



Ohio Legislative Service Commission

Sub. Bill Comparative Synopsis

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Sub. H.B. 523

131st General Assembly
(H. Select Committee on Medical Marijuana)

This table summarizes how the latest substitute version of the bill differs from the As Introduced version. In general, it addresses only the topics on which the two versions differ substantively and does not include topics on which the two bills are substantively the same.

| Topic | Previous Version (As Introduced) | Sub. Version (LSC 131 2415-5) |
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| Regulating authority (R.C. 3796.02) | Establishes the Medical Marijuana Control Commission in the Ohio Department of Health. | Instead, establishes the Commission in the Ohio Department of Commerce. |
| Commission membership (R.C. 3796.02) | Consists of the following nine members: a physician, a pharmacist, and representatives of law enforcement, employers, labor, alcohol and drug addiction treatment providers, mental health treatment providers, persons who support legalization of medical marijuana, and the general public. Requires that the Governor appoint members in the following manner: three members directly, three members on the recommendation of the Speaker of the House, and the remaining three on the recommendation of the Senate President. | Same, but replaces the member representing the general public with a member representing patients. Instead, requires that the Governor, Speaker, and Senate President each appoint three members. |

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| | <p>No provision.</p> <p>Provides that each member receive a fixed salary.</p> | <p>Prohibits more than four members from being of the same political party.</p> <p>Instead, provides that each member be compensated on a per diem basis.</p> |
| <p>Commission duties (R.C. 3796.03 and 3796.04)</p> | <p>Requires that the Commission establish a Medical Marijuana Control Program to provide for the following:</p> <p>(1) The licensure of medical marijuana cultivators, processors, retail dispensaries, and laboratories;</p> <p>(2) The registration of qualifying physicians;</p> <p>(3) The regulation of other activities related to medical marijuana.</p> <p>Requires that the Commission adopt certain rules governing the Program's operation and authorizes it to adopt additional rules as necessary to implement and enforce the bill's provisions.</p> <p>No provision.</p> <p>No provision.</p> | <p>Same, but also provides for the registration of patients and caregivers (see "Patient and caregiver registration," below).</p> <p>Instead, requires that the Department of Commerce adopt certain rules consistent with recommendations developed and submitted by the Commission. Also authorizes the Department to adopt any other rules as necessary, consistent with Commission recommendations.</p> <p>When developing recommendations concerning retail dispensaries, requires that the Commission consult and cooperate with the State Board of Pharmacy.</p> <p>When developing recommendations concerning qualifying physicians and medical conditions, requires that the Commission consult and cooperate with the State Medical Board.</p> |



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| Disciplinary actions | <p>Authorizes the Commission to suspend or revoke a license for any reason specified in rules (<i>R.C. 3796.13</i>).</p> <p>No provision.</p> | <p>Same, but also authorizes the Commission to suspend or revoke a registration.</p> <p>Authorizes the Commission to impose on a license holder, but not a registrant, a civil penalty in an amount to be determined by the Commission (<i>R.C. 3796.14</i>).</p> |
| Marijuana definition <i>(R.C. 3719.01 (not in the bill) and 3796.01)</i> | <p>Defines medical marijuana as marihuana (as defined under existing law) that is cultivated, processed, dispensed, tested, possessed, or used for a medical purpose.</p> <p>Maintains medical marijuana as a schedule I controlled substance.</p> | <p>Same.</p> <p>Provides that medical marijuana is a schedule II controlled substance for the purposes of the bill.</p> |
| Permissible forms and methods <i>(R.C. 3796.06)</i> | <p>Requires that the Commission specify in rule the forms in which medical marijuana may be dispensed and the methods by which medical marijuana may be used. When adopting the rule, authorizes the Commission to include edibles, patches, plant materials, and oils.</p> <p>Prohibits any form or method considered attractive to children.</p> <p>No provision.</p> | <p>Instead, specifies in statute that only the following forms of medical marijuana may be used: oils, tinctures, plant material, edibles, and patches.</p> <p>Same.</p> <p>With respect to the tetrahydrocannabinol (THC) content of medical marijuana, specifies that plant material have a THC content between 3% and 35% and extracts have a THC content of not more than 70%.</p> |

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| Smoking prohibition | If the Commission specifies that smoking is a method by which medical marijuana may be used, prohibits a patient from smoking medical marijuana in any place of public accommodation (<i>R.C. 3796.22</i>). | Expressly prohibits the use of medical marijuana by smoking or combustion, but allows for vaporization (<i>R.C. 3794.06</i>). |
| Homegrown prohibition | Requires a cultivator license in order to cultivate medical marijuana. Prohibits a licensed cultivator from cultivating medical marijuana for personal, family, or household use (<i>R.C. 3796.18</i>). | Same. |
| Patient and caregiver registration | <p>Authorizes a patient to use or possess medical marijuana obtained from a licensed retail dispensary on the recommendation of a qualifying physician (<i>R.C. 3796.22</i>).</p> <p>No provision.</p> <p>No provision.</p> <p>No provision.</p> <p>No provision.</p> | <p>Same, but also requires that the patient be registered with the Commission.</p> <p>Authorizes a registered caregiver to possess marijuana on behalf of a registered patient and to assist the patient in the use or administration of medical marijuana (<i>R.C. 3796.23</i>).</p> <p>Requires that the Commission issue identification cards to registered patients or caregivers (<i>R.C. 3796.11</i>).</p> <p>Specifies that a registered caregiver is not permitted to personally use or consume medical marijuana, unless the caregiver is also a registered patient (<i>R.C. 3796.23</i>).</p> <p>Provides that a registered patient or caregiver is not subject to arrest or criminal prosecution for actions taken in accordance with the bill's provisions (<i>R.C. 3796.22 and 3796.23</i>).</p> |

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| Possession limits | No provision. | Prohibits a registered patient or caregiver from possessing more than a 90-day supply of medical marijuana as determined by the patient's qualifying physician (<i>R.C. 3796.22 and 3796.23</i>). |
| Operating a vehicle | No provision. | Specifies that the bill does not authorize a qualifying patient to operate a vehicle under the influence of medical marijuana (<i>R.C. 3796.22</i>). |
| Qualifying medical conditions | No provision. | <p>Requires that a patient be diagnosed with a qualifying medical condition before a qualifying physician may recommend treatment with medical marijuana (<i>R.C. 3796.10</i>).</p> <p>Specifies all of the following as qualifying medical conditions: AIDS, amyotrophic lateral sclerosis, cancer, chronic traumatic encephalopathy, Crohn's disease, epilepsy or another seizure disorder, glaucoma, hepatitis C, inflammatory bowel disease, multiple sclerosis, pain that is chronic, severe, or intractable, Parkinson's disease, positive status for HIV, PTSD, sickle cell anemia, spinal cord disease or injury, Tourette's syndrome, and traumatic brain injury (<i>R.C. 3796.01</i>).</p> <p>Authorizes the Department of Commerce to specify additional diseases or conditions in rules adopted consistent with Commission recommendations (<i>R.C. 3796.01 and 3796.04</i>).</p> |
| Physician recommendations (<i>R.C. 3796.10</i>) | Requires the establishment of a physician-patient relationship before a physician may recommend that a patient be treated with medical marijuana. | Same, but also requires that the patient be diagnosed with a qualifying medical condition. |

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| | <p>Requires that a qualifying physician's recommendation state the forms and methods by which a patient may use medical marijuana.</p> <p>No provision.</p> <p>Provides that a recommendation is valid for not more than 90 days. Permits the physician to renew a recommendation for additional periods of not more than 90 days each upon an examination of or follow-up consultation with the patient.</p> <p>No provision.</p> | <p>Same, but also requires that the recommendation state the amount of THC allowed in the medical marijuana.</p> <p>Authorizes the physician to specify on the recommendation the disease or condition for which treatment with medical marijuana was recommended and, when doing so, to use a classification included in the "International Statistical Classification of Diseases and Related Health Problems" or ICD.</p> <p>Instead, permits a qualifying physician to renew a recommendation for not more than 90 days after an in-person follow-up visit. After that renewal, allows for up to three renewals of not more than 90 days each within one year of the follow-up visit. Thereafter, allows the physician to issue another recommendation upon an annual physical examination of the patient.</p> <p>Prohibits a qualifying physician from issuing a recommendation to the physician's self.</p> |
| <p>Continuing medical education (R.C. 3796.10)</p> | <p>No provision.</p> | <p>Requires that each qualifying physician complete on a biennial basis the number of hours of continuing medical education in medical marijuana specified in rules adopted by the State Medical Board.</p> |
| <p>Physician reporting (R.C. 3796.10)</p> | <p>Requires that a qualifying physician submit certain reports to the Commission at intervals of 90 days as well as annually.</p> <p>Requires that the reports submitted at 90-day intervals include the diseases or conditions for</p> | <p>Same, but requires that the reports also be submitted to the State Medical Board.</p> <p>Provides that a physician may satisfy the 90-day reporting requirement related to diseases or</p> |

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| | which treatment with medical marijuana has been recommended. | <p>conditions if both of the following occur:</p> <p>(1) The physician includes ICD classifications in each recommendation issued to patients;</p> <p>(2) The retail dispensaries that dispense medical marijuana for the patients include these ICD classifications in their reports to the Ohio Automated Rx Reporting System (OARRS).</p> <p>Also requires the State Board of Pharmacy to provide to a designated representative of the Commission information from OARRS regarding ICD classifications reported to the Board (<i>R.C. 4729.771 and 4729.80</i>).</p> |
| Qualifying physician standard of care | No provision. | Requires that the State Medical Board adopt rules establishing the minimal standards of care for qualifying physicians treating patients with medical marijuana (<i>R.C. 4731.283</i>). |
| Requirements when dispensing (<i>R.C. 3796.20</i>) | Requires that medical marijuana be dispensed only in accordance with a qualifying physician's recommendation. | Same, but also requires the showing of a current, valid identification card issued to a patient or caregiver by the Commission. |
| Information identifying patients | No provision. | Prohibits the Commission, qualifying physician, or retail dispensary from making public any information that identifies or would tend to identify specific patients (<i>R.C. 3796.07, 3796.10, 3796.11, and 3796.20</i>). |
| Packaging standards | Requires that a licensed processor package medical marijuana in accordance with tamper-resistant packaging standards specified in rules adopted by the Commission (<i>R.C. 3796.04 and 3796.19</i>). | Instead, requires that medical marijuana be packaged in accordance with federal child-resistant effectiveness standards (<i>R.C. 3796.19</i>). |

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| Labeling requirements | Requires that a licensed processor label medical marijuana with its THC and cannabidiol (CBD) content and in accordance with labeling requirements specified in rules adopted by the Commission (<i>R.C. 3796.04 and 3796.19</i>). | Requires only that a licensed processor label medical marijuana with its THC and CBD content (<i>R.C. 3796.19</i>). Instead, requires that a licensed retail dispensary label medical marijuana with all of the following: (1) The name and address of the licensed processor and retail dispensary; (2) The name of the patient and caregiver, if any; (3) The name of the qualifying physician who recommended treatment with medical marijuana; (4) The directions for use as recommended by the qualifying physician; (5) The date on which the medical marijuana was dispensed; (6) The quantity, strength, kind, and form of medical marijuana contained in the package (<i>R.C. 3796.20</i>). |
| License holder inspections | No provision. | Authorizes the Commission to inspect the premises of a cultivator, processor, retail dispensary, or laboratory license holder without prior notice to the license holder (<i>R.C. 3796.14</i>). |
| Criminal records checks | Prohibits the Commission from granting a license to an applicant if any of its current or prospective administrators, owners, officers, or board members have been convicted of or pleaded guilty to a disqualifying offense (<i>R.C. 3796.11 and 3796.12</i>). | Same. |

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| | Requires that the Commission specify in rule the criminal offenses for which an applicant will be disqualified from licensure (<i>R.C. 3796.04</i>). | Instead, requires that the Department of Commerce, consistent with Commission recommendations, specify the disqualifying offenses. Also specifies that, when developing recommendations regarding disqualifying offenses, the Commission may provide that certain criminal offenses committed more than five years before the date the application was filed are not disqualifying offenses (<i>R.C. 3796.03 and 3796.04</i>). |
| Financial interests in other license holders | Requires that an applicant for licensure demonstrate that the applicant does not have an ownership or investment interest in or compensation arrangement with an existing license holder or another applicant for licensure (<i>R.C. 3796.11</i>). No provision. | Instead, requires that an applicant for licensure demonstrate that the applicant does not have an ownership or investment interest in or compensation arrangement with a licensed laboratory or applicant for a license to conduct laboratory testing (<i>R.C. 3796.12</i>). Requires that a physician seeking to register as a qualifying physician demonstrate that the physician does not have an ownership or investment interest in or compensation arrangement with an existing license holder or an applicant for licensure (<i>R.C. 3796.10</i>). |
| Minority benchmarks | No provision. | Requires that the Commission, with certain exceptions, issue not less than 15% of cultivator, processor, retail dispensary, or laboratory licenses to entities that are owned or operated by individuals who are members of specified groups (<i>R.C. 3796.12</i>). |
| Employment (<i>R.C. 3796.28</i>) | Provides that nothing in the bill requires an employer to accommodate an employee's use of medical marijuana. | Adds that the bill does require an employer to permit an employee's use of medical marijuana or require the employer to permit or accommodate an employee's possession or distribution of medical marijuana. |

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| | <p>Provides that nothing in the bill prohibits an employer from refusing to hire, discharging, or otherwise taking an adverse employment action against a person with respect to hire, tenure, terms, conditions, or privileges of employment because of that person's use of medical marijuana.</p> <p>No provision.</p> | <p>Adds disciplining to the list of actions an employer is not prohibited from taking under the bill, and adds possession or distribution of medical marijuana as reasons for which the employer may take those actions.</p> <p>Provides that nothing in the bill:</p> <p>(1) Prohibits an employer from establishing and enforcing a drug testing policy, drug-free workplace policy, or zero-tolerance drug policy;</p> <p>(2) Interferes with any federal restrictions on employment, including U.S. Department of Transportation regulations; or</p> <p>(3) Permits a person to sue an employer for refusing to hire, discharging, disciplining, discriminating, retaliating, or taking an adverse employment action against a person related to medical marijuana.</p> |
| Assistance for veterans and the indigent | No provision. | Requires the establishment of a program to help patients who are veterans or indigent obtain medical marijuana in accordance with the bill's provisions (<i>R.C. 3796.04</i>). |
| Adverse reactions and toll-free telephone line | No provision. | Requires the establishment of a toll-free telephone line to respond to inquiries regarding adverse reactions to medical marijuana and to provide information about available services and assistance (<i>R.C. 3796.07</i>). |

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| Reciprocity agreements | No provision. | <p>Requires that the Commission attempt in good faith to negotiate and enter into reciprocity agreements with states whose laws regarding medical marijuana are substantially similar to the bill's provisions.</p> <p>If an agreement is entered into, grants a patient or caregiver from another state while in Ohio the same right to use, possess, obtain, or administer medical marijuana as a patient or caregiver registered by the Commission.</p> <p>Authorizes the Department to adopt rules regarding reciprocity agreements, consistent with Commission recommendations (<i>R.C. 3796.15</i>).</p> |
| Limits on advertising | No provision. | Prohibits a qualifying physician or licensed cultivator, processor, laboratory, or retail dispensary from advertising any services related to medical marijuana on a television or radio broadcast (<i>R.C. 3796.26</i>). |
| Agricultural use zoning and counties | Provides that agricultural use zoning limitations do not prohibit a county from regulating or prohibiting the location of retail dispensaries within the county (<i>R.C. 303.21</i>). | No provision. |
| Proximity to certain places (<i>R.C. 3796.30</i>) | Prohibits a licensed cultivator, processor, retail dispensary, or laboratory from being located or relocating within 500 feet of a school, church, or public library, playground, or park. | Same, but extends the distance to 1,000 feet. |
| Excise tax and revenues (<i>Section 4</i>) | Specifies that the General Assembly intends to enact law levying an excise tax on each transaction by which medical marijuana is dispensed. | Instead, provides that the General Assembly may enact law levying an excise tax. |

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| | Requires that the Commission determine for each fiscal year an amount it considers necessary to fund marijuana drug abuse prevention programs. | Instead, refers to drug abuse prevention programs generally. |
| Parental rights and responsibilities | No provision. | Provides that the use, possession, or administration of medical marijuana in accordance with the bill's provisions cannot be the sole or primary basis for any of the following: (1) An adjudication determining that a child is an abused, neglected, or dependent child; (2) An allocation of parental rights and responsibilities; (3) A parenting time order (<i>R.C. 3796.24</i>). |
| Professional services | No provision. | Specifies that the holder of a professional license (as defined under existing law) is not subject to professional disciplinary action for engaging in professional or occupational activities related to medical marijuana (<i>R.C. 3796.24 and 4776.01, not in the bill</i>). |

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