



Nov. 12, 2025

Re: Changes needed to SB 56 to respect the will of voters

Dear SB 56 conference committee members:

We are writing on behalf of the nation's two largest cannabis policy reform organizations — the Marijuana Policy Project and NORML — and the ACLU of Ohio to strongly urge you to revise SB 56 to respect the will of voters and remove re-criminalization.

On November 7, 2023, 57% of Ohio voters approved Issue 2, legalizing cannabis for adults' use. A core purpose of Issue 2 was to stop ruining adults' lives for cannabis.¹ Ohio voters have been outraged at attempts to whittle away at their legalization law. Since late 2023, constituents have sent over 25,000 emails to their state senators and representatives to oppose eroding Issue 2 using our advocacy tools.

If SB 56, as passed by the House, becomes law, Ohioans and visitors would be subject to a minor misdemeanor for conduct that voters legalized. Instead of possession of up to 2.5 ounces of cannabis being *legal* for adults 21 and older, it would only be *possibly legal* — depending on where it came from, what container it is in, and other factors. SB 56 would likely result in thousands of tense police-civilian interactions each year. It would create thousands of new criminal records that derail Ohioans' lives. SB 56 also removes essential protections from losing one's career, children, or ability to receive necessary medical care.

We implore the conference to remove all re-criminalization and to restore civil legal protections. Please respect the will of voters, including by:

- Restoring voter-enacted legal protections to ensure Ohioans are not stripped of their professional or occupational licenses or denied custody of their children, benefits, or medical care — including organ transplants — for responsible cannabis use.
- Removing the re-criminalization of cannabis obtained anywhere other than from an Ohio retailer or homegrown cannabis.
- Removing the prohibition on vaping cannabis in one's own rented home.
- Removing the minor misdemeanor to smoke or vape cannabis on residential premises if a lease prohibits it.

¹ Official argument for Issue 2. "Our current marijuana laws can ruin lives based on one mistake. This measure will end unfairly harsh punishments for minor marijuana offenses, freeing local law enforcement to focus on serious, violent, and unsolved crimes."

<https://www.sos.state.oh.us/globalassets/ballotboard/2023/issue-2-for.pdf>

- Removing the requirement, punishable by a minor misdemeanor, that edibles be stored “in the original packaging at all times when the products are not actively in use.”
- Removing the requirement, punishable by a minor misdemeanor, that cannabis be transported in its original, unopened packaging or be stored in a trunk or similar area.
- Removing the ban on cannabis smoking in outdoor public locations and other non-residential locations with the owner’s permission (such as a bar’s patio, parking lot, or a smoking hotel room).
- Removing the restriction that only allows cannabis to be shared on residential or agricultural properties (not a hotel room, concert, or anywhere else).
- Restoring language allowing cannabis paraphernalia.
- Limiting the bans on smoking or vaping in childcare homes to times when children are present.
- Relaxing the 400-dispensary cap.
- Restoring social equity funding, and at least providing adequate funding for expungement.

As State Democracy Research Initiative Senior Staff Attorney Derek Clinger argues in “Constitutional Limits on Legislative Overrides of Statutory Initiatives in Ohio,” SB 56’s recriminalization is likely unconstitutional.² Clinger makes the case that, “The Ohio Constitution allows lawmakers to amend voter-approved initiated statutes only if their changes ‘facilitate’ the initiative without in any way limiting or restricting it.” The constitutionality of legislative amendments to a statutory initiative has not been litigated in Ohio, but it would likely be if the Legislature passes new re-criminalization.

Please reject these erosions of freedoms enacted by voters.

Here are more details, including section and line numbers, for the issues outlined above. All numbering is based on the [House-passed version of SB 56](#). We urge the conference committee to:

1. Restore legal protections for adult-use cannabis consumers.

Issue 2 provides that cannabis consumers cannot be denied organ transplants, child custody, benefits, and professional and occupational licensing for legal cannabis

² Clinger, Derek, “Constitutional Limits on Legislative Overrides of Statutory Initiatives in Ohio,” (April 7, 2025). Univ. of Wisconsin Legal Studies Research Paper No. 1835, 76 Case Western Reserve Law Review <https://ssrn.com/abstract=5208456>

conduct.³ SB 56, as passed by the House, repeals and does not replace these protections.⁴

Issue 2's full legal protections need to be restored. An adult is not truly free to use cannabis if their life can be ruined for doing so responsibly — by being stripped of their professional license, children, housing, or medical care.

Proposed Revision:

Restore RC 3780.33⁵:

(A) The holder of a license, as defined in section 4776.01 of the Revised Code, or other license, certification, or registration issued by any professional board in the state of Ohio, or pursuant to 2923.125 of the Revised Code, are not subject to disciplinary action solely for engaging in professional or occupational activities related to adult use cannabis in accordance with this chapter, for owning or providing professional assistance to prospective or licensed adult use operators, adult use testing laboratories or to other individuals for activity in accordance with this chapter, or for obtaining, possessing, transporting, or using adult use cannabis in accordance with this chapter.

(B) Unless there is clear and convincing evidence that a child is unsafe, the use, possession, or administration of adult use cannabis in accordance with this chapter shall not be the sole or primary basis for any of the following:

(1) An adjudication under section 2151.28 of the Revised Code determining that a child is an abused, neglected, or dependent child;

(2) An allocation of parental rights and responsibilities under section 3109.04 of the Revised Code; or

(3) A parenting time order under section 3109.051 or 3109.12 of the Revised Code.

(C) Notwithstanding any conflicting provision of the Revised Code, the use or possession of adult use cannabis in accordance with this chapter shall not be used as a reason for disqualifying an individual from medical care or from including an individual on a transplant waiting list.

(D) Notwithstanding any conflicting provision of the Revised Code, the use, possession, administration, cultivation, processing, testing, dispensing, transporting, sale, delivery, or transferring of adult use cannabis in accordance with this chapter

³ RC 3780.33

⁴lines 23, 24 and 30; See also: Ohio Legislative Service Commission analysis of SB 56, as passed by the House at p. 22. "Adverse actions against adult-use consumers"
<https://www.legislature.ohio.gov/download?key=26379>

⁵ Which was deleted by lines 23, 24 and 30 — "and to repeal sections ... 3780.33 ..."

shall not be used as the sole or primary reason for taking action under any criminal or civil statute.

...[(E) was the only part of the protections that is retained in SB 56.]

(F) Notwithstanding any conflicting provision of the Revised Code, an individual's status as an adult use consumer shall not be used as the sole or primary basis for rejecting the individual as a tenant unless the rejection is required by federal law. Notwithstanding this division, a landlord may prohibit the consumption of cannabis by combustion so long as such prohibition is included in the applicable lease agreement.

(G) Notwithstanding any conflicting provision of the Revised Code, the use or possession of adult use cannabis in accordance with this chapter shall 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.

2. Restore Issue 2's language allowing adults' cannabis use and possession regardless of source.

A. Restore language allowing cannabis use and possession regardless of its source.

Allowing adults to possess and use cannabis without being punished is at the heart of Issue 2. However, SB 56 repeals the provision allowing adults' to possess cannabis regardless of its source.⁶ SB 56 instead provides protections *only if* the cannabis was purchased from an Ohio dispensary or was homegrown in Ohio.⁷

This dramatically erodes the voter-enacted freedoms. Instead of an adult with cannabis having a state-legal product and being left alone by authorities, they would have a *possibly* legal product, depending on where they got it. No other adult-use state has this requirement. Ohio has no similar prohibition for alcohol purchased out of state (such as Kentucky bourbon), or any other lawful product.

If a Kentucky medical cannabis patient visited family in Ohio, and bought the medical cannabis preparation they rely on, they would be a criminal. The same applies to anyone visiting from a legal medical cannabis or adult-use state and any Ohioan with cannabis purchased elsewhere. The penalty appears to be Ohio's

⁶ R.C. § 3780.36, repealed by lines 23-24, 30

⁷ See Ohio Legislative Service Commission analysis of SB 56, as passed by the House at p. 18-19. "Marijuana acquired elsewhere, like an out-of-state dispensary, cannot be legally possessed under the bill." <https://www.legislature.ohio.gov/download?key=26379>

existing penalty for unlawful possession of marijuana — a minor misdemeanor, which carries a fine of up to \$150, plus court costs.⁸

Proposed Revision:

Restore § 3780.36 (A):

R.C. § 3780.36 (A) Except as otherwise provided in this chapter and notwithstanding any conflicting provision of the Revised Code, an adult use consumer, may do the following:

- (1) Use cannabis;
- (2) Possess, transfer without remuneration to another adult consumer, or transport cannabis, subject to division (B) of this section; and
- (3) Purchase adult use cannabis from an adult use dispensary per day in amounts that do not exceed the possession limits set forth in division (B)(1) of this section.

...

Alternatively, revise Sec. 3796.221 as follows :

Sec. 3796.221. (A) Notwithstanding any conflicting provision of the Revised Code, an adult-use consumer ~~[who obtains adult-use marijuana from a licensed dispensary]~~ may do all of the following:

- (1) Use ~~[adult-use]~~ marijuana;
- (2) Possess ~~[adult-use]~~ marijuana, subject to division (B) of this section;
- (3) Possess ~~[any]~~ paraphernalia or accessories for marijuana ~~[that may be used in the administration of adult-use marijuana as specified in rules adopted under section 3796.03 of the Revised Code;~~
- (4) Transfer ~~adult-use and homegrown~~ marijuana to another adult-use consumer if all of the following apply: ...

Also, strike lines Sec. 3796.062 (A) in 3562-3564

Sec. 3796.062 (A) ~~No person shall knowingly transport marijuana other than adult-use marijuana, medical marijuana, or homegrown marijuana in a motor vehicle.~~

B. Restore the definition of adult-use cannabis, so SB 56 no longer bans marijuana purchased in other states or of unknown origin.

⁸ R.C. 2925.11 (A)(3)(1), RC 2929.28 (A), (2)(a)(v).

SB 56 redefines “adult-use marijuana,” to “marijuana that is cultivated, processed, dispensed, or tested for, or possessed or used by, an adult-use consumer, in accordance with this chapter.” This appears intended to limit it to cannabis purchased from an Ohio dispensary. In contrast, the voter-enacted R.C. § 3780.01, defines “adult-use cannabis” as marijuana.

The original language needs to be restored so adults possessing cannabis — including patients, visitors, and people passing through from neighboring states — are not re-criminalized.

Proposed Revision:

Strike and replace definition of adult-use cannabis with Issue 2’s definition, lines 3116-3125:

Sec. 3796.01. (9) "Adult use cannabis," or "adult use marijuana," or "cannabis " or "marijuana" means marihuana as defined in section 3719.01 of the Revised Code.

3. Remove language allowing landlords to penalize vaping in rented homes if the landlord prohibits vaping in a lease.

While Issue 2 allowed landlords to ban marijuana smoking in a lease,⁹ SB 56 allows them to also ban vaporization in a lease. Vaporization does not involve combustion and is typically not even perceptible in an adjacent room, much less in a different home.

This broad prohibition would mean tenants would have no place where they could legally vape cannabis. Issue 2 strikes a reasonable balance by prohibiting smoking, but not vaping, if a landlord bans it in a lease.

Proposed Revision:

On lines 3504-3505, change “smoke, combust, or vaporize” to “smoke”

On lines 3514-3515, change “smoking, combustion, or vaporization” to “smoking”

On line 4448, change “smoking, combustion, or vaporization” to “smoking”

⁹ R.C. 3780.33 (f)

4. Remove the criminal penalty for vaping or smoking if it is prohibited by a rental agreement.

Unlike Issue 2, SB 56 would make it a *criminal offense* to smoke or vaporize cannabis in one's own home, if it is prohibited by a landlord in a lease.¹⁰ Making a lease violation a criminal offense is alarming and inappropriate. Further, landlords have adequate civil remedies for addressing lease violations.

Proposed Revision:

Strike Sec. 3796.06 (C) (3)(c), lines 3513-3515

[No person shall knowingly smoke, combust, or marijuana or intoxicating hemp products in any of the following:]

~~“(c) A residential premises occupied pursuant to a rental agreement that prohibits the smoking, combustion, or vaporization of marijuana or intoxicating hemp products;”~~

Revise Sec. 3796.99, lines 4958-4959 (I) to remove the penalty

5. Eliminate the requirement that edibles always be stored in their original packaging.

Many cannabis consumers are mature adults who live alone and have no children in their home. Child-resistant packages — which cannabis must be sold in — are hard for many adults, including people with arthritis, to open.

Some adults move edibles to other containers to avoid having to reopen them, to track dosages, and for other reasons. Forcing adults to store edibles in their original packaging is another case of SB 56 re-criminalizing innocuous conduct. Ohio has no similar requirement for alcohol, medicines (which vast numbers of people track using pill trays), or other legal products.

Proposed Revision:

Strike Sec. 3796.06 (H), lines 3558-3561

¹⁰ Sec. 3796.99, lines 4958-4959 (I) (“Whoever violates division (A), (B), or (C) of section 3796.062 of the Revised Code is guilty of a minor misdemeanor.”)

Sec. 3796.06 ~~“(H) An adult-use consumer, medical marijuana patient, or medical marijuana caregiver shall store edible adult-use and medical marijuana products in the original packaging at all times when the products are not actively in use.”~~

6. Eliminate the requirement that cannabis and paraphernalia be transported in the “original, unopened packaging” or in the trunk or similar space.

SB 56 imposes a minor misdemeanor on anyone transporting cannabis products that have ever been opened in a location other than a trunk or, if there is no trunk, “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.”¹¹

Cannabis is very different from alcohol when it comes to the rationale for open container laws. Unlike beer cans, packages of cannabis often hold a week or more supply of edibles or flower. A previously opened jar of cannabis or edibles in no way indicates recent use. Moreover, unlike alcohol, cannabis is a medicine for many. Ohio doesn’t require any other over-the-counter or prescription medicines to be stored in a trunk.

SB 56’s open container provision is unrealistic on public transportation and for people with disabilities. The back seats of the bus may already be occupied when a patient boards. Storing unattended cannabis behind strangers would be reckless and could result in theft and minors accessing it. Wheelchair users and the disabled will need to sit near the front, and will be unable to comply. It is also impractical in a Lyft or Uber, and would likely be often forgotten.

Issue 2 already prohibits operating a vehicle while using cannabis or while impaired by cannabis. It also prohibits passengers from smoking, vaping, or combusting cannabis. This is the appropriate approach. If someone is smoking a joint while driving, they can and should be prosecuted. They should not be punished for having a package of edibles, rolling papers, or a jar of cannabis in their purse.

Proposed Revision:

Strike Sec. 3796.062 (B), lines 3565-3591

The language begins, “(B) No person shall knowingly transport medical marijuana or adult-use marijuana in a motor vehicle unless one of the following applies:

¹¹ Sec. 3796.062 (B); Sec. 3796.99, lines 4958-4959 (I) (“Whoever violates division (A), (B), or (C) of section 3796.062 of the Revised Code is guilty of a minor misdemeanor.”)

(1) The adult-use marijuana or medical marijuana is in the original, unopened packaging in which it was dispensed or sold;

(2) If previously opened, the adult-use marijuana or medical marijuana is stored in the trunk of the motor vehicle or, if the motor vehicle does not have a trunk, 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.
...

It is then repeated for homegrown cannabis and paraphernalia.

7. Strike language allowing cannabis smoking and vaping only in some residential and agricultural areas.

Issue 2 does not require public places to accommodate adults' use of cannabis, but it also doesn't *prohibit* them from doing so.¹² It provides cannabis use, other than as provided in the law, "in public areas" is a minor misdemeanor.¹³ The Division of Cannabis Control's (DCC's) website explains that Ohio's law prohibiting smoking or vaping in public *indoor* spaces applies to cannabis.¹⁴

SB 56 would go much further, making it a minor misdemeanor to smoke or vape in a huge array of privately-owned locations. The *only* places a person could smoke or vape cannabis would be some private residential properties and some agricultural lands.¹⁵

There are thousands of places where Ohioans can drink alcohol outside of private homes, including sporting and music venues, restaurants, private events, and even the Statehouse (for catered events). Ohioans can also smoke cigarettes in many places, including most places outdoors and some hotel rooms.

The Legislature needs to restore the balance in Issue 2 and not relegate cannabis consumers to certain homes. Businesses should be allowed to permit cannabis combustion in outdoor locations and indoor locations that aren't open to the general public, such as hotel rooms designated for smoking, adults-only patios, or parking lots. Without such a provision, there is nowhere the 200 million plus visitors to Ohio

¹² R.C. 3780.33 (h)

¹³ R.C. 3780.99 (B)

¹⁴ "Non-Medical Cannabis FAQ," Division of Cannabis Control, (12)
<https://com.ohio.gov/divisions-and-programs/cannabis-control/licensee-resources/what-we-do/non-medical-cannabis-faq>

¹⁵ lines 3496-3503

can legally smoke cannabis, nor is there anywhere many residents — including renters — can do so.

Proposed Revision:

Strike Sec. 3796.06 (A) (2), lines 3496-3503

The language begins, “(2) No person shall knowingly consume adult-use marijuana, homegrown marijuana, or intoxicating hemp products by smoking, combustion, or vaporization or knowingly consume medical marijuana by vaporization in any place other than privately owned real property that is used primarily for residential or agricultural purposes, including any dwellings, facilities, improvements, and appurtenances on such real property ...”

8. Restore language allowing cannabis paraphernalia.

Issue 2 allows all adults who are 21 or older to possess, make, and sell paraphernalia, which includes jars for cannabis, rolling papers, pipes, lights, and a wide array of other accessories.¹⁶ SB 56 repeals that provision and dramatically limits what paraphernalia is allowed and who may sell it.

SB 56 directs regulators to “Specify the paraphernalia or other accessories that may be used in the administration of medical marijuana, adult-use marijuana, and homegrown marijuana.”¹⁷ Then, it appears to limit the possession and sale of paraphernalia to products approved by regulators.¹⁸

Now that cannabis is legal, smoke shops, glassblowers, and other businesses are allowed to sell paraphernalia to adults. SB 56 changes that and appears to remove the ability of anyone other than a licensed dispensary to sell paraphernalia. The new language needs to be stricken and this language needs to be restored.

Proposed Revision:

Strike Sec. 3796.03 (B) (10), lines 3291-3294

~~(“Specify the paraphernalia or other accessories that may be used in the administration to a registered patient of medical marijuana, adult-use marijuana, and homegrown marijuana.”)~~

¹⁶ R.C. 3780.36 (C)

¹⁷ lines 3291-3294

¹⁸ lines 4336-4338, lines 4212-4217

Restore:

R.C. 3780.36 (C)

Except as otherwise provided in this chapter, an adult use consumer shall not be subject to arrest, criminal prosecution, or civil penalty for engaging in any of the activities authorized under this chapter, including:

....

Acquiring, possessing, using, purchasing, manufacturing, selling, or transporting paraphernalia

9. Remove language only allowing cannabis to be shared in residential or agricultural areas.

SB 56 only allows adults to transfer cannabis to another adult if “The transfer occurs at privately owned real property that is used primarily for residential or agricultural purposes, including any dwellings, facilities, improvements, and appurtenances on such real property.”¹⁹

Adults could not share edibles in a hotel room, at a wedding, or any of the thousands of locations where Ohio allows them to drink alcohol and smoke cigarettes. This adds yet another unnecessary and punitive trip wire of re-criminalization that voters did not enact.

Proposed Revision:

Strike Sec. 3796.221 (A)(4) (c), lines 4349-4352.

~~“The transfer occurs at privately owned real property that is used primarily for residential or agricultural purposes, including any dwellings, facilities, improvements, and appurtenances on such real property.”~~

10. Limit the bans on smoking or vaping in childcare homes to times when children are present.

Adults who operate daycares out of their homes can relax with alcohol at night. Alcohol must be “inaccessible to children” and childcare providers cannot drink alcohol while working.²⁰ Adults should similarly be able to smoke or vape cannabis at their own home when they are not operating it as a childcare facility. SB 56 would prohibit them from smoking or vaping even on their porch long after the children

¹⁹ lines 4349-4352

²⁰ Rule 5180:2-12-12 (B)(3); Ohio Admin. Code 5101:2-13-07 (A)(2)(b)

went home.²¹ If a restriction is added for home daycares, it should be limited to when children are present, as is the case with alcohol.

Proposed Revision:

Revise line 3508 to:

Revised Code, while children receiving child care are present;

11. The hard cap of 400 cannabis dispensaries is concerning.

Issue 2 directs regulators to consider issuing additional licenses every two years based on factors including demand and geographic distribution.²² In contrast, SB 56 imposes a hard cap of 400 cannabis dispensaries.²³ If a municipality opts in after the 400 dispensary cap has been met, the city or town would not be allowed to have any dispensaries, and would also get no revenue.

12. Expand expungements and waive fees.

In June, the General Assembly eliminated all of Issue 2's allocations other than the 36% Issue 2 allocated to host municipalities.²⁴ It re-directed the rest of the revenue to Ohio's General Fund. In doing so, it removed the entirety of the 36% of funding voters allocated to the social equity and jobs program. The social equity and jobs program included support for expungement and sealing of cannabis records and funding for direct investment in disproportionately impacted communities.²⁵

While SB 56 includes some improvements to the expungement process for low-level cannabis possession, it is still petition-based, it only covers possession of a small amount of cannabis, and it does not include funding for legal assistance or to inform people about the availability of expungement. Reinvestment in hard-hit communities and expungement were core features of Issue 2. At the minimum, SB 56 should be revised to:

²¹ lines 3504-3508

²² R.C. § 3780.10 (E)

²³ Lines 3416-3418

²⁴ See: <https://codes.ohio.gov/ohio-revised-code/section-3780.22>

²⁵ R.C. 3780.19 [Repealed] "(B) The department of development shall establish a business assistance program known as the cannabis social equity and jobs program funded by the cannabis social equity and jobs fund, and shall adopt rules in accordance with Chapter 119 of the Revised Code to administer the program including the following: ... (10) 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 "(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."

- remove all fees for cannabis expungement (SB 56 currently charges \$50)
- fund legal aid for expungement
- include funding for public education and outreach about the availability of expungement, and
- expand expungement to include other cannabis offenses. Individuals with any pre-legalization cannabis records should be allowed to petition for relief, and should be provided with legal aid funded by revenue generated by cannabis taxes. There should be a presumption of relief in light of legalization, which prosecutors could overcome if they prove relief is not in the public interest.

In addition to the above list, additional concerns about SB 56 include that it:

- Imposes a harsher penalty on anyone growing more than six plants, rather than having more modest penalties for between seven and 11 plants.
- Removes level III small cultivator licenses.
- Imposes a 70% cap on THC in extracts, reduced from 90% in Issue 2.
- Increases penalties for people who smoke, combust, or vaporize marijuana in a vehicle, streetcar, trackless trolley, watercraft, or aircraft.
- Removes regulators' ability to approve new forms of adult-use cannabis.

Concluding Thoughts

The people spoke loud and clear when they approved Issue 2, legalizing cannabis for adults. SB 56 would dramatically scale back the freedoms and protections that voters approved. It replaces legalization of up to 2.5 ounces of cannabis with numerous exceptions that carry criminal penalties — including for possessing cannabis from neighboring states, vaping in one's own rental home, sharing a gummy at a wedding, and using a pill dispensary to track edible doses. It will result in thousands of lives derailed by criminal records for conduct voters legalized.

It is highly unlikely cannabis consumers will be aware of this wide array of re-criminalization. Many will simply know cannabis is legal in Ohio. In the age of social media, many will accidentally incriminate themselves.

Ohio's initiative process is "one of the most essential safeguards to representative government."²⁶ Respecting the stated will of voters may well be constitutionally mandated. It is definitely the right thing to do.

²⁶ *State ex rel. Nolan v. Clendenen*, 93 Ohio St. 264, 277-78 (1915).

Please significantly amend SB 56 to remove the provisions that undermine the people's initiative, and to restore non-discrimination protections. Don't hesitate to reach out with any questions.

Sincerely,

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