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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 – Non-Medical Cannabis License Applications – Medical to Dual-Use Conversion (OAC 1301:18-1-01, 1301:18-2-01, 1301:18-2-02, and 1301:18-2-05)**

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 Department as provided for in ORC 107.54.

Analysis

This rule package consists of four new rules proposed by the Ohio Department of Commerce, Division of Cannabis Control (Department). This rule package was submitted to the CSI Office on February 13, 2024, and the public comment period was held open through February 27, 2024. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on February 13, 2024.

This package contains four new rules which establish the process surrounding non-medical cannabis dual-use license applications. Ohio Administrative Code (OAC) 1301:18-1-01 establishes the definitions related to cannabis licensing applications. OAC 1301:18-2-01 requires the Department to publish advance notice that it intends to accept license applications and prescribes what is to be included in such a notice. OAC 1301:18-2-02 establishes who is eligible to apply for the initial non-medical cannabis licensing application period and when applications must be submitted by. OAC 1301:18-2-05 establishes the requirements and process for current medical marijuana licensees to convert their license to a dual use cannabis license, which authorizes them to participate in both the medical and adult-use markets. The Department notes that there is no application fee for dual-use license applications.

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. The Department drafted the proposed rules with consideration of previous medical marijuana licensing application periods and input from current medical marijuana licensees, but the Department was unable to implement many of the suggestions received during this period on issues such as disqualifying offences as these provisions were based on statutory mandates. During the CSI public comment period, the Department received thirty-five comments addressing topics such as disqualifying offences for license applicants, the lack of a social equity rule, and opposition to medical marijuana facilities being eligible for a separate, streamlined application process. The Department elected not to make changes to the rules in response to these comments as the disqualifying offences and separate application process for medical marijuana licensees are established in statute. Furthermore, while the Department is required to establish a social equity license application process, the Department must first wait on the Department of Development to establish the Cannabis Social Equity and Jobs Program and will address this in a future package.

The business community impacted by the rules includes current medical marijuana licensees. The adverse impacts created by the rules includes the requirement to obtain a license to participate in the non-medical cannabis market, the costs associated with completing an application, and requirements for converting their license to a dual-use license. The Department notes that the application will be a simple form with five components, taking minimal time to complete, and that there is no application fee for converting a medical marijuana license to a dual-use license. The Department states that the adverse impacts to business are justified to fulfil their statutory obligation to establish non-medical cannabis licensing application rules. The CSI Office further notes that the proliferation of the non-medical adult use cannabis market in Ohio, as facilitated by these rules, may have additional adverse impacts to the larger business community, since an increase of recreational cannabis in Ohio is likely to negatively impact Ohio's workforce. Such impacts on Ohio's workforce may include shortages for in-demand professions (due to a potential decrease in educational achievement[1]), a detrimental impact on driving related professions (as marijuana use has been associated with slower driver reaction time and shown to affect driver decision making[2][3]), and costs associated with an increase in workplace injuries (associated with marijuana use by employees[4]).

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[1] David M. Fergusson, L. John Horwood, and Annette L. Beautrais, "Cannabis and Educational Achievement" *Addiction* 98, no.12 (2003): 1681-1692.

[2]"Marijuana and Public Health, Driving" *Centers for Disease Control and Prevention*, https://www.cdc.gov/marijuana/health-effects/driving.html.

[3] "Cannabis (Marijuana) Research Report Does Marijuana Use Affect Driving?" *National Institutes of Health, National Institute on Drug Abuse*, https://nida.nih.gov/publications/research-reports/marijuana/does-marijuana-use-affect-driving.

[4] Ling Li, Yang Liang, Joseph J. Sabia, and Dhaval M. Dave, "Recreational Marijuana Legalization and Workplace Injuries Among Younger Workers," *JAMA Health Forum* 5, no. 2 (2024).

However, the CSI Office notes these additional adverse impacts to business are inherently part of the underlying statute and are not at the discretion of the Department to remove in rule.

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.