

## Cannabis Business Blog

# Ohio Becomes The 26th State To Legalize Medical Marijuana

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On Wednesday, June 8<sup>th</sup>, Governor John Kasich signed [Ohio House Bill 523](#) to authorize the medical use of marijuana in Ohio, which will take effect in 90 days. While initially remaining quiet regarding his position on the issue, Kasich had earlier stated that he would follow the recommendations of physicians, but that he wanted to provide relief to children in pain.

Although medical marijuana will be legal in Ohio in September, it will take much longer to establish its rules for patients, growers and dispensaries (likely eight months). In the meantime, however, medical marijuana may be legally purchased in other states where it is legal and brought back into Ohio. Once the rules are established, out of state medical marijuana will no longer be legally transported into Ohio.

One distinguishing aspect of the new law is that it is still illegal to smoke medical marijuana in Ohio – vaporizers, edibles and oils are the only legal forms of its use. It should also be noted that recreational use of marijuana remains illegal and that employers will be allowed to fire employees who violate company policies against marijuana use, even if used for medical purposes.

Under the law, physicians who are certified by the Medical Board of Ohio may recommend medical marijuana to those suffering a number of medical conditions after attending at least two hours of training on diagnosing and treating conditions with medical marijuana.

Growers interested in growing medical marijuana will have to file an application with the Ohio Department of Commerce. Growers will not be allowed within 500 feet of schools, public playgrounds, churches, public parks or public libraries, and applicants with criminal convictions will be disqualified.

**Warning Regarding Federal Law:** The possession, distribution, and manufacturing of marijuana is illegal under federal law, regardless of state law which may, in some jurisdictions, decriminalize such activity under certain circumstances. Penalties for violating federal drug laws are very serious. For example, a conviction on a charge of conspiracy to sell drugs carries a mandatory minimum prison term of five years for a first offense and, depending on the quantity of marijuana involved, the fine for such a conviction could be as high as \$10 million. In addition, the federal government may seize, and seek the civil forfeiture of, the real or personal property used to facilitate the sale of marijuana as well as the money or other proceeds from the sale. Although the U.S. Department of Justice (DOJ) recently rescinded its guidance regarding prioritization of criminal prosecutions of individuals and entities operating in compliance with effective state regulatory systems, DOJ left in place long standing

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guidance to federal prosecutors regarding how to exercise this discretion. Individuals and companies are cautioned to consult with experienced attorneys regarding their exposure to potential criminal prosecution before establishing business operations in reliance upon the passage of state laws which may decriminalize such activity. Federal authority to prosecute violations of federal law as crimes or through seizures and forfeiture actions is not diminished by state law. Indeed, due to the federal government's jurisdiction over interstate commerce, when businesses provide services to marijuana producers, processors or distributors located in multiple states, they potentially face a higher level of scrutiny from federal authorities than do their customers with local operations.

**Tags:** company policies against marijuana use, dispensaries, edibles, Governor John Kasich, growers, medical marijuana, medical use of marijuana, Ohio, Ohio Department of Commerce, Ohio House Bill 523, Ohio State Medical Association, oils, patients, vaporizers