

DRUG ENFORCEMENT AND POLICY CENTER

## Comparison of Issue 2 Recreational Marijuana Initiative and Proposed Revisions by the Ohio General Assembly

In November 2023, Ohio voters approved a ballot initiative that legalized adult-use marijuana, becoming the 24<sup>th</sup> state in the nation to allow for recreational use of cannabis. The *Act to Control and Regulate Adult Use Cannabis* (Issue 2) went into effect on December 7, 2023, which was quickly followed by a number of proposals by the Ohio General Assembly aimed at revising some of the initiative’s provisions. The table below compares the four proposed legislations to each other, as well as to the currently enacted Ohio Revised Code Chapter 3780 created by Issue 2.

Provision	An Act to Control and Regulate Adult Use Cannabis (Issue 2) <i>in effect since 12/7/2023</i>	H.B. 86 – Revise the liquor control laws	H.B. 354 – Modify adult use cannabis law; levy a tax on cultivators	H.B. 341 – Revise the adult use marijuana law	H.B. No. 168 – Enact the Ohio Adult Use Act and to levy a tax
Proposal Type	Initiated Statute	State Legislature	State Legislature	State Legislature	State Legislature
Sponsors	The Coalition to Regulate Marijuana Like Alcohol	Representative Jeff LeRe	Representative Jamie Callender	Representative Gary Click	Representative Jamie Callender Representative Casey Weinstein
Regulatory Agencies	Division of Cannabis Control (within Department of Commerce)	Division of Marijuana Control (within Department of Commerce)	Division of Marijuana Control	Same as Issue 2.	Division of Marijuana Control (within the Department of Commerce)

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<b>Taxes</b>	10% Adult use Tax Subject to state (5.75%) and local (0 - 2.25%) sales tax.	15% excise tax Subject to state and local sales and use taxes  Localities may enact an additional tax up to 3% if approved by a majority of electors in the county.	10% Adult use Tax Subject to state and local sales tax. Remains unchanged from Issue 2.  10% excise tax levied on the adult-use cannabis gross receipts for adult-use cultivators.	Same as Issue 2.	10% tax on marijuana retail sales and 5.75% for all other retail sales.  HB 168 levies a 10% excise tax for the storage, use, or other consumption of marijuana and 5.75% for the storage, use, or other consumption of any other tangible personal property and benefit realized of any service provided.
<b>Revenue Allocated</b>	<ul style="list-style-type: none"> <li>• 36% - The Cannabis Social Equity and Jobs Fund</li> <li>• 36% - The Host Community Cannabis Fund</li> <li>• 25% - The Substance Abuse and Addiction Fund</li> </ul> <p>3% - The Division of Cannabis Control and Tax Commissioner Fund</p>	<ul style="list-style-type: none"> <li>• 16% or 19%* - Department of Public Safety Law Enforcement Training Fund</li> <li>• 14% - Attorney General Law Enforcement Training Fund</li> <li>• 5% - Marijuana Receipts Drug Law Enforcement Fund</li> <li>• 2% - Marijuana Poison Control Fund</li> <li>• 9% or 11%* - Substance Abuse, Treatment, and Prevention Fund</li> <li>• 9% - 9-8-8 Fund</li> <li>• 28% - County Jail Construction Fund</li> <li>• 5% - Marijuana Expungement Fund</li> <li>• 3% - Division of Marijuana Control Operations Fund</li> <li>• 5% - Safe Driver Training Fund</li> <li>• 4% - Ohio Investigative Unit Operations Fund</li> </ul> <p>*- Asterisk denotes allocation percentage if the Marijuana</p>	<ul style="list-style-type: none"> <li>• 36% - The Cannabis Social Equity and Jobs Fund</li> <li>• 36% - The Host Community Cannabis Fund</li> <li>• 12.5% - 988 Fund</li> <li>• 10% - Substance Abuse and Addiction Fund (meant for county sheriffs to provide mental health and addiction services in county jails)</li> <li>• 2.5% - Substance Abuse and Addiction Fund (meant to support Department of Mental Health and Addiction Services to develop the state's mental health workforce)</li> <li>• 3% - The Division of Marijuana Control and Tax Commissioner Fund</li> </ul>	<ul style="list-style-type: none"> <li>• 19.4% - Cannabis Social Equity and Jobs Fund</li> <li>• 19.4% - Host Community Cannabis Fund</li> <li>• 19.4% - Substance Abuse Research and Education Fund</li> <li>• 19.4% - Substance Abuse Addiction and Recovery Fund</li> <li>• 19.4% - Law Enforcement Cannabis Training Fund</li> <li>• 3% - Division of Cannabis Control and Tax Commissioner Fund</li> </ul>	<ul style="list-style-type: none"> <li>• 25% - General Revenue Fund</li> <li>• 25% - Marijuana Profits Education Fund (K-12 education)</li> <li>• 12.5% - Municipal Corporations with Marijuana Retail Stores</li> <li>• 12.5% - Counties with Marijuana Retail Stores</li> <li>• 12.5% - Illegal Drug Trafficking Enforcement Fund</li> <li>• 12.5% - Chemical Dependency Rehabilitation Fund</li> </ul>

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		<p>Expungement Fund ceases to exist.</p> <p>Annual transfer limits are also established for each fund.</p>	<p>Cultivation Tax Distributed as follows:</p> <ul style="list-style-type: none"> <li>• After all required transfer have been made, the marijuana receipts fund shall be distributed as follows:</li> <li>• 36% - Adult Use Cannabis Local Jail Fund</li> <li>• 36% - Adult Use Cannabis County Sheriff Fund</li> <li>• 23% - Adult Use Cannabis Law Enforcement Training Fund</li> <li>• 5% - Adult Use Cannabis Crime Victims Assistance Fund</li> </ul>		
<b>License Cap</b>	<ul style="list-style-type: none"> <li>• Technically no – Division of Cannabis Control shall review the number of adult use cannabis operator licenses on a biannual basis and may authorize additional licenses after considering: market growth, consumer demand, the available supply of adult use cannabis and the geographic distribution of adult use dispensary sites.</li> </ul>	<ul style="list-style-type: none"> <li>• Yes – Caps placed on cultivators and retail dispensary licenses. Cultivators have yet to be established, while retail dispensaries are limited to 350 licenses across the state at any one time.</li> </ul>	<ul style="list-style-type: none"> <li>• Technically no – Division of Marijuana Control shall review the number of adult use cannabis operator licenses on a biannual basis and may authorize additional licenses after considering: market growth, consumer demand, the available supply of adult use cannabis and the geographic distribution of adult use dispensary sites.</li> </ul>	Same as Issue 2.	<p>Yes – prior to 1/1/2027, retail licenses will be limited to 1 license per 60,000 residents. Post 1/1/2027, authorities will begin biennial reviews of licensed dispensaries and issue more licenses based on:</p> <ul style="list-style-type: none"> <li>• Anticipated market growth and consumer demand</li> <li>• Supply from licensed cultivators and processors</li> <li>• Geographic distribution for patient access</li> </ul>

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<b>License Types</b>	<ul style="list-style-type: none"> <li>• Level I Cultivator License and Level I Adult Use Cultivator (100K sqf)</li> <li>• Level II Cultivator License and Level II Adult Use Cultivator (15K sqf)</li> <li>• Level III Cultivator License and Level III Adult Use Cultivator (5K sqf) (plus 40 social equity licenses)</li> <li>• Processor License</li> <li>• Dispensary License (plus 50 social equity licenses)</li> <li>• Testing Laboratory License</li> </ul>	<ul style="list-style-type: none"> <li>• Retail Dispensary Licenses – limits state to 350 retail dispensary licenses at any one time.</li> <li>• Cultivator Licenses – Level I and Level II. Has yet to establish a limit but provides considerations for how this will be determined.</li> <li>• Processor License</li> <li>• Laboratory License</li> </ul>	<ul style="list-style-type: none"> <li>• Adult use Dispensary</li> <li>• Adult use Level I Cultivator</li> <li>• Adult use Level II Cultivator License</li> <li>• Adult use Level III Cultivator License</li> <li>• Adult use Processor License</li> <li>• Adult use Testing Laboratory License</li> </ul>	Same as Issue 2.	<ul style="list-style-type: none"> <li>• Cultivator License – Level I &amp; II Cultivator</li> <li>• Processor License</li> <li>• Retail Dispensary License</li> <li>• Testing Laboratory License</li> </ul>
<b>Expected Date of Licenses Issuance</b>	9 months after December 7, 2023	Rules have yet to be developed but current retail dispensary licenses are allowed to begin operating upon the effective date of the bill.	Same as Issue 2.	Same as Issue 2.	Licenses will be issued within 240 days after HB 168 has been enacted. Licensees can then begin dispensing marijuana to adult-use consumers and medical marijuana patients.
<b>Application Restrictions</b>	Applicant must not have a disqualifying offense. Certain offenses may still be eligible of there was a guilty plea entered or conviction found 5 years prior to the application. Must not have a conflict of interest with testing laboratories as an adult use operator applicant, and vice versa. Applicant must demonstrate location is not within 500 feet of a prohibited facility (certain exemptions apply). Applicant must also be in compliance with tax laws of Ohio and meet all other license eligibility considerations established the adopted rules. Applicant is not employed by a regulatory body of a governmental unit of this state and in that capacity has significant influence or control, as determined by the division of cannabis control, over the ability of the applicant to conduct business in this state.	HB 86 repeals Issue 2’s current requirements for applicants and utilizes Sections 3796.03, 3796.09, and 3796.10, from the current medical marijuana law with amendments to include adult-use language.	Same as Issue 2, with amendments clarifying criteria qualifications and dates.	Same as Issue 2.	HB 168 uses the same application requirements previously established through Sections 3796.09, 3796.10 & 3796.03.

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<b>Vertical Integration</b>	Permitted, but certain restrictions apply.	No mention.	Permitted, but certain restrictions apply.	Permitted, but certain restrictions apply.	Permitted, but certain restrictions apply.
<b>Medical Marijuana Licensees Given Priority</b>	<p>Yes – Dispensary issued 1 dispensary license</p> <ul style="list-style-type: none"> <li>• Level I Cultivator shall be issued three adult use dispensary licenses and one Level I Adult use cultivator license</li> <li>• Level II Cultivator shall be issued one adult use dispensary and one level II adult use cultivator license</li> <li>• 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</li> <li>• Processor shall be issued one adult use processor license</li> <li>• Testing lab shall be issued one adult use laboratory license</li> </ul>	<p>HB 86 temporarily allows for current licensed medical retail dispensaries to dispense medical marijuana to adult-use consumers upon the effective date of this bill and ending one year thereafter.</p> <p>The bill also appears to allow all medical marijuana licensees to operate in the adult-use recreational market although the rules or application processes are not specified.</p>	Yes – uses same language established by Issue 2.	Yes – uses same language established by Issue 2.	Not specified.
<b>Conviction Record Relief</b>	No	Yes – HB 86 creates the Marijuana Expungement Fund which shall be used to reimburse applicants seeking expungement and the legal aid societies involved in expungement assistance. HB 86 permits expungement of minor marijuana convictions, with reimbursement rules and a five-year fund allocation to public safety and substance abuse.	No – HB 354 does include Issue 2 language for studying various criminal justice measures, including expungement.	Same as Issue 2.	<p>Yes – Offenses qualifying for expungement:</p> <ul style="list-style-type: none"> <li>• A violation of section 2925.11 related to obtaining, possessing, or using 5 ounces or less of marijuana or 15 grams or less of hashish before the amendment.</li> <li>• A violation of section 2925.04 concerning the cultivation of 12 or fewer marijuana plants prior to the amendment.</li> <li>• A breach of section 2925.141 of the Revised Code as it existed before</li> </ul>

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					<p>the effective date of this section.</p> <p>Expungement occurs following a petition application and approval from court.</p> <p>Applicants must pay a \$50 fee when filing under Sec. 2953.40, with \$30 going to the state treasury and \$20 to the relevant local fund, unless they are indigent. Half of the \$30 sent to the state treasury will be credited to the Attorney General Reimbursement fund.</p>
<b>Substance Abuse and Education Program</b>	<p>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.</p>	<p>9-11% of revenue is allocated to a substance abuse, treatment, and prevention fund, with a maximum annual transfer limit of \$25-30 million.</p>	<p>HB 354 designates 12.5% of specific funds to the 9-8-8 suicide prevention and mental health crisis hotline, overseen by the Department of Mental Health and Addiction Services. Additionally, 10% is allocated to the Substance Abuse and Addiction Fund for mental health and addiction services in county jails, and 2.5% supports the development of the state's mental health workforce.</p>	<p>HB 341 does change the name of fund used for substance abuse addiction and recovery services. HB 341 also adds additional language for how the funds will be spent.</p>	<p>The Chemical Dependency Rehabilitation Fund is created to assist individuals in Ohio suffering from chemical dependence or substance abuse. The fund will be administered by the Department of Mental Health and Addiction Services.</p>

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<b>Social Equity Provisions Included</b>	<p>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.</p> <p>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.</p>	<p>HB 86 mandates issuing at least 15% of cultivator, processor, or laboratory licenses to minority-owned entities in Ohio (this language originally used in the medical marijuana statute was deemed by courts to be unconstitutional). Additionally, 5% of certain funds are allocated to the marijuana expungement fund, with an annual limit of \$15 million. Repeals current equity program (ORC 3780.19)</p>	<p>Yes – HB 354 uses the same language as Issue 2 but changes how the program is administered. The program would be administered by counties instead of the Department of Development. Language is also added that allows counties to use funds for the program, or any purpose involving community engagement, economic development, or social programming.</p>	<p>No mention.</p>	<p>No mention.</p>
<b>Local Authority</b>	<p>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.</p>	<p>Yes – Municipal authorities in Ohio can restrict or ban marijuana cultivators, processors, and dispensaries, except for pre-existing licensees. Counties can levy a local tax of 0.25-3% for cultural, artistic, and entertainment funding, approved by voters for 10 years. The law enforces a 500-foot distance requirement for marijuana businesses from schools, churches, and public spaces. Local regulations can control marijuana advertising, sales, and prevent oversaturation. Zoning regulations enable local control over business locations.</p>	<p>Yes – uses same language as Issue 2.</p>	<p>HB 341 removes language which prohibited a local authority from levying a tax, in addition to adopting an ordinance or resolution that would limit marijuana-related research at nearby education and health institutions.</p>	<p>Yes - Municipal corporations and townships can limit or prohibit cultivators, processors, dispensaries. Cannot limit or prohibit research at state university, academic medical center, private research and development organizations; or use, possession, delivery by consumers or patients.</p>

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<b>Medical Marijuana Program Remains Active</b>	Yes	Yes	Yes	Yes	Yes
<b>Home Cultivation Permitted</b>	Yes – 6 plants per individual, 12 plants total per residence where two or more adult use consumers reside at one time.	Yes – individuals are permitted to grow 6 plants per primary residence.	Yes – 6 plants per individual, 12 plants total per residence where two or more adult use consumers reside at one time. HB 354 removes ability transfer homegrown marijuana, clarifies primary residence definition, and prohibits a third-party from cultivating home grow on behalf of another individual.	Yes – 6 plants per individual, 12 plants total per residence where two or more adult use consumers reside at one time, however, language has been removed that prevented a local authority from prohibiting or limiting home grow.	Yes – 6 plants (3 mature)
<b>Possession Limit</b>	2.5 ounces in any form except extract 15 grams of adult use extract May purchase 2.5 ounces from dispensary per day	Same as Issue 2.	2.5 ounces in any form except extract 15 grams of adult use extract May purchase 2.5 ounces from dispensary per day HB 354 does remove the ability for an individual to sell, give away, or other transfer adult use cannabis unless licensed under ORC 3780 or 3796.	Same as Issue 2.	50 grams, no more than 8 grams in the form of marijuana concentrate



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<b>Consumption Limitations</b>	<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>HB 86 establishes THC limits for adult-use marijuana sold by dispensaries: 35% for plant material, 50% for extracts, with exceptions. THC per serving must not exceed 10 mg, and per package, 100 mg. The division may allow higher THC content for vaporization extracts and set THC limits by weight, unit, or package, based on scientific evidence and industry standards. Permissible forms of adult-use marijuana include various extracts, edibles, smoking products, vaporization items, beverages, pills, topical products, seeds, live plants, and more.</p>	<p>Same as Issue 2.</p>	<p>Same as Issue 2.</p>	<p>N/A</p>
<b>Public Consumption</b>	<p>No</p>	<p>No</p>	<p>No</p>	<p>No</p>	<p>No mention.</p>
<b>Employer/ Employee Protections</b>	<p>Employee: No</p> <p>Employer: Allowed to continue workplace drug policies prohibiting consumption.</p>	<p>No – same as Issue 2.</p>	<p>Employee: No</p> <p>Employer: Allowed to continue workplace drug policies prohibiting consumption.</p> <p>HB 354 also adds language that makes an individual ineligible to serve a waiting period or be paid unemployment benefits while the person is unemployed if they were discharged for their cannabis use.</p>	<p>No – same as Issue 2.</p>	<p>No – same as Issue 2.</p>

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<b>Financial Institution Protections</b>	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.	No mention.	Yes – same as Issue 2.	Yes – same as Issue 2.	Financial institutions providing services to licensed cultivators, processors, dispensaries, or labs are exempt from criminal laws if the licensee complies with the chapter and state tax laws.
<b>Other rights/ protections</b>	Act creates additional protections for: <ul style="list-style-type: none"> <li>• Concealed Carry Licenses</li> <li>• Adjudicatory hearings to determine shelter care placement</li> <li>• Parental Rights and Responsibilities</li> <li>• Parenting Time Orders</li> <li>• Eligibility for any public benefit program administered by the state or locality</li> <li>• Right to medical care and/or inclusion on a transplant waiting list</li> <li>• Users cannot be rejected as a tenant but can prohibit smoking still</li> <li>• 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.</li> </ul> Employers still have the ability to enact drug free work zones	HB 86 protects real estate licensees involved in transactions related to medical and adult-use marijuana cultivation, processing, dispensing, or testing, exempting them from disciplinary actions for these activities. Registered medical marijuana patients or caregivers cannot be solely denied tenancy based on their status, except as required by federal law. Additionally, the use or possession of medical marijuana, in compliance with regulations, cannot be the sole basis for child custody decisions, denying medical care, or transplant eligibility.	Same as Issue 2.	Same as Issue 2.	None