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May 21, 2015

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Re: Submitted Petition for Initiated Constitutional Amendment to Add Section 12,
Article XV to the Ohio Constitution — Cannabis Control Amendment

Dear Committee,

In accordance with the provisions of Ohio Revised Code (“ORC”) Section 3519.01(A), on May 11, 2015, I received a written petition proposing to add the Cannabis Control Amendment to Ohio’s Constitution and a summary of the proposed amendment. One of my statutory duties as Attorney General is to send all of the part-petitions to the appropriate county boards of elections for signature verification. With all 29 counties reporting back, 1,514 signatures have been verified.

Pursuant to ORC 3519.01(A), I must examine the summary and determine whether it is a fair and truthful statement of the proposed amendment. If I conclude that the summary is fair and truthful, I must certify that fact to the Secretary of State within ten days of receiving it. In this instance, the tenth day falls on May 21, 2015.

The Ohio Supreme Court has defined “summary” relative to an initiated petition as “a short, concise summing up,” which properly advises potential signers of a proposed measure’s character and purport. *State ex rel. Hubbell v. Bettman*, 124 Ohio St. 24 (1931). After reviewing the submission, I have concluded that I am unable to certify your summary as a fair and truthful representation of the proposed amendment. Due to significant inconsistencies between the summary and the proposed amendment, the summary could mislead a reasonable person as to the content of the proposed amendment. The following examples are a non-exhaustive list of the ways in which the summary materially deviates from the amendment:

- Inconsistencies relating to “minors” as defined by the amendment:
 - In paragraph A(40) of the amendment, “minor” is defined to include any person under 21 years of age. The term “patient” is not defined with reference to a person’s age. Thus, the term “minor” as used in the amendment includes any patient aged 18 to 20, and any prohibition that applies to minors applies to those patients. For example, Paragraph 2 of the summary provides that the amendment allows “[p]atients aged 18 or older” to, among other activities, possess certain

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marijuana products or cultivate certain marijuana plants, and states in three places that any such plants or products are restricted to "a secured area away from public view and inaccessible to minors." But by the amendment's definition, patients aged 18 to 20 *are* minors. Thus, while the summary states that the amendment requires patients aged 18 to 20 to keep marijuana away from minors, the amendment's definition of "minor" would require that marijuana be secured away from patients aged 18 to 20.

- Paragraph 2 of the summary also allows "[p]atients 18 or older" to "gift and trade" marijuana and other related items. This contradicts paragraph C(3) of the amendment, which says without exception that "[m]inors shall not gift, trade, nor otherwise distribute" such items.
- Further, the summary repeatedly uses the phrase "patients aged 18 or older," while the amendment uses the phrase "patients over the age of 18."
- Paragraph 3 of the summary limits patient groups to "[p]atients aged 18 or older and guardians of incapacitated patients or patients younger than 18." This contradicts paragraphs A(43) and D5(a) of the amendment. Those two paragraphs provide two different definitions of patients groups, but both limit patient groups to "[p]atients over the age of 18, or [g]uardians of [p]atients." Paragraph A(12) of the amendment defines a guardian as "[a]ny legal parent, or legal guardian, of a [m]inor or [i]ncapacitated person." Accordingly, the summary fails to reflect that the amendment allows patients groups to include parents or guardians of non-incapacitated patients age 18 to 20.
- Paragraph 11 of the summary allows certain local authorities to ban commercial distribution of marijuana and related items "in part or in whole." This contradicts paragraph H(2) of the amendment, which allows localities to "totally ban commercial [m]arijuana" but contains no allowance for a partial ban.
- Paragraph 10 of the summary notes that "special marijuana taxes" constitute a lien on any and all property of Commercial Marijuana Entities, but it omits that paragraph J(6) of the amendment makes that lien "paramount to all private liens or encumbrances."
- The summary repeatedly uses the phrase "marijuana concentrate" in dozens of places where that phrase does not appear in the amendment. To the extent that the summary uses "marijuana concentrate" as a substitute for "marijuana solids" or "marijuana liquids," those three items have different definitions in paragraph A of the amendment.

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These inconsistencies could mislead a reasonable person to interpret the summary in a manner incompatible with the proposed amendment. Accordingly, I am unable to certify the summary as a fair and truthful statement of the proposed amendment. However, I must caution that this is not intended to be an exhaustive list of all defects in the submitted summary.

Very respectfully yours,

A handwritten signature in blue ink that reads "Mike DeWine". The signature is written in a cursive, flowing style.

Mike DeWine
Ohio Attorney General