928.03(X); 16 Code of Federal Regulations 1700.15(b).