



## Ohio HB 160 — Restricting Legalization, Undermining the Will of Voters

On November 7, 2023, 57% of Ohio voters approved Issue 2 to legalize cannabis for adults and — as the campaign was named — “Regulate Marijuana Like Alcohol.”

The Senate quickly proposed gutting the will of voters, but the bill (HB 86, Sub 1954) died in the House following a popular outcry. In February 2025, the Senate again passed a bill to dramatically restrict the voter-enacted law — Sen. Stephen Huffman’s SB 56.

In the House, Rep. Brian Stewart filed HB 160, which, like SB 56, creates a legal minefield that re-criminalizes innocuous conduct. While SB 56 goes even further — including banning smoking in any backyard — it prohibits a wide array of activity that has been legal for 1.5 years. It re-criminalizes sharing cannabis with another adult, possessing cannabis that wasn’t purchased from an Ohio retailer or grown by yourself, vaping in one’s rented home or yard if the landlord bans it, using cannabis in a hotel room or parking lot that wants to allow it, and having cannabis in a passenger area of a car that was ever opened. It imposes a three-day mandatory minimum in jail for vaping or smoking cannabis as a passenger in a car or on a boat.

In short, it treats cannabis nothing like alcohol. Imagine if lawmakers proposed banning sharing a bottle of wine and required spouses to have his and her liquor cabinets. Or if they made it illegal to drink a beer anywhere but some private homes.

In addition to re-criminalization, HB 160 reduces potency limits on extracts to 70%, caps retailers at 350, eliminates small growers (level 3 licensees) and equity licensing, and removes Issue 2’s allocations. Instead of reinvesting in impacted communities, substance abuse treatment, and criminal justice reform, it directs almost all revenue to the General Fund. The one exception is that localities that do not ban dispensaries would receive 20% of the cannabis tax revenue for four years, reduced from Issue 2’s 36% for communities hosting dispensaries with no end date.

HB 160 includes some weak expungement language, but it is not a substantial improvement from existing law. Meanwhile, HB 160 strips away Issue 2’s funding for expungement and sealing legal aid, so it will likely result in fewer people having their cannabis records expunged instead of more.

Here are more details on how HB 160 ignores the will of voters:

- Repeals Issue 2’s § 3780.36 and 3780.99, which allow adults to use, share, cultivate, and possess marijuana without being “subject to arrest, criminal prosecution, or civil penalty,” with reasonable limits and exceptions — including using cannabis while operating a vehicle, smoking or vaping cannabis as a passenger in a vehicle, driving under the influence, and public use. Replaces those sections with far more restrictive language with a minefield of re-criminalization.

(HB 160's § 3796.04).

- Bans adults from sharing cannabis with other adults.
  - Removes Issue 2's language that allows the transfer of cannabis without remuneration.
  - Provides, "No person shall give, sell, or transfer homegrown marijuana to any other person, with or without remuneration."
- Bans marijuana purchased in other states.
  - Limits legalization to "homegrown marijuana" and "adult-use marijuana," which it defines as "marijuana that is cultivated, processed, dispensed, or tested for, or possessed or used by, an adult-use consumer, in accordance with this chapter."
    - Issue 2 defined adult-use marijuana as marijuana, regardless of source.
  - Provides, "No person shall transport marijuana other than adult-use marijuana, medical marijuana, or homegrown marijuana in a motor vehicle."
  - This re-criminalizes possessing cannabis from neighboring states and subjects every person who possesses cannabis to a potential investigation into the origin of their cannabis.
- Bans smoking and vaping adult-use cannabis anywhere except on some residential and agricultural real property.
  - Under Issue 2, cannabis is prohibited "in public areas," but property owners could allow cannabis use in locations that aren't open to the general public, such as hotel rooms.
  - Penalizes vaping in rented homes if the landlord prohibits smoking or vaping in a lease. Issue 2 prohibits smoking, but not vaping, if a landlord bans it.
  - Bans smoking or vaping in childcare homes — apparently including after-hours when there are no children present.
    - In most cases, the penalty is a minor misdemeanor, with a fine of up to \$150.
- Requires cannabis and paraphernalia to either be transported in the "original, unopened packaging" or in the trunk if there is one. If there is no trunk, it must be stored "behind the last upright seat of the motor vehicle or in an area not normally occupied by the driver or passengers and not easily accessible by the driver."
  - Imposes a minor misdemeanor, with a fine of up to \$150.
  - There is no public safety need for this broad prohibition, which will criminalize people for innocuous conduct. While bottles of beer are single servings, a container of edibles or cannabis flower can last days or weeks. A package of cannabis having been opened is in no way indicative of recent use.
- Imposes a three-day mandatory minimum in jail — and a maximum of up to six months in jail plus a fine — for passengers smoking or vaping cannabis in a vehicle or boat.
  - Issue 2 also prohibits passengers from combusting cannabis in a car or boat, but § 3780.99 imposes a much more reasonable minor misdemeanor.

## **Lowers THC Cap, Limits Products for Cannabis Sales**

- Caps THC at 70% in extracts. The current cap is 90%.
  - There is no exception for vapes. This could result in hazardous additives in vapes.
- Removes Issue 2's provision allowing petitions for additional product types.

## **Reframes Protections to Stop Ruining Lives Over Cannabis**

- Reframes non-discrimination provisions that are in Issue 2 to instead add protections for the re-defined "adult-use marijuana" or "homegrown marijuana" to the existing protections for medical cannabis.

- As a result, individuals may need to prove their cannabis was obtained from Ohio retailers to not have their children taken away for responsible cannabis use, and to otherwise avail themselves of protections.
- Provides that a person fired for marijuana use is ineligible for unemployment benefits if the cannabis use violated their employers' policies.

## **Eliminates the Social Equity and Jobs Program and Small Grow Licenses**

- Repeals the social equity and jobs program, which was designed to:
  - create a fairer industry by providing opportunities for those with social and economic disadvantage,
  - “study and fund judicial and criminal justice reform including bail, parole, sentencing reform, expungement and sealing of records, legal aid, and community policing related to marijuana,” and
  - “fund direct investment in disproportionately impacted communities to enhance education, entrepreneurship, legal aid, youth development, violence prevention, and the arts related to the program.”
- Removes provision providing that regulators may issue up to 50 more retail licenses with a preference for applicants in the social equity and jobs program.
- Eliminates level 3 cultivation licensees — small growers limited to 5,000 square feet.
- Caps the total number of retailers at 350.
  - Issue 2 allows regulators to reassess needs every two years and to increase the number.
- Removes the requirement that licensing authorities consider geographic distribution to ensure patient access to medical marijuana. Instead it shall consider geography to avoid oversaturation.

## **Removes Issue 2's Allocations**

- Removes Issue 2's allocations. Instead, it allocates all proceeds to the General Fund, except that for the first four years, 20% would go to communities that have “not prohibited or limited” adult-use dispensaries.
- Issue 2 allocated:
  - 36% for the social equity and jobs programs — which included funding to “study and fund criminal justice reform including bail, parole, sentencing reform, expungement and sealing of records, legal aid, and community policing related to marijuana.”
  - 36% to communities that are actually hosting adult-use cannabis dispensaries
  - 25% to substance use disorder education and treatment
  - 3% for cannabis regulatory and administrative costs
- Numerous cities opted to allow legal sales with the expectation that they would receive 36% of the resulting revenue from the sales in their localities in perpetuity.
- While HB 160 includes expungement language, it is very similar to existing law and still requires people with records to file petitions, rather than having the state itself initiate the expungement process. By eliminating the 36% funding stream that includes legal aid, expungement and sealing, and criminal justice reform, HB 160 will almost surely result in worse outcomes for people with existing criminal records for cannabis. And it would create vast numbers of new records by re-criminalizing current legal conduct.