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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 354  
135<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Rep. Callender

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### SUMMARY

- Invests authority of the administration of the Cannabis Control Law with the already-existing Division of Marijuana Control (DMC) under the authority and direction of the Superintendent of Marijuana Control.
- Revises home grow provisions by repealing the authority to transfer homegrown cannabis, prohibiting third-parties from home growing cannabis on behalf of an individual, and clarifying the definition of primary residence.
- Specifies that the smoking, vaporization, or combustion of cannabis is prohibited wherever smoking is prohibited.
- Requires rules governing adult-use cannabis advertising to be “at least as stringent” as state and federal law governing tobacco and alcohol advertisements.
- Levies taxes on adult-use cannabis and addresses the distribution of revenue derived from those taxes.
- Creates the 9-8-8 Fund in the state treasury to be distributed only upon the request of, or consultation with, the Director of Mental Health and Addiction Services.

### DETAILED ANALYSIS

#### Cannabis Control Law

Under the Cannabis Control Law, enacted by petition and scheduled to take effect December 7, 2023, the cultivation, processing, and dispensing of adult use cannabis is overseen by the Division of Cannabis Control. Under the bill, oversight of adult-use cannabis is transferred to the Division of Marijuana Control (DMC). DMC is currently responsible for the oversight of medical marijuana and oversees 23 Level I cultivators (two of which are provisional), 14 Level II cultivators (one of which is provisional), 46 processors (two of which are

provisional), and 114 dispensaries (one of which is provisional). Currently there are approximately 403,000 registered medical marijuana users in Ohio.<sup>1</sup>

The table below summarizes the bill’s changes to the Cannabis Control Law

| Current Law<br>(R.C. Chapter 3780)  | H.B. 354<br>(As Introduced)  |
|---|--|
| <b>Oversight</b>  |  |
| <p>Establishes the Division of Cannabis Control (DCC) within the Department of Commerce and grants DCC the authority to license, regulate, investigate, and penalize adult-use cannabis license holders and adult-use users (R.C. 3780.03(A) and (B)).</p>  | <p>Invests this authority with the already-existing Division of Marijuana Control (DMC) and specifies that DMC is under the purview of the Superintendent of Marijuana Control (R.C. 3780.03(B), with conforming changes throughout R.C. Chapter 3780.).</p>   |
| <b>Home grow</b>  |  |
| <p>Authorizes an adult-use consumer to cultivate, grow, and possess up to six cannabis plants (not more than 12 plants per-household) so long as the plants are kept in a secured area that is not visible from a public space (R.C. 3780.29(A)).</p>   | <p>Maintains current law (R.C. 3780.29(A)).</p>  |
| <p>Allows home growers to transfer up to six plants to another adult-use consumer without advertisement or remuneration (R.C. 3780.29(A)(3)).</p>   | <p>Repeals authority to transfer homegrown marijuana (R.C. 3780.29(A)(3)).</p>   |
| <p>Requires home grow to take place at the adult-use consumer’s “primary residence,” i.e., the residence of an individual in which the individual’s habitation is fixed and to which, whenever the person is absent, the person has the intention of returning (R.C. 3780.01(A)(33) and 3780.29).</p> | <p>Similar to current law, but specifies that an individual’s primary residence is presumed to be the residential address that appears in the following (in descending order):</p> <ul style="list-style-type: none"> <li>▪ The Individual’s Ohio voter registration;</li> <li>▪ The individual’s driver’s license or government-issued identification card;</li> <li>▪ A deed, mortgage, lease, current home owner’s or renter’s insurance declaration page, or current real property tax bill in the individual’s name;</li> </ul> |

<sup>1</sup> [Program Update: By the Numbers \(PDF\)](#), November 2023, Division of Marijuana Control.

| Current Law<br>(R.C. Chapter 3780)  | H.B. 354<br>(As Introduced)   |
|---|---|
| No provision.   | <ul style="list-style-type: none"> <li>▪ A utility bill or receipt of utility installation in the individual's name;</li> <li>▪ A paycheck or pay stub issued to the individual that includes their address;</li> <li>▪ The most current available bank statement issued to the individual that includes the individual's primary residential address. <i>(R.C. 3780.01(A)(34).)</i></li> </ul> <p>Explicitly prohibits a third-party from engaging in home grow on behalf of another person <i>(R.C. 3780.29(C)(5)).</i></p> |
| <b>Use, possession, and transportation</b>  |   |
| Enables adult-use consumers to use, possess, purchase, process, transfer without remuneration to another adult consumer, or transport adult-use cannabis. <i>(R.C. 3780.01(A)(1) and 3780.36(A)).</i> | Similar to current law, but prohibits any person from selling, giving away, or otherwise transferring adult-use marijuana to any other person, except as authorized pursuant to a marijuana operator license <i>(R.C. 3780.01 and 3780.36).</i>   |
| <b>Smoking, combustion, and vaporization</b>  |   |
| Smoking or combustion of adult-use cannabis is subject to the same limitations that apply to smoking under continuing law <i>(See R.C. Chapter 3794).</i>   | Similar to current law, but explicitly states that a person is prohibited from smoking, vaporizing, or using any other combustible adult-use cannabis product in a public place or place of employment in which smoking is prohibited <i>(R.C. 3780.36(D)(3)).</i>  |
| <b>Dispensaries</b>   |   |
| No provision.   | Requires DMC to adopt rules prescribing policies, procedures, and minimum standards for adult-use dispensaries that ensure patients and caregivers have sufficient access to medical marijuana <i>(R.C. 3780.03(B)(23)).</i>  |
| <b>Packaging and labeling requirements</b>  |   |
| Requires dispensaries to only accept adult-use cannabis that has been prepackaged and labeled in compliance with DCC rules <i>(R.C. 3780.15(B)(2)).</i>   | Maintains current law, but replaces the DCC with the DMC and requires DMC packaging and labeling rules to, at minimum, comply with federal child-resistant effectiveness standards. <i>(R.C. 3780.03(B)(19); R.C. 3780.15(B)(2), not in the bill).</i>  |

| Current Law<br>(R.C. Chapter 3780)   | H.B. 354<br>(As Introduced)   |
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| <b>Advertising</b>   |   |
| <p>Authorizes DCC to adopt reasonable standards for adult-use cannabis that prevent advertisements that are false, targeted towards minors, promote excessive use, or promote illegal activity (<i>R.C. 3780.21(A)</i>).</p> <p>Prohibits rules that require preapproval of advertisements or that overly burden the legitimate commercial speech of license holders (<i>R.C. 3780.21(B)</i>).</p> | <p>Maintains current law, shifts rulemaking duties from DCC to DMC, and requires the rules to be “at least as stringent” as state and federal law governing tobacco and alcohol advertisements (<i>R.C. 3780.21(A)</i>).</p> <p>Repeals the prohibition (<i>R.C. 3780.21(B)</i>).</p> |
| <b>Enforcement</b>   |   |
| <p>Allows the Attorney General to bring an action to enforce the Cannabis Control Law upon receiving a written request from DCC (<i>R.C. 3780.27</i>).</p> <p>No provision.</p>  | <p>Repeals the authorization (<i>Section 3</i>).</p> <p>Allows the OIU to assist the DMC in enforcing the adult-use cannabis law (<i>R.C. 3780.01, 3780.03, 3780.26, 3780.31, and 5502.13</i>).</p>   |
| <b>Cannabis Social Equity and Jobs Program</b>   |   |
| <p>Establishes the Cannabis Social Equity and Jobs Program within the Department of Development to provide financial assistance and license application support to individuals most directly and adversely impacted by the enforcement of marijuana-related laws who are interested in starting or working in cannabis business entities (<i>R.C. 3780.18 and 3780.19</i>).</p>                    | <p>Retains the program but requires funds to be administered by counties through a grant program. Allows grant fund to be used for any purpose that involves community engagement, economic development, or social programming. (<i>R.C. 3780.19(G)</i>.)</p>                         |
| <b>Employment</b>  |   |
| <p>Requires that a person be considered to have been discharged from employment for just cause under the Unemployment Compensation Law if the person is discharged for using cannabis in violation of the employer’s drug-free workplace policy, zero-tolerance policy, or other formal program or policy regulating cannabis use (a person who is discharged for just cause is</p>                | <p>Also specifies that such a person is ineligible to serve a waiting period or be paid unemployment benefits for the duration of the person’s unemployment (<i>R.C. 3780.35</i>).</p>  |

| Current Law<br>(R.C. Chapter 3780)  | H.B. 354<br>(As Introduced)   |
|---|---|
| <p>disqualified from serving a waiting week or receiving benefits under the Unemployment Compensation Law for the duration of the person's unemployment unless an exception applies) <i>(R.C. 3780.35(B) and see R.C. 4141.29)</i>.</p>   |   |
| <b>Adult-use cannabis excise tax</b>  |   |
| <p><b>Rate:</b> Imposes a 10% excise tax on the sale to consumers of adult-use marijuana <i>(R.C. 3780.22)</i>.</p> <p><b>Revenue:</b> Distributes revenue from the excise tax as follows:</p> <ul style="list-style-type: none"> <li>▪ 36% to the Department of Development's Cannabis Social Equity and Jobs Program;</li> <li>▪ 36% for the benefit of municipal corporations or townships that have adult-use dispensaries, based on the percentage of tax attributable to each municipal corporation or township;</li> <li>▪ 25% to support the efforts of the Department of Mental Health and Addiction Services to alleviate substance abuse and related research;</li> <li>▪ 3% to support the operations of the Division of Cannabis Control and to defray the cost of the Department of Taxation in administering the tax <i>(R.C. 3780.23)</i>.</li> </ul> | <p><b>Rate:</b> Same as current law <i>(R.C. 3780.22)</i>.</p> <p><b>Revenue:</b> Similar to current law, except reallocates the 25% earmarked for the Department of Mental Health and Addiction Services as follows:</p> <ul style="list-style-type: none"> <li>▪ 12.5% to support the efforts of the Department to oversee and administer the 9-8-8 suicide prevention and mental health crisis hotline system;</li> <li>▪ 10% to support the efforts of county sheriffs to provide mental health and addiction services in county jails;</li> <li>▪ 2.5% to support efforts of the Department to develop the state's mental health workforce <i>(R.C. 3780.23)</i>.</li> </ul> |
| <b>Cultivator gross receipts tax</b>  |   |
| <p>No provision.</p>  | <p><b>Rate:</b> Levies a 10% tax on the gross receipts of licensed cultivators from the sale of adult-use marijuana <i>(R.C. 5755.02, and numerous conforming sections)</i>.</p> <p><b>Revenue distribution:</b> Distributes revenue from the cultivator gross receipts tax as follows:</p>   |

| Current Law<br>(R.C. Chapter 3780)               | H.B. 354<br>(As Introduced)   |
|--|---|
|  | <ul style="list-style-type: none"> <li>▪ 36% for use by Department of Rehabilitation and Correction to provide grants to support the construction and renovation of county jails;</li> <li>▪ 36% to the county sheriffs of each county with a cannabis processing or cultivation facility, distributed on the basis of each such county's population;</li> <li>▪ 23% for use by the Attorney General to pay for the continuing education and training of peace officers and state troopers;</li> <li>▪ 5% for use by the Attorney General to provide grants to crime victim assistance programs (<i>R.C. 5755.13</i>).</li> </ul> <p><b>Tax on illegal sales:</b> No provision.</p>     |
| <b>Current agricultural use value (CAUV)</b>     |   |
| No provision.                                    | Makes land used to cultivate adult-use marijuana ineligible to be valued for property tax purposes as other agricultural land pursuant to its CAUV ( <i>R.C. 5713.30</i> ). (A similar exclusion already applies to lands used to cultivate medical marijuana.)   |
| <b>Local jail funding program administration</b> |   |
| No provision.                                    | Requires DRC to provide grants for local jail construction and renovation using adult-use marijuana gross receipts tax revenue pursuant to a funding formula that ranks counties higher the lower their property and sales tax revenues are relative to other counties. Applications are requested from a number of the highest ranking counties, with a needs assessment then conducted for the applicants, and selected projects are awarded a grant for at least 25% of the total project cost ( <i>R.C. 5120.81</i> ). (This program is similar to one temporarily enacted in H.B. 33 of the 135 <sup>th</sup> General Assembly that is scheduled to sunset at the end of FY 2024.) |

| Current Law<br>(R.C. Chapter 3780)  | H.B. 354<br>(As Introduced)  |
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| <b>9-8-8 Hotline annual report</b>  |  |
| No provision.   | Adds exercising the powers and performing the duties relating to 9-8-8 suicide and crisis response to the existing law powers and duties of the Director of Mental Health and Addiction Services. <i>(R.C. 5119.10(B)(5))</i> .  |
| No provision.   | Establishes the 9-8-8 Administrator within the Department of Mental Health and Addiction Services to oversee the administration of the 9-8-8 Suicide Prevention and Mental Health Crisis Hotline (“9-8-8 Hotline”) system statewide. <i>(R.C. 5119.82)</i> .   |
| <b>9-8-8 Fund</b>   |  |
| No provision.   | Requires the 9-8-8 Administrator to compile an annual report regarding the operation of the 9-8-8 Hotline in Ohio that must include certain information, and to submit the report to the General Assembly and the Governor <i>(R.C. 5119.83)</i> .   |
| <b>9-8-8 Hotline civil liability exemption</b>  |  |
| No provision.   | Creates the 9-8-8 Fund in the state treasury, consisting of appropriations, revenue from the adult use tax, donations, gifts, bequest, and other money received, and interest or other earnings on the fund to be distributed only upon the request of, or consultation with, the Director of Mental Health and Addiction Services <i>(R.C. 5119.84)</i> .   |
| <b>Peace officer training</b>   |  |
| Current law requires each peace officer and trooper in Ohio to complete 24 hours of continuing professional training each calendar year and requires between 24 and 40 hours of continuing professional training be reimbursed each year <i>(R.C. 109.803(A))</i> . | Exempts a telephone company and any other installer, maintainer, or provider of customer premises equipment, or service used for or with the 9-8-8 Hotline, and certain other affiliated persons or entities, from civil liability, except for willful or wanton misconduct, for injury, death, or loss to persons or property due to the covered entity’s or person’s participation in or acts or omissions in connection with participating in or developing, maintaining, or operating the 9-8-8 Hotline. <i>(R.C. 5119.85)</i> . |

| Current Law<br>(R.C. Chapter 3780) | H.B. 354<br>(As Introduced)  |
|------------------------------------|--|
|                                    | Also requires the Attorney General to use the Adult Use Cannabis Law Enforcement Fund created in the bill to pay reimbursements for continuing professional training programs for peace officers and troopers and allows for each appointing authority to apply to the Ohio Peace Officer Training Commission for quarterly reimbursement of continuing professional training costs ( <i>R.C. 109.802</i> ). |

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## HISTORY

| Action     | Date    |
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| Introduced | 12-5-23 |

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