

The Times They Are A-Changin': Ohio May Legalize Adult Use Marijuana in 2023

March 07, 2023

As Ohio's medicinal marijuana industry grows and the public's attitude towards marijuana trends toward acceptance, various organizations and lawmakers have begun to lay the groundwork to – at long last – legalize adult use cannabis in Ohio in 2023.

Ohio's Successful Medicinal Cannabis Market

While it took many years (and for advocates, a herculean effort), Ohio's medicinal cannabis market took off in April 2019 and sales have continued to increase, passing the \$1 billion mark in September 2022. The number of dispensaries in the state is also set to double, as 70 new licenses were awarded in 2022 via a lottery system, evidencing continued and increased demand for medical marijuana. Not only have marijuana sales increased and the industry's footprint grown, but the Ohio legislature has also shown an interest in expanding the medicinal program, with the Senate's recent passage of a law to permit doctors to recommend medicinal cannabis to patients for any condition they see fit, dramatically expanding the medicinal marketplace even further. (The law ultimately died when it was not taken up by the House.)

Competing Roads to Legalization

Many in the cannabis industry view it as a question of "when," not "if," adult use marijuana will become legal in Ohio. While that may be an optimistic outlook according to some (including Ohio Senate President Matt Huffman), their skepticism is belied by the fact that there are numerous proposals to legalize adult use cannabis currently pending in Ohio.

At least two bills have been introduced in the State House to legalize cannabis, although the republican-dominated legislature has shown little interest in advancing either. Enter the Coalition to Regulate Marijuana Like Alcohol, which submitted signatures to put adult use marijuana-authorizing legislation on the ballot in 2022, only to be rejected due to timing considerations. As a result, a lawsuit was filed and, as part of a settlement with the state, the Coalition was cleared to pursue the legislation again in 2023 – which it did soon after the new year. The 34-page act proposes to legalize the possession, purchase, and sale of marijuana by Ohioans ages 21 and older, while implementing a 10% tax on the sale of all cannabis products.

Under the proposal, adults would be legally permitted to possess up to 15 grams of marijuana concentrates and 2.5 ounces of cannabis flower. For those interested in growing marijuana plants, an individual would be

permitted to have six plants, and a household which includes multiple eligible adults could have up to 12 plants in total. Perhaps learning from past failures, the Coalition has also proposed to dedicate some of the industry-generated tax revenues towards a “cannabis social equity and jobs program” to “provide financial assistance and license application support to individuals most directly and adversely impacted by the enforcement of marijuana-related laws.” The proposed ballot initiative would also provide financial support for substance abuse, including an addiction fund established by the proposed Division of Cannabis Control.

Provided that lawmakers fail to take action on the ballot initiative by May 3, 2023 (a pretty safe bet), the Coalition is expected to then take steps to put the law up for a vote in November 2023. In order to do so, the Coalition would need to collect valid signatures from approximately 126,000 registered voters from at least 44 of Ohio’s 88 counties. While Ohio politicians are confident such a ballot measure would fail (Senator Huffman told reporters that such a measure “would fail as bad as the last one,” referring to a 2015 ballot initiative that was rejected by roughly 65% of Ohioan voters), recent polls indicate Ohioans may be ready for adult use marijuana: one recent poll found that more than sixty percent of Ohioans favored legalization.

As Tom Haren, an attorney for the Coalition, noted: “[i]t’s not a question of, ‘Is marijuana going to be legalized for adults in Ohio?’ The questions are, ‘When?’ and ‘How?’” Absent action by the state legislature prior to May 3, 2023, Ohioans may answer that question by ballot this fall.

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