



Rick Carfagna, Senior Vice President
Ohio Chamber of Commerce
Proponent Testimony – Substitute House Bill 86
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Chairman Rulli, Vice Chair Huffman, Ranking Member DeMora, and members of the Senate General Government Committee, thank you for the opportunity to provide testimony on Substitute House Bill 86 (Sub HB 86). My name is Rick Carfagna, and I am Senior Vice President of Government Affairs for the Ohio Chamber of Commerce (OCC). The Ohio Chamber is the state's leading business advocate, and we represent over 8,000 companies that do business in Ohio. Our mission is to aggressively champion free enterprise, economic competitiveness, and growth for the benefit of all Ohioans.

With the passage of Issue 2, the OCC understands that this is new ground for everyone, with a statute that is complex and full of nuanced policy measures. Thankfully, Issue 2 passed through an initiated statute that the Ohio General Assembly now has the discretion to alter rather than a constitutional amendment which would have made permanent this language and largely prevented any needed adjustments from the legislature.

Attached, as a reference, is our November 28 letter to Governor DeWine, President Huffman, and Speaker Stephens outlining our biggest concerns with the Issue 2 statute and our proposed guidance. These remarks were developed in conjunction with an internal workgroup of OCC member companies who reviewed the statute, identified its flaws, and sought to offer constructive guidance to policymakers. Although we believe there are many areas for improvement, we remain focused on three main areas of broadest applicability and highest priority for the statewide business community: employer workplace protections, ensuring private property rights, and amending the tax distribution.

EMPLOYER WORKPLACE PROTECTIONS

To protect the rights of employers, the OCC recommended strengthening Ohio's employer protection laws to account for recreational marijuana usage. To that end, we appreciate the Senate's inclusion of two key OCC requests.

First, Sub. HB 86 addresses a provision currently found in Ohio's medical marijuana employer protection law but not included in Issue 2. This provision – ORC 3796.28(C), which was adopted in the budget during the 134th General Assembly – specifies that employers do not violate any anti-discrimination laws when enforcing drug-free workplace policies. Accordingly, the simple deletions of “medical” now expands this provision to apply to all forms of marijuana, regardless of whether it is medical or recreational.

Second, Sub. HB 86 also now clarifies that any person discharged from employment because of their use of marijuana – not just medical - is discharged for just cause and ineligible for unemployment benefits if the use was in violation of the employer's drug free or zero tolerance policies.

The OCC is grateful for these critical changes and other efforts to strengthen Ohio's employer protection laws to reinforce employers' abilities to maintain drug-free workplaces, zero tolerance policies and the flexibility to conduct employee testing.

ENSURING PRIVATE PROPERTY RIGHTS

The OCC believes the Issue 2 statute is ambiguous as to what extent private property owners will be able to prohibit people from using, possessing, displaying, or transferring marijuana on their properties, apart from existing bans on smoking. The OCC firmly believes that publicly accessible places such as shopping malls, restaurants and bars, amusement parks, and other large areas under private ownership should be able to limit cannabis use, possession, or transfer beyond the state's existing smoking ban.

To address this ambiguity, we believe the best way to achieve this outcome is to adopt Colorado's approach of making all public use illegal. Colorado was one of the very first states to legalize recreational marijuana, and marijuana use there in any form is prohibited in all public places, including outdoor and indoor areas.

Sub. HB 86 largely achieves this goal by limiting the smoking, combustion, and vaporization of recreational marijuana to private residences. Furthermore, the revisions also align with the OCC's request to empower rental property owners to ban the use of marijuana products on their properties. Legislators should consider providing private property owners the ability to prohibit possession or transfer on their properties as well.

AMENDING THE TAX DISTRIBUTION

In the interest of providing the broadest public benefit from the new income stream associated with legalized recreational marijuana, we suggested amending the tax disbursement to dedicate funds for law enforcement and other first responders, bolster the Local Government Fund to assist all communities with navigating these new laws and their consequences, and set

aside even more revenues than the Issue 2 statute for behavioral health services and substance abuse recovery and prevention efforts.

The Senate's revised distribution under Sub. HB 86 would dedicate 30% of revenues to the Law Enforcement Training Fund, 15% toward marijuana substance abuse, treatment, and prevention programs, 10% to the Safe Driver Training Fund, and the remainder to the state's General Revenue Fund.

The OCC believes this new distribution plan is a strong step in the right direction, but we want to reiterate the need to bolster Ohio's behavioral health and recovery services, particularly in growing the workforce in these fields to combat current shortages. According to the National Alliance for the Mentally Ill (NAMI), people with mental illness report using marijuana at a rate of at least twice that of people without mental illness. Furthermore, the National Institute on Drug Abuse states: *"Research has shown that cannabis use is associated with an increased risk for an earlier onset of psychotic disorders (such as schizophrenia) in people with other risk factors, such as family history. Cannabis intoxication can also induce a temporary psychotic episode in some individuals, especially at high doses. Experiencing such an episode may be linked with a risk for later developing a psychotic disorder. A person's genetics may play a role in this relationship."* Finally, the Canadian Government has likewise noted that any cannabis use is associated with a 40% increased risk of psychosis. This context, coupled with Ohio's passage of Issue 2, intensifies the necessity to grow our behavioral health and recovery services workforce.

CLOSING

We understand that creating a new industry in Ohio that was formerly illegal involves layers of complexity and consequences. It is equally important to both honor the vote of the people and administer this new program in the most socially responsible manner. We believe Ohio can do both and applaud the initial work and initiative by the Ohio Senate to revise the Issue 2 statute. The Ohio Chamber of Commerce supports the efforts under Sub. HB 86 to legalize recreational marijuana safely and responsibly, and we encourage your affirmative vote on this legislation.