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Bill Analysis

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Primary Sponsors: Reps. Weinstein and Upchurch

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SUMMARY

- Authorizes the limited use of cannabis by an adult that is at least 21 years old.
- Creates the Division of Cannabis Control in the Department of Commerce.
- Imposes an additional 10% tax on the sale of adult use cannabis, which will fund a variety of cannabis-related programs.
- Authorizes an adult use consumer to cultivate, grow, and possess up to six cannabis plants.
- Authorizes a household with more than one adult use consumer to cultivate, grow, and possess up to 12 cannabis plants.
- Specifies that if an individual cultivates or grows double the maximum number of cannabis plants permitted or transfers cannabis plants in an unauthorized manner, the person is guilty of the continuing offenses of illegal trafficking in drugs and illegal manufacture of drugs.
- Authorizes possession of up to 2.5 ounces of adult use cannabis in a form other than extract and up to 15 grams of adult use extract.
- Allows the Division of Cannabis Control to issue the following types of licenses: (1) level I adult use cultivator, (2) level II adult use cultivator, (3) level III adult use cultivator, (4) adult use dispensary, (5) adult use processor, and (6) adult use testing laboratory.
- Within nine months of the effective date of the bill, requires the Division of Cannabis Control to issue an adult use license to certain medical marijuana licensees that have applied for an adult use license if they are in compliance with the Cannabis Control Law.

- Requires the Division of Cannabis Control to issue up to 40 level III adult use cultivator licenses and up to 50 additional adult use dispensary licenses with preference provided to applicants who are certified Cannabis Social Equity and Jobs Program participants.
- The Division of Cannabis Control may authorize additional adult use testing laboratories licenses at any time.
- Establishes the requirements for criminal background checks as part of the application process for persons involved in a cannabis business and establishes disqualifying offenses for cannabis licenses.
- Generally, prohibits one person from holding more than eight adult use dispensary licenses, more than one level I or level II adult use cultivator licenses, or more than one adult use processor license.
- Prohibits a level I, II, or III adult use cultivator, adult use processor, or adult use dispensary from giving away cannabis for free, unless authorized under rule by the Division of Cannabis Control.
- Requires the Division of Cannabis Control to set standards for advertisements of cannabis, but the rules cannot require preapproval or cannot overly burden legitimate commercial speech.
- Requires the Department of Development to establish a business assistance program known as the Cannabis Social Equity and Jobs Program funded by the tax on adult use cannabis.
- Requires the Division of Cannabis Control to enter into an agreement with the Department of Mental Health and Addiction Services to provide a program for cannabis addiction services to be implemented on behalf of the Division and funded by the tax on adult use cannabis.
- Authorizes municipal corporations and townships to prohibit or limit adult use licensees within the municipal corporation or township.
- Establishes a method in which a licensed adult use dispensary who is prohibited from operating in a municipal corporation or township to file with the board of elections a petition to put the issue on a ballot for the next general election.
- Authorizes the Division of Cannabis Control to enforce the Cannabis Control Law and allows the Division to request the Attorney General to enforce the Cannabis Control Law by use of a civil injunction.
- The bill exempts financial institutions from any state criminal law for doing business with licensed adult use licensees.
- Establishes rights for employers in relation to workplace policies surrounding employee use of adult use cannabis.

- Requires the Division of Cannabis Control to establish an electronic database for monitoring all adult use cannabis from its seed or clone source through its cultivation, processing, testing, and dispensing.
- Requires the Division of Cannabis to adopt various rules governing the Cannabis Control Law.

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DETAILED ANALYSIS

General overview and background

On January 28, 2022, the Secretary of State certified that an initiative petition entitled “An Act to Control and Regulate Adult Cannabis Use” had received the requisite number of signatures and transmitted the petition to the General Assembly (see “**Background – initiative process**” below).¹

The initiative was drafted into bill form as H.B. 628 (the Cannabis Control Law). In general terms, the bill:

- Authorizes the limited use of cannabis products by adult use consumers (individuals over 21);
- Creates the Division of Cannabis Control (DCC) in the Department of Commerce;
- Authorizes the licensure of entities and persons involved in growing, processing, testing, and dispensing adult use cannabis;
- Imposes an additional 10% tax on the sale of adult use cannabis, which will fund a variety of cannabis-related programs.

¹ Section 2; Letter from Secretary of State LaRose to Donald McTigue and John Oberle, January 28, 2022; U.S. News and World Report, [Ohio Legal Pot Backers Sue Over Disputed Petition Deadline](https://www.usnews.com), which is available on the U.S. News website: <https://www.usnews.com>.

Adult use cannabis, cannabis, marijuana, or marihuana have the same meaning for purposes of the Controlled Substances Law: all parts of a plant of the genus cannabis; the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture, or preparation of a plant of that type or of its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil, or cake, or the sterilized seed of the plant that is incapable of germination. The term does not include “hemp” or a “hemp product” as those terms are defined in the Hemp and Hemp Products Law.²

Marijuana-related criminal prohibitions

The bill states that adult use cannabis is only to be sold to, or used by, an adult use consumer pursuant to the Cannabis Control Law, unless otherwise authorized pursuant to the Revised Code. An **adult use consumer** is an individual who is at least 21 years old. Nothing in the Cannabis Control Law is to limit any sale, use, possession, or any other activity authorized by the Medical Marijuana Control Law.³

Allowable forms of adult use cannabis

The bill limits the forms of adult use cannabis that may be sold under the Cannabis Control Law to: plant material and seeds, live plants, clones, oils, tinctures, edibles, patches, salves, lotions or similar cosmetic products, extracts, drops, lozenges, smoking or combustible product, vaporization of product, beverages, pills, capsules, suppositories, oral pouches, oral strips, oral and topical sprays, and inhalers. For comparison, the Medical Marijuana Control Program authorizes only plant material, oils, tinctures, edibles, patches, lotions, and creams, and other forms approved by the State Board of Pharmacy; combustion is prohibited.

But, any person may petition the DCC for approval of an additional form or method. The petition must be submitted in a manner the DCC prescribes, and the DCC must determine whether or not to approve the additional form or method within 60 days of receiving the petition.⁴

Adult use

Personal cultivation, processing, and possession

The bill states that an adult use consumer may lawfully cultivate, grow, and possess not more than six cannabis plants at the individual’s primary residence. Up to 12 cannabis plants

² R.C. 3780.01(A)(1) and (3); R.C. 3719.01, not in the bill.

³ R.C. 3780.01(A)(3) and 3780.02(B) and (C).

⁴ R.C. 3780.04; R.C. 3796.06, not in the bill; [What forms of medical marijuana will be available?](#), which is available in the FAQ section of the Ohio Medical Marijuana Control Program’s website: [Medical Marijuana Control Program](#).

may be cultivated or grown at a single residence where two or more individuals who are at least 21 reside at any one time. In either situation, the cultivation or growing must occur only within a secured enclosed area in or on the grounds of the residence that prevents access by individuals less than 21 and is not visible from a public space by normal unaided vision.

Under the bill, an adult use consumer also may process by manual or mechanical means adult use cannabis lawfully cultivated or grown at the residence and transfer up to six cannabis plants to another adult use consumer as long as the transfer is without remuneration and not advertised or promoted to the public.

An adult use consumer may store at the consumer's primary residence adult use cannabis that was purchased from an adult use dispensary licensed under the Cannabis Control Law or lawfully produced at the residence. Note: the bill does not explicitly authorize the storage of adult use cannabis transferred from another adult use consumer.

If an individual cultivates or grows double the maximum number of cannabis plants permitted or transfers cannabis plants in an unauthorized manner, the person is guilty of the continuing offenses of illegal trafficking in drugs and illegal manufacture of drugs.

The bill's adult use authorization does not authorize an individual to:

- Cultivate, grow, or process adult use cannabis at a place other than the individual's primary residence;
- Permit individuals under 21 to use, cultivate, process, transfer, or transport adult use cannabis;
- Process adult use cannabis by hydrocarbon-based extraction; or
- Sell, or profit from, adult use cannabis except as specifically authorized in the Cannabis Control Law. Note: the bill does not appear to permit unlicensed individuals to sell adult use cannabis for remuneration.

The bill requires the DCC to adopt rules setting forth a schedule of civil penalties that may be applied for violations of the above provisions.⁵

Use, possession, and transportation

Generally, an adult use consumer may do the following:

- Use adult use cannabis. But, an adult use consumer who uses adult use cannabis in public areas is guilty of a minor misdemeanor.
- Possess up to 2.5 ounces (70.8738 grams) of adult use cannabis in a form other than extract and up to 15 grams of adult use extract. Except when permitted under the Medical Marijuana Control Law, the offense of possession of marijuana applies when an adult use consumer possesses an amount of cannabis greater than these limits.

⁵ R.C. 3780.01(A)(6) and (31), 3780.29, and 3780.99(B) and (F); R.C. 2925.03 and 2925.04, not in the bill.

- Transfer without remuneration to another adult consumer or transport adult use cannabis, up to 2.5 ounces of adult use cannabis in a form other than extract and up to 15 grams of extract. A person who transfers for remuneration or advertises or promotes a transfer, transfers without remuneration in amounts greater than those permitted, or transports adult use cannabis in amounts greater than those permitted is guilty of the continuing offense of illegal trafficking in drugs.
- Purchase adult use cannabis from an adult use dispensary per day in amounts up to 2.5 ounces of adult use cannabis in a form other than extract and up to 15 grams of extract.

Adult use extract or **extract** means a substance obtained by separating or concentrating cannabinoids and other compounds from any part of the adult use cannabis plant by physical or chemical means, intended to be refined for use as an ingredient in an adult use cannabis product or as a standalone adult use cannabis product.

An adult use consumer also is not subject to arrest, criminal prosecution, or civil penalty for engaging in any of the activities authorized under the Cannabis Control Law, including:

- Obtaining, using, possessing, or transporting adult use cannabis;
- Performing conduct described in “**Personal cultivation, processing, or cultivation**” above;
- Acquiring, possessing, using, purchasing, manufacturing, selling, or transporting paraphernalia (items used to grow or manufacture cannabis, containing cannabis, or used for introducing cannabis into the human body); and
- Assisting another adult use consumer, or allowing property to be used, in any of the acts authorized by the Cannabis Control Law.⁶

Adult use in vehicles

These rights are not unlimited, however. An individual continues to be prohibited from operating a vehicle, motor vehicle, streetcar, trackless trolley, bike, watercraft, or aircraft while using adult use cannabis or while under the influence of adult use cannabis under the offense or operating a vehicle under the influence.

Similarly, an individual is prohibited from smoking, vaporizing, or using any other combustible adult use cannabis product while in a vehicle, motor vehicle, streetcar, trackless trolley, bike, watercraft, or aircraft. Except as otherwise provided in the Cannabis Control Law, the offender is guilty of a minor misdemeanor.⁷

When an adult use consumer engages in activities related to adult use cannabis in compliance with the Cannabis Control Law, those activities alone do not constitute sufficient

⁶ R.C. 3780.36(A), (B), and (C) and 3780.99(A) and (G); R.C. 2925.03 and 2925.11, not in the bill.

⁷ R.C. 3780.36(D) and 3780.99(B); R.C. 4511.19, not in the bill.

basis for conducting a field sobriety test on the individual or for suspending the individual's driver's license. To conduct any field sobriety test, a law enforcement officer must have an independent, factual basis giving reasonable suspicion that the individual is operating a vehicle under the influence of adult use cannabis or with a prohibited concentration of marijuana in the person's whole blood, blood serum, plasma, breath, or urine.⁸

Underage use

Underage use not intended

The bill provides that nothing in the Cannabis Control Law is intended to permit the transfer or sale of adult use cannabis, with or without remuneration, to an individual under 21, or to allow an individual under 21 to purchase, possess, use, process, transport, or cultivate cannabis except where authorized by the Medical Marijuana Control Law.⁹

Showing false identification

The bill prohibits any person under 21 from knowingly showing or giving false information concerning the person's name, age, or other identification for the purpose of purchasing adult use cannabis from a licensed adult use dispensary.

Except as provided below, a person who violates this prohibition is guilty of a first degree misdemeanor, which potentially subjects the person to a jail term of up to 180 days, a fine of not more than \$1,000, and community control sanctions.

If, in committing the offense, the offender presented to the dispensary a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, specific penalties apply:

- On a first offense, the offender must be fined not less than \$250 to \$1,000 and may be sentenced to a term of imprisonment of not more than six months.
- On a second offense, the offender must be fined \$500 to \$1,000 and may be sentenced to a term of imprisonment of not more than six months. The court also may impose a Class 7 suspension (a period not to exceed one year) of the offender's driver's or commercial driver's license or permit or nonresident operating privilege. In lieu of suspending the offender's temporary instruction permit, probationary driver's license, or driver's license, the court instead may order the offender to perform community service, with the court determining the number of hours and the nature of the community service.
- On a third or subsequent offense, the offender must be fined \$500 to \$1,000, and may be sentenced to a term of imprisonment of not more than six months. The court also may impose a Class 6 suspension (3 months to 2 years) of the offender's driver's or

⁸ R.C. 3780.33(E).

⁹ R.C. 3780.36(F).

commercial driver's license or permit or nonresident operating privilege. And the court may order that the suspension or denial remain in effect until the offender attains the age of 21. In lieu of suspending the offender's temporary instruction permit, probationary driver's license, or driver's license, the court instead may order the offender to perform community service, with the court determining the number of hours and the nature of the community service.¹⁰

Soliciting another to purchase

Under the bill, an individual under 21 who solicits another individual to purchase adult use cannabis from a licensed adult use dispensary is guilty of a fourth degree misdemeanor on a first offense and a second degree misdemeanor on a second or subsequent offense.¹¹ Note: this offense lacks a culpable mental state and would appear to be void under R.C. 2901.20, which provides that an act that creates a new criminal offenses must specify the degree of mental culpability required for commission of the offense and voids any new criminal offenses for which no degree of mental culpability is specified.

Dispensary employees and underage sales

An employee or agent of a licensed adult use dispensary who knowingly sells cannabis to an individual under 21 is guilty of a first degree misdemeanor.¹²

Parent or guardian permitting underage use

The bill prohibits any parent or guardian from knowingly permitting their residence or any other private property under their control to be used by an invitee of the parent's child or the guardian's ward, if the invitee is under 21, in a manner that constitutes a violation of the Cannabis Control Law. A parent or guardian is deemed to have knowingly permitted their residence or private property under their control to be used in violation of the Cannabis Control Law if they knowingly authorize or permit consumption of cannabis by underage invitees. If the residence or other property has an owner and a tenant or lessee, the trier of fact may infer that the residence or other property is occupied only by the tenant or lessee.

Generally, a person who violates this prohibition is guilty of a third degree misdemeanor on a first offense and a first degree misdemeanor on a second or subsequent offense. But, if the violation directly or indirectly results in great bodily harm or death to any individual, the offender is guilty of a fourth degree felony.¹³

Creation of Division of Cannabis Control

The bill establishes a Division of Cannabis Control within the Department of Commerce. The bill grants the DCC the authority to license, regulate, investigate, and penalize level I, II, and

¹⁰ R.C. 3780.36(E) and 3780.99(C); R.C. 2929.24, 2929.25, and 4510.02(A), not in the bill.

¹¹ R.C. 3780.99(D).

¹² R.C. 3780.99(E).

¹³ R.C. 3780.36(G) and 3780.99(I).

III adult use cultivators, adult use processors, adult use dispensaries, and adult use testing laboratories as well as individuals required to be licensed under the Cannabis Control Law.¹⁴

Licenses

Operation without a license

Under the bill, no person may operate as a level I, II, or III adult use cultivator, an adult use processor, an adult use dispensary, or adult use testing laboratory without a license issued pursuant to the Cannabis Control Law. An individual who violates this prohibition is guilty of the illegal trafficking in drugs and the illegal manufacture of drugs.¹⁵

Note: while phrased in the form of a criminal prohibition, the preceding provision lacks a culpable mental state and might operate more as the withdrawal of an exemption from the application of an existing criminal offense. If so, the culpable mental state requirements of R.C. 2901.20 would appear to not apply to the preceding provision. If not, it is unclear whether this provision constitutes a new offense needing a culpable mental state and whether the elements of the offenses of illegal trafficking in drugs and the illegal manufacture of drugs, including culpable mental states (“knowingly”), would need to be met for there to be a violation.

Types of licenses

The bill authorizes the DCC to issue the following types of licenses:

- **Level I adult use cultivator** means either (1) a person who is licensed as a level I adult use cultivator to cultivate adult use cannabis as authorized or (2) a person who is so licensed and also has a medical marijuana certificate of operation as a level I cultivator. Either person may operate a cultivation area of up to 100,000 square feet, which must be designated in the application. The DCC may increase this square footage upon request;
- **Level II adult use cultivator** means either (1) a person who is licensed as a level II adult use cultivator to cultivate adult use cannabis as authorized or (2) a person who is so licensed and also has a medical marijuana certificate of operation as a level II cultivator. Either person may operate a cultivation area of up to 15,000 square feet, which must be designated in the application. The DCC may increase this square footage upon request;
- **Level III adult use cultivator** means a person licensed as a level III adult use cultivator to cultivate adult use cannabis as authorized. A level III adult use cultivator may operate a cultivation area of up to 5,000 square feet. The DCC may increase this square footage;
- **Adult use dispensary** means a person licensed to sell adult use cannabis as authorized;

¹⁴ R.C. 3780.03(A) and (B).

¹⁵ R.C. 3780.10(A) and 3780.99(F); R.C. 2925.03 and 2925.04, not in the bill.

- **Adult use processor** means a person licensed to manufacture adult use cannabis as authorized;
- **Adult use testing laboratory** means an independent laboratory that has been issued a license to have custody and use of adult use cannabis for scientific purposes and for purposes of instruction, research, or analysis.¹⁶

Cultivator licenses

Generally

Generally, the holder of a current and valid level I, II, or III adult use cultivator license may cultivate adult use cannabis; distribute, transfer, and sell adult use cannabis to other adult use cultivators, adult use processors, and adult use dispensaries; and acquire seeds, clones, plants, and other genetic material.

A level I adult use cultivator may operate a cultivation area of up to 100,000 square feet. A level II adult use cultivator may operate a cultivation area of up to 15,000 square feet. And a level III adult use cultivator may operate a cultivation area of up to 5,000 square feet. The DCC may increase these square footages upon request.

A level I, II, or III adult use cultivator licensee is prohibited from cultivating any adult use cannabis for personal, family, or household use under the license.

No level I or II adult use cultivator or adult use processor may have any ownership or control in a level III adult use cultivator license. And no person may have any ownership or control in more than one level III adult use cultivator license.¹⁷

Cultivation areas

Upon a medical marijuana level I or level II cultivator with a medical marijuana certificate of operation, or the same owners of the medical marijuana level I or level II cultivator, receiving a license as a level I or level II adult use cultivator, the licensee may expand its cultivation area and facility as authorized in the Cannabis Control Law notwithstanding any limitation resulting from the Medical Marijuana Control Law (in the Medical Marijuana Control Law, level I cultivators initially may be given authority to cultivate up to 25,000 square feet, expandable up to 75,000 square feet, and medical marijuana level II cultivators initially may be given authority to cultivate up to 6,000 square feet, expandable up to 9,000 square feet).

If the DCC receives a request from a level, I, II, or III adult use cultivator for expansion beyond what is authorized in the Cannabis Control Law, the DCC must review and approve or deny the request within 90 days, consistent with DCC rule.

The bill also permits a level I or II adult use cultivator to relocate all or a portion of the authorized cultivation area to more than one cultivation facility, after review and approval from

¹⁶ R.C. 3780.01(A)(5), (7), (8), (11), and (19) to (23) and 3780.07(F).

¹⁷ R.C. 3780.01(A)(19), (20), and (21), 3780.10(C), 3780.12, and 3780.13.

the DCC, as long as any relocation complies with the Cannabis Control Law, the relocated facility is operated under the same license, and the aggregate square footage for all related cultivation areas and facilities does not exceed the square footage limitations authorized under the license. A level I or level II adult use cultivator who also has, or whose same owner also has, a medical marijuana certification of operation may only relocate cultivation area that is above the original approved cultivation area under the Medical Marijuana Control Law.

The bill authorizes the DCC to adopt rules as necessary to implement these provisions.¹⁸

Adult use processor license

Under the bill, the holder of a current and valid adult use processor license may do any of the following:

- Obtain cannabis from level I, II, or III adult use cultivators, adult use processors, or adult use dispensaries;
- Process adult use cannabis obtained from a level I, II, or III adult use cultivator, adult use processor, or adult use dispensary into a form authorized under the Cannabis Control Law; and
- Distribute, transfer, and sell processed adult use cannabis to level I, II, or III adult use cultivators, adult use processors, or adult use dispensaries.¹⁹

Adult use dispensary license

Under the bill, the holder of a current and valid adult use dispensary license may do the following:

- Obtain adult use cannabis from adult use processors, level I, II, or III adult use cultivators, and other adult use dispensaries;
- Distribute, transfer, or sell adult use cannabis to level I, II, or III adult use cultivators, adult use processors, or adult use dispensaries;
- Provide delivery of adult use cannabis and cannabis paraphernalia to patrons as established in DCC rules; and
- Dispense or sell adult use cannabis and sell paraphernalia.

When dispensing or selling adult use cannabis, a licensed adult use dispensary must do all of the following:

¹⁸ R.C. 3780.01(A)(8), 3780.03(C)(7), and 3780.07(C), (D), (E), (F), and (G); Ohio Administrative Code 3796:2-1-09; [Medical Marijuana Cultivators](#), which is available at the Ohio Medical Marijuana Control Program's website: [Medical Marijuana Control Program](#).

¹⁹ R.C. 3780.14.

- Dispense or sell adult use cannabis only to those adult use consumers who present a current, valid identification card demonstrating proof that the adult use consumer is 21 or older;
- Only accept adult use cannabis from a licensed level I, II, and III adult use cultivator, adult use processor, or adult use dispensary that has been prepackaged and labeled in compliance with the Cannabis Control Law and DCC rules; and
- Not dispense or sell adult use cannabis to adult use consumers per day in amounts that exceed the possession limits: 15 grams of cannabis extract and 2.5 ounces of other forms of cannabis.

An adult use dispensary must only use licensed individuals who have met the training requirements established in DCC rules and maintain addiction services information materials available at the adult use consumer's request.

The bill requires the DCC to adopt rules that prescribe standards and procedures to allow for adult use cannabis delivery to adult use consumers, and online and mobile ordering procedures, which may only be conducted by an adult use dispensary or their agent. These rules also must prescribe standards and procedures for product packaging and labeling of adult use cannabis products.²⁰

Under the bill, licensees must provide informational resources for patrons related to cannabis addiction issues and services. Licensees also must provide training for their employees regarding cannabis addiction services resources for patrons.²¹

Adult use testing laboratory license

The holder of a current and valid adult use testing laboratory license under the bill may obtain adult use cannabis from one or more licensed level I, II, or III adult use cultivators, adult use processors, or adult use dispensaries for testing purposes only. In addition, the laboratory may conduct cannabis testing, research, and operations in the manner specified in DCC rules.

The bill requires the DCC to adopt rules that establish standards and procedures for the testing of adult use cannabis by an adult use testing laboratory that do all of the following:

- Specify when testing must be conducted;
- Determine the minimum amount of adult use cannabis that must be tested;
- Specify the manner in which testing is to be conducted in an effort to ensure uniformity of cannabis products processed for and dispensed;
- Specify the manner in which test results are provided;

²⁰ R.C. 3780.03(C)(17) and (19), 3780.15, and 3780.36(B)(1).

²¹ R.C. 3780.30(E) and (F).

- Establish a tetrahydrocannabinol (THC) content limit for adult use cannabis that must be at least 35% for plant material and at least 90% for extracts.

Tetrahydrocannabinol or **THC** means the sum of the amount of delta-9 THC and 87.7% of the amount of delta-9-tetrahydrocannabinolic acid (delta-9 THCa) present in the product or plant material. The term does not include minor cannabinoids.

Minor cannabinoid means any cannabinoid other than CBD, CBDa, delta-9 THC, or delta 9 THCa, including any isomer, analogue, or derivative thereof, and any other cannabinoid that naturally occurs in cannabis, regardless of whether it is naturally or synthetically derived, which may be used as an ingredient in adult use products.²²

Licensure of individuals

Under the bill, the DCC may issue a license to an individual applicant required to be licensed related to a level I, II, or III adult use cultivator, adult use processor, adult use dispensary, or adult use testing laboratory after the DCC has determined that the applicant is eligible for a license under DCC rules and after the applicant has paid any applicable fees.

Each application for a license must be on a form prescribed by the DCC and contain all information required by the DCC. Each applicant also must submit with the application, on a form provided by the DCC, two sets of the applicant's fingerprints and a photograph as required by DCC rule. The DCC must charge each applicant an application fee to cover all actual regulatory costs generated by each licensee and all background checks.

To be eligible for a license, an applicant must be at least 21. The license is portable and may be used at any cultivator, processor, dispensary, or laboratory as long as such licensee is registered with the DCC for each location where the licensee works or is employed.²³

Number of licenses

Licenses to existing medical marijuana licensees

Within nine months of the bill's effective date, the DCC must issue the following licenses if the license applicant is in compliance with the Cannabis Control Law, and the license applicant, or the same owners of the license applicant, have a medical marijuana certificate of operation or medical marijuana provisional license issued as of the bill's effective date:

- A medical marijuana dispensary must be issued an adult use dispensary license for the current location of the dispensary. Currently, 33 dispensaries have been issued certificates of operation;
- A medical marijuana level I cultivator must be issued three adult use dispensary licenses at locations designated in a license application, and one level I adult use cultivator license for the current location of the level I medical marijuana cultivation facility.

²² R.C. 3780.01(A)(29) and (37), 3780.03(C)(8) and (21), and 3780.16.

²³ R.C. 3780.17.

Currently there are 16 level I medical marijuana cultivators with certificates of operation and six that have been issued provisional licenses;

- A medical marijuana level II cultivator must be issued one adult use dispensary license at a location designated in the license application, and one level II adult use cultivator license for the current location of the level II medical marijuana cultivation facility. Currently there are 12 level II medical marijuana cultivators with certificates of operation and two that have been issued provisional licenses;
- A medical marijuana dispensary must be issued one adult use dispensary license at a different location as designated in the license application if the dispensary does not have any common ownership or control with any level I adult use cultivator, level II adult use cultivator, or adult use processor license applicant or licensee;
- A medical marijuana processor must be issued one adult use processor license for the current location of the medical marijuana processor. Currently there are 37 medical marijuana processors with certificates of operation and nine that have been issued provisional licenses;
- A medical marijuana testing laboratory must be issued one adult use testing laboratory license for the current location of the testing laboratory. Currently there are three medical marijuana testing laboratories with certificates of operation and seven that have been issued provisional licenses.

But, an adult use license will be issued to an adult use license applicant holding only a related medical marijuana provisional license only if the medical marijuana provisional license holder is issued a medical marijuana certificate of operation within two years after the bill's effective date.²⁴

Additional licenses

The DCC must issue up to 40 level III adult use cultivator licenses consistent with the Cannabis Control Law with preference provided to applicants who have been certified as participants under the Cannabis Social Equity and Jobs Program (see "**Cannabis Social Equity and Jobs Program**" below).

Similarly, the DCC must issue up to 50 additional adult use dispensary licenses in conformity with the Cannabis Control Law with preference provided to applicants who are certified Cannabis Social Equity and Jobs Program participants.

The DCC may authorize additional adult use testing laboratory licenses at any time.²⁵

²⁴ R.C. 3780.01(A)(28) and 3780.10(B); [Medical Marijuana Control Program](#) under the Marijuana Businesses tab.

²⁵ R.C. 3780.10(C), (D), and (G).

Review of need for additional licenses

Beginning 24 months after the first license is issued under the bill, the DCC must review the number of licenses on a biannual basis and may authorize additional licenses after considering:

- The current and anticipated market growth and consumer demand, including the number of adult use consumers seeking adult use cannabis;
- The current and projected supply of adult use cannabis produced by licensed level I, II, and III adult use cultivators and adult use processors; and
- The geographic distribution of adult use dispensary sites in an effort to ensure adult use customer access to adult use cannabis.

Within 90 days after completing this review, the DCC must provide a report and recommendation to the Director of Commerce for consideration.²⁶ Although not explicitly stated, it would appear that the Director may then authorize the issuance of additional licenses.

Application process

An applicant may file an application for licensure with the DCC in accordance with the Cannabis Control Law and the rules adopted by the DCC. The DCC must make initial applications available within six months after the bill's effective date. If the DCC does not begin to accept applications within six months after the bill's effective date, the provisions described in "**If the DCC fails to act,**" below, apply.²⁷

An application for a level I or II adult use cultivator license must specify the requested cultivation area in the application.²⁸

Rules relating to applications

The bill authorizes the DCC to adopt rules on the following:

- Establishing application, licensure and renewal standards and procedures for license applicants or licensees related to level I, II, and III adult use cultivators, adult use processors, adult use dispensaries, and adult use testing laboratories, and individuals required to be licensed, including any additional background check requirements, the disqualifying offenses, and any exemption criteria from licensing requirements for institutional or private investors who do not have significant control or influence over a license applicant or license holder, and whose ownership in a license is for investment purposes only;

²⁶ R.C. 3780.10(E) and (F)(1) and (2).

²⁷ R.C. 3780.11(A) and 3780.28.

²⁸ R.C. 3780.01(A)(19) and (20).

- Establishing reasonable application, licensure, and renewal fee amounts to ensure license applicants and licensees pay the DCC's actual costs for administration and licensure;
- Establishing standards for provisional licenses for an individual who is required to be licensed and who has exigent circumstances.
 - The standards must include submission of a complete application and compliance with a required background check;
 - The rules cannot permit a provisional license to be valid for longer than three months, but they may permit it to be renewed, at the DCC's discretion, for an additional three months;
 - In establishing standards with regard to instant background checks, the rules must permit the DCC to use all available resources.
- Specifying the process and reasons for which a license may be not issued or renewed.²⁹

Criminal records check

Who is subject to the check?

As part of the license application process, the DCC must require each of the following to complete a criminal records check:

- An administrator or other person responsible for the daily operation of a level I, II, or III adult use cultivator, adult use processor, adult use dispensary, or adult use testing facility seeking a license;
- An owner or prospective owner, officer or prospective officer, or board member or prospective board member of an entity seeking the license as a level I, II, or III adult use cultivator, adult use processor, adult use dispensary, or an adult use testing facility, as determined by the DCC; and
- An employee or agent of a level I, II, or III adult use cultivator, adult use processor, adult use dispensary, or adult use testing facility required to be licensed under the Cannabis Control Law.

The DCC must request that a person subject to the criminal records check requirement seek criminal records information from the FBI if the person does not provide evidence that, within the five-year period immediately prior to the date the criminal records check is requested, the Bureau of Criminal Identification and Investigation (BCI) has requested information about the person from the FBI in a criminal records check.

The DCC also must request that the person seek criminal records information from the FBI if the person does not present proof of having been an Ohio resident for that five-year

²⁹ R.C. 3780.03(C)(2), (3), (4), and (5).

period. But, even if a person presents proof of having been an Ohio resident for the preceding five years, the DCC may request that the person obtain information from the FBI.³⁰

Conducting the check

Under the bill, the DCC must provide the following to each person who is subject to the criminal records check requirement: information about how to obtain the criminal records check and written notification that the person is to instruct the BCI Superintendent to submit the criminal records check report directly to the DCC. The person who is subject to the criminal records check must pay for the check.

The criminal records check report is not a public record and must not be made available to any person other than the following:

- The person who is the subject of the criminal records check or the person's representative;
- DCC staff and the Director of Commerce; and
- A court, hearing officer, or other necessary individual involved in a case dealing with either a license denial resulting from the criminal records check or a civil or criminal action regarding the DCC or any violation of the Cannabis Control Law.

The BCI Superintendent must conduct the criminal records check in a manner consistent with how the Superintendent conducts a criminal records check under the Medical Marijuana Control Law and must conduct the check to determine whether any information exists that indicates that the person previously has been convicted of or pleaded guilty to a disqualifying offense.³¹

Disqualifying offense means a conviction or plea of guilty, including conspiracy to commit, attempt to commit, or aiding and abetting another in committing, 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 felony theft offense;
- Any criminal violation of the Pure Food and Drug Law;
- A crime of moral turpitude; or
- A violation of any former Ohio law, any existing or former law of another state, any existing or former law applicable in a military court or Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any of the above offenses.

³⁰ R.C. 3780.08(B).

³¹ R.C. 3780.08(C), (D), (E), and (G).

The term does not include a misdemeanor offense related to cannabis possession, cannabis trafficking, illegal cultivation of cannabis, illegal use or possession of drug paraphernalia or cannabis drug paraphernalia, or other cannabis related crimes.³²

Information from the Department of Taxation

When reviewing an application for a license under the Cannabis Control Law, the DCC is permitted to request from the Department of Taxation the following information as it pertains to the application:

- Whether the applicant follows the applicable Ohio tax laws;
- Any past or pending violation by the applicant of those tax laws, and any penalty imposed on the applicant for the violation.

The Department of Taxation must provide the information upon receiving such a request, but may charge the DCC a reasonable fee to cover the administrative cost of providing the information. Information so received is confidential. Except as otherwise permitted by other state law or federal law, the DCC is prohibited from making the information available to any person other than the applicant.³³

Issuing the license

The DCC must issue a license to an applicant if all of the following conditions are met:

1. The report of the criminal records check (see “**Criminal records check**,” above) with respect to the application demonstrates the following:
 - a. The criminal offenses for which an applicant will be disqualified from licensure;
 - b. The criminal offenses that will not disqualify an applicant from licensure if the applicant was convicted of or pleaded guilty to the offense more than five years before the date the application for licensure is filed.
2. If the application is for a level I, II, or III adult use cultivator, adult use processor, or adult use dispensary license, the applicant demonstrates both of the following:
 - a. That it does not have an ownership or investment interest in or compensation arrangement with a licensed adult use testing laboratory or an applicant for a license to conduct adult use laboratory testing;
 - b. That it does not share any corporate officers or employees with a licensed adult use testing laboratory or an applicant for a license to conduct adult use laboratory testing.
3. If the application is for an adult use testing laboratory license, the applicant demonstrates both of the following:

³² R.C. 3780.01(A)(17)(a) and (c).

³³ R.C. 3780.06.

- a. That it does not have an ownership or investment interest in or compensation arrangement with a licensed level I, II, or III adult use cultivator, adult use processor, or adult use dispensary or an applicant for such a license.
 - b. That it does not share any corporate officers or employees with a licensed level I, II, or III adult use cultivator, adult use processor, or adult use dispensary or an applicant for such a license.
4. The applicant demonstrates that the operations will not be located within 500 feet of a church, public library, public playground, public park, or day-care center, preschool, or school unless the church, public library, public playground, public park, or day-care center, preschool, or school became located within that distance after the applicant filed the application, or after the applicant, or the applicant owners, was operating under the Medical Marijuana Control Law at the same location, or unless otherwise authorized in the Cannabis Control Law.
 5. The information provided to the DCC from the Department of Taxation (see **“Information from Department of Taxation”** above) demonstrates that the applicant is in compliance with the applicable Ohio tax laws.
 6. The applicant meets all other license eligibility conditions established in DCC rules.
 7. The applicant is not employed by a regulatory body of an Ohio governmental unit in a capacity that gives the applicant significant influence or control, as determined by the DCC, over the applicant’s ability to conduct business in Ohio.

A license expires according to the renewal schedule established in DCC rule and may be renewed in accordance with the procedures established in those rules. A license will be automatically renewed by the DCC unless good cause is shown otherwise.³⁴

License denial related to criminal records check

The bill requires the DCC to deny an application if, after receiving the information and notification, a person subject to the criminal records check requirement fails to do either of the following:

- Access, complete, or forward to the BCI Superintendent BCI’s criminal records check form or the related fingerprint impression sheet;
- Instruct the BCI Superintendent to submit the completed report of the criminal records check directly to the DCC.

Any first degree misdemeanor offense listed in the first four dot points in the definition of **“disqualifying offense”** above (see [“Conducting the check”](#)) will not automatically disqualify an applicant from licensure if the person was convicted of or pleaded guilty to the offense more than five years before the date the application for licensure is filed. Although not

³⁴ R.C. 3780.01(A)(17)(b) and (35) and 3780.11(B) and (C).

explicitly stated, it would appear that such a conviction within five years will automatically disqualify the applicant.³⁵

Limitation on number of licenses a holder may hold

The bill requires the DCC to adopt a rule regarding the number of licenses a single person may hold for each type of license. Generally, no one person may hold at any time:

- More than eight adult use dispensary licenses;
- More than one level I or level II adult use cultivator license; and
- More than one adult use processor license.

The DCC may authorize the issuance of additional licenses after conducting an analysis, and the analysis supports the licensing.³⁶

Operation

Location at which licensee must operate

Notwithstanding any provision of the Medical Marijuana Control Law, a level I, II, or III adult use cultivator, an adult use processor, an adult use dispensary, and an adult use testing laboratory licensed under the Cannabis Control Law must conduct business under their license at the same location where they, or the same owners of them, also have been issued a medical marijuana certificate of operation, unless they relocate all or a portion of the facility and business if authorized under the Cannabis Control Law and rules. All other licensees must conduct business at a facility consistent with the Cannabis Control Law and as approved by the DCC.³⁷

Location of facilities

Generally, under the bill, no level I, II, or III adult use cultivator, adult use processor, adult use dispensary, or adult use testing laboratory may be located within 500 feet of the end boundaries of a parcel of real estate having situated on it a church, public library, public playground, public park, or day-care center, preschool, or school.

If a relocation of a licensed cultivator, processor, dispensary, or testing laboratory results in it being located within 500 feet of such a boundary, the DCC must deny the relocation. But, the cultivator, processor, dispensary, or testing laboratory may apply with the DCC to request a relocation to a different location.

The above restriction does not apply to:

³⁵ R.C. 3780.01(A)(17)(b) and 3780.08(F); R.C. 109.572(C), not in the bill.

³⁶ R.C. 3780.10(F)(3).

³⁷ R.C. 3780.09.

- Current facilities and properties of level I, II, or III adult use cultivators, adult use processors, or adult use dispensaries if the license holder or applicant, or the owners of the license holder or applicant, also have a medical marijuana certificate of operation and is doing business at that same location; or
- Research related to adult use cannabis conducted at a state university, academic medical center, or private or public research and development organization as part of a research protocol approved by an institutional review board or equivalent entity, or any other entity as approved by the DCC.³⁸

General duties established in rule

The DCC must adopt rules establishing the following for level I, II, and III adult use cultivators, adult use processors, adult use dispensaries, and adult use testing laboratories:

- The minimum amount of insurance or surety bond that the licensees must maintain;
- A requirement that the licensee's records, including financial statements, be maintained up to two years in a manner prescribed by the DCC and be made available for inspection upon demand by the DCC;
- Standards according to which licensees must keep accounts and standards and how those accounts are to be audited;
- Technical standards and requirements that must be met for security and surveillance equipment necessary for the provision of security and surveillance of the licensee, which must be consistent with industry standards;
- Requirements for a licensee's provision of security services, which must include the licensee's option to use armed or unarmed services including through agents of the licensee;
- Guidance to assist the Department of Taxation in levying and collecting the adult use tax;
- Training requirements for employees and agents of licensees;
- A duty to update requirements for licensees;
- A THC content limit for adult use cannabis that must be at least 35% for plant material and at least 90% for extracts.³⁹

Licensees must adopt operating procedures

The bill requires level I, II, and III adult use cultivators, adult use processors, adult use dispensaries, and adult use testing laboratories to adopt operating procedures and comply with

³⁸ R.C. 3780.01(A)(11) and (35) and 3780.07(A) and (B).

³⁹ R.C. 3780.03(C)(9), (11), (12), (13), (14), (16), (21), and (22).

operation requirements required by DCC rules. These procedures include the following as applicable:

- Quality assurance;
- Package and labeling;
- Waste disposal;
- Inventory control and storage;
- Monitoring, surveillance and security requirements;
- Laboratory testing;
- Records and reporting requirements;
- Hours of operation and procedures for when the location is closed;
- Receipt of adult use cannabis;
- Dispensing errors reporting and review;
- Destruction and disposal of adult cannabis;
- Recall procedures; and
- Transportation of adult use cannabis.

The DCC may adopt other operation rules as necessary consistent with the Cannabis Control Law.⁴⁰

Prohibitions

Licensees cannot give cannabis away

Under the bill, no level I, II, or III adult use cultivator, adult use processor, or adult use dispensary may sell or dispense adult use cannabis without remuneration, unless authorized under DCC rule. An individual who violates this provision is guilty of the existing offense of illegal dispensing of drug samples.⁴¹

Note: while phrased in the form of a criminal prohibition, the preceding provision lacks a culpable mental state and might operate more as the withdrawal of an exemption from the application of an existing criminal offense. If so, the culpable mental state requirements of R.C. 2901.20 would appear to not apply to the preceding provision. If not, it is unclear whether this provision constitutes a new offense needing a mental state and whether the elements of the offense of illegal dispensing of drug samples, including a culpable mental state, would need to be met for there to be a violation.

⁴⁰ R.C. 3780.20(A) and (C).

⁴¹ R.C. 3780.20(B) and 3780.99(H); R.C. 2925.36, not in the bill.

The bill authorizes the DCC to adopt rules requiring the DCC to adopt reasonable standards for any adult use cannabis samples.⁴²

Advertising

The bill authorizes the DCC to adopt reasonable standards for any adult use cannabis advertising. These rules may regulate advertisements of licensees to prevent advertisements that are false, misleading, targeted to minors, promote excessive use, or that promote illegal activity. But, these rules must neither require preapproval nor overly burden the legitimate commercial speech of level I, II, or III adult use cultivators, adult use processors, or adult use dispensaries when communicating with adult use consumers. That said, the DCC may adopt narrowly tailored time and place restrictions preventing advertising targeted to minors.

At any time, the DCC may audit the licensee's published advertisements to ensure it complies with the Cannabis Control Law and related rules. And, the DCC may require a licensee to stop using an advertisement if the DCC finds the licensee violated DCC advertising rules.

Advertising means any written or verbal statement, illustration, or depiction created to induce sales through the use of letters, pictures, objects, lighting effects, videos, sounds, or similar means. **Advertisement** includes brochures and promotional and other marketing materials consistent with the above provisions.⁴³

Adult use tax, funds, and programs

The bill creates an adult use tax on the sale of adult use cannabis by adult use dispensaries to adult use consumers. The moneys are then distributed to a variety of funds, as described below.

Adult use tax

The bill creates an adult use tax on the sale of adult use cannabis by adult use dispensaries to adult use consumers for the purpose of (1) supporting social equity issues, (2) providing funds to support jobs and economic development, (3) providing funding for host communities who have adult use dispensaries in their jurisdiction to support these communities, (4) funding education and treatment for individuals with cannabis and other addiction issues, and (5) defraying the costs of regulation and administering the tax.

The rate of the tax will be 10%. The tax applies and is collectable when the sale is made, regardless of the time when the price is paid, or when the adult use cannabis is delivered. It is in addition to, but must be collected consistent with, the sales tax. Under the bill, the Tax Commissioner must adopt rules that the Commissioner deems necessary to administer the adult use tax including the licensure, filing, collection, distribution, refund, assessment, bad

⁴² R.C. 3780.03(C)(10).

⁴³ R.C. 3780.01(A)(9), 3780.03(C)(10), and 3780.21.

debt, liability of unpaid taxes, recordkeeping, and any penalty related to the tax consistent with the Cannabis Control Law.⁴⁴

The Tax Commissioner must administer and enforce the adult use tax provisions. In addition to any other powers the Tax Commissioner has, the Tax Commissioner may prescribe all required forms and appoint professional, technical, and clerical employees necessary to carry out the Tax Commissioner's adult use tax duties.⁴⁵

Allocation of the tax moneys

For the purpose of receiving, distributing, and accounting for revenue received from the adult use tax, the bill creates the following funds in the state treasury:

- The Adult Use Tax Fund;
- The Cannabis Social Equity and Jobs Fund (CSEJ Fund);
- The Host Community Cannabis Fund;
- The Substance Abuse and Addiction Fund; and
- The Division of Cannabis Control and Tax Commissioner Fund (DCC and Tax Commissioner Fund).

All moneys collected from the adult use tax must be deposited into the Adult Use Tax Fund. The Director of Budget and Management then must transfer amounts to each fund as follows:

- 36% to the CSEJ Fund to be used to implement the requirements of the CSEJ Program (see "**Cannabis Social Equity and Jobs Program**" below);
- 36% to the Host Community Cannabis Fund 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. (See "**Local authority regarding adult use cannabis operators**" below.) The municipal corporations and townships may use the funds for any approved purpose;
- 25% to the Substance Abuse and Addiction Fund to support the efforts of the Department of Mental Health and Addiction Services to alleviate substance abuse and related research (see "**Cannabis addiction services**" below); and
- 3% to the DCC and Tax Commissioner Fund to support the operations of the DCC and to defray the cost of the Department of Taxation in administering the tax.

The payments must be made by the end of the month following the end of each quarterly period. The Tax Commissioner must make the data available to the Director of Budget

⁴⁴ R.C. 3780.22.

⁴⁵ R.C. 3780.24.

and Management for this purpose and the Director of Budget and Management must transfer amounts as required. The Tax Commissioner may serve as agent of the municipal corporations or townships only for the purposes described by DCC rule.⁴⁶

Cannabis Social Equity and Jobs Program

Creation

The bill requires the Department of Development to establish a business assistance program known as the Cannabis Social Equity and Jobs Program (CSEJ Program) funded by the Cannabis Social Equity and Jobs Fund (CSEJ Fund). The Department must adopt rules to administer the program, which must do all of the following:

1. Establish procedures by which a person may apply for certification under the CSEJ Program (a person so certified is called a CSEJ Program participant);
2. Establish a system of certifying CSEJ Program applicants based on a requirement that the business owner or owners show both social and economic disadvantage based on the following, as determined to be sufficient by the Department:
 - a. Wealth of the business seeking certification as well as the personal wealth of the owner or owners of the business;
 - b. Social disadvantage based on any of the following:
 - i. The business owner or owners demonstrating membership in a racial minority group or showing personal disadvantage due to color, ethnic origin, gender, physical disability, or long-term residence in a high unemployment area;
 - ii. Prior to the bill's effective date, the owner or owners, or their spouse, child, or parent, have been arrested for, convicted of, or adjudicated delinquent for a marijuana-related offense as determined by Department rule.
 - c. Economic disadvantage based on economic and business size thresholds and eligibility criteria designed to stimulate economic development through license awards to businesses located in qualified census tracts.
3. Establish standards to determine when a CSEJ Program participant no longer qualifies for program certification;
4. Develop a process for evaluating and adjusting program goals;
5. Implement an outreach program to educate potential participants about the CSEJ Program;
6. Implement a system of self-reporting by CSEJ Program participants on compliance, as well as an on-site inspection process to validate the qualifications of the CSEJ Program;

⁴⁶ R.C. 3780.23.

7. Establish a process for when there is a transfer of a license from a certified CSEJ Program participant to a person or entity that does not qualify as a participant, which process must not undermine the CSEJ Program's policy goals;
8. Provide financial assistance, loans, grants, and technical assistance to CSEJ Program participants. (The CSEJ Fund is not subject to budgetary sweeps, administrative charge-backs, or any other fiscal or budgetary maneuver that would in any way transfer any amounts from the CSEJ Fund into any other fund.)
9. Encourage employment practices, in which a level I, II, or III adult use cultivator, an adult use processor, or an adult use dispensary can demonstrate a plan of action to inform, hire, and educate minorities, women, veterans, and persons with disabilities, engage in fair labor practices, and provide worker protections;
10. Study and fund judicial and criminal justice reform;
11. Study and propose policy reforms to address the social and economic impacts of the enforcement of marijuana laws and to track and prevent underage use of marijuana;
12. Fund direct investment in disproportionately impacted communities to enhance education, entrepreneurship, legal aid, youth development, violence prevention, and the arts related to the program; and
13. Utilize the CSEJ Fund exclusively for the purposes set forth in the bill and for the implementation of the CSEJ Program.

For certified CSEJ Program participants, the DCC must waive at least half of any application or license fees associated with a license application or license.

Any business or personal financial information, or trade secrets submitted by a CSEJ Program applicant to the Department of Development are not public records, unless the DCC or Department is required to present the financial information or trade secrets at a public hearing or public proceeding regarding the applicant's eligibility to participate in the program. In such a case, the agency must disclose only required information.

Any license or other preference to CSEJ Program participants must be based on substantiated evidence that the preference is needed to address the goals of the CSEJ Program.

The Department of Development must create a Cannabis Social Equity and Jobs Program Advisory Group, which may develop and submit to the Department recommendations related to the CSEJ Program.⁴⁷

Statement of intent relating to the CSEJ Program

The bill sets forth the following reasons for why the CSEJ Program is needed:

⁴⁷ R.C. 3780.19.

- Additional efforts are needed to reduce barriers to ownership and opportunities within the adult use cannabis industry for individuals and communities most adversely impacted by the enforcement of marijuana-related laws;
- In the interest of establishing an adult cannabis industry that is equitable and accessible to those most adversely impacted by the enforcement of marijuana-related laws in Ohio, the CSEJ Program should be established;
- Individuals who have been arrested or incarcerated due to drug laws suffer long-lasting negative consequences, including impacts to employment, business ownership, housing, health, and long-term financial well-being;
- Family members, especially children, and communities of those who have been arrested or incarcerated due to drug laws, suffer from emotional, psychological, and financial harms as a result of such arrests or incarcerations;
- Certain communities have disproportionately suffered the harms of enforcement of marijuana-related laws. Those communities face greater difficulties accessing traditional banking systems and capital for establishing businesses;
- Individuals who have resided in areas of high poverty suffer negative consequences, including barriers to entry in employment, business ownership, housing, health, and long-term financial well-being;
- Promotion of business ownership and employment by individuals who have resided in areas of high poverty and high enforcement of marijuana-related laws furthers an equitable cannabis industry;
- Therefore, in the interest of remedying the harms resulting from the disproportionate enforcement of marijuana-related laws, a Cannabis Social Equity and Jobs Program must 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 cannabis business entities.⁴⁸

Cannabis addiction services

The bill requires the DCC to enter into an agreement with the Department of Mental Health and Addiction Services (DMHAS) under which DMHAS will provide a program for cannabis addiction services to be implemented on behalf of the DCC. It will include best practices for education and treatment for individuals with addiction issues related to cannabis or other controlled substances including opioids.

DMHAS also must establish, operate, and publicize an in-state, toll-free telephone number that Ohio residents may call to obtain basic information about addiction services available and options for obtaining help. The telephone number must be staffed 24 hours per

⁴⁸ R.C. 3780.18.

day, 7 days a week. The costs of establishing, operating, and publicizing the telephone number must be paid for with money in the Substance Abuse and Addiction Fund.

The DMHAS Director must administer the Substance Abuse and Addiction Fund and use the money to support addiction services, other services that relate to addiction and substance abuse, and research that relates to addiction and substance abuse. Treatment and prevention services supported by money in the fund must be services that are certified by DMHAS.

The DMHAS Director must prepare an annual report describing the use of the fund and submit the report to the Director of Commerce, the Speaker and Minority Leader of the House of Representatives, the President and Minority Leader of the Senate, and the Governor.⁴⁹

Local authority regarding adult use cannabis operators

Local regulation limiting or prohibiting adult use cannabis operators

Under the bill, the legislative authority of a municipal corporation may adopt an ordinance, and a board of township trustees may adopt a resolution, by majority vote to prohibit, or limit the number of, level I, II, or III adult use cultivators, adult use processors, or adult use dispensaries within the municipal corporation or within the unincorporated territory of the township, respectively.

Notwithstanding the authority the bill grants local governments to impose such limitations or bans:

1. Existing medical marijuana cultivators, processors, or dispensaries who have a medical marijuana certificate of operation may not be prohibited or limited by a municipal corporation or township from operating under the Medical Marijuana Control Law unless there is a revocation of the certificate of operation.
2. Level I or II adult use cultivators, adult use processors, and adult use dispensaries that are co-located on the same parcel or contiguous parcels with a level I or II adult use cultivator and an adult use processor, who are applicants or license holders under the Cannabis Control Law, and whose owners also have a medical marijuana certificate of operation at the same location as the bill's effective date, may not be prohibited or limited by any municipal corporation or township from operating as a level I or II adult use cultivator, adult use processor, or an adult use dispensary co-located with a level I or II adult use cultivator and an adult use processor under the Cannabis Control Law because of the significant capital investment in the facilities.
3. Medical marijuana dispensaries, or the owners of dispensaries, who have a medical marijuana certificate of operation, and who are not co-located on the same parcel or contiguous parcels with a medical marijuana cultivator or processor that has a certificate of operation, as of the bill's effective date, must also be authorized to

⁴⁹ R.C. 3780.30(A) to (D).

operate as an adult use dispensary without any municipal or township prohibitions upon receiving a license from the DCC, unless a majority of the members of the legislative authority of a municipal corporation affirmatively pass an ordinance, or a majority of township trustees in a township affirmatively pass a resolution, after the license is issued and within 120 days from license issuance, prohibiting the operation of the adult use dispensary within the municipal corporation or within the unincorporated territory of the township, respectively. This prohibition is subject to challenge via a local ballot issue.⁵⁰

Local ballot issue to allow an adult use dispensary otherwise banned

Authority

If a municipal corporation or township prohibits an adult use dispensary described in the preceding paragraph, then the adult use dispensary license holder must cease operations within 60 days, unless the dispensary licensee files with the board of elections within that time a petition signed by the lesser of 100 qualified electors or 5% of the qualified electors of the municipal corporation or township, requesting an issue be placed on the ballot at the next general election occurring not less than 90 days from petition filing. The ballot issue is to be whether the adult use dispensary should remain open as long as it remains licensed and the municipal corporation or township is eligible to receive host community cannabis funding.

If the board of elections verifies the required signatures and form of petition, the issue must be placed on ballot at the next general election that is 90 days or greater away from the petition filing. The dispensary may continue to operate until the issue is decided.⁵¹

Form

The form of the ballot to be used at the election must be as follows:⁵²

Shall the following adult use dispensary, (here insert name of adult use dispensary), whose owners also have had a licensed medical marijuana dispensary at (here insert address) since (here insert the date of opening), remain open as long as the adult use dispensary is licensed pursuant to Chapter 3780 of the Revised Code by the Division of Cannabis Control under the Department of Commerce, and the (here insert name of municipal corporation or township) is eligible to receive host community cannabis funding?

⁵⁰ R.C. 3780.25(A) and (B).

⁵¹ R.C. 3780.25(C).

⁵² R.C. 3780.25(D).

| |
|--|
| <p>_____ Yes for the Issue</p> <p>_____ No for the Issue</p> |
|--|

Effect of results

If a majority of the voters vote “Yes,” the adult use dispensary may operate within the municipal corporation or township and the municipal corporation or township may receive related Host Community Cannabis Funding.

If a majority of the voters vote “No,” then the dispensary has several options:

1. Close within 90 days of election certification;
2. If the dispensary has a medical marijuana certificate of operation at that location, continue to operate at its current address as a medical marijuana dispensary;
3. If the dispensary has a medical marijuana certificate of operation at that location, request to relocate the dispensary within 90 days of election certification consistent with the requirements of the Medical Marijuana Control Law, and related rules. If the adult use dispensary timely applies to relocate, the adult use dispensary may continue to operate until the request to relocate is approved. The DCC must review and approve a request to relocate timely once the request to relocate application is in compliance with the Cannabis Control Law. This relocation request must be approved regardless of the dispensary districts established by the State Board of Pharmacy as long as the relocation request meets all other applicable requirements of the Medical Marijuana Control Law.⁵³

Impermissible local regulation

A legislative authority of a municipal corporation or a board of township trustees is prohibited from:

- Adopting an ordinance or resolution limiting 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;
- Levying any tax, fee, or charge on level I, II, or III adult use cultivators, adult use processors, or adult use dispensaries, their owners or their property that is not generally charged on other businesses in the municipal corporation or township;
- Prohibiting or limiting home grow otherwise authorized under the Cannabis Control Law; and

⁵³ R.C. 3780.25(E) and (F).

- Prohibiting or restricting an activity that is authorized by the Cannabis Control Law.⁵⁴

Enforcement of Cannabis Control Law

DCC enforcement

The bill requires the DCC to enforce, or cause to be enforced, the Cannabis Control Law and related rules. If the DCC has information that any provision of the Cannabis Control Law or related rule has been violated, it may investigate the matter and take any reasonable action as it considers appropriate. The bill authorizes the DCC to do any of the following for any reason specified in DCC rules:

- Suspend, suspend without prior hearing upon finding clear and convincing evidence that continued distribution of adult use cannabis presents a danger of immediate and serious harm to others, revoke, restrict, or refuse to renew a Cannabis Control Law license;
- Refuse to issue a license unless the license is required to be issued in accordance with the Cannabis Control Law (see “**Licenses to existing medical marijuana licensees**,” above);
- Inspect the premises of a level I, II, or III adult use cultivator, an adult use processor, an adult use dispensary, or an adult use testing laboratory without prior notice;
- Impose on a provisional license holder or license holder a civil penalty in an amount to be determined by the DCC through rule, to be paid into the DCC and Tax Commissioner Fund; or
- Request the Attorney General to bring a cause of action, described in “**Attorney General enforcement**,” below.

If the DCC suspends, revokes, or refuses to renew any license issued under the Cannabis Control Law or determines that there is clear and convincing evidence of a danger of immediate and serious harm to any individual, the DCC may place under seal all adult use cannabis owned by or in the possession, custody, or control of the affected licensee. Generally, the DCC is prohibited from disposing of the sealed adult use cannabis until the licensee exhausts all of the licensee’s appeal rights. But, the appellate court may order the DCC to sell cannabis that is perishable. The DCC must deposit the proceeds of the sale with the court.

Nothing in the Cannabis Control Law is to be construed to require the DCC to enforce minor violations of the Cannabis Control Law if the DCC determines that the public interest is adequately served by a notice or warning to the alleged offender.⁵⁵

⁵⁴ R.C. 3780.25(G).

⁵⁵ R.C. 3780.26 and 3780.27(A).

Attorney General enforcement

Upon receiving a written request from the DCC, the Attorney General may bring a civil action to restrain a violation of the Cannabis Control Law. The Franklin County Court of Common Pleas must give the cause of action priority over all other civil cases before the court, irrespective of position on the court's calendar, and make a determination on the claim expeditiously. Note: it is unclear whether this civil action is required to be brought in Franklin County.

If a final order issued in the civil action is appealed, a court of appeals must give the appeal priority over all other civil cases before the court, irrespective of position on the court's calendar, and must make a determination on the appeal expeditiously. Note: it is unclear whether this provision applies only to the Tenth District Court of Appeals, all Ohio courts of appeals, or to appellate courts more broadly and includes the Supreme Court.

The filing of the civil action does not preclude an administrative or criminal proceeding on the same facts.⁵⁶

If the DCC fails to act

If the DCC fails to adopt rules necessary to initially implement the Cannabis Control Law within nine months of the bill's effective date or fails to begin accepting license applications within six months of the bill's effective date, any Ohio citizen may commence an action in the Franklin County Court of Common Pleas to compel the DCC to perform the actions mandated under the Cannabis Control Law.

If the DCC fails to issue a license to an applicant for a license as a level I, II, or III adult use cultivator, an adult use processor, or an adult use dispensary, or send a notice of denial to the applicant, within three months after receiving a complete application, the applicant may:

- Commence an action in the Franklin County Court of Common Pleas to compel the DCC to perform the actions required under the Cannabis Control Law; and
- Operate under a temporary license, until the DCC issues the license or denies the application, if all of the following apply:
 - The DCC does not demonstrate in writing that operating presents a danger of immediate and serious harm to others;
 - The applicant is also operating at the application location under a corresponding medical marijuana certificate of operation; and
 - The applicant complies with the Cannabis Control Law and DCC rules.

Nothing in this provision is to be construed to authorize the operation of a level I, II, or III adult use cultivator, adult use processor, or adult use dispensary or a medical marijuana

⁵⁶ R.C. 3780.27.

cultivator, processor, or dispensary whose license, certificate of operation or application has been suspended, revoked, or denied.⁵⁷

Scope of adult use authorization

What authorized use of adult use cannabis cannot be used for

Licenses

The holder of an occupational license, certification, or registration issued by an Ohio professional board or of a concealed handgun license is not subject to disciplinary action solely for engaging in professional or occupational activities related to adult use cannabis in accordance with the Cannabis Control Law, for owning or providing professional assistance to prospective or licensed level I, II, or III adult use cultivators, adult use processors, adult use dispensaries, adult use testing laboratories, or to other individuals for activity in accordance with the Cannabis Control Law, or for obtaining, possessing, transporting, or using adult use cannabis in accordance with the Cannabis Control Law.⁵⁸

Parental rights

The bill provides that, unless there is clear and convincing evidence that a child is unsafe, the use, possession, or administration of adult use cannabis in accordance with the Cannabis Control Law is not to be the sole or primary basis for any of the following:

- An adjudication determining that a child is an abused, neglected, or dependent child;
- An allocation of parental rights and responsibilities; or
- A parenting time order.⁵⁹

Medical care

The use or possession of adult use cannabis in accordance with the Cannabis Control Law must not be used as a reason for disqualifying an individual from medical care or from including an individual on a transplant waiting list.⁶⁰

Criminal and civil action

The use, possession, administration, cultivation, processing, testing, dispensing, transporting, sale, delivery, or transferring of adult use cannabis in accordance with the Cannabis Control Law is not to be used as the sole or primary reason for taking action under any criminal or civil statute.⁶¹

⁵⁷ R.C. 3780.28.

⁵⁸ R.C. 3780.33(A).

⁵⁹ R.C. 3780.33(B).

⁶⁰ R.C. 3780.33(C).

⁶¹ R.C. 3780.33(D).

Landlord-tenant

An individual's status as an adult use consumer may not be used as the sole or primary basis for rejecting the individual as a tenant unless the rejection is required by federal law. But, a landlord may prohibit the consumption of cannabis by combustion so long as that prohibition is included in the applicable lease agreement.⁶²

In addition, while the bill authorizes individual cultivation, growth, and possession, it also permits a landlord to prohibit such activity on rented premises, so long as the prohibition is included in the applicable lease agreement.⁶³

Public benefits

The use or possession of adult use cannabis in accordance with the Cannabis Control Law may not be used as a reason for disqualifying an individual from a public benefit program administered by any state or local authority, or for otherwise denying an individual a public benefit administered by the state or any locality.⁶⁴

What the Cannabis Control Law does not do

The Cannabis Control Law does not do any of the following:

- Permit the use, possession, cultivation, processing, dispensing, or transportation of adult use cannabis other than as authorized by the Cannabis Control Law;
- Permit the cultivation, processing, and dispensing of adult use cannabis by any person unless licensed as a level I, II, or III adult use cultivator, an adult use processor, or an adult use dispensary, except as authorized under the Cannabis Control Law;
- Permit the use, cultivation, dispensing, or processing of adult use cannabis on federal-, state-, or locally owned land located in Ohio;
- Require any public place to accommodate an individual's use of adult use cannabis;
- Prohibit any public place from accommodating an individual's use of adult use cannabis; or
- Restrict research related to cannabis 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.⁶⁵

⁶² R.C. 3780.33(F).

⁶³ R.C. 3780.29(D).

⁶⁴ R.C. 3780.33(G).

⁶⁵ R.C. 3780.33(H)(1) to (6).

Contracts relating to licensees

The bill specifies that it is the public policy of the state of Ohio that contracts related to level I, II, or III adult use cultivators, adult use processors, adult use dispensaries, and adult use cannabis testing laboratories are enforceable.⁶⁶

Financial institutions and criminal violations

The bill exempts financial institutions (banks, trust companies, savings and loan associations, savings banks, credit unions, and money transmitters and their affiliates, agents, and employees) from a criminal law if all of the following apply:

- The financial institution provided financial services to a licensed level I, II, or III adult use cultivator, adult use processor, adult use dispensary, or testing laboratory;
- An element of the criminal law may be proven by substantiating that the financial institution provided financial services to an individual who or entity that cultivates, possesses, delivers, processes, or dispenses cannabis or cannabis derived products;
- The adult use consumer or the adult use licensee is in compliance with the Cannabis Control Law and the applicable tax laws of Ohio.

Upon the request of a financial institution providing services to an adult use licensee, the DCC must provide to the financial institution all of the following information:

- Whether an individual or entity with whom the financial institution is seeking to do business is an adult use licensee;
- The name of any other business or individual affiliated with the individual or entity;
- An unredacted copy of the application for a license under the Cannabis Control Law, and any supporting documentation, that was submitted by the individual or entity;
- If applicable, information relating to sales and volume of product sold by the individual or entity, except where prohibited by the Cannabis Control Law;
- Whether the individual or entity follows the Cannabis Control Law; and
- Any past or pending violation by the individual or entity of the Cannabis Control Law, and any penalty imposed on the individual or entity for such a violation.

The DCC may charge the financial institution a reasonable fee to cover the administrative cost of providing the information. Information received by the financial institution is confidential. Except as otherwise licensed by other state law or federal law, a financial institution must not make the information available to any individual other than the

⁶⁶ R.C. 3780.33(I).

customer to whom the information applies and any trustee, conservator, guardian, personal representative, or agent of that customer.⁶⁷

Rights of employer

Nothing in the Cannabis Control Law does any of the following:

1. Requires an employer to permit or accommodate an employee's use, possession, or distribution of adult use cannabis otherwise in compliance with the Cannabis Control Law;
2. Prohibits an employer from refusing to hire, discharging, disciplining, or otherwise taking an adverse employment action against an individual with respect to hire, tenure, terms, conditions, or privileges of employment because of that individual's use, possession, or distribution of cannabis otherwise in compliance with the Cannabis Control Law;
3. Prohibits an employer from establishing and enforcing a drug testing policy, drug-free workplace policy, or zero-tolerance drug policy;
4. Interferes with any federal restrictions on employment;
5. Permits an individual to commence a cause of action against an employer for taking an adverse employment action against an individual with respect to hire, tenure, terms, conditions, or privileges of employment related to the individual's use of cannabis; or
6. Affects the authority of the Administrator of Workers' Compensation to grant rebates or discounts on premium rates to employers that participate in a Drug-Free Workplace Program.

An individual who is discharged from employment because of that individual's use of cannabis is considered to have been discharged for just cause for purposes of the Unemployment Compensation Law if the individual's use of cannabis was in violation of an employer's formal program or policy regulating the use of cannabis.⁶⁸

Confidentiality and the Public Records Law

Under the bill, specified information submitted, collected, or gathered under the Cannabis Control Law is confidential and not subject to disclosure by any state agency or political subdivision under the Public Records Law. But, an individual who holds, held, or has applied for a license under the Cannabis Control Law may waive these confidentiality requirements. The following information is protected:

- Social Security numbers, passport numbers, federal tax identification numbers, and driver's license numbers;

⁶⁷ R.C. 3780.34.

⁶⁸ R.C. 3780.35.

- Home addresses, email addresses, and telephone numbers;
- Birth certificates and dates and places of birth;
- The personal financial information and records;
- IP addresses and similar addresses;
- Records of criminal proceedings and any information concerning a victim of domestic violence, sexual assault, or stalking;
- Trade secrets, patents, and exclusive licenses;
- Client records and adult use consumer identifying information; and
- Security information.

Except as otherwise provided in the Cannabis Control Law, upon written request, the DCC must provide the amount of tax paid to the state by any licensee and a copy of a letter providing the reasons for the denial of an applicant's license, but with confidential information redacted.

Confidential information received by the DCC from another jurisdiction relating to an individual who holds, held, or has applied for a license under the Cannabis Control Law is confidential and not subject to disclosure under the Public Records Law.

After giving reasonable notice, the DCC may share any information gathered pursuant to the Cannabis Control Law with, or disclose the information to, the Inspector General, any appropriate prosecuting authority, any law enforcement agency, or any other appropriate governmental or licensing agency. But the agency that receives the information must comply with the same confidentiality requirements.

The DCC, and any entity under contract with the DCC, must not make public any information reported to or collected by the DCC under the Cannabis Control Law that identifies or would tend to identify any adult use consumer, or tend to show any adult use consumer's purchase history.⁶⁹

Electronic database monitoring cannabis

The bill requires the DCC to establish and maintain an electronic database to monitor all adult use cannabis from its seed or clone source through its cultivation, processing, testing, and dispensing, for all licensed operations. This database must allow for information regarding adult use cannabis to be updated instantaneously. Licensees must submit to the DCC any information the DCC determines is necessary for maintaining the electronic database.

The DCC may contract with a separate entity or state agency to establish and maintain all or any part of the electronic database on behalf of the DCC. The bill prohibits the DCC, and

⁶⁹ R.C. 3780.31.

any entity under contract with the DCC, from making public any information reported to or collected by the DCC for database purposes if the information identifies or would tend to identify any adult use consumer.⁷⁰

Rules

In addition to the authorization to adopt rules specified in the preceding parts of this analysis, the bill requires the DCC to adopt rules on the following:

1. Prevention of practices detrimental to the public interest consistent with the Cannabis Control Law, and also ways to educate the public about the law;
2. Specifying the process and reasons for which a licensee may be fined, suspended either with or without a prior hearing, or revoked;
3. The process and requirements for DCC approval of any requested change in ownership or transfer of control of a level I, II, or III adult use cultivator, adult use processor, adult use dispensary, or adult use testing laboratory;
4. Determining penalties for violation of the Cannabis Control Law or DCC rules, and a process for imposing those penalties;
5. Prescribing cannabis inventory requirements to be maintained in the electronic database consistent with the requirements described in “**Electronic database monitoring cannabis**” above;
6. Prescribing standards and procedures in coordination with the Department of Development to administer and enforce the CSEJ Program;
7. Any other topic the DCC considers necessary for the administration, implementation, and enforcement of the Cannabis Control Law consistent with that law.

When adopting these rules, the DCC must consider standards and procedures that have been found to be best practices relative to the use and regulation of adult use cannabis and must harmonize any rules with the rules adopted pursuant to the Medical Marijuana Control Law to minimize duplication of operational requirements and fees as much as possible. If there is a conflict with the Medical Marijuana Control Law and the Cannabis Control Law, the Cannabis Control Law governs.

All rules the DCC adopts under the bill must be adopted in accordance with the Administrative Procedure Act.⁷¹

Venue for challenges to Cannabis Control Law

Any action asserting that the Cannabis Control Law, any portion of the Cannabis Control Law, or any rule adopted thereunder violates any provision of the Ohio Constitution or federal

⁷⁰ R.C. 3780.05.

⁷¹ R.C. 3780.03(C)(1), (5), (6), (15), (18), and (19), (D), (E), and (F).

law must be brought in the Franklin County Court of Common Pleas within 90 days after the bill's or rule's effective date. Any claim asserting that any action taken by the DCC under the Cannabis Control Law violates any provision of the Ohio Constitution or any provision of the Revised Code must be brought in the Franklin County Court of Common Pleas within 90 days after the action is taken.

These provisions do not apply to any claim within the original jurisdiction of the Supreme Court of Ohio or any court of appeals under Article IV of the Ohio Constitution.

The Franklin County Court of Common Pleas must give any claim so filed priority over all other civil cases before the court, irrespective of position on the court's calendar, and must make a determination on the claim expeditiously. Similarly, a court of appeals must give any appeal from a final order issued in such a case priority over all other civil cases before the court, irrespective of position on the court's calendar, and must make a determination on the appeal expeditiously. Note: it is unclear whether the reference to "a court of appeals" refers only to the Tenth District Court of Appeals (the court of appeals covering Franklin County) or whether it applies more generally, thereby including the Supreme Court.⁷²

Statement of purpose

Under the bill, controlled and regulated sales and use of adult use cannabis are permitted under the Cannabis Control Law for the following public purposes:

- Reducing illegal marijuana sales and providing for a safer and regulated cannabis product;
- Limiting the transportation of out-of-state cannabis into Ohio;
- Providing key funding to support social equity, job creation, host communities that have adult use dispensaries, cannabis research, and proper oversight and regulation of the adult cannabis industry; and
- Improving social equity issues to address Ohio's compelling interest to redress past and present effects of discrimination and economic disadvantage for individuals in Ohio.

The bill creates the DCC to ensure the proper oversight and control of the adult use cannabis industry.⁷³

Background – initiative process

H.B. 628 is the result of an initiative petition. Pursuant to the Ohio Constitution, a statute may be proposed by an initiative petition signed by a number of voters equal to 3% of the total number of votes cast for Governor in the most recent gubernatorial election (132,887 signatures). If such a petition is filed with the Secretary of State, the Secretary of State transmits the proposed statute to the General Assembly. This was done, and the Secretary of

⁷² R.C. 3780.32.

⁷³ R.C. 3780.02(A) and 3780.03(B).

State transmitted the petition to the General Assembly on January 28, 2022. However, there was disagreement over the duties of the various parties involved, when the Secretary of State was required to transmit the petition in particular, which would affect when the proposed statute would be on the ballot. A lawsuit was filed, and a settlement was reached in which the Secretary of State would resubmit the proposed statute to the General Assembly on the first day of the 135th General Assembly, January 3, 2023.⁷⁴

If the General Assembly defeats the proposed statute, passes it in amended form, or does not act on it within four months after the time it was received, a second petition may be filed with the Secretary of State to have the proposed statute submitted to the voters at an election for their approval or disapproval. (132,887 voters, in addition to those who signed the first petition, must sign the second petition.) The proposed statute is then submitted to the voters in the form specified in the second petition – as originally proposed or as it may have been amended by either house of the General Assembly. An initiated statute approved by the voters is not subject to the Governor’s veto and takes effect 30 days after the election at which it was approved.⁷⁵

HISTORY

| Action | Date |
|------------|----------|
| Introduced | 04-20-22 |

ANHB0628IN-134/ts

⁷⁴ U.S. News and World Report, [Ohio Legal Pot Backers Sue Over Disputed Petition Deadline](#), which is available on the U.S. News website: <https://www.usnews.com>; *Lynaugh v. LaRose*, Settlement Order, 22CV-2851 (Franklin County C.P.); available through the Franklin County Clerk of Courts website: [Case Information Online](#).

⁷⁵ [A Guidebook for Ohio Legislators, Chapter 2 \(PDF\)](#), which is available on the [LSC website](#); Ohio Secretary of State, [Initiated Statute](#), which is available on the Secretary of State’s website: [Secretary of State/Legislation and Ballot Issues](#).