

MARY JANE BORDEN

Borden Advisors, LLC

175 Fairview Avenue
Westerville, Ohio 43081

(614) 599-2485
maryjaneborden@gmail.com

Issue 2 Testimony – Opponent of Changes by Ohio General Assembly

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Chairperson Edwards, Vice Chair LaRe, Ranking Member Sweeney, and members of the Ohio House Finance Committee, thank you for the opportunity to present opponent testimony before you today regarding H.B. 354 and the related Sub Bill H.B. 86 and H.B. 341. All propose to modify the language of Issue 2, the citizen-initiated statute that over 2.2 million Ohio voters passed on November 7, 2023.

Greetings, My name is Mary Jane Borden. I call myself a two-name person. Mary Jane is my birth name. I have been a face in Ohio's cannabis community for well over 20 years. During this time, I have been intricately involved with the plant and its legalization movement. One goal has been to legalize adult use cannabis, the subject of Issue 2. Toward this end, I cofounded a half dozen organizations – charitable 501(c)(3)s, advocacy 501(c)(4)s, and political action committees. I have written legislation and constitutional amendments and given hundreds of media interviews. Under the moniker, "Mary Jane's Guide," the Columbus Free Press has published over 100 of my cannabis-focused articles on assortment of topics, with seven of the most recent devoted to Issue 2.

I work independently and uncompensated. I also hold an MBA and served nine years as a market analyst and project manager for Adria Laboratories, in its time, the largest U.S. marketer of cancer chemotherapy drugs. I am an active purchasing patient in Ohio's Medical Marijuana Control Program.

I believe I am professionally qualified to offer commentary on Issue 2, as well as cannabis in Ohio.

Today, I am offering testimony concerning possible changes to Issue 2. The favorable vote of 2.2 million Ohioans passed this [citizen-initiated statute](#) on November 7th by a solid 57-43% margin. Thirty days after passage – December 7th – the measure goes into effect.

For unclear reasons, the one-party dominated General Assembly wishes to amend the statute as opposed to allowing the version approved by two million voters to become law. I am an Ohio voter who believes that the new statute should remain as is.

SENATE RESOLUTION 216

One of my greatest fears is that the General Assembly will use [Senate Resolution 216](#) as the basis for its anticipated changes. With all due respect, this would be a grave mistake. This document is riddled with errors, omissions, redundancies, and falsehoods. Its quick, sloppy composition and publication by out of state players shows. My [October 2023 article](#) for the Free Press reviewed the resolution in detail; were I a teacher, S.R. 216 would at best receive a "C." A copy of my rebuttal to S.R. 216 is linked below.

UNINFORMED VOTERS

I understand that [Senate President Matt Huffman](#) "contends the initiative is lacking in detail, implied Ohio voters were either duped or not quite intelligent enough to have understood specifics." I think Ohio voters would take exception to this perception.

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As just one party, I have personally composed a litany of material concerning cannabis, its legislation, its opponents, its businesses, and so much more. A list of links to my work appears at the end of my written testimony. Through the Columbus Free Press, these materials reach over 100,000 visitors per month. And the materials pollinated to other webpages, social media platforms, podcasts, and webinars during the election cycle and over the last two years, educating Ohio voters along the way.

The statute itself was initiated by “We The People” but composed by legal scholars, cannabis experts, and industry leaders. Their knowledge, background, and skillsets allow them to understand the plant and its market better than most anyone else. Naturally, their understanding far outshines that of lawmakers. In my educated opinion, the ballot language for Issue 2 is well-written, logical, and composed based on considerable expertise.

LAW ENFORCEMENT AND SOCIAL EQUITY

Issue 2’s ballot language creates five funds for the dispersal of tax revenue: adult use tax fund (all initial deposits), cannabis social equity and jobs fund, host community cannabis fund, substance use and addiction fund, cannabis control and tax commissioner fund. [H.B. 354](#), [H.B. 341](#), [H.B. 326](#) and especially [H.B. 86](#) subtract from or eliminate the distribution of proceeds as envisioned by Issue 2. Each also earmarks money for law enforcement. Only H.B. 354 preserves social equity.

Cannabis social equity is important. It rights the wrongs of the drug war and brings negatively affected individuals into the workforce where good jobs add revenue to Ohio’s coffers and undercut illicit activity that might involve law enforcement. Shouldn’t the ultimate goal of a legal market be well-paying jobs and a vibrant industry where there would be little need to direct more funds to police?

MAXIMUM THC

[Issue 2 reads](#) (edited – emphasis mine), the “tetrahydrocannabinol (THC) content *limit* ... for plant material ... shall be no less than thirty-five percent and for extracts ... no less than ninety percent.” I can see how some readers might infer that those figures are baseline *not* ceiling. The LIMIT – the maximum THC – cannot be less than those percentages. This means that THC values can number UP TO that amount, but not exceed it. Ohio’s medical marijuana program uses this approach and approximately the same numbers (35% max for plant material and 70% for extracts). THC ranges on dispensary shelves fall far below the maximum.

As to THC itself, this cannabinoid is, of course, one of the best-known components of cannabis but also the most therapeutic. Here’s a stunning statistic:

The [Controlled Substances Act of 1970](#) placed marijuana in its most restrictive Schedule I, barring research. In 1976, scientists with the National Cancer Institute found in their study “[Antineoplastic Activity of Cannabinoids](#)” that THC retards tumor growth, which has been [borne out in more recent studies](#). From 1970 to 2023, **27.1 million Americans died of cancer**. Maybe you know a friend, relative,

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coworker ... What if ... just what if ... the “cure for cancer” lay right under our noses. What if lawmakers had taken a less restrictive approach – legalized marijuana thereby permitting research as recommended by the [Schaffer Commission Report](#) in 1973. What if just half of those cancer deaths could have been prevented via THC? That’s **fourteen million people** could have been spared the agony that is cancer. My point is that, as opposed to being a “boogie man,” THC is highly beneficial. Under the cancer scenario, more THC – higher percentage levels – can be a very good thing.

I’m a witness. After a breast cancer diagnosis, I opted for THC in lieu of chemotherapy, something with which I was very familiar from my Adria days. I’m three years out from that diagnosis and have experienced some of the best health of my life.

HOME GROWING

Issue 2 is named “[Regulate Marijuana Like Alcohol](#).” One feature of alcohol regulation is the ability to make beer or wine at home. “Homemade beer or wine” is [defined as](#): “beer that is brewed or wine that is fermented by an individual's own efforts and not for commercial purposes.” The hallmarks of this policy include: 1.) no permit required, 2.) neither homemade beer nor wine may be sold, 3.) homebrewer does not receive compensation, 4.) homebrewer only ferments in small, predefined amounts.

This is exactly what the [home growing provision](#) of Issue 2 does: limits the amounts produced, specifies location as primary residence, bars underage access, bans sales, and prohibits processing.

Home grow is also [permitted in 22 other states](#), so it is not a foreign concept. In fact, all fifty states permit [home brewing](#) and [vinting](#). There is an age-old idiom, grounded in English Common Law, holds that, as the “[ruler” of one’s space \[castle\]](#), a person can do as they please within it, including the personal freedom to grow a few non-commercial plants – or brew a little non-commercial beer or wine. Please see Mary Jane’s Guide on home growing in the links that accompany this testimony.

SECTION 280E EXEMPTION

One item not covered by Issue 2 is the federal taxation code of 280E. Because marijuana holds the most restrictive Schedule I classification federally, cannabis businesses cannot deduct ordinary business expenses. This causes their tax bills to soar and contributes to the high prices in Ohio’s cannabis market. While Ohio lawmakers cannot change federal scheduling or law, they can pass a state-level exemption, [similar to Illinois](#), that allows Ohio businesses to deduct these expenses from their state-level taxable income.

FENTANYL

This is a pet peeve of mine. Marijuana is NOT being lased with fentanyl. Medical News Today states that there are no scientifically verified reports of fentanyl contamination of cannabis products. Why? If

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swallowed, it's broken down in the liver before reaching the brain. It's unstable in heat – heat is used in cannabis smoking and vaping. As Forbes term it, “marijuana laced with fentanyl is either so rare as to pose a risk more remote than one in a million, or it's a total myth.”

GENERAL ASSEMBLY HAD ITS CHANCE

The structure of [citizen-initiated statutes](#) guarantees that the General Assembly has a number of opportunities to address its concerns and place its preferred language in the new laws. Signature gathering for such initiatives occurs in two rounds. On January 5, 2023, right after collection and certification of the first round, the proposed Regulate Marijuana Like Alcohol statute (Issue 2) was [transmitted to the Ohio legislature](#) by Secretary of State LaRose. Lawmakers were given four months to make changes, add new language, or delete provisions they didn't like, but the legislature remained silent. It could also have introduced its own bill or passed one of five adult bills: [H.B. 210](#), [H.B. 382](#), [H.B. 498](#), [H.B. 628](#), and [H.B. 168](#). So, voters took adult use cannabis into their own hands and handily passed Issue 2, which now resides – currently intact – in the [Ohio Revised Code](#). It's only now at the very last minute that the General Assembly apparently wants to defy the will of over two million voters and override Issue 2.

FEDERAL SCHEDULING

It's well known that President Biden has instructed the Department Health and Human Services (HHS) to reevaluate cannabis' Schedule I status with an eye toward rescheduling it as Schedule III or lower. HHS has completed its review and sent its recommendations to the DEA, which will likely approve the move as early as the end of the year. Down scheduling will have a major impact on cannabis policy: crossing state lines, taxation (280E), research, and much more. All of these will affect adult use cannabis in Ohio and the rules being put in place. I recommend that the General Assembly permit Issue 2 to remain as is in the Ohio Revised Code, and then revisit marijuana policy post rescheduling.

FINAL THOUGHTS

As mentioned earlier, Issue 2's ballot language is well-written based on the considerable expertise of legal scholars and industry players who composed it. Still, the Governor and General Assembly seem intent on making controversial and poorly considered changes after the fact. Many of the suggested changes dealing with [public smoke](#), [advertising to children](#), [THC levels](#), [impaired driving](#), [tax allocations](#), [home grow](#), and more are overseen by a regulatory body charged with craft regulations, penalties, and even amendments. I ask that Ohio lawmakers please give this initiative time to roll out as intended. And I strongly suggest wise move of considering the impact of rescheduling and delaying modifications until the impact its impact is better known.

Remember, it's 'We The People' who drive democracy, freedom, liberty, and even your jobs. Please respect us – all two million of us.

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IMPORTANT LINKS

[Here](#) is a presentation version of this S.R. 216 Rebuttal.

[Here](#) is the full text of the Ohio Senate Resolution 216.

[Here](#) is the full text of the Regulate Marijuana Like Alcohol (RMLA) statute.

[Here](#) are bullet points that outline the RMLA’s provisions.

[Here](#) is a document that overviews the initiated statute process using the RMLA as an example.

[Here](#) is the legislative language of H.B. 168, the Enact Adult Use Act, similar to the RMLA.

[Here](#) is Mary Jane’s Guide “Home Grow – 15 Reasons Why.” March 2022.

[Here](#) is Mary Jane’s Guide “*Initiate this: Adult Use Comes to Ohio.*” December 2022. Deep dives into the RMLA.

[Here](#) is Mary Jane’s Guide “*Just Say NO! to Issue 1.*” May 2023. Covers Issue 1 and the RMLA, offering a historical backdrop.

[Here](#) is Mary Jane’s Guide “*UPDATES: Issue 1 – RMLA – Courage in Cannabis Launch.*” July 2023. Updates on the August special election concerning Issue 1 (upping the passage percentage for constitutional amendments) and the RMLA.

[Here](#) is Mary Jane’s Guide “*Adult Use Marijuana & Courage in Cannabis Updates.*” August 2023.

[Here](#) is Mary Jane’s Guide “Angelica Warren with an update on the RMLA. September 2023.

[Here](#) is Mary Jane’s Guide “WE WON! Two Million Strong! Issue 2 OK’d by Voters, “The Ohio Way.” October 2023.

[Here](#) is Mary Jane’s Guide “Testimony before the Ohio General Assembly on Issue 2.” December 2023.

[Here](#) is a Wikipedia entry about the RMLA.

[Here](#) is an analysis of cannabis opponents in the State of Ohio.