



December 5, 2023

**Matt Close
Executive Director
Ohio Cannabis Coalition (OHCANN)**

Re: Sub House Bill 86 Opponent Testimony

Chairman Rulli, Vice Chairman Huffman, Ranking Member DeMora and members of the Senate General Government Committee, thank you for the opportunity to provide opponent testimony on Sub House Bill 86 (Sub HB86). My name is Matt Close, and I am the Executive Director of OHCANN – the Ohio Cannabis Coalition. OHCANN is the leading voice of Ohio’s legal medical and adult-use cannabis industry, promoting safe, responsible, and consistent access to legal cannabis. We advocate and educate for cannabis safety, quality & consistency. We promote policies that will lead to a thriving cannabis industry that creates jobs and brings widespread economic benefits to Ohio.

My members fully support leadership’s call to further define guardrails for this new industry. OHCANN’s members built Ohio’s medical cannabis industry. They are compliant operators who have worked closely with the Board of Pharmacy and the Department of Commerce to ensure Ohio operates a tightly regulated marijuana program that protects children while prioritizing public health and safety. We are comfortable with Ohio’s strong regulatory approach to medical cannabis and look forward to a similarly strong and sensible framework that ensures safe, legal access to adult use cannabis in Ohio. In other words, we feel very strongly that we, as a trade association, are aligned with the overarching goals of this committee.

Protecting children from accidental ingestion is nothing new for Ohio’s medical marijuana companies. Under the medical marijuana program, operators are required to sell products in child resistant packaging. Issue 2 gave the Division of Cannabis Control the authority to write rules for packaging adult use cannabis, and we encourage keeping the same child resistant requirements for adult use products.

As Ohioans, we also care about making sure adults who want to consume legal cannabis can do so, but want to make sure that those who don’t are not subjected to second-hand cannabis smoke in public. We encourage placing the same restrictions on cannabis smoke that exist for tobacco smoke.



The Real Public Health Problem: *the Illicit Market*

Ohio's regulated cannabis products inherently cost more to produce than illicit products, which can be grown in dirty basements using heavy metal-laden water, toxic pesticides, and chemicals. Add to that the cost of laboratory testing, security and surveillance equipment, personnel that can pass strict background checks, and child resistant packaging, regulated products start at a much higher price point.

Ohio's new legal marijuana businesses are already late to the game and this bill proposes to delay adult use sales until twelve months after the effective date. The illicit market, our constant rival to the north, Michigan, and intoxicating Delta-8 hemp already corner 80% of the Ohio marijuana market. The illicit market charges consumers 0.00% in taxes, gas station Delta-8 charges sales tax, and Michigan only charges 16%. They don't have potency caps. While we appreciate Sub HB86 addressing the intoxicating hemp market, the main reason Ohioans supported Issue 2 was to stop the flow of money to Michigan and the illicit market caused by Ohio cannabis consumers and patients seeking cheaper or more potent products. If the regulated cannabis industry has around a 43% effective tax after compounding, a 50% potency cap on extracts and 25% on flower, Ohio's cannabis consumers will be even more likely to continue purchasing from Michigan and their local drug dealers now that marijuana use and possession are legal.

Just last week, the Ohio State University Drug Enforcement Policy Center (DEPC) published a report evaluating marijuana taxes across national adult use programs. They came to the conclusion that Ohio hit what Crain's Cleveland Business called the tax "sweet spot" with a tax rate that was high enough to generate significant revenue for the state, but low enough to halt the flow of money to basement grows and Michigan. I'm asking you today not to upend that balance by increasing marijuana taxes.

To quote from the DEPC report, "efforts to maximize potential tax revenue must consider the possible impact on the illicit market and downstream effect on tax revenues. As the experience of states such as Illinois suggests, higher tax rates resulting in higher prices of cannabis product in the regulated marketplace might make it more difficult to combat the illicit cannabis trade and might ultimately lead to decreasing tax revenues."

Illinois' effective tax rate is between 29% and 43% depending on product type. A study conducted by the Illinois Policy Center concluded that Illinois' cannabis revenues are the second lowest in the nation proportional to the size of its economy. **The study further concluded high marijuana taxes cost Illinois \$600M in revenue annually. That's around \$216M in lost tax revenue annually.** Lower taxes would actually generate more revenue for the state than higher taxes, as they would stop consumers from flocking to Michigan and Missouri for cheaper products.

Taxes and overregulation can be the tipping point between a thriving regulated marijuana market and a flailing market that is overrun by illicit pop-up shops and out-of-state cannabis. For weeks I have been receiving emails from my members every day sharing websites and pictures of the



illicit marijuana shops popping up in shopping centers across Ohio. Recently, government officials have shared a story about four children in a town east of Columbus who were rushed to the emergency room after ingesting intoxicating edibles. These products didn't come from the highly regulated state licensed marijuana program, they came from the illicit market or one of the thousands of gas stations or pop-up stores across Ohio selling intoxicating hemp products to children. These stories are common and illustrate exactly why Ohio needs a strong, regulated adult use program that doesn't sell or market marijuana products to children. The illicit market is bold, and it is prepared to sell marijuana at half the cost and without any taxes or regulation. How can legitimate companies compete?

Work with Industry Leadership to Build a Strong Marijuana Program

We have to get the adult use program right. Today's good intentions in drafting legislation can quickly become tomorrow's headaches. I encourage you to work with OHCANN's member companies as you move Sub HB86 through the legislative process. I know there is a sense of urgency to make changes before December 7th. I am deeply concerned by a number of provisions, which succeed in allowing possession and use of cannabis but ensure that state legal products are even less competitive with outside markets than they are now. We don't want to repeat the failures of New York or California or Colorado. We want to build a respectful, responsible, and thriving industry that is an economic win for Ohio. But, we can't do that if we are tripped right out of the gate.

I am looking forward to working with the Department of Commerce to establish smart guardrails that build a successful adult use industry. If we allow the illicit market to gain a new foothold in Ohio, we will never reclaim the market for legal sales. Higher taxes won't bring in additional tax dollars if they incentivize people to continue purchasing from their corner dealer or to drive to Michigan.

If our goals are to: 1) protect Ohio marijuana users from fentanyl-laced products by providing access to safe, tested marijuana, 2) to generate significant tax revenue to support Ohio's law enforcement officers, 3) to protect children from illicit products that look like common candy brands, and 4) to eradicate the illicit market, we have to work together to get this bill right, not fast.

Thank you for your time today, and I look forward to any questions you may have.

Matt Close
Executive Director