



**Representative Sean Patrick Brennan
14th House District
Serving Parma, Parma Heights, and Cleveland's West Park**

May 8, 2024

H.B. 396 Sponsor Testimony

Chair Edwards, Vice Chair LaRe, Ranking Member Sweeney, and members of the Ohio House Finance Committee.

Soon after the passage of Issue 2, which legalized recreational cannabis use in Ohio, last November, I was contacted by Parma Law Director (now Parma Municipal Court Judge) Timothy Dobeck, Police Chief (now retired) Joseph Boback, and Parma Police Department Canine Director Sgt. (now Lt.) Bobby Jackson who shared their concern that three out of five of Parma's canine officers are imprinted to detect the odor of cannabis. They explained that one of the unintended consequences of the passage of Issue 2 is that these dogs can no longer be used to determine probable cause in narcotics cases, which is the lion's share of their work.

Dogs cannot bark once for cannabis, twice for heroin, or three times for cocaine. Therefore, court cases can be jeopardized by narcotic evidence seized as a result of K-9 detection.

Upon investigation, I learned from the Ohio Peace Officer Training Academy (OPOTA) that there are a total of 298 local police canines imprinted with cannabis and that many police departments throughout the state find themselves in a similar "ruff" spot.

You see, sadly, *you cannot teach an old dog new tricks* when it comes to training canines to detect narcotics. Once imprinted with the detection of a particular narcotic, dogs cannot be untrained. Therefore, in most cases, they need to be retired. In fact, the Ohio Highway Patrol retired seven of their canines as a result of Issue 2 passing. This is the trend in the states that have legalized cannabis.

H.B. 396 will allocate \$6 million with funds being directed from the State of Ohio's general revenue fund, which would later be reimbursed from tax revenues generated by the sale of legal cannabis. Local police departments would be authorized to apply for \$20,000 grants to replace their affected canines, as well as train and equip them, which is the approximate cost.

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Luckily, many departments, like Parma, saw this coming and stopped training dogs to detect cannabis. However, many have one or more dogs imprinted with cannabis that they rely on and are now challenged to replace these dogs due to the passage of Issue 2. It is totally justifiable to *unleash* some of the tax dollars generated by the sale of recreational cannabis to buy new dogs for these departments.

In my view our number one job as elected leaders is to ensure the safety of those we serve. Issue 2 has compromised the safety of our communities, as any law enforcement official will tell you the key role canines play in law enforcement. H.B. 396 represents a one-time expenditure and is a small price to pay to bolster public safety.

I want to thank Representative Williams for joining me on this very important public safety initiative. I would also like to thank our 30 co-sponsors from both sides of the aisle for their support.

I urge your swift passage of this bill so that we can protect the safety of our local communities. Thank you for your time and consideration.

Marijuana legalization forces police K-9s to retire across the U.S.

Virginia state police are retiring 13 K-9s, while many smaller police departments and sheriff's offices are retiring one or two dogs

Colorado Sun 5-29-21
coloradosun.com/2021/05/29/police-k9-marijuana-retirement

RICHMOND, Va. — Asking dogs to follow their noses won't work anymore in states that have legalized marijuana.

As Virginia prepares to legalize adult possession of up to an ounce of marijuana on July 1, drug-sniffing police dogs from around the state are being forced into early retirement, following a trend in other states where legalization has led to K-9s being put out to pasture earlier than planned.

In Virginia, the rush to take marijuana-detecting dogs out of service began even before lawmakers voted last month to accelerate the timetable for legalization. A separate law that went into effect in March prohibits police from stopping or searching anyone based solely on the odor of marijuana.

Virginia state police are retiring 13 K-9s, while many smaller police departments and sheriff's offices are retiring one or two dogs. Most are in the process of purchasing and training new dogs to detect only illicit drugs, including cocaine,

heroin and methamphetamines. Some departments are unable to afford up to \$15,000 to buy and train a new dog, so they are disbanding their K-9 units.

The dogs trained on multiple drugs alert in the same way for all of them, so it's impossible to tell whether they are indicating the presence of marijuana or an illicit drug. The dogs also cannot distinguish between a small, legal amount of marijuana or a larger, still-illegal amount of the drug. For police, that means they can no longer be used to establish probable cause for a search.

“We won't use our dogs trained in marijuana because that could be a defense an attorney would raise for a client, to say, ‘Which odor did the K-9 alert on — was it marijuana or was it an illegal drug?’” said Bedford County Sheriff Mike Miller.

Using a dog that has been trained to detect all drugs except marijuana can help “guarantee he didn't hit on marijuana, that he found heroin or something else,” Miller said.

Miller's office retired one dog and is now using a second dog for tracking and apprehension duties only, not for drug detection. His office also bought a new dog not trained on the scent of marijuana; that dog will be used to detect other drugs. Miller said he'd like to purchase a second drug-sniffing dog, but isn't sure when he will find the money in his budget.

Other states that legalized marijuana earlier have had to make similar adjustments.

“The trend is everywhere,” said Don Slavik, executive director of the United States Police Canine Association.

“Once you train a behavior in a dog, that never goes away. They don't want any mistakes, so that is why they want to bring in new dogs,” he said.

A 2017 ruling from the Colorado Court of Appeals solidified concerns that using marijuana-trained dogs in places where the drug is legal may not withstand legal challenges.

Kilo, a Moffat County Sheriff's Office dog trained on multiple drugs, alerted on a man's truck during a 2015 traffic stop. Officers found a methamphetamine pipe containing white residue. The court found that Kilo's alert was not a reliable indicator of illegal activity because the dog could not differentiate between marijuana and an illegal drug. The court overturned the man's drug possession conviction, finding that police did not have legal grounds to search his truck. The ruling was later upheld by the Colorado Supreme Court.

In Massachusetts, where recreational marijuana became legal in 2016, the Quincy Police Department shifted two dogs from drug detection to patrol work, then retired them about 18 months later.

Lt. Bob Gillan, the department's K-9 Unit Supervisor, said drug traffickers quickly figured out how to raise doubt about the legality of a search by a dog trained to detect marijuana.

"Usually, when they're delivering their illegal drugs, they will always have marijuana burning in the car. Any defense attorney worth his or her salt will say, 'Well, your dog hit on a legal substance,' (not the illegal drugs)," he said.

Sgt. Scott Amos, the canine training coordinator for Virginia State Police, said that with the July 1 legalization date approaching, police are busy training new dogs to detect MDMA, also known as ecstasy; cocaine, heroine and methamphetamines, while also getting 13 dogs ready for retirement. Apollo, Aries, Bandit, Blaze, Jax, Kane, Mater, Nina, Reno, Sarge, Thunder, Zeus and Zoey are being adopted by their handlers, Amos said.

Cumberland County Sheriff Darrell Hodges said his office recently had to retire its drug-detecting K-9, a Belgian Malinois named Mambo. He said his 17-person department doesn't have the money to purchase and train a new dog.

"You work with them day in and day out, and they become part of you, and to just take it away is kind of tough," he said.

Hodges said all turned out well for Mambo, who was adopted by his handler.

"The dog is actually living a wonderful life," he said. "He has his own bedroom in a house and is getting spoiled rotten."