



Common Sense Initiative

Mike DeWine, *Governor*
Jon Husted, *Lt. Governor*

Joseph Baker, *Director*

MEMORANDUM

TO: Emily Groseclose, Ohio Department of Commerce

FROM: Caleb White, Business Advocate

DATE: March 22, 2024

RE: **CSI Review – Medical Marijuana Patient and Caregiver Registration Fee Elimination, Processor Fee Reduction, and Provisional Employee Badging (OAC 3796:7-3-01, 3796:5-1-01, and 3796:5-2-04)**

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Department as provided for in ORC 107.54.

Analysis

This rule package consists of one new rule, one amended rule, and one rescinded rule proposed by the Ohio Department of Commerce, Division of Cannabis Control (Department) as a part of the statutory five-year review process. This rule package was submitted to the CSI Office on February 27, 2024, and the public comment period was held open through February 12, 2024. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on February 27, 2024.

Ohio Administrative Code (OAC) 3796:7-3-01 establishes the medical marijuana patient and caregiver fee structure. This rule is to be rescinded. OAC 3796:5-1-01 establishes the fees related to the licensing of medical marijuana cultivators, processors, and testing laboratories. This rule is amended to reduce the processor certificate of operation renewal fee from \$100,000 to \$50,000. OAC 3796:5-2-04 is a new rule which implements medical marijuana provisional employee badges. This rule allows applicants for employee badges to acquire a provisional badge which allows the employee to work for up to ninety days while their application is processed. This rule requires the licensed medical marijuana entity to submit the employee badge application, attest that the applicant does not

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have a disqualifying offense, and provide evidence that the applicant is undergoing an Ohio Bureau of Criminal Investigation (BCI) and Federal Bureau of Investigation (FBI) background check.

During early stakeholder outreach, the Department included all current medical marijuana licensees in the development of the rules, requested feedback from all individuals that had signed up to receive notices from the Department, and posted a request for feedback on the Department's website. In response to this outreach, the Department received comments in support of the rules.

During the CSI public comment period the Department received twenty-three comments covering topics such as further reducing the processor renewal fees or changing them to a biennial renewal timeframe, lowering the excise tax, and extending the time a provisional badge is valid to 180 days. The Department did not make any changes to the rules as it felt that reducing the processor renewal fees to \$50,000 for a yearly renewal was appropriate and would provide a more proportional fee schedule across the program. The Department stated that the excise tax was set in statute and that the statute provides for provisional employee badges that are valid for three months. The Department added that while the rule is specific to medical marijuana licensees, the Department did not want to create different standards for the medical and recreational programs.

The business community impacted by the rules includes all medical marijuana cultivators, processors, testing laboratories, and dispensaries. The adverse impacts created by the rules include various licensing fees ranging from \$10 to \$200,000, the requirements associated with obtaining a provisional employee identification card which includes licensing fees, the requirement to conduct a background check, the requirement to confirm that the applicant is in the process of obtaining a BCI and FBI background check, and the potential denial of an employee identification card. The Department notes that these rules include a reduction of the processor renewal fee, and that provisional employee badging will help to reduce the rule's adverse impacts to business. The Department states that the adverse impacts to business are justified to fund the Department's licensing and regulatory operations as well as to ensure that no employees with disqualifying offenses are employed in the marijuana industry.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Department should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.