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**Ohio 135TH General Assembly  
House Finance Committee  
HB354 Revision Issue2 Adult Choice Cannabis Program  
December 12, 2023**

**Chairman Edwards, Vice Chair LaRe, Ranking Member Sweeney and members of the House Finance Committee. Thank you for the opportunity to present interested party testimony before you today regarding HB354 in its proposed revision language to Issue2, Ohio's Adult Choice Cannabis Program.**

**Ohio Adult Choice Cannabis Program  
Suggestive revision language for promulgating rules of Issue2 through the legislative process.**

As an interested party in the development of issue2 I present the following input for consideration in the legislative process in promulgating rules to Ohio's new adult choice cannabis program. My credentials; co-author on the white paper leading to the creation of HB523 Ohio's Medical Cannabis Program, testified before four other state GA's in creating their state cannabis program, patient advocate, veteran advocate, program advocate, legislative advisor, trainer, consultant in Ohio's medical program, industry consultant and an ancillary service provider. The last eight years I have followed the development, growth and revisions to Ohio's medical program (SB261 SB9), introduced program variance language, cultivator flower processing license and safety and security revision/amendment clauses to Ohio's medical cannabis program.

**A Brief:**

Issue2 presented language cloaked behind hopeful wishes of success at the ballot box which panned out in the passage of the initiative. Two of the areas are social equity which sounds promising and the discriminative preferential awarding of additional licenses to current medical licensees. Although social equity (economic disparities impact) is meant to assist those impacted by the war on cannabis it presents no financial reality to accomplish this goal. The awarding of additional licenses (dispensaries) to current vertical integrated companies is clear in what their intentions are considering their adamant opponent testimonies against the expansion language in SB9.

I present the following for consideration in your discussions on revising Issue2 to a fair, safe, protective and inclusive Adult Choice Cannabis Program for Ohio.

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A first step priority would be to pass a “HJR”, effective December 07.2023, implementing an affirmative defense clause from prosecution with a blanket rule protecting personal cultivation/home grow, possession limits as set in Issue2 and consumption upon and within private property language. This would be temporary language as presented in Issue2 with applicable OAC3780 rules to be created as soon as possible.

Combine the Cannabis Commission under issue2 with the Marijuana Control Board created under HB33, the state's budget bill, giving full authority of the Ohio medical program and the adult program to one controlling entity being the Marijuana Control Board. The goal being to eliminate excessive regulatory control boards/commissions.

Review Townships authority to impose a moratorium on cannabis companies. Townships possess growth authority over unincorporated areas and not Villages or Municipalities within the Township.

Expedite the application process for licensing current medical program licensees with a dual adult choice (recreational) license. Dispensaries first to evaluate the growth of supply and demand for cultivators and processors. Ohio’s current medical program is fully capable of handling a growth spurt.

There is no justification to create a new physical infrastructure for an adult choice program. The current medical infrastructure should be implemented to immediately service the adult consumer. The expansion to full capacity of the medical program infrastructure and a need for any future expansion will be based on the demand of the patient and adult consumer and implemented under the Board/Commission authority.

Remove the expansion language to permit current medical licensees to possess eight dispensaries. This is in conflict with the medical program and would cause a need for language changes to the medical program.

The awarding of any new dispensaries should fall under the authority of the new Cannabis Control Board/Commission on an evaluated need basis. Additional dispensaries to be awarded should be done so under a RFAIII (request for application) lottery process as was done successfully under the RFAI process in 2021.

Remove, for later implementation, the expansion of an additional forty cultivation licenses. Per the current medical licensees opponent testimonies to SB9 stating the medical program does not warrant expansion of cultivation canopy space. This is solidified under the current stats sharing nearly two million square feet of medical cultivation canopy space available to which around a half million only is being employed. The plea these licenses are meant for social equity applicants is just not valid under a qualification process to obtain one. The hold back factor is a lack of appropriate finances. No one has shown where the monies needed to build-out these facilities will come from. Again this expansion authority should fall under the Cannabis control Board/Commision on an as needed basis of growth in the program. When practical to the program growth the Board/Commission shall consider the following; **Micro grows, co-ops, incubators;** permits economically hindered participants to engage with a smaller, canopy/square footage space, cultivation and/or processing facility. These models set lower licensing fees, provide legacy/illicit participation, and are regulatory compliant models.

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In reviewing The limits of 35% maximum on flower and 70% maximum on extracts it is only practical and in accordance with the current medical program caps. Regarding the 90% increase on extracts, this was introduced in SB9 to which again those licensees supporting Issue2 testified as opponents against. This would further require percentage language adjustment for the medical program to eliminate confusion in the dispensary.

An affirmative rebuttal to this would be to reduce the RX opioid milligrams and other problematic big pharma meds and lower the alcohol proof (and to not pass SB13 home stills moonshine). The reality check is when a consumer wants more they simply consume more.

If the issue of an Adult Choice Cannabis Program presents public safety and health concerns in your viewpoint consider the public safety and health issues embedded in our society by the alcohol, tobacco, big pharma and firearms industries. These industries are the real problem of where societal disorder rests. Again review SB13, the approval of liquor licenses being awarded, the lack of proper enforcement on tobacco enforcement and bills addressing eliminating taxes (SB126) on firearm purchases which only promotes more sales thus more firearms in our homes and on the streets. Review the article attached on melatonin [6/7]. As a reminder no incidents of cannabis being the cause and factor of a death have been recorded. As for the mentioned above, the daily stats speak for themselves.

Personal choice of cannabis consumption is dominated by smoking flower. This form intake is a right on personally owned property and to be respected on private property where the owner permits it. The fear mongering comments of children exposed to cannabis smoke is based on a blissful ignorance to the topic with political motivators pushing it. Should this theory also apply to alcohol, big pharma and tobacco exposure? In consulting with the Ohio Hotel association leaders they expressed a desire to permit cannabis smoking on their private properties under the same guidelines of tobacco smoking. They further shared concerns that their customers who consume alcohol present violent and destructive behavior patterns and the problems they see in human trafficking with RX and illicit drug problems share no comparison to cannabis consumers.

### **Additional input for consideration:**

**Change program name to "Ohio Adult Choice Cannabis Program"**. Any reference herein after in the ORC3796/3780 or OAC3796/3780 of the word marijuana/marihuana shall be replaced with the word cannabis. Nationally the move to redact the word marijuana is growing rapidly as we see new state programs coming on board. Legislative action is addressing the removal of marijuana as an identifier in recognizing the racial prejudices and biases it presents. [8]

**Taxes;** Fair and reasonable tax rates by the state, local and county authorities shall not exceed in total combination an abusive monetary expense. Abusive taxes will only encourage participants to remain in the illicit market industry to which Ohio shows an estimate in sales to be in the three billion dollar yearly range. A general cannabis tax fund shall be established and be retained for uses in; public school building services, economic deprived community grounds, cannabis research, guidance in expungements of non-violent cannabis related and other non-violent offenses, homeless shelters, battered persons shelters, cannabis community non-profits, PSA,s

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(public service announcements) on educational awareness values, child safety parenting classes and cannabis rehabilitation and re-entry counseling services. Participating communities with cannabis facilities shall have priority over these funds and their uses established. Moratorium communities not permitting cannabis commerce shall receive no cannabis tax dollars from this fund. No taxes from this fund are to be used in supplementing, supporting or assisting any community rehabilitation or personal rehabilitation issues or incidents created by the alcohol, tobacco or Big Pharmaceutical industries. Tax dollars should not go toward Law Enforcement budgets for training, equipment, salaries or benefits. Ohio Law Enforcement received \$250 million from the state Covid relief monies in 2022, all agencies have Drug Seizure Asset funds (a secondary budget) and the Ohio Attorney General has received nearly \$1 billion in lawsuits against big pharma in the last three years. The alcohol, tobacco, big pharma and firearms industries are not providing tax dollars to law enforcement to help combat or treat the problems they have created in our society. LE funding/tax bases come from local taxes, local levies, federal grants and from the above mentioned resources. Why has it become the responsibility of the cannabis industry to financially supplement the harms mentioned above created by the above mentioned industries and the irresponsible budgeting in law enforcement departments? Why are SB35, HB326 and HB345 needed? If the answer is tax dollars to pay for LE training and equipment, again I say get it from those industries of irresponsible care for society as a whole.

**Expungements clause;** establish a statute creating an avenue for those wishing to expunge/seal any non-violent cannabis criminal convictions and other non-violent criminal convictions with a no cost aid by the state/county, with or without subsidy from the general cannabis tax fund. This is an opportunity to grow the tax paying jobs and to detour the non-tax paying jobs. It is further the humane thing to do in giving second or third chances in improving one's livelihood to become a productive member in society. The suggested 2.5oz convictions falls below true expungement excluding non-violent felony convictions and falls below the states current 99 gram decriminalization laws,

**Decriminalization;** Under the Adult Choice cannabis program and for those compliant under the program, the redaction of paraphernalia, gifting/to set amounts, drug abuse, corrupting another with drugs and any other deemed cannabis related drug stacking charges to incidents falling under the program rules.

**Personal cultivation;** Authorized through registration the personal cultivation of cannabis plants in/on one's private property. The cultivation area shall be indoors or outdoors (inside an opaque fenced area). Both indoor and outdoor sites shall be secured and non-visible to the naked eye at a straight ten-foot horizontal view. No regulatory inspections of these grows will be subject to regulatory inspections from any state or local agency agents/representatives. No surrender of the fourth amendment to inspections. Personal cultivation shares two priority practices; consistent production of the same profiled product and financial relief from commercial retail pricing.

**Home manufacturing;** Consumers reserve the right of protection to manufacture consumable and topical personal use products within the kitchen area of their residence.

**OVI;** SB26 addresses this statute. The proposed per se levels are suggestive arbitrary/subjective percentages with low values. Science based testing laws are paramount for statute validity. Cannabis impairment is unique to each individual and remains for various extended times in the body, resulting in a discriminate test result that "one is good for all". Science does disagree with this conclusion. To change from THC metabolite to THC active reflects a closer identity to THC presence. While

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roadside tests may present the presence of THC, the impairment proof is yet to be accepted.

**Firearms; [3]** HB51 presents an opportunity to clarify second amendment infringement rights. Currently an individual is punished at a federal level for participating in a State approved, schedule 2, medical cannabis program. We now have federal judges bringing this infringement to light with their rulings/opinions (OK).

**Open consumption, lounges;** A fast growing entity in the adult choice programs across the country. These private facilities provide consumption use in a protected social environment. Similar to other adult only establishments. And so as the tobacco smoking rules go they may apply to cannabis smoking as well.

**Probable cause searches;** A blatant disrespect to the fourth amendment of fair and unreasonable searches to an individual's person, vehicle and property based on the odor of cannabis. Ohio currently presents cannabis under the CSA sched1, sched2 (Ohio's medical program), sched3, sched5, adult choice cannabis odors and hemp program odors. The question is which classification schedule is the officer or K9 detecting. Cannabis odor probable cause searches have become a legal nightmare and constitutionally unsound in the tool box. Clarify the odor of cannabis as a primary/secondary probable cause incident to search.

**Employment THC testing, drug free workplace;** The work force pool across Ohio and the nation is depleted as a result of the "drug free workplace" rule employing a THC screening test resulting in a no hiring practice. The loss is ultimately to the employer and society as a whole. This practice reveals one truth, how many Americans actually consume cannabis. Create protective statutes for employers by-passing THC testing with permissible test limits.

**Background checks three years look back;** How long must one be punished for a crime they have met all the penalties for? In a time of depleting workforce pools, it's time to shorten the after penalties and reduce look back periods to three years for nonviolent offenders. Many individuals are looking for opportunities to participate in employment opportunities and to acclimate themselves back into society as a productive and law-abiding community member. This should be accommodated to curve the potential return to previous behaviors. Suggest a three year look back for employment in the industry

**Training LE/ceu's;** The creation of a continued education units (CEU) curriculum through the Ohio Peace Officer Training Academy, OPOTA, is a priority for all sworn officers in Ohio. This curriculum should be presented with an introductory course and followed up with a mandatory, every three years refresher program rule changes course. Currently LE lacks training in this area for the medical cannabis program and in many cases does not recognize patients in the program as legitimate. This requirement should extend into the court, rehabilitation services and into the medical fields.

**First responder protections;** A right to protect employment and respect of a patient's choice to healthcare. Recently the recognition of PTSD in these career fields is becoming more acceptable as a mental health condition and first responders share their stories. The acceptance of cannabis use for PTSD and pain for first responders is far less harmful than the current alcohol and big pharma RX addiction issues we see in these disciplines. Military veterans are certainly recognized; however, many more professions share this mental illness as a whole. First responders include fire, EMS, law enforcement entities inclusively and medical ER personnel.

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**Probation use;** Although many Ohio courts recognize the rules of the medical cannabis program and its CSA scheduling classification #2, there are some that do not. As an essential medicine patients must have the right to access as they would with RX meds. This too is recognized by most courts and probation officers, but some do not recognize it. At its best the current statutes are entrapment.

**Child custody rights; [1]** Rule/statute language needs to be respected by the Ohio courts and children service agencies in child custody and similar cases. We have seen several cases in Ohio where the courts do not recognize the language of the medical cannabis program. Regarding teen use, studies are showing a decline in teen use in states that have created legal programs.

**State banks;** clarification language protecting state banks and their insurance protections need to be put in place. This will address economic diversity and social/economic equity impact issues.

**Marketing;** As with any industry the cannabis industry as recognized in a state program shall share in the rewards of marketing/advertising rights.

**Reciprocity;** The acceptance of non-Ohioans traveling through/to Ohio for pleasure/business shall have the right to purchase at cannabis dispensaries as an **adult/patient**. This will open the doors to more commerce in Ohio and create a larger tax base from the program.

**Recycling;** Implementation of mandatory environmentally friendly packaging will address the negative footprint problem and recycling centers refusal to accept the packaging.

**Packaging includes profiles;** product packaging shall share active and inactive ingredients of the product vs the brand strain name which does not hold a true profile batch to batch. Drug interactions should be displayed too. Cannabis has been recognized, legislated and ruled as a medication. To include all cannabinoids, flavonoids and terpenes is to share a complete product profile.

**Housing;** The discrimination in refusing to lease/rent/sell a residence to an applicant based on their participation in a state approved cannabis program goes beyond the disrespect of law by singling one out as to their association/participation. This action is simply morally unacceptable at the state and federal level to permit this. Landlords should be protected by statute for this permissive action at the state level.

**CEU's for cultivators, processing, testing;** The three science-based disciplines, cultivators, processors and testers should be compliant with earning CEU credits and foundational training courses the same as dispensary key holders and support employees, bud tenders/cashiers, are required to do.

**Reschedule to class 5;** The Ohio Controlled Substance Act (CSA) currently classifies cannabis as a schedule 1,2,3,5 adult use and hemp. This is a clear just cause issue for a legal challenge. This is exactly why the odor of cannabis for probable cause searches needs to be addressed. Scheduling cannabis as a schedule 5 for medical purposes is scientifically sound and to de-schedule for an adult choice program will be a formality to address. Ohio has already scheduled the medical program to a class 2.

**Cautionary measures to consider for a fair and just program;** Is the language or action of the language biased, prejudice, discriminatory to open a constitutional challenge or does it violate the constitutionality of civil rights?

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**Business model vertical integration;** Create a business model permitting stand alone cultivators and processors to file an application, consistent with the original round of applications in the medical program, for the purpose of creating a vertically integrated company. This practice ensures a stronger potential of self sustainability for smaller companies.

**A federal perspective;** [2] At the federal level several bills are attempting to create laws to provide a safe and legal haven for the national landscape of the cannabis industry. Federal appears through its introductions to turn the industry control over to the state regulatory obligation, with the exception of collecting revenues through an abused tax rate system. States must caution on the tax segment as to not place taxing rates in an unfavorable financial burden to drive the participation deeper into or back to the illicit market base. To simply say we can't do that, because of federal law, is wrong and incorrect. Federal law does not say a state may create a cannabis program however, Ohio has created two programs. In brief one could describe Ohio's program as biased, prejudiced, unlawful, entrapment, misleading, contradictory and unconstitutional in some practices.

**Ohio program engagement;** [4] The end to cannabis prohibition is near on a federal level. We have now seen 24 states create an adult choice program and 40 states have created a medical cannabis program maintaining regulatory control and tax award base to their control. While Ohio procrastinates on the creation and promulgation of program rules, several hundred million/billion dollars through commerce participation, (jobs, housing, retail, leisure, schooling...etc) and lost tax revenue are exiting our great state to other states more thoughtful of their constituents and the growth of an exciting new world-wide industry within their borders. The sciences are there, the stats share reality, redundant challenges have been debunked and the state and community rewards present positive growth. Recent polls present above a 70% approval rate for federal/state legalization.

In Safety,

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**Resource articles.....**

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[1]

<https://www.marijuanamoment.net/teen-marijuana-use-trends-downward-as-more-states-legalize-it-for-adults-federal-survey-finds/>

[2]

<https://www.congress.gov/bill/118th-congress/house-bill/363/cosponsors>

[3]

<https://www.forbes.com/sites/dariosabaghi/2023/02/07/gun-ban-for-marijuana-users-is-unconstitutional-us-judge-rules/>

[4]

[https://www.higherlearninglv.co/post/gallup-poll-young-liberals-support-legal-pot-300-more-than-older-conservatives?fbclid=IwAR22iaAKvnaHpKvit6HKW2d0TGsqbtFkt5ZwshzhG\\_nGiWIEEaJ83rWpu1k](https://www.higherlearninglv.co/post/gallup-poll-young-liberals-support-legal-pot-300-more-than-older-conservatives?fbclid=IwAR22iaAKvnaHpKvit6HKW2d0TGsqbtFkt5ZwshzhG_nGiWIEEaJ83rWpu1k)

***Inside a processor facility a brief video; safety, security, packaging, information on contents, handling...etc***

[5]

<https://abc6onyourside.com/search?find=marijuana>

**Safety alert melatonin deaths and hospitalizations. Regulate access to these gummies, placed behind the counter.**

[6]

<https://spectrumlocalnews.com/tx/south-texas-el-paso/news/2023/10/12/texas-teacher-melatonin-gummies-students>

[7]

<https://www.npr.org/2022/06/03/1102933012/melatonin-poisoning-kids-sleep-a-id-overdose>

[8]

<https://www.denver7.com/news/national/legislators-remove-marijuana-from-state-laws-citing-words-racist-roots>



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***“It’s unconscionable we’d legalize something that people have been criminalized for and not make space at the table for those harmed by the war on drugs.”***

***“It’s unconscionable for the government to be paying their bills with cannabis tax dollars while at the same time locking people up who are trying to pay their bills with cannabis money.”***