

Be it Resolved by the People of the State of Ohio: That Article XV of the Ohio Constitution is hereby amended to add the following section:

Section 12. Medical Use of Marijuana

**(A) Medical Marijuana Control Division**

(1) There shall be a Medical Marijuana Control Division. The purpose of the Division is to implement programs, develop and enforce rules, and license businesses to make marijuana available to qualifying patients and to prevent diversion of marijuana for illicit purposes without imposing an undue burden on cardholders or compromising the confidentiality of their identities. The Division shall exercise all powers expressly or by necessary implication conferred upon it by this section. The Division shall have five members, who shall be appointed by the director of commerce: a licensed physician; a sworn law enforcement officer; a licensed attorney experienced with administrative law; a patient advocate; and a public health expert. All members must be residents of Ohio. Initial appointments shall be made by the director of commerce not later than thirty days after the effective date of this section. The term of each member shall be four years, except that the initial term of one member shall be one year, the initial term of one member shall be two years, and the initial term of one member shall be three years. Any member appointed to fill a vacancy shall hold office for the remainder of the predecessor's term. The director of commerce shall select a member to be the Division's chairperson and may remove a member for misfeasance, nonfeasance, or malfeasance in office. The Division may hire employees and may contract for services of advisors and consultants, as it considers necessary, to carry out its powers and duties. No member or employee of the Division shall have any financial interest in a medical marijuana establishment. Members of the Division shall receive salaries and may be reimbursed for expenses actually and necessarily incurred in the discharge of their duties.

(2) On or before July 1, 2017, the Division shall, in consultation with the medical marijuana advisory board, promulgate rules consistent with this section for the administration, clarification, and enforcement of laws regulating the medical use of marijuana. The rules must not make the operation or licensing of medical marijuana establishments unreasonably impracticable and may not determine the price of marijuana. The rules shall include:

(a) Procedures for the application for and the issuance of registry identification cards and licenses to operate medical marijuana establishments;

(b) Qualifications for licensure and minimum standards for employment that are directly and demonstrably related to the operation of a medical marijuana establishment;

(c) Requirements for the security of medical marijuana establishments, including lighting, video and alarm requirements, and requirements for the secure transportation of marijuana and marijuana products, provided that the requirements shall not prohibit the cultivation of marijuana in greenhouses;

(d) Requirements for record keeping by medical marijuana establishments and procedures to track marijuana and marijuana products cultivated, processed, manufactured, delivered, tested,

or sold by medical marijuana establishments from the time the marijuana is cultivated until it is dispensed to a cardholder or disposed of pursuant to Division rule;

(e) Health and safety standards for the cultivation, processing, and manufacture of marijuana and marijuana products, including sanitation standards for the preparation, storage, handling, and sale of food products and reasonable limitations on the use of pesticides;

(f) Requirements for the packaging of marijuana and marijuana products, which shall include requirements to protect minors from ingesting marijuana or marijuana products, requirements for dividing each serving within a package containing multiple servings of a marijuana product in a manner that allows cardholders to easily identify a single serving, and requirements to prohibit packaging that can be easily confused with the packaging of commercially sold candy or foods that do not contain marijuana;

(g) Requirements for labeling of packages containing marijuana or marijuana products that shall include a symbol or other easily recognizable mark indicating that the package contains marijuana and an identification of the medical marijuana cultivation facility or the medical marijuana product manufacturing facility that produced the marijuana or marijuana product, the weight of marijuana in a package, and for the labeling of a package containing marijuana products, the amount of tetrahydrocannabinol in each serving of a marijuana product, the number of servings in a package, and a list of ingredients and possible allergens;

(h) Requirements for the testing of random samples of marijuana and marijuana products that are transferred between medical marijuana establishments by an independent medical marijuana testing facility to verify that marijuana and marijuana products are accurately labeled and that products intended for human consumption do not contain contaminants that are in excess of typical standards applied to other commercially available products intended for human consumption, except that such testing may not be required unless adequate medical marijuana testing facilities are licensed and operational;

(i) Requirements for the safe disposal of excess, contaminated, adulterated, or deteriorated marijuana or marijuana products;

(j) Reasonable restrictions on signs, marketing, displays, and advertising with respect to marijuana, marijuana products, and marijuana accessories, including prohibiting marketing or advertising designed to appeal to minors;

(k) An application review process to qualitatively evaluate and rank competing medical marijuana establishment applications that includes an analysis of:

(i) The preference of the local government;

(ii) In the case of a medical marijuana dispensary, the suitability of the proposed location and its accessibility for qualifying patients and any plan for making marijuana available at reduced cost to low-income qualifying patients;

(iii) In the case of a medical marijuana cultivation facility, evidence that the applicant has the capital available to it to build the facility and to operate with no revenue for one year after licensure based on the applicant's reasonable proposed operating budget and evidence that the capital has been seasoned for at least one-hundred-eighty days;

(iv) The character, veracity, background, and qualifications of controlling persons;

(v) A plan to promote and encourage participation in the medical marijuana industry by people from communities that have been disproportionately harmed by marijuana prohibition and enforcement and to positively impact those communities; and

(vi) The business plan proposed by the applicant, which shall include plans to ensure the safety and security of patrons and the community;

(l) Procedures and requirements to enable the transfer of a license from a medical marijuana establishment to another qualified person or group of persons, however organized, or to another suitable location;

(m) The manner in which it shall consider petitions from the public to add debilitating medical conditions to the list of debilitating medical conditions set forth in division (I)(4) of this section, including public notice of, and an opportunity to comment in a public hearing upon, such petitions;

(n) A schedule of nonrefundable fees for registry identification cards and for medical marijuana establishments in an amount necessary to generate sufficient revenue to pay for all implementation, administration, and enforcement costs of this section, according to the following guidelines:

(i) An initial fee for a type 1 medical marijuana cultivation facility shall be five-hundred-thousand dollars;

(ii) An initial fee for a medical marijuana product manufacturing facility, medical marijuana testing facility, medical marijuana distributor, medical marijuana dispensary, or type 2 medical marijuana cultivation facility shall be five-thousand dollars;

(iii) An annual renewal fee for each medical marijuana establishment that is no greater than the initial fee; and

(iv) Annual fees for cardholders, if any, shall not exceed forty dollars and may be reduced for low-income cardholders; and

(o) Provisions for: enforcing this section, including civil penalties for the failure to comply with division (D) of this section or any rule promulgated under this division; suspending or revoking the license of a medical marijuana establishment that allows for the continued maintenance and security of any marijuana or marijuana products; and revoking registry identification cards.

(3) On or before August 1, 2017, the Division shall develop a confidential online cardholder registry and make registry identification cards available to qualifying patients and designated caregivers.

(a) The registry must allow law enforcement personnel and medical marijuana establishments to determine whether a registry identification card is valid, whether the cardholder is a qualifying patient or a designated caregiver, and whether the cardholder is permitted to cultivate marijuana plants. The Division shall develop the registry to protect the privacy of cardholders and practitioners and shall use identification numbers to identify cardholders. Information contained in cardholder applications and in the registry shall be confidential and may be disclosed to law enforcement personnel or to medical marijuana establishments only when reasonably necessary to verify the authenticity of registry identification cards, to notify state or local law enforcement of apparent criminal conduct, and to notify the state medical board of Ohio if there is reason to believe that a practitioner violated the standard of care for evaluating medical conditions. At the cardholder's request, the Division may confirm the cardholder's status as a qualifying patient or a designated caregiver to a third party, such as a landlord, school, medical professional, or court. Information contained in the cardholder registry may not be used for any purpose not provided for in this section and may not be combined or linked in any manner with any other list or database.

(b) The Division shall issue a registry identification card within twenty days to a qualifying patient who submits: a written certification issued by a practitioner within ninety days preceding the date of application; a fee, as required by Division rule; any information required by Division rule to identify the qualifying patient, the qualifying patient's designated caregiver, or the qualifying patient's practitioner; if more than one designated caregiver is designated, documentation demonstrating that a greater number of designated caregivers is needed due to the qualifying patient's age, residence, or medical condition; and if the qualifying patient is younger than eighteen years of age, a written statement from the parent or legal guardian with responsibility for health care decisions for the qualifying patient agreeing to serve as the qualifying patient's designated caregiver and to control the acquisition, dosage, and frequency of medical use by the qualifying patient. A registry identification card shall be valid for at least one year or until the patient no longer suffers from the debilitating medical condition.

(c) The Division shall issue a registry identification card to one designated caregiver identified by a qualifying patient and shall issue a registry identification card to any additional designated caregivers identified by the qualifying patient if authorization of additional caregivers is needed due to the qualifying patient's age, residence, or medical condition.

(d) The Division shall specify on each registry identification card if the cardholder is allowed to cultivate marijuana plants. A qualifying patient may designate himself or herself or may designate his or her designated caregiver to cultivate marijuana plants for the qualifying patient's medical use. A qualifying patient may designate only one person to cultivate marijuana plants for the qualifying patient's medical use and may change the designation by notifying the Division.

(e) The Division shall give written notice to the qualifying patient of the reason for denying a registry identification card. Final denial of an application by the Division is reviewable in the court of common pleas of Franklin County and shall be decided within ninety days of the filing of the notice of appeal of the denial.

(4) The Division shall administer this section and rules related to licensing.

(a) The Division shall license medical marijuana establishments that meet all requirements established by this section and by the Division. The Division may require a background check on any applicant in order to carry out this provision. Within ninety days of its receipt of an application for a new medical marijuana establishment, the Division shall determine whether the applicant and the premises qualify for licensure and either shall issue the license to the applicant or, if the license is not issued, notify the applicant in writing of the specific reasons why the license was not issued. Unless the Division authorizes the renewal of a license for a longer period, all licenses issued under this section shall be effective for one year. Within thirty days of its receipt of an application for a renewal of a license, the Division shall issue the renewal license to the applicant, unless the applicant's license has been suspended or revoked, and shall notify the applicant in writing of the specific reasons why the renewal license was not issued if the renewal license was not issued. Final denial of an application by the Division is reviewable in the court of common pleas of Franklin County and shall be decided within ninety days of the filing of a notice of appeal of the denial.

(b) The Division shall issue the following license types: a medical marijuana dispensary license; a medical marijuana product manufacturer license; a medical marijuana testing facility license; a type 1 medical marijuana cultivation facility license, authorizing cultivation of up to twenty-five-thousand square feet of flowering canopy; a type 2 medical marijuana cultivation facility license, authorizing cultivation of less than five-thousand square feet of flowering canopy; and a medical marijuana distributor license. A medical marijuana establishment may hold any combination of medical marijuana establishment licenses, except the Division shall not issue a license to a medical marijuana testing facility if a controlling person of that facility is also a controlling person of a different type of medical marijuana establishment, nor shall the Division issue a medical marijuana cultivation facility license to any applicant if a controlling person of the applicant is also a controlling person of a different medical marijuana cultivation facility.

(c) An applicant that submits an application for a license to the Division shall not qualify for licensure unless:

(i) The applicant owns or controls through a leasehold interest all real property where marijuana will be cultivated under the license and no other medical marijuana establishment is licensed to cultivate marijuana at the same physical address or within the same facility;

(ii) Each controlling person of the applicant is an individual who is twenty-one years of age or older, is personally identified in the application, and has not been convicted of a disqualifying offense;

(iii) Until January 1, 2020, each person who owns part of a medical marijuana establishment applicant or who has a voting or controlling interest in any medical marijuana establishment applicant has been a resident of Ohio from and before January 1, 2016;

(iv) All fees for the initial annual license are paid by the applicant to the Division at the time of application;

(v) The property where the proposed medical marijuana establishment is to be located, at the time the license application is submitted, is not within five-hundred feet of a public or private elementary or secondary school, church, public library, public playground, or public park, with the distance measured in a straight line from the nearest exterior portion of each building or structure, except that if a locality adopts a law that establishes a different distance requirement, the property where the proposed medical marijuana establishment is to be located satisfies the law adopted by the locality;

(vi) The applicant is in compliance with any laws adopted by the locality in which the applicant's property is located, which are consistent with division (C) of this section and in effect at the time of application; and

(vii) The applicant provides a copy of the local registration, license, or permit, if the locality in which the applicant's property is located requires a local registration, license, or permit.

(d) Except as otherwise provided in this paragraph, the Division shall issue no more than fifteen type 1 medical marijuana cultivation licenses. After January 1, 2020, the Division may deny applications for medical marijuana cultivation facility licenses if the Division determines, after an analysis of the current and anticipated market for medical marijuana, that a limit is necessary to prevent the diversion of marijuana to people outside of the medical marijuana program. If a limit is imposed, the Division shall reconsider that determination biannually and shall not set the limit at a level below that which is necessary to provide an adequate supply of medical marijuana to qualifying patients in Ohio. The Division shall license additional medical marijuana cultivation facilities if the Division determines, after an analysis of the market for medical marijuana, that additional licenses are necessary to meet the demand for medical marijuana by qualifying patients in an accessible, secure, and efficient manner.

(e) The Division shall begin processing applications:

(i) For medical marijuana testing facilities, medical marijuana product manufacturing facilities, and type 1 medical marijuana cultivation facilities, on August 1, 2017;

(ii) For type 2 medical marijuana cultivation facilities and medical marijuana distributors, on November 1, 2017; and

(iii) For medical marijuana dispensaries, on February 1, 2018.

(5) The Division shall enforce this section and all rules promulgated under this section, including rules relating to the cultivation, processing, manufacture, delivery, storage, distribution, sale, and testing of marijuana and marijuana products by medical marijuana establishments. The Division shall conduct investigations of compliance with this section and shall perform periodic inspections of medical marijuana establishments and the books and records of medical marijuana establishments as necessary to enforce this section. The Division shall cooperate with appropriate state and local organizations to provide training to law enforcement officers about the change in law regarding marijuana and what is now lawful conduct by qualifying patients, designated caregivers, medical marijuana establishments, and others. The Division may revoke the license of a medical marijuana establishment only after written notice of a violation and an opportunity for a hearing are afforded to the medical marijuana establishment. The Division shall revoke the registry identification card of a cardholder who transfers marijuana to a person who is not authorized to possess marijuana for medical use only after written notice and an opportunity for a hearing are afforded to the cardholder. The Division may provide for adjudicatory hearings to review any action of the Division. Final actions by the Division are reviewable by the court of common pleas of Franklin County and shall be decided within ninety days of the filing of a notice of appeal of the final action.

(6) The Division shall deposit all fees collected pursuant to this section in the state treasury and give credit to the Medical Marijuana Regulation Fund, which is hereby created. Monies in the fund shall be expended for the implementation, administration, and enforcement of this section by the Division, for the medical marijuana advisory board, for localities where medical marijuana establishments operate, and for reimbursement of any expenditure made to implement this section before monies are deposited in the fund.

(7) Beginning on February 1, 2018, and on or before February 1 of each year thereafter, the Division shall publish an annual report containing the findings and recommendations of the medical marijuana advisory board, the number of applications and renewal applications filed for registry identification cards, the number of qualifying patients and designated caregivers approved, the nature of the debilitating medical conditions of the qualifying patients, the age and county of residence of cardholders, the number of registry identification cards revoked, the number of practitioners providing written certifications for qualifying patients, the number of each type of medical marijuana establishment that is licensed in each county, the amount of marijuana each medical marijuana cultivation facility has cultivated, and the expenses incurred and revenues credited to the medical marijuana regulation fund. The report may not include identifying information about qualifying patients, designated caregivers, or practitioners.

(8) The Division shall promulgate initial rules to implement this section by the dates specified herein, notwithstanding any other provision of law regarding promulgation of administrative rules, except that the Division shall offer opportunities for public input. Ohio's administrative procedure laws generally applicable to other licensing bodies and not in conflict with this section shall apply to actions by the Division.

(9) The Division of Liquor Control shall provide support and expertise necessary and convenient to the Division for the timely implementation and administration of the Division's duties under this section.

(10) The general assembly shall appropriate money necessary to fund the implementation of this section before monies are deposited in the fund pursuant to division (A)(6). Any money appropriated for this purpose shall be repaid from the Medical Marijuana Regulation Fund.

**(B) Medical Marijuana Advisory Board**

There shall be a medical marijuana advisory board. The board shall consist of nine members who shall be appointed by the director of the department of health and shall consist of: one practitioner with knowledge of the therapeutic or palliative uses of marijuana; one person with knowledge of marijuana cultivation; one person with knowledge of marijuana dispensing; one person with knowledge of marijuana product manufacturing; one person with knowledge of marijuana testing; one qualifying patient; one designated caregiver; one expert in public health; and one expert in law enforcement. Initial appointments shall be made by the director of the department of health not later than thirty days after the effective date of this section. Members of the board shall serve terms of two years. Members of the board may be reimbursed by the Division for their expenses actually and necessarily incurred in the discharge of their duties. The medical marijuana advisory board shall: advise the Division on patient access to marijuana, patient confidentiality, and medical marijuana cultivation, processing, manufacturing, transporting, dispensing, and testing; consider all matters submitted to it by the Division; on its own initiative, recommend to the Division guidelines and rules and any changes to guidelines or rules that the board considers important or necessary; and advise on the preparation of rules.

**(C) Local Control**

(1) A locality may impose reasonable safeguards on the operation of medical marijuana establishments by adopting one or more of the following laws, provided that the law is not unreasonably impracticable and is not in conflict with this section or with the rules made pursuant to this section:

(a) Laws governing the time, place, and manner of medical marijuana establishment operations and of any business dealing in marijuana accessories;

(b) Laws limiting the number of medical marijuana establishments in the locality, except that a locality may not prohibit all medical marijuana dispensaries within the locality unless the locality: enacts such a law; the law includes a provision requiring it to be submitted to the electors of the locality at the next general election, the authority for which is hereby granted to all localities; and the law is approved by a majority of the electors voting on the law;

(c) Laws establishing reasonable restrictions on public signs related to medical marijuana establishments; and

(d) Laws establishing a civil penalty for violation of a law enacted pursuant to this division (C).

(2) No locality shall prohibit or otherwise restrict the transportation of marijuana or marijuana products by a medical marijuana establishment or cardholder.

(3) A locality may adopt reasonable laws that are not unreasonably impracticable requiring a medical marijuana establishment to obtain a local license, permit, or registration to operate, and may charge a reasonable fee for the local license, permit, or registration.

#### **(D) Medical Marijuana Establishments**

(1) A medical marijuana establishment shall secure each entrance to the establishment so that access to each area containing marijuana is restricted to those who are authorized to access the area and secure its inventory and equipment to deter and prevent theft of marijuana, marijuana products, and marijuana accessories.

(2) No medical marijuana establishment may cultivate, process, test, store, or manufacture marijuana or marijuana products at any location other than at a physical address approved by the Division and within an area that is contained within an enclosed, locked space.

(3) No medical marijuana establishment shall allow any marijuana or marijuana products on the premises of the medical marijuana establishment to be visible to people who are outside the premises of the medical marijuana establishment.

(4) No medical marijuana establishment shall refuse representatives of the Division the right at any time of operation to inspect the entire premises or to audit the books and records of the medical marijuana establishment.

(5) A medical marijuana establishment may not employ any person who is younger than twenty-one years of age.

(6) A medical marijuana establishment may not share office space with, compensate, receive compensation from, or refer patients to a practitioner who provides written certifications.

(7) A medical marijuana dispensary may not dispense more than the allowable amount of marijuana to a qualifying patient, directly or via a designated caregiver, in any fourteen-day period. Medical marijuana dispensaries shall ensure compliance with this limitation by maintaining internal, confidential records.

(8) A medical marijuana dispensary may not dispense marijuana to a cardholder before making a diligent effort to verify that the registry identification card is valid, that the person presenting the registry identification card is the person identified on the registry identification card, and that the amount dispensed would not cause the cardholder to possess more than the allowable amount of marijuana.

#### **(E) Protections for the Medical Use of Marijuana**

(1) Except as otherwise provided in this section, a cardholder may not: be arrested, prosecuted, penalized, or sanctioned; be denied any right or privilege; or be subject to seizure or forfeiture of assets for the medical use of marijuana. There is a presumption that a cardholder is engaged in the medical use of marijuana if the person is in possession of a registry identification card and an amount of marijuana that does not exceed the allowable amount. The presumption may be rebutted by evidence that conduct related to marijuana was not for the purpose of treating or alleviating a qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition.

(2) Except as otherwise provided in this section, the following persons engaging in the following activities in accordance with this section may not: be arrested, prosecuted, penalized, or sanctioned; be denied any right or privilege; or be subjected to seizure or forfeiture of assets:

(a) A medical marijuana dispensary or an owner, operator, employee, or other agent acting on behalf of a medical marijuana dispensary for: possessing, storing, or testing marijuana or marijuana products; purchasing, selling, or otherwise acquiring, transferring, or delivering marijuana or marijuana products to or from a medical marijuana establishment; or selling or otherwise transferring or delivering marijuana or marijuana products to a cardholder;

(b) A medical marijuana product manufacturing facility or an owner, operator, employee, or other agent acting on behalf of a medical marijuana product manufacturing facility for: manufacturing, processing, packaging, storing, possessing, or testing marijuana or marijuana products, or acquiring, delivering, selling, or otherwise transferring and purchasing marijuana or marijuana products to or from a medical marijuana establishment;

(c) A medical marijuana cultivation facility or an owner, operator, employee, or other agent acting on behalf of a medical marijuana cultivation facility for: cultivating, propagating, breeding, harvesting, processing, packaging, testing, storing, or possessing marijuana; acquiring marijuana seeds from cardholders; or selling or otherwise transferring, purchasing, or delivering marijuana and marijuana products to or from a medical marijuana establishment;

(d) A medical marijuana distributor or an owner, operator, employee, or other agent acting on behalf of a medical marijuana distributor for: possessing, storing, transporting, selling, purchasing, or otherwise transferring marijuana and marijuana products to or from a medical marijuana establishment;

(e) A medical marijuana testing facility or an owner, operator, employee, or other agent acting on behalf of a medical marijuana testing facility for: transferring marijuana and marijuana products to or from cardholders and medical marijuana establishments; possessing, processing, storing, transferring, or testing marijuana or marijuana products; or receiving compensation for services; or

(f) A cardholder, a medical marijuana establishment, or an owner, operator, employee, or other agent acting on behalf of a medical marijuana establishment for transferring marijuana seeds to a medical marijuana cultivation facility.

(3) No person may: be arrested, prosecuted, penalized, or sanctioned; be denied any right or privilege; or be subject to seizure or forfeiture of assets for:

(a) Providing or selling marijuana accessories to a cardholder or to a medical marijuana establishment or for possessing, purchasing, or otherwise obtaining or manufacturing marijuana accessories;

(b) Being in the presence or vicinity of the medical use of marijuana;

(c) Allowing property to be used for activities that are exempt from criminal penalties by this section;

(d) Assisting a qualifying patient with the act of using or administering marijuana; or

(e) Enrolling, leasing to, or employing a cardholder.

(4) A practitioner may not: be arrested, prosecuted, penalized or sanctioned; be denied any right or privilege; or be subjected to seizure or forfeiture of assets, solely for providing written certifications or for otherwise stating that, in the practitioner's professional opinion, a patient is likely to receive therapeutic benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition, unless the practitioner: has issued a written certification to a patient with whom the practitioner does not have a practitioner-patient relationship; has failed to properly evaluate a patient's medical condition; or otherwise has violated the standard of care for evaluating and treating medical conditions.

(5) A person engaged in a profession or occupation subject to licensure may not be subjected to disciplinary action by an occupational or professional licensing board or bureau solely for providing professional services to prospective or licensed medical marijuana establishments, cardholders, or others related to the medical use of marijuana.

(6) A person's lawful possession of, or application for, a registry identification card may not constitute probable cause or reasonable suspicion that the person has violated any law or be used to support a search of the person or the person's property.

(7) It is the public policy of the state of Ohio that contracts related to the operation of medical marijuana establishments under this section shall be enforceable. A contract entered into by a medical marijuana establishment or its owner, operator, employee, or other agent or by those who allow property to be used by a medical marijuana establishment or its owner, operator, employee, or other agent shall not be unenforceable or void exclusively because the actions or conduct by the medical marijuana establishment is prohibited by federal law.

(8) This section may not be construed to authorize any person to engage in the following activities and may not prevent the imposition of any civil, criminal, or other penalties for:

(a) Consuming marijuana or marijuana products by a person who is not a qualifying patient;

(b) Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, train, or motorboat while impaired by marijuana or marijuana products, except that a qualifying patient shall not be considered to be impaired by marijuana or marijuana products solely because of the presence of metabolites or components of marijuana that appear in insufficient concentration to cause impairment;

(c) Smoking marijuana or marijuana products in any public place, in any place where smoking is prohibited, or on or in any form of public transportation;

(d) Possessing or consuming marijuana or marijuana products on the grounds of any elementary or secondary school, any public playground, any public park, any child day care center, or any correctional facility, unless the school, child day care center, or correctional facility has elected to allow the cardholder to engage in the medical use of marijuana;

(e) Cultivating marijuana by more than one designated caregiver at any single location;

(f) Cultivating marijuana plants by a cardholder outside of an enclosed, locked space or in any area visible by normal unaided vision from a public place;

(g) Cultivating marijuana by any cardholder who is not a resident of Ohio;

(h) Transferring marijuana or marijuana products in exchange for remuneration by a person who is not licensed by the Division, except that a designated caregiver may receive reimbursement for any expenses incurred to assist a qualifying patient's medical use of marijuana, provided that the designated caregiver has been identified in the qualifying patient's application for a registry identification card through the Division's registration process;

(i) Transferring marijuana or marijuana products to a person other than a cardholder or a medical marijuana establishment;

(j) Manufacturing marijuana products by means of any liquid or gas, other than alcohol, that has a flashpoint below one-hundred degrees Fahrenheit, unless done pursuant to a medical marijuana product manufacturing facility license; or

(k) Undertaking any task while impaired by marijuana or marijuana products that would constitute negligence or professional malpractice.

(9) This section shall not be construed to prevent an individual or entity from prohibiting or otherwise regulating the consumption, display, cultivation, processing, manufacture, or sale of marijuana and marijuana accessories on or in property the person or entity owns, occupies, or manages, except that a lease agreement shall not prohibit a qualifying patient from consuming marijuana by means other than smoking on or in a property in which the qualifying patient resides unless failing to do so would cause the landlord to violate a federal law or regulation.

(10) Nothing in this section, including division (E)(1), is intended or may be construed to regulate or affect the employment relationship between an employer and a cardholder, to create a new cause of action against a private employer, or to affect the eligibility of a cardholder to receive benefits under any insurance program or policy.

#### **(F) Discrimination Prohibited**

(1) For purposes of medical care, including organ and tissue transplants, a qualifying patient's medical use of marijuana or marijuana products as permitted by this section is considered the equivalent of the authorized use of any other medication and does not constitute the use of an illicit substance or otherwise disqualify a qualifying patient from needed medical care.

(2) Any nursing-care institution, hospice, assisted-living facility, or other residential-care institution may not unreasonably limit a qualifying patient's access to or use of marijuana authorized under this section unless failing to do so would cause the facility to lose a benefit under federal law. Such institution may refuse to store or maintain the qualifying patient's supply of marijuana and may require that marijuana be consumed only in a place specified by the institution and by a method other than smoking.

(3) No school may refuse to enroll or otherwise penalize a person, and no landlord may refuse to enter into a lease with a person, solely because of the person's status as a cardholder, unless failing to do so would violate federal law or regulation or cause the school or landlord to lose a monetary or licensing-related benefit under federal law or regulation.

(4) Absent clear, convincing, and articulable evidence that a person's actions related to marijuana have created an unreasonable danger to the safety of a minor, conduct permitted under this section related to the medical use of marijuana, marijuana products, or marijuana accessories by cardholders shall not form the sole or primary basis for the termination or denial of custody, visitation, or any other parental right or responsibility or for a determination of abuse, neglect, or dependency of a minor.

#### **(G) Affirmative Defense for Medical Marijuana**

Until August 1, 2017, in a prosecution for the use, possession, cultivation, or transfer of marijuana or marijuana accessories in all cases except when the use occurs in a public place, it shall be an affirmative defense to the charge that the defendant used, possessed, cultivated, or transferred marijuana or marijuana accessories if the defendant proves either of the following:

(1) the defendant has a debilitating medical condition that has been diagnosed by a practitioner with whom the defendant has a physician-patient relationship, and marijuana is likely to provide the defendant with therapeutic or palliative relief from the debilitating medical condition, or (2) the defendant was assisting, and the marijuana was intended for medical use by, an individual with a debilitating medical condition.

#### **(H) Business Expenses**

Notwithstanding any law or regulation to the contrary, in computing net income for medical marijuana establishments, there shall be allowed as a deduction from state taxes all the ordinary and necessary expenses paid or incurred during the taxable year in carrying out a trade or business.

## **(I) Definitions**

In this section, the following terms have the meanings set forth in this division:

(1) “Allowable amount of marijuana” means two-and-one-half ounces of usable marijuana; an amount of marijuana products established by Division rule; if the cardholder’s registry identification card designates that the cardholder is allowed to possess and cultivate marijuana plants, six marijuana plants or a greater number of marijuana plants if a higher limit is established by Division rule; the marijuana produced from the cardholder’s allowable plants; and any incidental amount of seeds, stalks, and roots.

(2) “Cardholder” means a qualifying patient or a designated caregiver who has been issued and possesses a valid registry identification card, or a person who satisfies all of the following criteria: the person has been diagnosed with a debilitating medical condition or is the caregiver of a person diagnosed with a debilitating medical condition; the person is not a resident of Ohio or has been a resident of Ohio for less than forty-five days; and the person was issued a currently valid registry identification card or its equivalent under the laws of another jurisdiction.

(3) “Controlling person” means an officer, board member, managing member, manager, general partner, or an individual who has a financial or voting interest of ten percent or greater in a medical marijuana establishment or who has the power to direct or cause to be directed the management or control of a medical marijuana establishment.

(4) “Debilitating medical condition” means: cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, ulcerative colitis, agitation of Alzheimer's disease, post-traumatic stress disorder, or the treatment of these conditions; a chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe debilitating pain; severe nausea; seizures, including but not limited to those characteristic of epilepsy; severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis; or any other medical condition or its treatment approved by the Division.

(5) “Designated caregiver” means a person who: is at least twenty-one years of age; has agreed to assist with a qualifying patient’s medical use of marijuana; and assists no more than five qualifying patients, unless the designated caregiver’s qualifying patients each reside in or are admitted to a health-care facility or residential-care facility where the designated caregiver is employed.

(6) “Division” or “Medical Marijuana Control Division” means the agency established by this section to regulate the medical use of marijuana in Ohio.

(7) “Disqualifying offense” means a crime that was classified as a felony in the jurisdiction where the person was convicted and that was either a violent crime or a crime that substantially relates to fitness to operate a medical marijuana establishment. A “disqualifying offense” does not include: (a) an offense that consisted of conduct for which this section would likely have prevented a conviction, but the conduct either occurred prior to the enactment of this section or was prosecuted by an authority other than Ohio; or (b) any offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed five or more years earlier.

(8) “Enclosed, locked space” means a closet, room, greenhouse, building, or other enclosed area equipped with locks or other security devices that permit access only by cardholders.

(9) “Locality” means a city, village, or township or, in reference to an unincorporated location outside the boundaries of a city, village, or township, a county.

(10) “Manufacture” or “manufacturing” means to compound, blend, extract, including by means of solvents such as butane or by CO<sub>2</sub>, or infuse marijuana or to otherwise make or prepare a marijuana product.

(11) “Marijuana” means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin. “Marijuana” includes hashish but does not include fiber produced from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant that is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare edible marijuana products, beverages, topical products, ointments, oils, tinctures, or other products.

(12) “Marijuana accessories” means equipment, products, devices, or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marijuana into the human body.

(13) “Marijuana products” means concentrated marijuana, extracts from marijuana, and products that are infused with marijuana or an extract of marijuana and are intended for use or consumption by humans. The term includes edible marijuana products, beverages, topical products, ointments, oils, and tinctures.

(14) “Medical marijuana cultivation facility” means an entity registered with the Division to cultivate, acquire, possess, process, package, store, deliver, transfer, transport, supply, or sell marijuana and related supplies to medical marijuana establishments, but not to cardholders.

(15) “Medical marijuana dispensary” means an entity registered with the Division to acquire, possess, and store marijuana, marijuana products, and marijuana accessories and to deliver,

transfer, sell, transport, supply, or dispense marijuana, marijuana products, and marijuana accessories to cardholders.

(16) “Medical marijuana distributor” means an entity registered with the Division to store marijuana and marijuana products at a location that is not licensed for the cultivation, manufacture, testing, or dispensing of marijuana and marijuana products and to transport marijuana and marijuana products from a medical marijuana establishment to another medical marijuana establishment, but not to cardholders.

(17) “Medical marijuana establishment” means a corporation, a limited liability company, a partnership, a nonprofit entity, or any other type of entity that obtains a license to operate as a medical marijuana cultivation facility, a medical marijuana testing facility, a medical marijuana product manufacturing facility, a medical marijuana dispensary, or a medical marijuana distributor.

(18) “Medical marijuana product manufacturing facility” means an entity registered with the Division to manufacture, acquire, possess, or package marijuana or marijuana products or to deliver, transfer, transport, supply, or sell marijuana products to medical marijuana establishments, but not to cardholders.

(19) “Medical marijuana testing facility” means an entity registered with the Division to test marijuana and marijuana products, including certification for potency and the presence of contaminants.

(20) “Medical use” means the acquisition, purchase, possession, administration, cultivation, manufacture, use, delivery, harvest, preparation, transfer, transportation, or testing of marijuana or marijuana accessories relating to the administration of marijuana to treat or alleviate the debilitating medical condition or symptoms associated with the debilitating medical condition of a qualifying patient who possesses a valid registry identification card.

(21) “Practitioner” means a person who is licensed with authority to prescribe controlled substances to humans in Ohio, who is not a controlling person of a medical marijuana establishment, and who does not own any part of a medical marijuana establishment, except that in relation to a person who is not a resident of Ohio or has been a resident of Ohio for less than forty-five days, “practitioner” means a person who is licensed with authority to prescribe controlled substances to humans in the state of the qualifying patient’s residence or former residence.

(22) “Process” or “processing” means to harvest, dry, cure, trim, and separate parts of the marijuana plant by manual or mechanical means, except it shall not include manufacture as defined in division (I)(10) of this section.

(23) “Qualifying patient” means a person who has been diagnosed by a practitioner as having a debilitating medical condition and who continues to have a debilitating medical condition.

(24) “Registry identification card” means a document issued by the Division that identifies a person as a qualifying patient or designated caregiver and identifies whether the cardholder has been designated to cultivate marijuana plants for a qualifying patient’s medical use.

(25) “Unreasonably impracticable” means that the measures necessary to comply with the rules require such a high investment of money, time, or any other resource or asset that a reasonably prudent businessperson would not operate a medical marijuana establishment.

(26) “Usable marijuana” means the dried leaves and flowers of the marijuana plant, and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant and does not include the weight of other ingredients combined with marijuana to manufacture a marijuana product.

(27) “Written certification” means a document signed by a practitioner, stating that in the practitioner’s professional opinion the patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient’s debilitating medical condition or symptoms associated with the debilitating medical condition. A written certification shall affirm that it is made in the course of a practitioner-patient relationship after the practitioner has completed a full assessment of the patient’s medical history and shall specify the patient’s debilitating medical condition.

#### **(J) Enforcement of this Section**

If at any time after August 1, 2017, the Division is not accepting applications for registry identification cards, or if it has not promulgated rules allowing qualifying patients to submit applications, a written certification shall be deemed a valid registry identification card for all purposes under this section. If at any time after August 1, 2017, the Division fails to issue or deny a registry identification card in response to an application within twenty days of its submission, a copy of the application and a written certification shall be deemed a valid registry identification card for all purposes under this section. If the Division fails to promulgate rules to implement this section by July 1, 2017, any person may commence a mandamus action in the Supreme Court of Ohio, which shall have original, exclusive jurisdiction to compel the Division to perform its duties under this section. A mandamus action brought pursuant to this section shall be expedited. Any taxpayer or class of taxpayers shall have standing to file a lawsuit for equitable relief to compel compliance with this section and, if successful, shall be entitled to an award of costs and reasonable attorney fees.

#### **(K) General Assembly Shall Not Frustrate Purpose of this Section**

The purpose of this section is to make marijuana available to qualifying patients for medical use and to protect qualifying patients and those who participate in the cultivation, manufacture, distribution, testing, and dispensing of marijuana for medical use from penalty under the law. Any law enacted after the effective date of this section that frustrates this purpose or that has the effect of reducing patient access to marijuana for medical use, including any law that levies a new tax on marijuana for medical use, shall be void. Any taxpayer or class of taxpayers shall

have standing to file a lawsuit for equitable relief to compel compliance with this section and, if successful, shall be entitled to an award of costs and reasonable attorney fees.

**(L) Severability**

The provisions of this section are intended to be severable, and the invalidity of one or more of such provisions shall not affect the validity of the remaining provisions.