

Ohio GOP leaders don't like recreational marijuana. What happens if voters say yes to it?

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Ohio's top Republican leaders haven't been shy about their opposition to recreational marijuana.

"There are a lot of people who don't do something because it's illegal, believe it or not, and if it's more accessible to whoever's going to buy it, it's going to be more accessible to people who shouldn't be smoking it," Senate President Matt Huffman, R-Lima, said in a recent interview. "It's really going to be devastating."

Come November, Ohio voters will decide if the state should legalize recreational marijuana. The proposal from the Coalition to Regulate Marijuana Like Alcohol – known as Issue 2 – outlines rules for buying, selling, growing and taxing cannabis for adults 21 and older.

The measure is an initiated statute that would become law if passed, instead of a constitutional amendment. That means it would fall under the jurisdiction of the state Legislature, and Republicans in charge could later tweak or even repeal the measure if approved by voters.

Ahead of the Nov. 7 vote, Huffman and other key leaders aren't showing their hand. But several rank-and-file lawmakers don't think there's enough political will in the GOP-controlled Legislature to thwart the voters' decision.

"There is a lot more bipartisan support privately than publicly for legalization," said Rep. Casey Weinstein, D-Hudson, who's spearheaded legislation for adult-use marijuana. "That's my sense. My hope is that the voters passing this – which I think the voters will – will give those reticent, quietly supportive lawmakers that permission they're waiting for."

Would Ohio Legislature repeal marijuana law?

The Ohio Constitution gives lawmaking power to the state Legislature and also outlines the right of citizens to propose laws and amendments. The Ohio Revised Code and constitution don't explicitly say lawmakers can amend or repeal initiated statutes, but they also don't prohibit it.

The Legislature's ability to strike down initiated statutes has never been tested in court, so lawmakers could potentially face a lawsuit if they go that route, said Derek Clinger, an attorney with State Democracy Research Initiative at the University of Wisconsin.

Some states have so-called safe harbor provisions for initiated statutes, an idea that's been floated in Ohio but never acted upon. California's constitution, for instance, requires voter approval to repeal or change any law passed through the initiated statute process. Michigan, Washington, North Dakota and several others enacted time constraints or require a supermajority to scrap citizen initiatives.

Ohio's process got renewed attention during the debate this summer over whether to make it harder to change the state constitution, with some advocates saying initiated statutes are less effective than amendments.

"I've never seen one be repealed," said David Waxman, an Ohio attorney who specializes in cannabis law. "That would be extreme anywhere, even in Ohio with a supermajority Republican Legislature. I just don't see that happening, especially because this is a vote of the citizens of the state. It would be something quite extraordinary if they repealed it."

House and Senate Republicans told the USA TODAY Network Ohio Bureau there have so far been no discussions about Issue 2, and many think a total repeal is unlikely if voters approve it. In the House, any potential response could be complicated by rifts within the GOP caucus that have slowed action on a range of issues.

"There are not a majority of legislators in both chambers that would be pro-repeal," Rep. Ron Ferguson, R-Wintersville, said. "That's definitely not the case. You would have no Democrats, and there are not enough Republicans to put them in the top."

Changes could happen over time

If voters approve Issue 2, the law could still change at some point.

Many specifics of the recreational marijuana program would be handled through administrative rule-making. Under the proposal, the Division of Cannabis Control would set rules for licensing, testing, product standards, investigations and more. The division must also impose THC limits for products that could later be changed or removed.

Beyond that, lawmakers could revisit the statute – immediately or down the road – as they have with the state's medical cannabis program. Weinstein supports Issue 2 but said he'd be open to future changes that make the program more equitable and "economically accessible."

"I would think that the General Assembly would try to work with it if it passes because of the threat of a constitutional amendment," Sen. Bill Blessing, R-Colerain Township, said.

Then there are the Republicans at the top. When asked about Issue 2, House Speaker Jason Stephens, R-Kitts Hill, didn't want to address hypotheticals but said "they call it the revised code for a reason." Huffman said he needs to review the proposed language, but how the vote shakes out – if the support is overwhelming, or if it barely passes – will inform his opinion.

Gov. Mike DeWine, who is staunchly opposed to recreational marijuana, hopes lawmakers never need to have that conversation.

"There's a lot of discussion that has to take place," DeWine said. "The states that have passed recreational use of marijuana ... have seen some things happen. And I don't think these are things we want to see in Ohio."

USA TODAY Network Ohio Bureau reporters Jessie Balmert and Anna Staver contributed.