



FOR IMMEDIATE RELEASE
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ATTORNEY GENERAL REQUESTED TO RECONSIDER Campaign Summary is Fair and Truthful

The Campaign to Regulate Marijuana Like Alcohol has reviewed the letter from Attorney General Yost. Following that review, we sent the attached letter asking his office to reconsider its determination. The assertion that our summary “makes no mention” of the Purposes and Findings clause is, quite simply, not accurate. In fact, much of that information is included the *second paragraph* of the summary, and the remainder is included at various other points throughout the summary.

In light of the above, we believe that our summary language is fair and truthful. While the Attorney General’s letter is a temporary setback, we are still within our internal timeline to achieve ballot access in 2020. We remain committed to giving Ohio voters the opportunity to legalize marijuana this year.

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March 10, 2020

The Honorable Dave Yost
Ohio Attorney General
c/o Bridget Coontz
30 E. Broad Street
Columbus, Ohio 43215

Via E-Mail

Re: An Amendment to Regulate Marijuana Like Alcohol

Dear Attorney General Yost:

This office represents the petitioners who filed the summary petition for the proposed constitutional amendment titled An Amendment To Regulate Marijuana Like Alcohol on March 2, 2020.

In a letter sent earlier today, you rejected the petitioners' summary as being a fair and truthful statement of the proposed amendment on the sole basis that it "makes no mention" of the findings and declarations set forth in Section (A) of the proposed amendment. As set forth below, this assertion is plainly incorrect, and I am, therefore, respectfully requesting you to reconsider your rejection of the summary.

As your letter correctly states, Section (A) of the proposed amendment contains several purposes and findings that are relevant to the amendment, providing in full:

(A) Purpose and findings.

- (1) In the interest of allowing for the efficient use of law enforcement resources; enhancing revenue for public purposes; reducing marijuana arrests, which have had a racially disparate impact; and protecting individual freedom, the people of the state of Ohio find and declare that the use of marijuana should be legal for persons twenty-one years of age or older.
- (2) In the interest of the health and public safety of our citizenry, the people of the state of Ohio further find and declare that the production and sale of marijuana should be regulated so that:
 - (a) Individuals will have to show proof of age before purchasing marijuana;

- (b) Selling, distributing, or transferring marijuana to minors and other individuals under the age of twenty-one will remain illegal, unless authorized by the Ohio General Assembly or the Department;
 - (c) Driving under the influence of marijuana will remain illegal;
 - (d) Legitimate, taxpaying businesspeople will conduct sales of marijuana, likely generating thousands of new jobs in the state; and
 - (e) Marijuana sold in this state will be labeled and subject to additional regulations to ensure that consumers are informed and protected.
- (3) The people of the state of Ohio further find and declare that it is necessary to ensure consistency and fairness in the application of this Section 12 throughout the state and that, therefore, the matters addressed by this Section 12 are, except as specified herein, matters of statewide concern.

These purposes and finding are, in turn, mostly summarized in the second paragraph of the first page of the summary, which provides that the proposed amendment would

Set forth the intent of the Amendment to, among other purposes, allow for the efficient use of law enforcement resources, enhance revenue for public purposes, reduce marijuana arrests, which have had a racially disparate impact, and protect individual freedom, all while protecting the health and public safety of our citizenry.

The purposes and findings that are not included in the second paragraph of the summary are addressed elsewhere in the summary. For instance, the last clause of Section (A)(1) in the proposed amendment states that “the people of the state of Ohio find and declare that the use of marijuana should be legal for persons twenty-one years of age or older.” This is summarized in the first paragraph of the summary, which states that the proposed amendment would “make legal the possession of marijuana by individuals 21 years of age or older.” The provisions in Sections (A)(2)(a), (b), and (e) of the proposed amendment are addressed and summarized in the fifth and sixth bullet points on the second page of the summary, as well as the last paragraph of the second page of the summary. The provision in (A)(2)(c) is summarized in the fifth paragraph from the bottom of the third page of the summary. Finally, the provision in (A)(3) stating that the matters of the proposed amendment shall be matters of “statewide concern” is summarized in the third paragraph from the bottom of the third page of the summary.

In addition to expressly summarizing—and certainly “making mention of”—the purposes and findings Section (A), the summary also contains two catchall clauses further signaling to potential signers that the proposed amendment contains certain purposes and findings that they can read in the full text. The first of these catchall provisions appears at the beginning of the second paragraph of the summary, which states that the proposed amendment would “[s]et forth the intent of the Amendment to, among other purposes, allow...” (Emphasis added.) The second catchall provision appears at the beginning of the first paragraph on the fourth page of the summary, which

states that the proposed amendment would “[s]et forth certain purposes and findings that are relevant to the Amendment.” As your letter states, the “summary” of an initiative petition must be “a short, concise summing up, which properly advises potential signers of a proposed measure’s character and purport.” These catchall provisions help keep the summary “short” and “concise” while also informing potential signers of the measure’s “character and purport.”

For your convenience, I have enclosed a number-coded copy of the full text of proposed amendment and the summary that connects the purpose and findings in the full text to where they are referenced in the summary.

For these reasons, your letter’s assertion that the summary “makes no mention” of the purposes and findings in Section (A) of the proposed amendment is plainly incorrect. Given that this incorrect assertion was the sole basis for rejecting the summary, I respectfully request that you reconsider your decision to reject the summary. My request is being sent within the ten-day period following the submission of the summary to your office, and it can, therefore, be accommodated under R.C. 3519.01(A).

Please contact me at 614-263-7000 or dmctigue@electionlawgroup.com if you have any questions. Thank you.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Donald J. McTigue', with a stylized flourish extending to the right.

Donald J. McTigue

FULL TEXT OF PROPOSED AMENDMENT

Be it Resolved by the People of the State of Ohio that Article XV of the Ohio Constitution is hereby amended to add the following Section:

Section 12. Personal use and regulation of marijuana.

(A) Purpose and findings.

- (1) In the interest of allowing for the efficient use of law enforcement resources; enhancing revenue for public purposes; reducing marijuana arrests, which have had a racially disparate impact; and protecting individual freedom, the people of the state of Ohio find and declare that the use of marijuana should be legal for persons twenty-one years of age or older.
- (2) In the interest of the health and public safety of our citizenry, the people of the state of Ohio further find and declare that the production and sale of marijuana should be regulated so that:
 - (a) Individuals will have to show proof of age before purchasing marijuana;
 - (b) Selling, distributing, or transferring marijuana to minors and other individuals under the age of twenty-one will remain illegal, unless authorized by the Ohio General Assembly or the Department;
 - (c) Driving under the influence of marijuana will remain illegal;
 - (d) Legitimate, taxpaying businesspeople will conduct sales of marijuana, likely generating thousands of new jobs in the state; and
 - (e) Marijuana sold in this state will be labeled and subject to additional regulations to ensure that consumers are informed and protected.
- (3) The people of the state of Ohio further find and declare that it is necessary to ensure consistency and fairness in the application of this Section 12 throughout the state and that, therefore, the matters addressed by this Section 12 are, except as specified herein, matters of statewide concern.

(B) Definitions. As used in this Section 12, unless the context otherwise requires,

- (1) "Consumer" means a person twenty-one years of age or older who purchases marijuana or marijuana products for personal use by persons twenty-one years of age or older, but not for resale to others.
- (2) "Cultivation area" means the boundaries of the enclosed areas in which marijuana is cultivated during the vegetative stage and flowering stage of the cultivation process. For purposes of calculating the marijuana cultivation area square footage, enclosed areas used solely for the storage and maintenance of mother plants, clones, or seedlings shall not be included.
- (3) "Department" means the Ohio Department of Commerce or its successor agency.
- (4) "Hemp" shall have the meaning provided in Chapter 928 of the Ohio Revised Code or any successor provision.

County: _____

Number: _____

PETITION

To the Attorney General of Ohio: Pursuant to Ohio Revised Code § 3519.01(A), the undersigned electors of the State of Ohio, numbering in excess of one thousand, hereby submit to you the full text of a proposed Amendment to the Ohio Constitution and a summary of the same.

TITLE

An Amendment to Regulate Marijuana Like Alcohol

SUMMARY

The Amendment would add a new Section 12 to Article XV of the Ohio Constitution to **make legal the possession of marijuana by individuals 21 years of age or older** and to regulate the production and sale of marijuana. Specifically, the Amendment would:

(A)(1)

Catchall #1

(A)(1)

(A)(1)

Set forth the intent of the Amendment to, among other purposes, **allow for the efficient use of law enforcement resources, enhance revenue for public purposes, reduce marijuana arrests, which have had a racially disparate impact, and protect individual freedom, all while protecting the health and public safety of our citizenry.**

(A)(1)

Allow persons 21 years of age or older to do the following:

(A)(2)

- Possess, consume (including by combustion or smoking), use, purchase, transport, or transfer without remuneration to other persons 21 years of age or older up to 1 ounce of marijuana, 8 grams of which could be in the form of marijuana concentrate, provided that nothing in the Amendment shall permit consumption that is conducted openly and publicly or in a manner that endangers others.
- Possess, use, display, manufacture, purchase, store, and transport marijuana accessories, and to sell marijuana accessories to other persons 21 years of age or older, provided that a person 18 years of age or older may be employed by a business engaged in the manufacture or sale of marijuana accessories.
- Possess, grow, process, or transport up to 6 marijuana plants per household, with 3 or fewer being mature, flowering plants, provided that the growing takes place in an enclosed, locked space, is not conducted openly or publicly, and is not made available for sale. Subject to these conditions, the Amendment would allow for the possession of marijuana produced by the plants on the premises where the plants are grown.
- Assist another person 21 years of age or older in any of the preceding acts.

Authorize the establishment of marijuana cultivation facilities, marijuana processing facilities, retail marijuana stores, and marijuana testing facilities (collectively, "marijuana establishments"), all of which would be licensed and regulated by the State, and allow the holder of a current, valid license to operate such an establishment to do the following:

- For a retail marijuana store: to possess, display, or transport marijuana or marijuana products; purchase marijuana from marijuana cultivation facilities; purchase marijuana or marijuana products from marijuana processing facilities; sell marijuana or marijuana products to consumers; transfer inventory between retail marijuana stores with identical ownership; and deliver marijuana, marijuana products, or marijuana accessories to a consumer's residence.
- For a marijuana cultivation facility: to cultivate, harvest, process, package, transport, display, and possess marijuana; deliver or transfer marijuana to marijuana testing facilities; sell marijuana to other marijuana establishments, except to marijuana testing facilities; and purchase marijuana from marijuana cultivation facilities.
- For a marijuana processing facility: to package, process, transport, manufacture, display, and possess marijuana or marijuana products; deliver or transfer marijuana or marijuana products to marijuana testing facilities; sell marijuana or marijuana products to retail marijuana stores and marijuana processing facilities; purchase marijuana from marijuana cultivation facilities; and purchase marijuana or marijuana products from marijuana processing facilities.
- For a marijuana testing facility: to possess, cultivate, process, repackage, store, transport, display, and transfer marijuana or marijuana products.

Provide that any person may lease or allow the use of property owned, occupied, or controlled by any person, corporation, or other entity for any of the activities that the Amendment authorizes for the holder of a current, valid license to operate a marijuana establishment.

Direct the Ohio Department of Commerce ("Department") to adopt regulations necessary for implementation of the Amendment, provided that such regulations shall not prohibit the operation of marijuana establishments, either expressly or through regulations that make their operation unreasonably impracticable. Such regulations shall include:

- Procedures for the issuance, renewal, suspension, and revocation of a license to operate a marijuana establishment, which may include limitations on the total number of licenses issued, provided that such procedures shall be subject to Chapter 119 of the Ohio Revised Code or any successor provision;
- A schedule of application, licensing and renewal fees, with the application fee initially capped at \$5,000 though subject to annual adjustments for inflation, unless the Department determines that a greater fee is necessary;
- Qualifications for licensure that are demonstrably related to the operation of a marijuana establishment;
- Security requirements for marijuana establishments;
- Requirements to prevent the sale or diversion of marijuana and marijuana products to persons under the legal age of use; (A)(2)(a) + (A)(2)(b)
- Packaging and labeling requirements for marijuana and marijuana products; (A)(2)(c)
- Health and safety regulations and standards for the manufacture of marijuana products and the cultivation of marijuana;
- Equivalency standards between marijuana and marijuana products, for the purpose of ensuring that sales do not exceed marijuana possession limits;
- Testing standards for marijuana and marijuana products;
- Restrictions on the advertising and display of marijuana and marijuana products, including regulations to ensure that advertising and marketing is not targeted to minors; and
- Civil penalties for the failure to comply with regulations made pursuant to this Amendment.

Require the Department to, prior to January 1, 2026, not issue more than one retail marijuana store license for every 60,000 residents in the state. Also require the Department to limit the total cultivation area collectively among marijuana cultivation facilities that were not granted the ability to cultivate marijuana pursuant to the provision summarized in the following paragraph to 1.5 million square feet of cultivation area. The Department may issue additional retail marijuana store licenses and permit any marijuana cultivation facility to add additional cultivation area in excess of these limits if licensed marijuana establishments are able to engage in interstate commerce, or if the Department determines that the limitations will not result in a significant excess supply of marijuana in Ohio.

Beginning July 1, 2021, allow entities that have been licensed to cultivate, process, dispense, or test medical marijuana under Chapter 3796 of the Ohio Revised Code, and are still operating under those licenses as of July 1, 2021, to conduct those activities for the benefit of all individuals 21 years of age or older, provided that localities in which retail dispensaries are located can prohibit those dispensaries from selling marijuana and marijuana products to individuals who are not medical marijuana patients or caregivers. Entities operating under these conditions shall be treated as if licensed by the Department to be a marijuana establishment.

Direct the Department to, prior to July 1, 2021, issue regulations necessary for the implementation of the provision described in the preceding paragraph, provided that such regulations shall not prohibit the activities for the benefit of all individuals 21 years of age or older, either expressly or through regulations that make conducting the activities unreasonably impracticable.

Direct the Department to take steps to ensure that an adequate supply of medical marijuana and marijuana can be produced to serve patients and individuals 21 years of age or older after July 1, 2021.

Direct the Department to not require a consumer to provide a retail marijuana store with personal information other than government-issued identification to determine the consumer's age, and to not require a retail marijuana store to acquire and record personal information other than information typically required in a financial transaction conducted at a retail liquor store. (A)(2)(a)

Allow the General Assembly to enact a special sales tax on the sale of marijuana and marijuana products to consumers and to establish procedures for the collection of such tax, provided that the revenue from the sales tax is allocated in the following manner:

- At least one-quarter of the revenue raised from any such sales tax shall be placed in a special fund and used to establish a Commission on Expungement, Criminal Justice, Community Investment, and Cannabis Industry Equity and Diversity, which shall provide recommendations regarding the allocation of the remaining revenue in the fund;
- At least one-half of the revenue raised from any such sales tax shall be allocated to the State Local Government Fund or any successor fund dedicated to a similar purpose; and
- At least one-tenth of the revenue raised from any such sales tax shall be returned to the municipal corporations or townships in which the retail sales occurred in proportional amounts based upon the sales taxes remitted.

Allow a locality to enact ordinances or regulations, not in conflict with the Amendment or with laws or regulations enacted pursuant to the Amendment, governing the time, place, manner and number of marijuana establishment operations, establishing civil penalties for violations of such ordinances and regulations, and establishing a schedule of annual operating fees for marijuana establishments.

Allow a locality to prohibit the operation of marijuana establishments through the enactment of an ordinance or through an initiated or referred measure; provided that such an initiated or referred measure appears on a general election ballot during an even numbered year.

Give localities sole and exclusive authority over matters related to zoning for marijuana establishments and the operation of marijuana establishments as it specifically relates to zoning.

Direct the Department to conduct a study, prior to the issuance of marijuana establishment licenses, to determine whether there has been discrimination in past licensing processes, including whether the effects of marijuana prohibition have contributed to a lack of participation by racial minorities in Ohio's medical marijuana industry, and to take steps to address any identified discrimination when issuing marijuana establishment licenses.

Set forth procedures for the application process and issuance of annual licenses to operate marijuana establishments, including but not limited to the following: license applications shall be submitted to the Department; the Department shall begin to accept and process such applications following the adoption of the regulations required by the Amendment; upon receipt of an application, the Department shall immediately forward a copy of the application to the locality in which the applicant desires to operate; the Department shall issue an annual license the applicant, unless the Department finds that the applicant is not in compliance with the regulations enacted pursuant to the Amendment, the applicant has not been selected to operate based on a selection process established in accordance with the Amendment, or the Department is notified by the relevant locality that the applicant is not in compliance with the local ordinances and regulations made pursuant to the Amendment that are in effect at the time of the application; and, upon denial of an application, require the Department to notify the applicant in writing of the specific reason for its denial.

Nothing in the Amendment shall be construed to: require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale or growing of marijuana in the workplace or affect the ability of employers to have policies restricting the use of marijuana by employees; allow driving under the influence of marijuana or supersede statutory laws related to driving under the influence of or while impaired by marijuana, or prevent the State from enacting and imposing penalties for such conduct; permit the transfer of marijuana to persons under 21 or allow persons under 21 to purchase, possess, use, transport, grow, or consume marijuana; prohibit those who own, occupy, or control a property to prohibit or otherwise regulate the possession, consumption, use, display, transfer, distribution, sale, transportation, or growing of marijuana on or in that property; prevent state or local administrative agencies from regulating or prohibiting the use of marijuana on a commercial property as a condition of licensure; or limit any privilege or right of a medical marijuana patient or caregiver as provided under the Ohio Medical Marijuana Control program.

Protect against denial of custody, visitation, or any other parental right or responsibility for conduct that is permitted under the Amendment, unless the person's behavior is such that it creates an unreasonable danger to the minor that can be clearly articulated and substantiated.

(A)(3) Establish that the issues addressed by the Amendment are matters of statewide concern, except where specified otherwise.

Provide that all provisions of the Amendment are severable and self-executing except as specified otherwise, and that the Amendment shall supersede all conflicting state and local laws except as otherwise indicated.

Clarify that marijuana, as defined in the Amendment, would not include hemp or hemp products.

Catchall #2

Set forth certain purposes and findings that are relevant to the Amendment, and define certain terms, including “consumer,” “cultivation area,” “department,” “hemp,” “hemp product,” “locality,” “marijuana,” “marihuana,” “marijuana accessories,” “marijuana concentrate,” “marijuana cultivation facility,” “marijuana establishment,” “marijuana processing facility,” “marijuana products,” “marijuana testing facility,” “Ohio Medical Marijuana Control Program,” “openly and publicly” “person,” “persons,” “retail marijuana store,” “unreasonably impracticable,” and “holder of a current, valid license.”

COMMITTEE TO REPRESENT THE PETITIONERS

The following persons are designated as a committee to represent the petitioners in all matters relating to the petition or its circulation:

Anthony D. Riley	5252 Jameson Dr., Columbus, Ohio 43232
Carrie N. Beebe	1489 Pepper Ln., Marysville, Ohio 43040
Evan P. Spencer	790 Kerr St., Columbus, Ohio 43215
Mark A. Welty	470 Main St., Zoar, Ohio 44697