



**BEFORE THE GENERAL GOVERNMENT COMMITTEE
THE OHIO SENATE
SENATOR MICHAEL A. RULLI, CHAIR**

**HOUSE BILL 86 – THE ADULT USE OF MARIJUANA
TESTIMONY OF BILL CREEDON
THE OHIO MANUFACTURERS' ASSOCIATION**

DECEMBER 5, 2023

Chair Rulli, Vice-Chair Schuring, Ranking Member DeMora, and members of the Senate General Committee, thank you for the opportunity to provide testimony regarding possible changes to the regulatory structure for the adult use of marijuana recently adopted by Ohio voters.

My name is Bill Creedon. I am an attorney with the law firm of Bricker Graydon, representing The Ohio Manufacturers' Association (OMA). Created in 1910 to advocate for Ohio's manufacturers, the OMA today has approximately 1,300 members statewide. Its mission is to protect and grow Ohio manufacturing.

As you may know, manufacturing is the largest of the state's 20 major industry sectors. As of Q3 2022, manufacturing contributed more than \$130 billion annually to Ohio's economy, accounting for nearly one-fifth of Ohio's private industry GDP.

Ohio voters spoke clearly to approve the adult use of marijuana. Respecting that outcome, OMA calls upon the General Assembly to enact modest changes to the language of the initiated statute to alleviate concerns OMA, and others in the business community, voiced during the Issue 2 campaign about workplace safety, employer protections, and private property rights. The General Assembly can both respect the will of the voters and establish a sensible legal framework.

Preserve Employer Protections

Employers have an affirmative duty to maintain a safe and healthy work environment. OMA has championed policies to improve workplace safety and protect the well-being of employees across Ohio. This includes the employer rights provisions in Ohio Revised Code Section 3796.28, enacted in 2016 (S.B. 253) as part of Ohio's medical marijuana program. Those provisions were thoroughly vetted and serve as a model framework, encompassing strong protections for employers, sufficiently providing businesses with the right to enact workplace policies deemed suitable for that employer. Importantly, ORC 3796.28 ensures that Ohio employers are not required to permit an employee's use, possession, or distribution of marijuana. Put another way, an employer can choose the

workplace policy that works best for their business. That includes having no policy, maintaining a drug-free workplace, or even having a zero-tolerance policy, meaning a policy forbidding their employees from using, possessing or distributing marijuana at any time or place.

Issue 2 largely copied ORC 3796.28. Therefore, we urge the General Assembly to maintain the established employer protections in ORC section 3796.28 for all types of marijuana. That includes applying ORC 3796.28(C), which was adopted in the budget during the 134th General Assembly, and specifies that employers do not violate any anti-discrimination laws when they enforce their drug free workplace policies.

The proposed language ensures that the employer protections proposed for the adult use of marijuana are fully aligned with the employer protections established in ORC 3796.28. We are aware of other proposals seeking to add additional language to those provisions. While well intended, we strongly discourage the addition of unnecessary or duplicative language that could lead to unintended and unpredictable legal consequences.

Private Property Rights:

The Issue 2 statute lacks clarity on private property owners' authority to regulate the adult use of marijuana beyond existing smoking bans, raising concerns about its implications for property rights. Ambiguities surrounding public spaces and accommodation of the adult use of marijuana within the statute need clarification to grant private property owners' discretion. We would respectfully ask that whatever legislation is adopted, the rights of property owners with respect to the adult use of marijuana on their property are completely clear.

Tax Distribution:

The allocation of tax revenue authorized by Issue 2 is limited and fails to encompass critical areas such as law enforcement and broader community services. It is the legislature's prerogative to make appropriations prioritizing these critical government functions.

In conclusion, Ohio is enjoying a surge of new development thanks to the state's favorable business climate, and we urge the Ohio General Assembly to prioritize preserving these essential employer protections to maintain Ohio's economic momentum while addressing Issue 2's electoral outcome. The retention of these safeguards is imperative to uphold workplace safety standards, protect employee well-being, and enable employers to maintain productive and secure work environments.