

BEFORE THE OHIO SENATE
Senate General Government Committee

Testimony of David Jung
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Opponent Testimony on Senate Bill 56

February 18, 2025

Chairwoman Roegner, Vice Chair Gavarone, Ranking Member Blackshear, and members of the Committee, thank you for the opportunity to testify in opposition to Senate Bill 56 (SB 56). My name is David Jung, and I am the Director of Operations for OhiGrow, a Level II medical marijuana cultivator based in Toledo. The company has been in operation since 2018 and currently has 46 employees with plans to grow if Ohio Revised Code 3780 remains intact.

I. Market Disparity and Impact on Small Cultivators

SB 56 disproportionately limits small cultivators by capping Level 2 license holders at 3,000 square feet, with a potential expansion to 9,000 square feet at the discretion of the Department of Commerce. This restricts our ability to compete in an adult-use market, which is projected to experience double or even triple digit growth. By contrast, under the original medical marijuana program, Level 2 licensees were allocated 12% of the market share; under SB 56, that share drops to 5.6%. In short, capping Level II cultivation area at 3,000 square feet and expansion authority at 9,000 square feet subject to regulatory discretion marginalizes the Ohio small businesses that drive our economy.

Further, many Level II cultivators have already invested millions in expanding their facilities based on ORC 3780. Any reduction in permitted capacity, as approved by Ohioans, would result in a regulatory taking that will almost certainly cause irreparable damage to these small businesses and likely lead to costly legal challenges.

Proposed Amendment: Retain the existing cultivation limits in ORC 3780—15,000 square feet with an expansion to 20,000 square feet—to ensure small businesses can compete effectively.

II. Taxation

SB 56 includes two enormously problematic changes to tax-related provisions of ORC 3780 – namely the bill increases the tax rate by 5% and would allow municipalities to impose local taxes.

With respect to the tax rate increase, the change endangers the ability of licensed, regulated and taxed businesses to bring price-competitive products to market. Simply stated, increasing the tax rate will disincentivize participation in the legal market and work to Michigan’s benefit as Ohioans cross the border to buy cheaper legal products – or worse, further enrich illicit drug dealers currently supplying the market with cheap, untaxed and potentially dangerous products.

Similarly, allowing municipalities to impose a local tax will result in local taxes being passed to consumers through higher priced products. This too will disincentivize participation in the legal market in favor of uncontrolled, untaxed and potentially unsafe alternatives. Most businesses like ours have existing facilities and have cited – and wholly or partially constructed – their statutory dispensaries. Decisions about citing these new facilities and making related investments were based on legal protections ensuring business conditions like a licensee’s tax burden would be consistent throughout the state. Allowing local taxation will have serious implications for many businesses, including ours, and could make the difference between whether or not a business fails.

Proposed Amendment: Retain the existing 10% tax rate and prohibition against local taxation, which in turn may require retaining the existing revenue allocation to localities currently included in ORC 3780.

III. Potency Caps

SB 56 reduces permissible potency for regulated cannabis products. This new restriction is especially problematic in the context of concentrate products like vaporization cartridges. Under the SB 56 potency restriction, producers will have to dilute products by adding fillers. As purity is important to product quality for concentrate products, introducing fillers will compromise quality.

Proposed Amendment: Retain the potency caps currently included in ORC 3780, or in the alternative, exclude concentrate products – and particularly vaporization cartridges – from lower potency caps.

IV. Restrictions on Sales Channels

SB 56 changes the established sales structure by requiring cultivators to sell only to processors, eliminating direct sales to dispensaries. This change will increase costs by introducing an unnecessary middleman in many transactions, create logistical inefficiencies and for some, force cultivators to rely on competitors for distribution.

Proposed Amendment: Amend Sec. 3796.18(A)(1)(b) to allow cultivators to sell directly to dispensaries, maintaining the current, effective sales model.

Conclusion

SB 56, as drafted, undermines small businesses, reduces market competition, and disrupts existing industry operations. Adjustments to cultivation limits and sales restrictions are necessary to ensure a fair and sustainable cannabis industry in Ohio, and to prevent Ohio dollars from flowing into Michigan's economy and continued enrichment of illicit drug dealers that historically supply Ohio's cannabis market.

Only by ensuring a competitive market and incentivizing participation therein can Ohio bring transparency, consumer safety, market control and tax revenue to the state. The changes to ORC 3780 work against these ends, and for that reason, I respectfully oppose SB 56 and ask you do the same.

Thank you for your consideration.

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