Ohio | Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

MEMORANDUM

TO: Andrew Makoski, Ohio Department of Commerce, Medical Marijuana Control Program

FROM: Ethan Wittkorn, Regulatory Policy Advocate

DATE: **September 1, 2021**

RE: **CSI Review –Tetrahydrocannabinol (THC) Definition, Packaging, Labeling and Testing Update (OAC 3796: 1-1-01, 3796: 2-2-02, 3796:2-2-06, 3796:3-2-02, 3796:3-2-04, 3796:3-2-06, 3796:4-2-04, and 3796:4-2-05)**

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 Agency as provided for in ORC 107.54.

Analysis

This Ohio Department of Commerce (Department) rule package consists of eight amended rules. The draft rules were submitted to the CSI Office on July 14, 2021, and the public comment period was open through July 28, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on July 14, 2021.

The rules proposed in this package cover the definition of tetrahydrocannabinol (THC). The rules have been updated to include Delta-8 THC and additional isomers of THC in the definition. As a result of this change, packaging, labeling, and testing requirements have also been updated.

The Department sought the input of the medical cannabis industry while developing the rules. During this period, the Department received comments from medical marijuana patients and the Ohio Medical Cannabis Industry Association (OMCIA). The OMCIA made suggestions regarding ingredient listing on labels, which were included in the rules. No further comments were received

during the CSI public comment period.

Ohio's medical marijuana cultivators, processors and testing laboratories are subject to the proposed rules. Adverse impacts posed by the rules include testing costs, costs stemming from proper packaging and labeling, and potentially modifying existing products for compliance. Additionally, the Department expects one to two hours will be necessary for training and updates to standard operating procedures. The Department has promulgated these rules to provide better transparency of the THC isomers in medical marijuana products. Furthermore, the Department states that proper procedures and labeling for medical marijuana products enhances the safety of consumers, counteracting any potential costs of meeting those requirements.

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.