

Ohio Still Slow to Adapt Cannabis Business After November 2023 Legalization of Recreational Use

<p>Ohio Plays Indica To Michigan's Sativa in the Cannabis World</p>

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They call it the Green Mile on I-75 North, just 11 miles north of the Ohio border in Michigan where several dispensaries compete for out of state cannabis business, including Ohio's.[1]

As Ohio works on its 7th iteration of regulations regarding the legalization of cannabis for recreational purposes, Michigan continues to rake in the dough. Michigan is the largest state revenue earner for cannabis sales, approximately \$3.2B,[1] passing Colorado at \$2.7B. And with a Michigan excise tax of 10% on retail sale and a 6% sales tax,[2] that means \$320 million in new revenue for the state. In 2023, Michigan collected more than \$270 million in marijuana tax revenue.[3] It remains to be seen whether Ohio will see this level of revenue from the sale of adult-use cannabis, but projections are high.[4]

Ohio has been caught up in Reefer Madness[5] as the right-leaning legislature and appointed division of marijuana control continues to limit the number of licenses issued. On November 7, 2023, Ohio voters approved the legalization of recreational cannabis use, however the approval did not change the status of cannabis as a controlled substance prohibited under Ohio law for liquor permit premises.[6] And the Ohio General Assembly is working hard to rewrite the law with respect to taxes, distribution of revenue from taxes, issuance of licenses, application restrictions and even the possess and consumption limits.[7] Current rules under consideration required stakeholder comment by October 9, 2024.[8] To add to the challenges, over one hundred local jurisdictions have enacted moratoriums prohibiting adult use cannabis operators within their jurisdictions.[9]

Even though the proposed rules are being amended yet again,[10] Ohio opened its first doors to recreational use on August 6, 2024, when most of the state medicinal dispensaries applied for dual medicinal and recreational use. [11] There are also licenses issued for cultivating, processing, and laboratory services for dispensaries. It will likely take several months for the Ohio business to get up to speed, and costs in Ohio are projected to be substantially higher than the competitive Michigan market.[12]

But the open market of Michigan versus controlled licensure of Ohio will be interesting to watch. Oversupply and stiff competition in Michigan are driving many in the industry into the red.[13] Toledo, the largest city on the border of Michigan and Ohio, has its first dispensary potentially contributing to a 23% drop in sales in the Green Mile.[14]

A friend's recent visit to a local dispensary found the prices three times higher than average Michigan product costs and a protected sales counter with no product view because of the Ohio current and proposed regulatory requirements relating to advertising.^[15]

And the Feds aren't helping move matters along either. Although the Drug Enforcement Administration (DEA) accepted the recommendation of the U.S. Department of Health and Human Services (HHS) to reschedule cannabis from Schedule I to Schedule III under the federal Controlled Substances Act (CSA), see our [April 30, 2024 Article](#) on this topic, the DEA has scheduled the hearing for after the 2024 Presidential election, so there is still a long road to go before the much hoped-for/expected rescheduling takes place.

But more importantly, while rescheduling is expected to help lessen the tax burdens on cannabis operators, it does not legalize cannabis under federal law or allow for the sale of cannabis across state lines, even though there are no known enforcement efforts.

For more information, please contact a member of Benesch's [Cannabis Industry Group](#).

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[1] [Ohio helps make Michigan No. 1 in weed sales - but perhaps not for long | Bridge Michigan](#)

[1] [Michigan marijuana sales outpace California's but Ohio is sparking up \(lansingstatejournal.com\)](#)

[2] [About the Marihuana Retailers Excise \(MRE\) Tax \(michigan.gov\)](#)

[3] [Higher revenues: How cannabis sales are impacting Michigan communities \(upnorthlive.com\)](#)

[4] [What Tax Revenues Should Ohioans Expect If Ohio Legalizes Adult-Use Cannabis? by Jana Hrdinova, Dexter Ridgway :: SSRN](#)

[5] [Reefer Madness - Wikipedia](#)

[6] [Adult Use of Marijuana in Liquor Permit Premises | Ohio Department of Commerce](#)

[7] [Comparison of Issue 2 Recreational Marijuana Initiative and Proposed Revisions by the Ohio General Assembly \(osu.edu\)](#)

[8] [Proposed Rules - Early Stakeholder Outreach | Ohio Department of Commerce](#)

[9] [Ohio Marijuana Moratoriums | Moritz College of Law \(osu.edu\)](#)

[10] [Proposed DCC Rules | Ohio Department of Commerce](#)

[11] [Which Ohio dispensaries are open for recreational marijuana sales \(nbc4i.com\)](#)

[12] [Ohio helps make Michigan No. 1 in weed sales - but perhaps not for long | Bridge Michigan](#)

[13] [Michigan: Cannabis Market Struggles Oversupply, Falling Prices - Benzinga](#)

[14] *Id.*

