Sec. 3796.03. (A)(1) Except as provided in division (A)(2) of this section, not later than one year after the effective date of this section September 8, 2016, the department of commerce shall adopt rules establishing standards and procedures for the medical marijuana control program.

(2) The department shall adopt rules establishing standards and procedures for the licensure of cultivators not later than two hundred forty days after the effective date of this section September 8, 2016.

(3) All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.

(B) The rules shall do all of the following:

(1) Establish application procedures and fees for licenses it
issues under this chapter;

(2) Specify all of the following:

(a) The conditions that must be met to be eligible for licensure;

(b) Subject to division (B)(2)(c) of this section, the criminal offenses for which an applicant will be disqualified from licensure;

(c) Which of the criminal offenses specified pursuant to division (B)(2)(b) of this section 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.

(3) Establish, in accordance with section 3796.05 of the Revised Code, the number of cultivator licenses that will be permitted at any one time;

(4) Establish a license renewal schedule, renewal procedures, and renewal fees;

(5) Specify reasons for which a license may be suspended, including without prior hearing, revoked, or not be renewed or issued and the reasons for which a civil penalty may be imposed on a license holder;

(6) Establish standards under which a license suspension may be lifted;

(7) Specify if a cultivator, processor, or laboratory that is licensed under this chapter and that existed at a location before a school, church, public library, public playground, or public park became established within five hundred feet of the cultivator, processor, or laboratory, may remain in operation or
shall relocate or have its license revoked by the board;

(8) Specify both of the following:

(a) Subject to division (B)(8)(b) of this section, the criminal offenses for which a person will be disqualified from employment with a license holder;

(b) Which of the criminal offenses specified pursuant to division (B)(8)(a) of this section will not disqualify a person from employment with a license holder if the person was convicted of or pleaded guilty to the offense more than five years before the date the employment begins.

(9) Establish, in accordance with section 3796.05 of the Revised Code, standards and procedures for the testing of medical marijuana by a laboratory licensed under this chapter;

(10) Establish, in accordance with section 3796.091 of the Revised Code, standards and procedures for the review and ranking of applications for licensure.

(C) In addition to the rules described in division (B) of this section, the department may adopt any other rules it considers necessary for the program's administration and the implementation and enforcement of this chapter.

(D) When adopting rules under this section, the department shall consider standards and procedures that have been found to be best practices relative to the use and regulation of medical marijuana.

Sec. 3796.09. (A) An entity that seeks to cultivate or process medical marijuana or to conduct laboratory testing of medical marijuana shall file an application for licensure with the department of commerce. The entity shall file an application for
each location from which it seeks to operate. Each application shall be submitted in accordance with rules adopted under section 3796.03 of the Revised Code.

(B) The department shall issue a license to an applicant if all of the following conditions are met:

(1) The report of the criminal records check conducted pursuant to section 3796.12 of the Revised Code with respect to the application demonstrates the following:

(a) Subject to division (B)(1)(b) of this section that the person subject to the criminal records check requirement has not been convicted of or pleaded guilty to any of the disqualifying offenses specified in rules adopted under division (B)(2)(b) of section 3796.03 of the Revised Code;

(b) That the disqualifying offense the person was convicted of or pleaded guilty to is one of the offenses specified in rules adopted under division (B)(2)(c) of section 3796.03 of the Revised Code and the person was convicted of or pleaded guilty to the offense more than five years before the date the application for licensure is filed.

(2) The applicant demonstrates that it does not have an ownership or investment interest in or compensation arrangement with any of the following:

(a) A laboratory licensed under this chapter;

(b) An applicant for a license to conduct laboratory testing.

(3) The applicant demonstrates that it does not share any corporate officers or employees with any of the following:

(a) A laboratory licensed under this chapter;

(b) An applicant for a license to conduct laboratory testing.
(4) The applicant demonstrates that it will not be located within five hundred feet of a school, church, public library, public playground, or public park.

(5) The information provided to the department pursuant to section 3796.11 of the Revised Code demonstrates that the applicant is in compliance with the applicable tax laws of this state.

(6) The applicant meets all other licensure eligibility conditions established in rules adopted under section 3796.03 of the Revised Code.

(C) The department shall issue not less than fifteen per cent of cultivator, processor, or laboratory licenses to entities that are:

(1) Applied for licensure on or before December 31, 2017;

(2) Were assigned scores that were equal to or greater than the score described in division (A)(3) of section 3796.091 of the Revised Code; and

(3) 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

(a) Blacks or African Americans,

(b) American Indians,

(c) Hispanics or Latinos,

(d) Asians.

If no applications or an insufficient number of applications are submitted by such entities that meet the conditions set forth in division (B) of this section, the licenses shall be issued according to usual procedures.
As used in this division, "owned and controlled" means that at least fifty-one per cent of the business, including corporate stock if a corporation, is owned by persons who belong to one or more of the groups set forth in this division, and that those owners have control over the management and day-to-day operations of the business and an interest in the capital, assets, and profits and losses of the business proportionate to their percentage of ownership.

(D) A license expires according to the renewal schedule established in rules adopted under section 3796.03 of the Revised Code and may be renewed in accordance with the procedures established in those rules.

Sec. 3796.091. (A) When reviewing and ranking applications for licensure, the department of commerce shall do all of the following:

(1) Consider the licensure eligibility conditions established in rules adopted under section 3796.03 of the Revised Code;

(2) Use an impartial and numerical scoring process that takes into account the licensure eligibility conditions established in rules;

(3) Establish a minimum score that an applicant must attain to be qualified for licensure;

(4) Assign a score to each applicant.

(B) The department may contract with a separate entity to review and rank applications for licensure. If the department contracts with a separate entity, the entity shall comply with the requirements of division (A) of this section.

In line 82859, after "3781.1010," insert "3796.03, 3796.09,"
After line 96539, insert:

"Section 737.____. (A) In amending division (C) of section 3796.09 of the Revised Code under this act, the 133rd General Assembly finds all of the following to be the case:

(1) The State of Ohio has worked for decades to reduce and eliminate well-documented disparities in the marketplace affecting economically disadvantaged groups, including by implementing the Minority Business Enterprise (MBE) program and the Encouraging Diversity Growth and Equity (EDGE) program.

(2) Numerous studies conducted in conjunction with the State's MBE and EDGE programs have identified racial disparities in the administration of State programs and also barriers to entry that disproportionately hinder the creation and expansion of minority-owned businesses. The 131st General Assembly, when enacting Sub. H.B. 523, considered these MBE/EDGE studies, as well as studies from other states regarding racial disparities in medical marijuana facility licensure.

(3) When enacting Sub. H.B. 523, the 131st General Assembly observed that the negative impacts of criminal marijuana laws were disproportionately imposed on minority communities, while the positive impacts of state-sanctioned medical marijuana programs disproportionately benefitted non-minorities.

(4) However, in Pharmacann Ohio, LLC vs. Ohio Department of Commerce, 17-CV-10962 (November 15, 2018), the Franklin County Court of Common Pleas held that division (C) of section 3796.09 of the Revised Code was unconstitutional. The Court found that the 131st General Assembly failed to compile and review enough evidence related to the medical marijuana industry to support the finding of a strong basis in evidence for a compelling government interest to exist. The Court also held that, even if there were a
finding of a strong basis in evidence for a compelling government interest to exist, the language of division (C) of section 3796.09 of the Revised Code was not narrowly tailored to meet such an interest.

(5) Additional amendments to division (C) of section 3796.09 of the Revised Code shall be considered after each study described in division (B) of this section is conducted.

(B) The General Assembly shall contract with an entity, selected jointly by the Speaker of the House of Representatives, House Minority Leader, Senate President, and Senate Minority Leader to conduct a study in calendar year 2020 and a study in calendar year 2021 to determine the appropriate minority benchmarks for future medical marijuana licensure. In conducting each study, the entity shall consider all of the following:

(1) Race-neutral alternative remedies;

(2) Numerical goals in relationship to the relevant labor market;

(3) Impacts on third-parties;

The entity also shall propose amendments to division (C) of section 3796.09 of the Revised Code that are narrowly tailored to the compelling governmental interest in ensuring the minimization of racial disparity in the issuance of medical marijuana licenses and in increasing minority inclusion.

The General Assembly hereby declares that it intends to enter into contracts for similar studies in years subsequent to calendar year 2021."

The motion was __________ agreed to.
SYNOPSIS

Medical marijuana licensure – review and ranking of applications

R.C. 3796.03 and 3796.091 (new)

Requires the Department of Commerce to adopt rules establishing standards and procedures for the review and ranking of applications for licensure as medical marijuana cultivators, processors, and testing laboratories.

Requires the Department, when reviewing and ranking applications for licensure, to do the following:

(1) Consider licensure eligibility conditions established in rule;

(2) Use an impartial and numerical scoring process that takes into account the licensure eligibility conditions;

(3) Establish a minimum score that an applicant must attain to be qualified for licensure;

(4) Assign a score to each applicant.

Authorizes the Department to contract with a separate entity to review and rank applications for licensure and requires the contracting entity to review and rank applications as if it were the Department.

Minority benchmarks and medical marijuana licenses

R.C. 3796.09; Section 737.___

Revises current law (declared unconstitutional by the Franklin County Court of Common Pleas) which requires the Department of Commerce to issue not less than 15% of cultivator, processor, and laboratory licenses to applicants that are members
of minority or economically disadvantaged groups by also requiring that those applicants meet the following conditions:

(1) Have applied for licensure on or before December 31, 2017;

(2) Were assigned scores that were equal to or greater than the minimum score that must be attained to be qualified for licensure.

Requires the General Assembly to contract with an entity to conduct a study in calendar years 2020 and 2021 to determine appropriate minority benchmarks for future medical marijuana licensure and to propose future amendments to the minority benchmark law.