

DRUG ENFORCEMENT AND POLICY CENTER

Comparison of Recreational Marijuana Reform Proposals and Existing Ohio Medical Marijuana Control Program as of December 2021

Following the path blazed by Colorado and Washington via 2012 ballot initiatives, nearly 20 states over the last decade have legalized marijuana for recreational adult-use. The Ohio General Assembly enacted medical marijuana reform legislation in 2016 after a controversial recreational reform initiative had been rejected by Ohio voters in 2015. Now adult-use reform is again being actively considered in the Buckeye state with two existing proposals, one legislative and one initiative, to legalize recreational marijuana in Ohio, as well as an additional legislative proposal that has not yet been officially introduced. The table below compares the three recreational reform proposals to each other as well as to provisions of the existing Ohio Medical Marijuana Control Program.

Provision	Ohio Medical Marijuana Control Program <i>in effect since 9/2018</i>	An Act to Control and Regulate Adult Use Cannabis <i>statutory language cleared by the Ohio Ballot Board on 8/30/2021</i>	HB 382 <i>introduced on 8/2/2021</i>	Ohio Adult-use Act <i>Introduced 12/2/2021</i>
Proposal Type	Enacted by Legislature in 2016 - HB 523	Initiated Statute	Legislative Proposal	Legislative Proposal
Sponsors	State Senator Stephen Huffman	The Coalition to Regulate Marijuana Like Alcohol	State Rep. Casey Weinstein State Rep. Terrence Upchurch	State Rep. Jamie Callender State Rep. Ron Ferguson
Regulatory Agencies	Ohio Department of Commerce State of Ohio Board of Pharmacy State Medical Board of Ohio	Division of Cannabis Control (within Department of Commerce)	Marijuana Regulatory Agency (within Department of Commerce)	Division of Marijuana Control (within Ohio Department of Commerce)

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Taxes	5.75% State Sales Tax 0.5-2.25% Local Sales Tax	10% Adult use Tax Subject to state and local sales tax	10% Excise Tax Subject to state and local sales tax	10% sales tax on retail marijuana and 10% tax for the storage, use, or other consumption of marijuana.
Revenue Allocated	No excise tax, sales tax from marijuana goes to state's general fund.	<p>Adult Use Tax Fund—all funds initially deposited in this fund and distributed quarterly in the following funds:</p> <ul style="list-style-type: none"> • 36% - The Cannabis Social Equity and Jobs Fund • 36% - The Host Community Cannabis Fund • 25% - The Substance Abuse and Addiction Fund • 3% - The Division of Cannabis Control and Tax Commissioner Fund 	<p>Revenue deposited in Marihuana Receipts Fund, then Tax Refund Fund gets the amount certified by the tax commissioner, then remaining amount is transferred to the Marihuana Tax Administration Fund equal to the costs associated with levying the tax, then any remaining money is deposited in the Marihuana Regulation Fund equal to costs associated with administering Chapter 3775.</p> <p>After these transfers occur, up to \$20 million annually is allocated into the Marijuana Research Fund for the two fiscal years after the fiscal year this bill becomes effective.</p> <p>Remaining funds are allocated as follows:</p> <ul style="list-style-type: none"> • 15% to municipal corporations with at least one marijuana retail store, allocated in proportion to the number of marijuana retail stores within each municipal corporation. • 15% to counties with at least one marijuana retail store, allocated in proportion to the number of marijuana retail stores within each county. • 35% to marihuana profits education fund. • 35% is distribute in the same manner as revenue distributed under division (E) of Section 5735.051 of the Revised code. 	<p>Funds from the Marijuana Receipts Fund are transferred by the Director of Budget and Management as needed to the tax refund fund equal to refund amounts certified by the tax commissioner. Remaining amounts are allocated as follows:</p> <ul style="list-style-type: none"> • 50% - General Revenue Fund • 25% - Illegal Drug Trafficking Enforcement Fund • 25% - Chemical Dependency Rehabilitation Fund

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License Types	<ul style="list-style-type: none"> • Cultivation – Level I Cultivator (25K sqf) & Level II Cultivator (3K sqf) - 33 licenses awarded, 19 Level I and 14 Level II. Initial cap was 12 licenses for each tier. • Processor – 47 provisional licenses issued, initial cap set at 40. • Testing Laboratory – No limit place on testing laboratory licenses. • Dispensary – 57 licenses awarded to date, additional 73 dispensary licenses to be awarded in 2022. 	<ul style="list-style-type: none"> • Level I Cultivator License and Level I Adult Use Cultivator (100K sqf) • Level II Cultivator License and Level II Adult Use Cultivator (15K sqf) • Level III Cultivator License and Level III Adult Use Cultivator (5K sqf) (plus 40 social equity licenses) • Processor License • Dispensary License (plus 50 social equity licenses) • Testing Laboratory License 	<ul style="list-style-type: none"> • Marihuana retailer • Marihuana safety compliance facility • Marihuana secure transporter • Marihuana processor • Marihuana microbusiness • Class A marihuana grower (100 plants) • Class B Marihuana grower (500 plants) • Class C marihuana grower (2,000 plants) 	<ul style="list-style-type: none"> • Level I cultivator (100,000 sqf) • Level II cultivator (15,000 sqf) • Processors • Dispensaries • Testing laboratory
Uniform Licensing Structure with Medical Marijuana	N/A	No	No	Yes
License Cap	Yes – Caps placed on cultivation, processor and dispensary licenses; subject to review and change based on potential patient population, supply of medical marijuana, and the number of cultivators needed to meet the demand.	No	No – "the marijuana regulatory agency shall not adopt a rule that does any of the following: (1) establishes a limit on the number of any type of state licenses that may be granted."	<p>Retail Dispensary Licenses - Department of Commerce "shall not issue more than 1 retail dispensary license per sixty thousand residents" of the state prior to Jan. 1, 2027</p> <p>Cultivators/Processors/Testing laboratory - the Department shall issue a sufficient number of licenses to ensure adequate supply and timely testing of adult-use and medical marijuana.</p>

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Licenses will be Issued	Active	9 months after enactment	12 months after enactment	240 days after enactment of HB 498. Sec. 3796.02. - Two hundred forty days after the effective date of this amendment, the department shall provide for the licensure of marijuana cultivators, processors, retail dispensaries, and laboratories that test marijuana
Application Restrictions	N/A	Information not available	For two years after enactment, only Ohio residents may apply for Class A marijuana grower and microbusiness licenses.	Department of Commerce is charged with creating application restrictions.
Vertical integration limited	No	No	No	No No limits on the number and type of licenses an entity can hold.
Medical Marijuana Licenses given Priority	N/A	<p>Yes – Dispensary issued 1 dispensary license</p> <ul style="list-style-type: none"> • Level I Cultivator shall be issued three adult use dispensary licenses and one Level I Adult use cultivator license • Level II Cultivator shall be issued one adult use dispensary and one level II adult use cultivator license • Dispensary shall be issued one adult use dispensary license at different location if dispensary does not have common ownership or control of any Level I, II, or processor license • Processor shall be issued one adult use processor license • Testing lab shall be issued one adult use laboratory license 	For two years after MRA begins receiving applications, the agency shall only accept applications for marijuana retailers, processors, Class B marijuana grower, Class C marijuana grower, marijuana secure transporters from individuals holding a state operating license pursuant to Chapter 3796 (Medical Marijuana Control Program).	Existing medical marijuana licenses remain in effect and can be renewed. Department of Commerce is charged with creating licensing regulation.

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Conviction Expungement	No	No	Yes	No
Substance Abuse and Education Program	No	Division enters into agreement with Department of Mental health and Addiction Services under which the Department shall provide a program for cannabis addiction services to be implemented on behalf of the Division which includes best practices for education and treatment for individuals with addiction issues related to cannabis or other controlled substances including opioids.	Information not available	The bill creates the Chemical Dependency Rehabilitation Fund for the Department of Mental Health and Addiction Services to administer services to assist individuals in Ohio suffering from chemical dependency or substance abuse.
Social Equity Provisions Included	"HB 523 initially enacted provisions stating, ""The department shall issue not less than fifteen per cent of cultivator, processor, or laboratory licenses to entities that are owned and controlled by United States citizens who are residents of this state and are members of one of the following economically disadvantaged groups: Blacks or African Americans, American Indians, Hispanics or Latinos, and Asians."" Sec. 3796.09 (C) Provision was eventually found unconstitutional and no longer applies to licenses.	Yes – Establish the cannabis social equity and jobs program in the interest of remedying the harms resulting from the disproportionate enforcement of marijuana-related laws and to 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. Additionally, the Division of Cannabis Control shall 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 have been certified as cannabis social equity and jobs program participants.	Offers expungement for individuals with offenses no longer considered a violation under this act - offenses of obtaining, possessing, or using 5 ounces of marijuana or 15 grams of hashish or less as well as offenses involving cultivation of 12 or fewer marihuana plants. Must have a plan to promote and encourage participation in the marihuana industry by people from communities that have been disproportionately impacted by marihuana prohibition and enforcement and to positively impact those communities.	No - However, prior to issuing any new cultivator, processor, testing labs, or retail dispensary licenses, Department of Commerce must determine if there was any prior discrimination in the issuance of marijuana-related licenses in the state that led to lack of participation by racial/ethnic minorities in the medical marijuana industry. If the study establishes that there has been prior discrimination in the issuance of marijuana-related licenses, the department shall take necessary and appropriate actions to address and remedy any identified discrimination when issuing additional licenses.

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Local Authority	Yes – The legislative authority of a municipal corporation may adopt an ordinance, or a board of township trustees may adopt a resolution, to prohibit, or limit the number of, cultivators, processors, or retail dispensaries licensed under this chapter within the municipal corporation or within the unincorporated territory of the township, respectively.	Yes – localities may adopt ordinances to prohibit adult-use dispensaries but may not prohibit or limit existing operational medical marijuana cultivators, processors, or dispensaries; or an adult use cultivator or an adult use processor, or an adult use dispensary who is co-located with adult use cultivator and an adult use process, who have, or whose owner have, a medical marijuana certificate of operation at the same location as of the effective date of this act. Municipal corporation or township may vote to prohibit the operation of an adult use dispensary within 120 days of the dispensary license being issued.	Yes - Municipalities and townships have the ability to prohibit or limit the number of marijuana establishments. Localities may also impose a local license and annual fees not exceeding \$5 thousand.	Yes - Localities may adopt an ordinance or resolution limiting the number of cultivators, processors, or retail dispensaries operating within the municipal corporation or within the unincorporated territory of the township.
Medical Marijuana Operating	N/A	Yes	Yes	Yes
Home Cultivation Permitted	No	Yes – 6 plants per individual, 12 plants total per residence where two or more adult use consumers reside at one time.	Yes – 12 plants	Yes – - 6 plants (3 flowering) per household.

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Possession Limit	<p>The amount of medical marijuana possessed by a registered patient shall not exceed a ninety-day supply.</p> <p>Tier I of med. marijuana – 8 oz (226.8g)</p> <p>Tier II of med. marijuana – 5.3 oz (150.3g)</p> <p>26.55 grams of THC content in lotions, patches, creams, ointments</p> <p>9.9 g of THC content in oil, tinctures, capsules or edible form</p> <p>53.1 g of THC content in oil for vaporization</p> <p>Terminally ill patients have higher limits</p>	<p>2.5 ounces in any form except extract</p> <p>15 grams of adult use extract</p> <p>May purchase 2.5 ounces from dispensary per day</p>	<p>5 ounces of marihuana or fifteen grams of hashish</p> <p>In Residence: 2.5 ounces and excess must be stored in container or area equipped with locks or other functioning security devices that restrict access</p>	<p>50 grams of marijuana, 8 grams of marijuana concentrate.</p>
Consumption Limitations	<p>Medical marijuana:</p> <ul style="list-style-type: none"> The smoking or combustion of medical marijuana is prohibited. Any form or method that is considered attractive to children is prohibited. <p>Tetrahydro-cannabinol content:</p> <ul style="list-style-type: none"> Plant material shall have a THC content of not more than 35%. Extracts shall have a THC content of not more than 70%. 	<p>No restriction with respect to method of consumption.</p> <p>THC content limits – Delegates responsibility for setting THC content limits to the Division of Cannabis Control but specifies that such limits should not be less than 35% THC content for plant material and 90% content for extracts.</p>	<p>No</p>	<p>Adult-users: Vaporization, smoking, or combustion of marijuana is permitted. The legislation is silent on other methods of consumption, neither specifically prohibiting them nor allowing them. Any person can petition to have a specific method of consumption approved for recreational use.</p> <p>Medical Marijuana Patients: Vaporization is permitted. Smoking or combustion is prohibited.</p> <p>THC content limit: Plant material should have no more than 35% THC content; extracts shall have no more than 90%.</p>
Public Consumption	No	No	No	No

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Employer/Employee Protections	Employee: No Employer: Allowed to continue workplace drug policies prohibiting consumption.	Employee: No Employer: Allowed to continue workplace drug policies prohibiting consumption.	Employee: No Employer: Allowed to continue workplace drug policies prohibiting consumption.	Respects employer rights, does not impose anything prohibiting employers from making drug-free work policies.
Financial Institution Protections	Yes – Section 3796.27 (B) A financial institution that provides financial services to any cultivator, processor, retail dispensary, or laboratory licensed under this chapter shall be exempt from any criminal law of this state an element of which may be proven by substantiating that a person provides financial services to a person who possesses, delivers, or manufactures marijuana or marijuana derived products, including section 2925.05 of the Revised Code and sections 2923.01 and 2923.03 of the Revised Code as those sections apply to violations of Chapter 2925. of the Revised Code, if the cultivator, processor, retail dispensary, or laboratory is in compliance with this chapter and the applicable tax laws of this state.	Yes – Any institution licensed under this chapter shall be exempt from any criminal law of the state of Ohio an element of which may be proven by substantiating that a financial institution provides financial services to an individual or entity who cultivates, possesses, delivers, processes, or dispenses cannabis or cannabis derived products.	Information not available	Establishes criminal protections for financial institutions providing financial services to marijuana license holders.

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Other rights/protections	None	<p>Act creates additional protections for:</p> <ul style="list-style-type: none"> • Concealed Carry Licenses • Adjudicatory hearings to determine shelter care placement • Parental Rights and Responsibilities • Parenting Time Orders • Eligibility for any public benefit program administered by the state or locality • Right to medical care and/or inclusion on a transplant waiting list • Users cannot be rejected as a tenant but can prohibit smoking still • Officers must have an independent, factual basis giving reasonable suspicion that the individual is operating a vehicle under the influence or a test from the person's blood, blood serum, plasma, breath, or urine. • Employers still have the ability to enact drug free work zones 	<p>Employers still have the authority to enact drug free workplace policies.</p> <p>Property owners still have the ability to prohibit consumption, cultivation, distribution, processing, sale or display of marijuana/marijuana accessories</p>	<p>Sponsors are encouraging the Congress of the United States to enact H.R. 3105 (or similar legislation) to recognize the 2nd amendment rights of Ohioans who legally use cannabis products in Ohio.</p> <ul style="list-style-type: none"> • The use or possession of medical marijuana by a registered patient shall not be used as a reason for disqualification from medical care or from including a patient on a transplant waiting list. • A person's status as a registered patient or caregiver is not a sufficient basis for conducting a field sobriety test or for suspending the person's driver's license. • A person's status as a registered patient or caregiver shall not be used as the sole or primary basis for rejecting the person as a tenant unless the rejection is required by federal law.