



Summary of Ohio Issue 2 An Act to Control and Regulate Adult Use Cannabis

On November 7, 2023, Issue 2 passed by a 57% to 43% margin, and Ohio become the 24th state to legalize recreational marijuana. The law legalizes and regulates the cultivation, manufacturing, testing and the sale of marijuana to Ohioans 21 years of age and up.

The APA Ohio Legislative Committee has compiled the following summary and resources so that the planning community can remain informed and prepared for marijuana legalization.

- The law, “An Act to Control and Regulate Adult Use Cannabis,” is set to take effect on Dec. 7, 2023.
- The measure is an initiated statute, meaning it will become part of the Ohio Revised Code in 30 days.
- It is important to note that the information below reflects the language of the initiated statute. **The Ohio General Assembly can make significant changes to any aspect of the statute at any time.**

Local Authority

- Local governments are not allowed to ban marijuana use or home grow, and they cannot impose additional taxes on marijuana businesses.
- Local governments can prohibit adult-use dispensaries in their communities. However, an existing medical dispensary that is blocked from selling recreational products can petition to put the issue before voters in the next general election. If voters OK it, officials must allow the sale of adult-use cannabis.
- Municipalities cannot keep existing medical cultivators or processors from producing adult-use cannabis because of the "significant capital investment" in those facilities.

Regulatory Body

- Issue 2 establishes the Division of Cannabis Control within the Ohio Department of Commerce which will “regulate, investigate, and penalize adult use cannabis operators, adult use testing laboratories and individuals required to be licensed.”
- The Department of Commerce has nine months to finalize those rules and issue the first round of adult-use licenses.
- Ohio lawmakers say both the rule-making process are expected to be completed and the first round of adult use licenses expected to be issued by August.
- The law requires the Division of Cannabis Control to enter into an agreement with the Department of Mental Health and Addiction Services to establish a program for cannabis addiction services.
- Issue 2 creates five funds in the state treasury: the adult use tax fund, the cannabis social equity and jobs fund, the host community cannabis fund, the substance abuse and addiction fund, and the division of cannabis control and tax commissioner fund.



Commercial Sales and Licensing

- The first round of licenses to marijuana growers, processors and dispensaries will go to existing medical marijuana businesses and eligible operators under the social equity program.
- The state cannot dole out additional licenses for another two years.
- The law reserves 40 cultivation licenses and 50 dispensary licenses for these operators that qualify under the social equity program, and provides them with grants, loans, technical assistance and reduced license and application fees. The Department of Development is tasked with setting specific rules for the program.
- Social Equity Program qualified business owners are those who are disproportionately affected by the enforcement of marijuana laws. That includes people who are disadvantaged based on their race, gender, ethnicity or economic status. People with marijuana arrests or convictions on their record – or with a parent, child or spouse who has one – would also qualify.

Individual Possession and Consumption

- Under the proposal's language, once it becomes legal, Ohioans can start growing six marijuana plants each, or up to 12 plants per household all without a license.
- Ohioans can start possessing and consuming marijuana when the law takes effect on Dec. 7.
- Adults 21 and older are allowed to have up to 2.5 ounces of cannabis and 15 grams of extracts.

Limits to Individual Possession and Consumption

- Landlords can prevent their renters from growing, but the ban must be part of a lease agreement.
- It remains illegal to transport marijuana across state lines.
- Smoking marijuana would fall under the state's smoking ban. That law prohibits people from smoking plant material in enclosed areas open to the public, with exceptions for outdoor patios, smoke shops and hotel rooms designated for smoking.
- Property owners and "any public place" could decide for themselves whether to accommodate marijuana use.
- Public and private employers can still set their own policies for marijuana, such as rules around drug testing and on-the-job use.



Sources:

[What's next for recreational marijuana in Ohio? \(spectrumnews1.com\)](https://www.spectrumnews1.com)

[Ohio just legalized recreational marijuana. Where can I buy weed? \(beaconjournal.com\)](https://www.beaconjournal.com)

[Ohio Legalizes Adult Use of Recreational Marijuana: What Does This Mean for Employers? | Law Bulletins | Taft Stettinius & Hollister LLP \(taftlaw.com\)](https://www.taftlaw.com)

[Cannabis Crossroads | Moritz College of Law \(osu.edu\)](https://moritzcollegeoflaw.osu.edu)

[Ohioans vote to legalize recreational marijuana by passing Issue 2 law - Ohio Capital Journal](https://www.ohiojournal.com)

APA National Resources:

[Regulating Medical and Recreational Marijuana Land Use \(planning.org\)](https://www.planning.org)

[Pot Report \(planning.org\)](https://www.planning.org)

[Greenlighting Cannabis — What Every Planning Department Needs to Know](https://www.planning.org)

[Regulating Marijuana: Legal and Planning Issues](https://www.planning.org)

[From Seed to Sale \(planning.org\)](https://www.planning.org)

State of Ohio Resources:

<https://com.ohio.gov/divisions-and-programs/medical-marijuana-control-program/licensee-resources/what-we-do/non-medical-cannabis-faq>



OSU Moritz College of Law Key Takeaways:

Key takeaways (if there are no changes by the Ohio General Assembly):



Ohioans 21 years and older are legally allowed to consume or possess cannabis on and after December 7, 2023.



Issue 2 legalizes 2.5 ounces of adult-use cannabis in any form except adult-use extract; and 15 grams of adult use cannabis in the form of adult use extract. A customer can purchase 2.5 ounces per day from a licensed adult-use dispensary.



Individuals may grow up to six plants for personal use, with a limit of 12 plants per residence, as of December 7, 2023.



An individual is allowed to gift up to six plants of marijuana without remuneration, as well as 2.5 ounces of adult-use cannabis in any form except adult-use extract; and 15 grams of adult-use cannabis in the form of adult-use extract.



There are no limitations on how individuals 21 years and older may consume marijuana (ex. Smoking, vaping, edibles, etc.) on and after December 7, 2023.



Medical marijuana cardholders will continue to be able to purchase their medication through licensed medical marijuana dispensaries.



Individuals younger than 21 years cannot lawfully possess or consume recreational marijuana.



Purchasing marijuana outside of a licensed dispensary will remain unlawful even after December 7, 2023.



Until the first adult-use dispensary opens in the state of Ohio, Ohioans that do not have an Ohio medical marijuana card will not be able to lawfully purchase marijuana in the state.



No one is allowed to sell marijuana without an appropriate license.



Public consumption of marijuana is prohibited.



Individuals are prohibited from operating a vehicle, motor vehicle, streetcar, trackless trolley, bike, watercraft, or aircraft while using marijuana or if specific levels of marijuana or its metabolites are present in an individual's urine or blood.



Individuals are prohibited from smoking, vaporizing, or using any combustible marijuana product while in a vehicle, motor vehicle, streetcar, trackless trolley, bike, watercraft, or aircraft.



Purchasing marijuana in other states, such as Michigan, and bringing the product to Ohio re-mains illegal.



Issue 2 provides no protections for individuals that currently own or are seeking to purchase a firearm. Individuals are still prohibited from purchasing and owning firearms if they consume marijuana.



Issue 2 does not provide employment protections. Employers are allowed to continue work-place policies prohibiting marijuana consumption.



Issue 2 does not provide housing protections. Landlords are allowed to prohibit consumption of marijuana on their properties.



There is no guarantee that adult-use businesses will be available in your locality. Localities can adopt ordinances to prohibit adult-use marijuana businesses.