

Rule Summary and Fiscal Analysis (Part A)**Medical Marijuana Control Program**

Agency Name

Medical Marijuana Cultivators

Division

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3796:2-1-05

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Cultivator financial responsibility.**RULE SUMMARY**1. Is the rule being filed for five year review (FYR)? **No**2. Are you proposing this rule as a result of recent legislation? **Yes**Bill Number: **HB523**General Assembly: **131**Sponsor: **Huffman, S.**3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**4. Statute(s) authorizing agency to adopt the rule: **R.C. 3796.03**5. Statute(s) the rule, as filed, amplifies or implements: **R.C. 3796.03, R.C. 3796.09**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

Department of Commerce must promulgate rules for the Medical Marijuana Control Program pursuant to ORC 3796.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE,

then summarize the content of the rule:

3796:2-1-05 sets forth the financial responsibility requirements that must be met in order for a provisional licensee to receive a certificate of operation. These requirements include (a) general liability and products liability insurance coverage with limits determined by the Department, and (b) a surety bond in the amount of \$750,000 for Level I cultivators and \$75,000 for Level II cultivators, or (c) an escrow account in the amount of \$750,000 for Level I cultivators and \$75,000 for Level II cultivators. This rule also establishes benchmarks that, if met, reduce the dollar amount of the bond or escrow account.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

RSFA question #5 was updated to designate a more specific statute that the rule amplifies. Paragraph (D) was added to include a provision that permits the department to waive the requirements of the rule if the financial responsibility instruments are not in existence.

12. Five Year Review (FYR) Date:

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

0

None

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

n/a

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

This rule requires licensees to maintain an escrow account or surety bond. As this is an emerging market resulting from new legislation, it is not possible to estimate the cost of this provision. The escrow or bond for level I cultivators will be \$750,000. The escrow or bond for level II cultivators will be \$75,000. Failure to comply with this rule could result in payment of the amount bonded or in escrow to the department.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **Yes**

This rule details financial responsibility requirements for provisional licensees as a prerequisite for the issuance of a certificate of operation.

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **Yes**

Failure to comply may result in surrendering of the surety bond or amount in escrow to the department.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

It requires the licensee to establish a surety bond or escrow account in an amount specified by rule.