

In the
Supreme Court of Ohio

FIFTY WEST BREWING COMPANY LLC, Case No. _____
et al.,

Relators,

vs.

JAMES V. CANEPA, Superintendent of the
Division of Cannabis Control, et al.,

Respondents.

Original Action
Writ of Mandamus
Peremptory Writ

**** EMERGENCY****

EMERGENCY MOTION FOR PEREMPTORY WRIT OF MANDAMUS

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MOTION FOR PEREMPTORY WRIT OF MANDAMUS

Relators move this Court for a peremptory writ of mandamus “compel[ling] the secretary of state to treat [original S.B. 56]” — as presented to Governor DeWine before his invalid line-item veto — as “a validly enacted law and to fulfill all of the secretary’s statutory duties concerning that law.” *State ex rel. Ohio Gen. Assembly v. Brunner*, 2007-Ohio-3780, ¶51. Relators also request a peremptory writ of mandamus compelling the superintendent of cannabis control and the superintendent of liquor control to immediately begin drafting the policies required by original S.B. 56’s hemp-beverages sections and to establish all such policies by **March 20, 2026**, as the original bill mandates.

A peremptory writ of mandamus is justified for the reasons laid out in the attached memorandum in support.

March 6, 2026

/s/ Andrew D. McCartney

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MEMORANDUM IN SUPPORT

This case is about Governor DeWine’s lawless executive overreach. Last December, the People’s representatives agreed to generally restrict hemp ahead of federal legislation. But the General Assembly created a carveout for hemp *beverages*—a nine-month sales window ending December 31, 2026 that would have allowed companies to sell their inventory and transition their businesses.

Governor DeWine thought he knew better than the People of Ohio. So, he “line-item” vetoed every reference to the hemp-beverages sections in S.B. 56, struck the entire chapter that created a regulatory framework for hemp beverages, and deleted fifteen pages of legislation. As one of the delegates to Ohio’s Constitutional Convention of 1912 put it in arguing for the current language limiting the governor to vetoing only “items,” not “sections,” “You can take the life out of any bill by cutting a section out of it.” Ohio Constitutional Convention, *Proceedings and Debates*, at 1201 (Apr. 11, 1912) (statement of Mr. Knight). Governor DeWine cut seventeen out of S.B. 56.

That “line-item” veto is invalid under any reasonable interpretation of “item,” and it has catastrophic consequences for Relators—several Ohio establishments and businesses that operate in Ohio. The vetoed version of S.B. 56 is set to take effect on March 20, two weeks from today. If it does, Relators face potential *criminal* enforcement actions against them for possessing millions of dollars’ worth of inventory that they purchased in good faith before the governor’s veto. In addition to potential criminal penalties, the

veto will force Relators, collectively, to lay off dozens of employees and will cost them millions of dollars in investments and lost sales.

Governor DeWine's "line-item" veto is lawless. It is unmoored from the plain text and original public meaning of Article II, Section 16 of the Ohio Constitution. Under that provision, Governor DeWine may disapprove only an "item or items in any bill making an appropriation of money." And contrary to Governor DeWine's view, "item" does not mean any part of a bill whatsoever.

"Item," as originally understood, means "a specific appropriation of money." *Bengzon v. Secretary of Justice of Philippine Islands*, 299 U.S. 410, 414 (1937). This Court's decision in *State ex rel. Brown v. Ferguson*, 32 Ohio St.2d 245, 252 (1972), says the same. And Ohio's constitutional history makes the meaning of "item" particularly clear. In 1912, the People of Ohio adopted the current constitutional language allowing the governor to veto only "items" after a short, failed experiment with an expansive veto provision that had allowed the governor to veto "sections" as well as "items." Ohio Const., art. II, §16 (1903).

Governor DeWine did not veto any "distinct and separate appropriation." *State ex rel. Brown*, 32 Ohio St.2d at 252. The bill has only one appropriation, and it is for municipalities that have marijuana (not hemp) dispensaries. S.B. 56, §12. But he did veto seventeen sections—spanning fifteen pages—that would otherwise have become part of the Revised Code. The veto is pure policy-making and executive overreach.

Governor DeWine turned a sales window into a ban. He rewrote S.B. 56—through clever deletions—so that it means the exact opposite of what the People’s representatives hammered out in the democratic process.

“[A] peremptory writ should issue” where “the facts are uncontroverted and it appears beyond doubt that the [relators] are entitled to the requested relief.” *State ex rel. Cincinnati Enquirer v. Baker Ross*, 2026-Ohio-510, ¶15. Here, the relevant facts are undeniable. Governor DeWine vetoed the hemp-beverages sections. And the only way Relators are not definitively entitled to relief is if “item” is limitless. That question is not close. Governor DeWine’s veto is “unauthorized by law” and therefore “null and void.” *State ex rel. Akron Ed. Ass’n v. Essex*, 47 Ohio St.2d 47, 50 (1976) (granting mandamus relief). Relators are entitled to a peremptory writ of mandamus.

Relators request a ruling on this motion on an emergency basis, and no later than **midnight on March 20, 2026**, when large sectors of their businesses will otherwise become illegal, triggering potential criminal penalties, layoffs, and unrecoverable financial losses.

FACTS

I. Governor DeWine vetoed the sections of S.B. 56 creating a regulatory framework for businesses to manufacture and sell hemp beverages until December 31, 2026.

The General Assembly passed S.B. 56 and, on December 10, 2025, presented it to

Governor DeWine.¹ Nine days later, the governor vetoed the hemp-beverages sections (and related sections and references) and signed the bill, as altered by his veto. Veto Message, Item Number 1 (Dec. 19, 2025).² The governor justified his purported line-item veto on the grounds that Congress enacted a federal ban on “intoxicating hemp” that starts in November 2026. *Id.* at 2. Governor DeWine’s veto message stated:

Ohio is making good public policy by enacting its own intoxicating hemp ban earlier than federal law. However, a carve out to allow the further sale of intoxicating hemp beverages for most of 2026 will create confusion for consumers and a lack of conformity with federal law.

Id. The governor also cited “safety issues” based on the possibility that consumers might be “misl[ed] ... into thinking these products will have the same effect on them as alcohol, when there is no way to guarantee such claims.” *Id.* So, Governor DeWine determined that “a partial veto is in the public interest.” *Id.*

The governor’s veto struck seventeen new or amended sections of the enrolled bill, spanning fifteen pages.³ *See* S.B. 56 (as line-item vetoed) at pp.47–54, 120–26.⁴ Section 14 of the enrolled bill provided:

¹ *See* <https://www.legislature.ohio.gov/legislation/136/sb56/status>.

² *Available at* <https://www.legislature.ohio.gov/assets/legislation/legislation-documents/136/VetoMessageSB56.pdf>; *see also* <https://www.legislature.ohio.gov/legislation/136/sb56/status>.

³ Separately, Governor DeWine vetoed what he referred to as “Item Number 2” —eight words relating to disqualifying offenses for persons working in the marijuana industry. *See* Veto Message, Item Number 2, at 3 (Dec. 19, 2025). Item Number 2 is not at issue here.

⁴ *Available at* <https://www.legislature.ohio.gov/assets/legislation/legislation-documents/136/DisapprovedLanguageSB56.pdf>.

Nothing in this section shall be interpreted to legalize drinkable cannabinoid products, as defined in section 3779.21 of the Revised Code, or hemp beverages *beyond December 31, 2026*.

(emphasis added). Section 14, as line-item vetoed, now reads:

Nothing in this section shall be interpreted to legalize drinkable cannabinoid products, ~~as defined in section 3779.21 of the Revised Code, or~~ hemp beverages ~~beyond December 31, 2026~~.

II. S.B. 56 makes a single appropriation—which the governor did not veto—for municipalities that host at least one licensed marijuana (not hemp) dispensary.

As passed by the Senate and House, S.B. 56’s stated purposes include “revis[ing] specified provisions of the liquor control, hemp, and adult-use marijuana laws,” enacting a new hemp-beverages chapter (Chapter 3779), setting a December 31, 2026 sunset for the newly enacted hemp-beverages chapter, and “mak[ing] an appropriation.” S.B. 56 (as enrolled)⁵, title. Consistent with these stated purposes, S.B. 56 enacts new and amended sections of Chapter 3796 regulating medical and adult-use marijuana. Under S.B. 56, marijuana does not include hemp. S.B. 56, §928.01(J), §3719.01(M).

S.B. 56 makes a single appropriation pursuant to its new marijuana regulatory framework: “The ... appropriation item 110659, Host Community Cannabis Payments.” S.B. 56, §12. This appropriation funds a new “host community cannabis fund,” which provides money to municipal corporations and townships that host at least one licensed

⁵ Throughout this motion, Relators use the parentheticals “(as enrolled)” and “(as line-item vetoed)” to distinguish between original S.B. 56 and the version with Governor DeWine’s deletions. If no parenthetical is included, the language cited was not altered by the veto.

marijuana (not hemp) dispensary. S.B. 56, §3796.40(F). The bill imposes a ten percent excise tax on the sale of marijuana (but not hemp). *Id.* §3796.40(B), (D). And it creates a “host community cannabis fund,” which is funded from these collected taxes. *Id.* §3796.40(E), (F). The bill makes an appropriation of forty-seven-and-a-half million dollars for fiscal year 2026 and forty-nine million dollars for fiscal year 2027 for this host community cannabis fund. *Id.* §12. Governor DeWine did not veto this appropriation.⁶

III. Before the veto, S.B. 56 would have allowed businesses to continue selling hemp beverages with up to five milligrams of THC in Ohio—and to manufacture stronger hemp beverages for sale outside Ohio—until December 31, 2026.

In addition to the marijuana-related regulations and appropriation, S.B. 56 sets forth new regulations on hemp. As passed by both houses and presented to the governor, the bill’s hemp-related provisions are two-fold.

First, the bill sets forth a general, new requirement for final hemp-derived products, limiting the total maximum amount of tetrahydrocannabinols (“THCs”) to 0.4 milligrams per container. S.B. 56, §928.01(C)(4)(c). Second, the bill—as presented to the governor—creates a nine-month carveout for hemp beverages. *See generally* S.B. 56 (as enrolled), Chapter 3779. The bill provides that this hemp-beverages carveout is “operative notwithstanding any other provision of the Revised Code to the contrary.” *Id.* §3779.211. Hemp beverages are defined as “drinkable cannabinoid products” and may contain up

⁶ *See generally* <https://www.legislature.ohio.gov/assets/legislation/legislation-documents/136/DisapprovedLanguageSB56.pdf>.

to five milligrams of total THC per serving if sold in Ohio. *Id.* §3779.21(F)(6). However, businesses may manufacture hemp beverages with higher amounts of THC so long as those beverages are solely for export outside of Ohio. *Id.* §3779.30. This hemp-beverages chapter allows businesses to manufacture, distribute, and sell hemp beverages until December 31, 2026. *Id.* §4. And the bill provides:

Should the federal government legalize hemp beverages at [THC] limits greater than those allowable under the version of 7 U.S.C. 1639o, et seq., set to take effect on November 12, 2026, it is the intent of the General Assembly to review the federal enactment and consider a more robust regulatory framework of these products ... in an effort to legalize hemp beverages for sale and consumption in Ohio beyond December 31, 2026.

S.B. 56, §14.

IV. Original S.B. 56 requires the superintendents of cannabis and liquor control to establish policies governing hemp beverages by March 20, 2026.

As enrolled, S.B. 56 requires the superintendent of liquor control to “establish policies” for “the administration and enforcement of sections 3779.21 to 3779.30 of the Revised Code” (that is, the hemp-beverages sections). S.B. 56 (as enrolled), §3779.24(A). This must include policies governing the labeling of “drinkable cannabinoid products” (or “hemp beverages,” as used in this motion); the amount of administrative penalties; and “[a]ny other enforcement actions that may be taken.” *Id.*

As enrolled, the bill also requires the superintendent of cannabis control to “establish policies” for (among other things) the testing of hemp beverages and the “[c]reation and maintenance of a list of approved [THCs] that may be included for use in [hemp

beverages].” S.B. 56 (as enrolled), §3779.24(B). A manufacturer must contract with a testing laboratory to test its hemp beverages before sale, and the laboratory must issue a “certificate of analysis” that includes the results of the test. *Id.* §3779.25(A)–(C). For products sold in Ohio, manufacturers must include a label on each hemp beverage that includes the amount of THC, in milligrams. *Id.* §3779.26. No manufacturer, distributor, or retailer shall sell or offer to sell a hemp beverage that is not tested in accordance with the policies the superintendent establishes under section 3779.24 or that “exceeds the maximum allowable level for a substance ... specified in those policies.” *Id.* §3779.25(A)(2).

The enrolled bill requires the superintendents of cannabis and liquor control to establish all such policies by March 20, 2026. S.B. 56 (as enrolled), §3779.24(A), (B). Importantly, the policies to be established pursuant to the hemp-beverages sections (Chapter 3779) are not subject to Chapter 119 of the Revised Code as formal rules. *See* S.B. 56 (as enrolled), §3779.23, §3779.24, §3779.25, §3779.26; *see also, e.g.*, S.B. 56, §3796.03(A), §5502.14(B)(1). Thus, unlike the formal rules required elsewhere in the bill, the policies effectuating the nine-month hemp-beverages carveout are to be established by March 20, 2026. *Compare* S.B. 56 (as enrolled), §3779.24, *with* S.B. 56, §928.031(E).

ARGUMENT

Again, “if the facts are uncontroverted and it appears beyond doubt that the [relators] are entitled to the requested relief, a peremptory writ should issue.” *State ex rel. Cincinnati Enquirer*, 2026-Ohio-510, at ¶15. Here, the relevant facts are undeniable, and

Relators are entitled to a peremptory writ of mandamus. The only way Governor DeWine wins is if the meaning of “item” in Article II, Section 16 is limitless.

I. Relators are entitled to a writ of mandamus because Governor DeWine’s line-item veto is null and void.

Governor DeWine’s purported line-item veto of S.B. 56’s hemp-beverages sections is “unauthorized by law” and therefore “null and void.” *State ex rel. Akron Ed. Ass’n*, 47 Ohio St.2d at 50. So, “[R]espondents are under a clear legal duty to carry out the provisions of [original S.B. 56].” *Id.* at 51.⁷ And Relators are “without a plain and adequate remedy in the ordinary course of law.” *Id.* (granting writ of mandamus after declaring governor’s veto to be null and void).

A. The original public meaning of “item” is “a specific appropriation of money.”

“When interpreting the language of a constitutional provision ratified by direct vote”—like the People’s adoption of the amendment to Article II, Section 16, as recommended by the Constitutional Convention of 1912—this Court “consider[s] how the language would have been understood by the voters who adopted the amendment.” *State v. Fisk*, 2022-Ohio-4435, ¶6. The Court “generally appl[ies] the same rules of construction that govern the interpretation of statutes, starting with the plain language of the provision ... and ‘considering how the words and phrases would be understood

⁷ Throughout this motion, Relators use “original S.B. 56” to refer to the enrolled version of S.B. 56 without the deletions Governor DeWine made in his “Item Number 1” veto.

by the voters in their normal and ordinary usage[.]” *Id.* (internal citation omitted) (quoting *Centerville v. Knab*, 2020-Ohio-5219, ¶22).

The line-item-veto provision of Article II, Section 16 provides:

The governor may disapprove *any item or items in any bill making an appropriation of money* and the item or items, so disapproved, shall be void, unless repassed in the manner prescribed by this section for the repassage of a bill.

Ohio Const., art. II, §16 (emphasis added). The question is simply how “the voters who adopted” Section 16 of Article II, *Fisk*, 2022-Ohio-4435, at ¶6, would have understood the words “item or items in any bill making an appropriation of money.” Ohio Const., art. II, §16. That answer is straightforward.

1. In the early 1900s, “item” in the context of line-item-veto provisions meant “a specific appropriation of money.”

Caselaw and dictionary definitions from the early 1900s show that an “item” in an appropriations bill is a specific appropriation of money. As the United States Supreme Court stated in 1937, “item” for purposes of state line-item-veto provisions “obviously means an item which in itself is a specific appropriation of money, not some general provision of law which happens to be put into an appropriation bill.” *Bengzon v. Secretary of Justice of Philippine Islands*, 299 U.S. 410, 414–15 (1937). For example, a definition of “line item” from 1924 reads: “[i]n a financial statement, a single entry or notation to which a particular dollar amount is attached.” ITEM, Black’s Law Dictionary (12th ed. 2024) (providing the definition of “line item” from 1924). And in 1923, the Arizona Supreme Court, construing its line-item-veto provision, defined “item” as “a specified sum of

money raised by taxation [to] be spent for a specified purpose." *Fairfield v. Foster*, 25 Ariz. 146, 157 (1923).

2. In 1912, Ohioans amended Section 16 to curb executive power by limiting the governor to vetoing only "items," not "sections."

The history of Ohio's line-item-veto provision shows that the voters adopting the currently operative language would have understood "items" to mean specific appropriations of money—not entire sections of a bill. The People first granted the governor a line-item veto in 1903. Ohio Constitutional Convention, *Proceedings and Debates*, at 567 (Mar. 4, 1912). The 1903 version was much more expansive than today's, as it allowed the governor to veto not simply "items," but entire "sections." Ohio Const., art. II, §16 (1903).

The People of Ohio soon realized that the governor's ability to veto sections of a bill was far too expansive. *See, e.g.*, Ohio Constitutional Convention, *Proceedings and Debates*, at 567 (Mar. 4, 1912); *id.* at 1201 (Apr. 11, 1912). So, at the Constitutional Convention of 1912, one of the potential amendments proposed limiting the governor to vetoing only an "item or items in any bill making an appropriation of money." *Id.* at 1204–05 (Apr. 11, 1912). It was argued during the convention that the "provision which allows the governor to veto any section of a bill that he pleases" should be removed because:

You can take the life out of any bill by cutting a section out of it. That provision is contained in no other veto power in any state in the Union, so far as I know ... I think we are all agreed that it is desirable to have some sort of pruning process on some of these appropriation bills which are logrolled through usually during the last few days of the session. If we can make this veto power a moderate one that will work for the good of the people, and take out the extreme features of the present veto power, I think we shall

have accomplished good for the people of Ohio[.]

Id. at 1201 (statement of Mr. Knight). When the sponsor of the proposed line-item-veto amendment (Mr. Johnson) was asked directly, “Do you propose to take away from the governor the power to veto *a section or part of a law?*”, he answered, “Yes.” *Id.* at 1204 (emphasis added). The proposed amendment passed seventy-six to ten. *Id.*

The convention recommended the Article II, Section 16 amendment (along with others) for the People to vote upon at the special election of September 3, 1912. *See New Constitution for Ohio: An Explanation of the Work of Ohio’s Fourth Constitutional Convention by the President, Hon. Herbert S. Bigelow*, at 3 (July 5, 1912). The official ballot described the proposed amendment as “[l]imiting veto power of governor.” *Id.* at 4. The voters approved the new language in 1912; the amendment became effective in 1913. Ohio Const., art. II, §16 (1913).⁸

Article II, Section 16’s history confirms that “item” cannot be read to mean “section” (or an equally broad equivalent). The Ohioans who proposed, debated, and adopted the current language clearly understood “item” to be much narrower than “section” or even “part.” *See, e.g., Ohio Constitutional Convention, Proceedings and Debates*, at 1204 (Apr. 11, 1912). The expansive, 1903 version used “section” and “item” as distinct terms,

⁸ The 1913 language is materially identical to the current version. In 1973, the line-item-veto provision was amended, changing the 1913 version’s phrase “in the manner herein prescribed” to “in the manner prescribed by this section.” Ohio Const., art. II, §16. The provision remained otherwise unchanged.

allowing the governor to veto either (or both). Ohio Const., art. II, §16 (1903). Under the surplusage canon, “item” and “section” must have had different meanings. *See* Scalia & Garner, *Reading Law: The Interpretation of Legal Texts*, §26 (2012). And they did: “section” (then as now) meant “[d]ivision” or “portion.” SECTION, Webster’s New Standard American Dictionary of the English Language (Laird & Lee, 1912). The People’s decision to limit the veto power by permitting the governor to veto “items” but not “sections” makes sense in light of the well-understood meaning of “item” as “a specific appropriation of money,” *Bengzon*, 299 U.S. at 414, or, in this Court’s words, a “distinct and separate appropriation.” *State ex rel. Brown*, 32 Ohio St.2d at 252.

B. This Court’s precedent confirms that the governor may line-item veto only specific appropriations of money.

The leading precedent on the meaning of “item” in Article II, Section 16 is the Court’s decision in *State ex rel. Brown v. Ferguson*, 32 Ohio St.2d 245 (1972). *Brown* dictates the same conclusion as the originalist analysis above. In *Brown*, the Court (in mandamus) considered whether an appropriation of money for the secretary of state’s special-counsel fund was an “item” subject to veto. *Id.* at 252. The Court held it was. *Id.* The Court first sought to define “item,” relying on early 1900s decisions from other jurisdictions with similar constitutional provisions, given the dearth of caselaw in Ohio. *See id.* at 251 (quoting *Fairfield*, 25 Ariz. at 157 (defining “item” as “a specified sum of money raised by taxation [to] be spent for a specified purpose”)).

Relying on the meaning of “item” as understood in the early 1900s, the Court

concluded that “the appropriation enabling the Secretary of State to designate and employ independent counsel and to compensate such counsel from the appropriation for the Attorney General” was “an entirely distinct and separate appropriation from that enacted for the Attorney General.” *State ex rel. Brown*, 32 Ohio St.2d at 252. That was true even though the secretary of state’s appropriation came out of the appropriated funds for the attorney general (who was then reimbursed by the Controlling Board). *Id.* The Court reasoned that the “subject matter,” “purpose,” and “amount” of the appropriation for the secretary of state were separate and distinct from the appropriation for the attorney general. *Id.* “[E]ach authorize[d] the expenditure of a separate sum of money for two distinct purposes.” *Id.* “Each [was], therefore, a separate ‘item’ of appropriation.” *Id.* at 253; *see also Welden v. Ray*, 229 N.W.2d 706, 713 (Iowa 1975) (“The court [in *State ex rel. Brown*] considered this arrangement actually to be two appropriations and hence two ‘items’ within the item-veto clause of the Ohio Constitution.”).

Because the governor vetoed “an entirely distinct and separate appropriation,” the Court held the line-item veto was “validly exercised.” *State ex rel. Brown*, 32 Ohio St.2d at 252–53. Thus, the Court denied the requested writ of mandamus, which would have compelled the payment of money to the secretary of state’s special counsel. *Id.*; *see also id.* at syllabus ¶13.

C. Like Ohio, the majority of States with equivalent line-item-veto provisions define “item” as a specific appropriation of money.

Consistent with the original public meaning, the majority of States with line-item-

veto provisions like Ohio's have recognized this "restricted" definition of "item" as referring to a specific appropriation of money. *Jubelirer v. Rendell*, 598 Pa. 16, 49 (2008) (collecting cases). And this is true regardless of whether a State's line-item-veto provision "subsequently use[s] a narrower term such as 'item of appropriation.'" *Id.*; see, e.g., *Brault v. Holleman*, 217 Va. 441, 445, 447 (1976) (defining "item" as "an indivisible sum of money dedicated to a stated purpose" for purposes of line-item-veto provision allowing governor to veto "any particular item or items of an appropriation bill").

This "understanding of 'item' ... as a sum of money directed by the General Assembly to be spent for a particular purpose is consistent with interpretations rendered by a multitude of courts of last resort in various other jurisdictions." *Jubelirer*, 598 Pa. at 48–49. As just discussed, Ohio's precedent is no different. See also *id.* at 50 (citing *State ex rel. Brown*, 32 Ohio St.2d at 252–53, as supporting "most" state supreme courts' understanding of "item").

D. Governor DeWine's purported line-item veto is null and void under any reasonable interpretation of "item".

Governor DeWine's veto of S.B. 56's hemp-beverages sections is invalid six ways to Sunday. It vetoes no appropriation at all. The only appropriation in S.B. 56 is "[t]he ... appropriation item 110659, Host Community Cannabis Payments," required by section 3796.40. S.B. 56, §12. (Note that S.B. 56 itself uses "item" to mean a specific appropriation of money. See *id.* §§11–12.). Section 3796.40 (one of the sections regulating marijuana, not hemp) imposes a ten percent excise tax on the sale of marijuana. S.B. 56,

§3796.40(B), (D). Those collected taxes fund a new “host community cannabis fund,” which provides money to municipalities that host at least one licensed marijuana (not hemp) dispensary. *Id.* §3796.40(F). S.B. 56 appropriates forty-seven-and-a-half million dollars to this marijuana-related fund in fiscal year 2026 and forty-nine million in fiscal year 2027. *Id.* §12. Governor DeWine did not veto this appropriation. He vetoed the hemp-beverages sections (and related sections and references), which make no appropriation at all. *See generally* S.B. 56 (as enrolled), Chapter 3779.

Governor DeWine’s sweeping veto fails every test States have employed to properly cabin executive overreach and maintain the separation of powers. The veto creates new legislation: it enacts a brand-new ban on hemp beverages—including those sold exclusively out-of-state—starting March 20. That is unlawful. *See, e.g.,* Welden, 229 N.W.2d at 712 (The governor may not use the line-item veto to “create new law” because “this power is vested in the Legislature and not in the Governor[.]”); *Colorado General Assembly v. Lamm*, 704 P.2d 1371, 1383 (Colo. 1985) (same).

The veto also materially alters the bill the General Assembly passed. That, too, is unlawful because “item,” as used in a line-item-veto provision, “refers to something which may be taken out of a bill *without affecting its other purposes or provisions.*” *Commonwealth v. Dodson*, 176 Va. 281, 290 (1940) (emphasis added). It is “something which can be lifted bodily from [the bill] rather than cut out. No damage can be done to the surrounding legislative tissue, nor should any scar tissue result therefrom.” *Id.* That precludes a

governor from—as here—turning a nine-month sales window and right to manufacture hemp beverages for export outside Ohio into an immediate ban with potential criminal penalties. As Mr. Knight put it in 1912, “You can take the life out of any bill by cutting a section out of it.” Ohio Constitutional Convention, *Proceedings and Debates*, at 1201 (Apr. 11, 1912). Governor DeWine cut seventeen out of S.B. 56.

The governor’s veto of the hemp-beverages sections does not reflect any constitutional exercise of power. It reflects the governor’s persistent desire to write (or rewrite) legislation, after he unsuccessfully attempted an emergency ninety-day ban on hemp and hemp products last October. *See* Temporary Restraining Order at 2, *Titan Logistics Group, LLC v. Mike DeWine*, No. 2025-CV-8646 (Franklin Cnty. Ct. C.P. Oct. 14, 2025) (“Executive Order No. 2025-05D attempts to exercise legislative power reserved by the Ohio Constitution to the General Assembly, thereby violating the separation of powers.”).

All that said, the simplest reason Governor DeWine’s veto is null and void is that it fails to veto “any item or items in any bill making an appropriation of money.” Ohio Const., art. II, §16. In the early 1900s, when this part of Ohio’s Constitution was enacted, “item” “obviously mean[t] an item which in itself is a specific appropriation of money, not some general provision of law which happens to be put into an appropriation bill.” *Bengzon*, 299 U.S. at 414–15. Governor DeWine’s idea of “item,” by contrast, “allow[s] the governor to veto any section of a bill that he pleases.” Ohio Constitutional Convention, *Proceedings and Debates*, at 1201 (Apr. 11, 1912) (statement of Mr. Knight).

Governor DeWine wins only if the meaning of “item” in 1912 was limitless. And that was hardly the original public meaning of “item” in appropriations bills. *See above* at pp.10–13. The governor is acting as if he holds office in 1906, not 2026, during Ohio’s short-lived experiment with expansive executive power and a line-item-veto provision that permitted the governor to veto not just “items” but entire “sections” of a bill. Ohio Const., art. II, §16 (1903). The Court should bring the governor up to speed.

II. The Court should issue a peremptory writ of mandamus, as Governor DeWine’s lawless veto makes large sectors of Relators’ businesses illegal on March 20.

A. Relators are entitled to relief because Governor DeWine’s veto is void.

Governor DeWine’s purported veto of S.B. 56’s hemp-beverages sections is “unauthorized by law” and therefore “null and void.” *State ex rel. Akron Ed. Ass’n*, 47 Ohio St.2d at 50. So, Relators have a clear legal right to mandamus relief, “[R]espondents are under a clear legal duty to carry out the provisions of [original S.B. 56],” and Relators are “without a plain and adequate remedy in the ordinary course of law.” *Id.* at 51 (granting writ of mandamus).

The no-adequate-remedy-at-law point is worth underscoring. This Court’s two leading cases on Ohio’s line-item-veto provision, *Brown* and *Akron Education Association*, are both original actions in mandamus. *Akron Education Association* is particularly instructive. There, an education association and others filed a complaint in mandamus in this Court against the state superintendent of public instruction and the state tax commissioner, arguing that Governor James A. Rhodes’s line-item veto of “seven parts” of a bill

was “null, void, and of no effect.” *State ex rel. Akron Ed. Ass’n*, 47 Ohio St.2d at 47–48. The original version of the bill (before the line-item veto) required the respondents to, among other things, “establish general guidelines to be followed by [school] districts in submitting proposals” for urban education pilot projects. *Id.* at 48. The Court considered “the Governor’s power to ‘line-item’ veto parts of [the bill in question], and the effect on such legislation if the action of the Governor is invalidated.” *Id.* at 49. The Court held that the bill was “not an appropriation bill”; thus, the governor’s line-item veto was “unauthorized by law, and ... hereby declared to be null and void.” *Id.* at 50.

Akron Education Association dictates a peremptory writ of mandamus here. As there, Governor DeWine’s “only recourse ... was to veto the entire bill pursuant to Section 16, Article II.” 47 Ohio St.2d at 51. “This he did not choose to do.” *Id.* So, his purported line-item veto is null and void, and original S.B. 56 “is now effective in its entirety.” *Id.* “Section 16, Article II of the Ohio Constitution requires this result.” *Id.* As in *Akron Education Association*, “the Governor returned the bill to the Senate with his written objections.... the Constitution clearly indicates that no action by the Governor was necessary for [original S.B. 56] to become law, and, it therefore is now effective in its entirety.” *Id.* Finally, because the governor’s veto is null and void, “[R]espondents are under a clear legal duty to carry out the provisions of [original S.B. 56].” *Id.*

B. The secretary must treat original S.B. 56 as law, and the superintendents must establish policies governing hemp beverages by March 20, 2026.

As in *Akron Education Association*, the original bill (before the null and void veto)

requires the respondents to establish certain policies to effectuate the bill's other provisions. *State ex rel. Akron Ed. Ass'n*, 47 Ohio St.2d at 48; S.B. 56 (as enrolled), §3779.24. The superintendent of cannabis control and the superintendent of liquor control must establish these policies by S.B. 56's effective date—March 20, 2026. S.B. 56 (as enrolled), §3779.24. Without these policies in place, Relators will not be able to operate the hemp-beverages sectors of their businesses. *See id.* §3779.25, §3779.26. Relators need a writ of mandamus compelling the superintendents to immediately begin drafting the policies and to establish any such policies by March 20. Relators also need a writ of mandamus “ordering the secretary [of state] to treat [original S.B. 56] as a duly enacted law.” *State ex rel. Ohio Gen. Assembly*, 2007-Ohio-3780, at ¶25. Without that relief, Relators face potential criminal penalties and daily irreparable harm.

As in *Akron Education Association*, a declaratory judgment here “would not be a complete remedy unless coupled with extraordinary ancillary relief in the nature of a mandatory injunction.” *State ex rel. Ohio Gen. Assembly*, 2007-Ohio-3780, at ¶25. And the immediate need for an order compelling Respondents to treat original S.B. 56 as the law and to establish regulations effectuating the bill's hemp-beverages carveout underscores that Relators lack an adequate remedy in the ordinary course of law. *See State ex rel. LetOhioVote.org v. Brunner*, 2009-Ohio-4900, ¶16 (in light of “relators' wish to immediately begin the referendum process, a common pleas court action would not be sufficiently speedy to determine whether the [subject] provisions of [the bill] are subject to

referendum”); *State ex rel. Beane v. Dayton*, 2007-Ohio-811, ¶31 (“The alternate remedy must be complete, beneficial, and speedy in order to be an adequate remedy at law[.]”).

C. Relators need immediate relief.

The Court should issue a peremptory writ because, based on the undeniable facts, it is “beyond doubt that [Relators] are entitled to the requested relief.” *State ex rel. Cincinnati Enquirer*, 2026-Ohio-510, at ¶15. Under this standard, Relators do not even need to show irreparable harm; their case rests on the merits of the line-item-veto challenge. That said, Governor DeWine’s unlawful veto poses a severe—in some cases, existential—threat to Relators’ businesses. This further justifies immediate relief. *See State ex rel. Wilkinson v. Reed*, 2003-Ohio-2506, ¶30 (“Furthermore, because the relators will lose a significant amount of money, we grant the peremptory writ immediately.”). Relators will never obtain money damages from the State, so all of the financial harms Governor DeWine’s unlawful veto imposes will be irreparable.

1. Relator Fifty West Brewing Company LLC (“Fifty West”) was founded in 2012 as an Ohio-based beer manufacturer, self-distributor, and retailer. Exhibit A, Affidavit of Bobby Slattery (“Slattery Aff.”), ¶2. Fifty West has three locations: Chillicothe, Cincinnati, and Mason. *Id.* Fifty West first launched a hemp beverage line (Sunflower) in August 2024 and has invested in excess of half a million dollars in the infrastructure to support its hemp-beverages business—including multiple vehicles for distribution, upgrades to its facility operation, and numerous investments in equipment to support this line. *Id.* ¶¶3,

7. All Sunflower products contain less than five milligrams of total THC per serving. *Id.* ¶3.

Fifty West's owner petitioned the General Assembly to include the hemp-beverages sections in S.B. 56. Slattery Aff. ¶9. In his opinion, S.B. 56 would not have passed without the inclusion of the hemp-beverages carveout in Chapter 3779. *Id.* Based on the hemp-beverages carveout, Fifty West purchased approximately a six months' supply of production material. *Id.* ¶10. Sunflower has a shelf life of only 120 days. *Id.* According to guidance Fifty West has received from the division of cannabis control regarding S.B. 56 as line-item vetoed, it appears that Fifty West will have to destroy its entire inventory of Sunflower finished product. *Id.* ¶12. This would result in a direct loss of over \$500,000 in inventory. *Id.*

Moreover, if the vetoed version of S.B. 56 takes effect, it is highly likely Fifty West will be forced to shut down its Chillicothe brewery. Slattery Aff. ¶13. Such a closure would result in approximately forty employees losing their jobs, would leave a large vacant space in the center of downtown Chillicothe, and would eliminate a vibrant business that brings consistent activity to the area. *Id.*

2. Relator Urban Artifact, a Cincinnati establishment, is the largest fruit-dedicated brewery in the world. Exhibit B, Affidavit of Scotty Hunter ("Hunter Aff."), ¶3. Urban Artifact began co-manufacturing hemp-based drinks in 2023 and began selling its own hemp-based sodas in 2024. *Id.* ¶4. Since 2023, Urban Artifact has invested over \$200,000

in its hemp beverages. *Id.* ¶6. Urban Artifact’s average sales of hemp beverages in 2025 were around a quarter million dollars per month. *Id.* ¶8. If the vetoed version of S.B. 56 takes effect, Urban Artifact anticipates having to forfeit 100% of this inventory, resulting in a loss of hundreds of thousands of dollars. *Id.* ¶11.

These impending losses are not just financial. Since Governor DeWine’s veto in December 2025, Urban Artifact has laid off six employees and one contractor, with an additional two to three individuals whose terminations are imminent. Hunter Aff. ¶13.

3. Relator Cycling Frog was founded in 2021 with the sole focus of manufacturing hemp-derived THC and CBD products, including drinks (hemp beverages). Exhibit C, Affidavit of Dylan Summers (“Summers Aff.”), ¶3. Over the past six years, Cycling Frog has invested approximately five million dollars in its hemp beverage product line. *Id.* ¶6. Its average sales for hemp beverages are \$150,000 to \$200,000 per month. *Id.* ¶7. Cycling Frog’s highest sales months are in the summer (June–August) and during the holidays (November–December). *Id.* If Governor DeWine’s veto is given effect on March 20, Cycling Frog anticipates losing approximately 20% of its business-to-business sales in Ohio. *Id.* ¶10. This will cause Cycling Frog to have to terminate approximately three to four employees. *Id.*

4. Relator Sarene Craft Beer (“Sarene Craft”) is a craft beer distributor with distribution centers in Ohio, Connecticut, Kentucky, New York, and Pennsylvania. Exhibit D, Affidavit of Joseph Grabowski (“Grabowski Aff.”) ¶2. Its Ohio distribution center is

located in Columbus. *Id.* If Governor DeWine’s version of S.B. 56 takes effect, Sarene Craft is very likely to close. *Id.* ¶12.

Absent relief from this Court, Relators face potential criminal penalties, layoffs, and unrecoverable financial losses starting March 20, 2026. Relators request a ruling on this motion on an emergency basis, and no later than **midnight on March 20, 2026**, when large sectors of their businesses will otherwise become illegal.

CONCLUSION

The Court should issue a peremptory writ of mandamus compelling the secretary of state to treat original S.B. 56 as a validly enacted law and to fulfill all of the secretary’s statutory duties concerning that law, including maintaining and preserving original S.B. 56, making the law available to the director of the Legislative Service Commission so that codification duties with regard to newly enacted laws may be completed, and fulfilling each of the secretary’s other statutory duties imposed by R.C. Chapter 149 with regard to original S.B. 56. In addition, the Court should issue a peremptory writ of mandamus compelling the superintendent of cannabis control and the superintendent of liquor control to immediately begin drafting the policies required by S.B. 56’s original hemp-beverages sections and to establish all such policies by **March 20, 2026**, as the original bill mandates.

March 6, 2026

/s/ Andrew D. McCartney
Andrew D. McCartney* (0099853)
**Counsel of Record*
James S. Kresge (0086370)

Carol A. Thompson (0102788)
ASHBROOK BYRNE KRESGE FLOWERS LLC
P.O. Box 8248
Cincinnati, Ohio 45249
Phone: 513.201.5775
Email: admccartney@abkf.com

Counsel for Relators

CERTIFICATE OF SERVICE

I certify that, on March 6, 2026, pursuant to Supreme Court Rules of Practice 3.11(C), the foregoing motion and memorandum, along with the accompanying exhibits, were served by email on:

Julie Pfeiffer (0069762)
Ann Yackshaw (0090623)
Constitutional Offices Section
OHIO ATTORNEY GENERAL'S OFFICE
30 East Broad Street, 16th Floor
Columbus, Ohio 43215
Phone: 800.282.0515
julie.pfeiffer@ohioago.gov
ann.yackshaw@ohioago.gov

Counsel for Respondents

/s/ Andrew D. McCartney
Andrew D. McCartney*
**Counsel of Record*

Counsel for Relators

Exhibit A

4. Fifty West prides itself on being a family-friendly establishment. When we started manufacturing and selling Sunflower, we were concerned that the product would be negatively received in our family-friendly environments. The opposite happened. The products became very popular, mostly amongst consumers aged 30-60 years old, and primarily female, as these consumers sought an alternative to alcohol. These consumers told us they enjoyed Sunflower products because they were able to drink 1-2 cans, which was enough to allow them to be social without causing the sleep disruption or lack of control they experienced with alcohol.

5. One of our local communities, Terrace Park, Ohio, hosts an annual family movie night around Halloween. In years past, the event would purchase alcohol from Fifty West. Last year, given Sunflower's surge in popularity, half of the products they purchased from us were the Sunflower drinks.

6. The demand for this product has consistently been, and still is to this day, ahead of our original sales curve for all beer-related products.

7. Fifty West has invested more than \$500,000 into the infrastructure to support this burgeoning business. This investment includes three sprinter vans at the cost of approximately \$300,000 which are used exclusively to distribute Sunflower to retailers. We upgraded our facility operation and made significant investments in equipment to support the Sunflower hemp beverage line. Furthermore, approximately \$50,000 of the equipment purchased to manufacture the Sunflower line cannot be used

interchangeably with equipment used to manufacture beer. While Fifty West will attempt to sell some of the manufacturing equipment, it will undoubtedly be sold at a loss.

8. Over the last twelve months, the Sunflower hemp beverage line has generated approximately \$1,397,188 in revenue, compared to about \$2,029,605 from all other Fifty West beverage production combined. As the production numbers for Sunflower began to dwarf that of our beer production over the past year, we have pivoted even more aggressively to supporting this product. Over the last quarter (December 1, 2025, through February 28, 2026), Sunflower's revenue was approximately \$405,460, surpassing the \$367,478 from all other beverage production in that period. This shift demonstrates that Sunflower has become one of the primary drivers supporting our beverage production. If Sunflower is removed from the market, we estimate an immediate loss of between five to fifteen production jobs.

9. I provided significant input to the General Assembly as they drafted Senate Bill 56. I met with Senator Steve Huffman, the sponsor of Senate Bill 56, as well as other Senators and the Governor's legislative team. I also provided a document which the General Assembly relied on to draft the tax provisions for hemp beverages. I worked very closely with the Senators who wrote Senate Bill 56 and lobbied senators for its passage after Chapter 3779 was added which allows manufacturers, distributors, and sellers of hemp beverages to continue selling through December 31, 2026. In my

opinion and based on my knowledge of the legislative process, Senate Bill 56 would not have passed without the inclusion of the hemp beverage carve-out in Chapter 3779.

10. Based on the hemp beverage carve-out, we purchased an approximate six months' supply of production material. This includes a 16-week supply of fruit puree which is intended to be used exclusively to produce the Sunflower hemp beverage line. We wanted to ensure there were no supply chain issues, given the relatively short period of time we'd be able to continue selling. This inventory includes labeled cans, emulsion, and fruit puree for flavoring (sourcing for flavoring can sometimes take up to 16 weeks, alone, to procure). Sunflower has a shelf life of only 120 days.

11. I currently maintain significant inventory of Sunflower and the ingredients needed to make Sunflower. This inventory includes approximately 9,251 cases of finished product, at a per-case cost of \$54.37, with a total finished-goods value of \$502,976.87. I also hold raw materials purchased specifically for this product line, including fruit puree valued at \$160,790.12, purchased on December 5, 2025, and cans valued at \$19,684.31, for total raw-materials costs of \$180,474.43. The combined value of the Sunflower related inventory is approximately \$683,451.30.

12. According to guidance from the Ohio Division of Cannabis Control (DCC) regarding Senate Bill 56, it appears that Fifty West will have to destroy its entire inventory of Sunflower finished product. According to the DCC any hemp-derived product exceeding 0.4 milligrams of total THC per container is classified as "marijuana"

under R.C. 3719.01. This means that any attempt to sell or transfer our remaining Sunflower inventory out of state after March 20, 2026 may constitute drug trafficking in violation of R.C. 2925.03. Furthermore, following Governor DeWine's veto of the hemp beverage carve-out in Chapter 3779, the DCC confirmed there is no grace period on the effective date of this prohibition. Products such as Sunflower cannot be sold at or to licensed dispensaries either. Based on this guidance, Fifty West will have to destroy all its Sunflower inventory, resulting in the loss of \$502,976.87.

13. Fifty West has not yet had to fire any employees, as our hemp beverage consumers have continued to purchase prior inventory. If Governor DeWine's veto remains in place, that will change because Sunflower sales are also critical to operations at our Chillicothe brewery. Without the revenue generated by Sunflower hemp beverage line, it is highly likely we would be forced to shut down our Chillicothe brewery. Such a closure would result in approximately forty additional employees losing their jobs, would leave a large vacant space in the center of downtown Chillicothe, and would eliminate a vibrant business that brings consistent traffic and activity to the area.

14. If the Sunflower brand is allowed to continue operating, Fifty West has multiple pending requests for proposals from communities across the tri-state region to open new Sunflower locations. These include Springboro, Centerville, and Fairfield, Ohio, as well as locations in Northern Kentucky. Each new location represents roughly

a \$7 million investment, along with dozens of new jobs and additional tax revenue for those communities. These planned investments are directly tied to the continued growth of the Sunflower brand. Without that brand, those expansion plans will be delayed.

15. I declare under penalty of perjury under the laws of the State of Ohio that the foregoing is true and correct to the best of my knowledge, information, and belief.

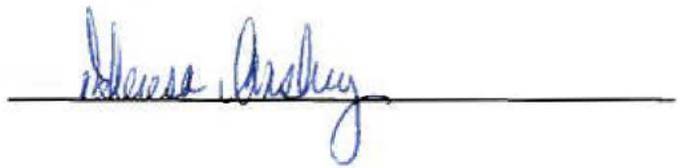

Bobby Slattery

Dated: 3/6/2026

Subscribed and sworn to before me this 6th day of March, 2026.



Theresa Ansberry
Notary Public
State of Ohio
My Commission Expires
March 12, 2028



My Commission Expires: March 12, 2028

Exhibit B

COUNTY OF HAMILTON)
) SS
STATE OF OHIO)

AFFIDAVIT OF SCOTTY HUNTER

I, Scotty Hunter, after first being duly cautioned and sworn, hereby depose and state as follows:

1. I am over the age of eighteen (18) and I have personal knowledge of the facts set forth in this Affidavit and am competent to testify as to those facts.
2. I am the Chief Financial Officer of Grayscale Brewing LLC, d/b/a Urban Artifact.
3. Urban Artifact, founded in 2015, began as a fruit-based brewery. Since 2015, it has grown to be the largest fruit dedicated brewery in the world. It operates in the historic St. Patrick’s Church at 1660 Blue Rock St., Cincinnati, Ohio 45223. In addition to manufacturing fruit-based alcoholic beverages on site, Urban Artifact offers a taproom, full bar, and event space.
4. Beginning in fall 2023, Urban Artifact began co-manufacturing hemp-based drinks. Urban Artifact began selling its own hemp-based sodas, under the “Coastalo” line of products, in April 2024. These sodas are offered in four staple flavors at THC levels of 5 mg, 10 mg, and 25 mg, as well as popular seasonal flavors.

5. Urban Artifact sells these products in its taproom at the Cincinnati, Ohio location, as well as to retailers in Ohio. The two largest Ohio retailers selling Coastal sodas are Buehler's Fresh Foods and Mapco Gas Stations. These products are also distributed to retailers in Indiana, Kentucky, West Virginia, Florida, Tennessee, North Carolina, South Carolina, and Nebraska. Ohio sales constitute roughly 50% of all hemp beverage sales for Urban Artifact.

6. Since fall 2023, Urban Artifact has invested approximately a total of \$225,000 in these hemp beverages:

- a. Product Design Costs: \$100,000
- b. Website Design Costs: \$15,000
- c. Formulation Costs: \$50,000
- d. Inventory: \$100,000

7. The investment was beneficial. Over the last two years, Urban Artifact saw a decline in the sale of its alcohol beverages. Since selling hemp beverages, Urban Artifact has re-engaged with a large number of customers that had previously eliminated alcohol consumption.

8. On average, in 2025, Urban Artifact's monthly sales revenue of hemp beverages was \$250,000. This constituted 40% of Urban Artifact's monthly sales overall. Of the \$250,000, in hemp beverage sales, approximately 70% was from 5 mg sodas or co-packing alone.

9. Prior to Governor DeWine's line-item veto of Section 1 of Senate Bill 56, Urban Artifact anticipated selling in excess of 10,000 cases of hemp beverages in calendar year 2026.

10. Urban Artifact currently has 7,500 cases of THC sodas on hand that were manufactured just prior to the veto. The products have a shelf life of 1 year, and can still be sold if Governor DeWine's veto is removed.

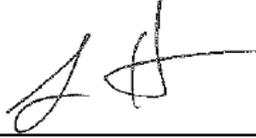
11. If the line-item veto remains, Urban Artifact anticipates having to forfeit 100% of this inventory, resulting in a loss of \$200,000 to \$250,000. Based on recent guidance from the Ohio Cannabis Control Department—as forwarded to and received by me at my work email address (Exhibit A)—any beverage exceeding .4 milligrams of total THC per container will be considered marijuana under R.C. 3719.01. Any effort to sell this product out of state after March 20, 2026, would therefore be considered “drug trafficking” in violation of R.C. 2925.03.

12. Since the veto in December 2025, Urban Artifact has lost a majority of its hemp beverage copacker business, resulting in a loss of \$1,700,000 per year.

13. Since the veto in December 2025, Urban Artifact has laid off 6 employees and 1 contractor, with an additional 2-3 individuals whose terminations are imminent.

14. If Urban Artifact can sell 5 mg hemp beverages through December 31, 2026, this will afford Urban Artifact sufficient time to begin finding other areas of its alcohol product line to reinvest into and potentially grow.

I declare under penalty of perjury under the laws of the State of Ohio that the foregoing is true and correct to the best of my knowledge, information, and belief.



Scotty Hunter

Dated: 3-6-26

Subscribed and sworn to before me this 6th day of March, 2026.



SAMANTHA FAIR
Notary Public, State of Ohio
My Commission Expires
February 02, 2028
COMMISSION: 2023-FE-059394



My Commission Expires: 02-02-2028

Exhibit C

COUNTY OF MULTNOMAH)
) SS
STATE OF OREGON)

AFFIDAVIT OF DYLAN SUMMERS

I, Dylan Summers, after first being duly cautioned and sworn, hereby depose and state as follows:

1. I am over the age of eighteen (18) and I have personal knowledge of the facts set forth in this Affidavit and am competent to testify as to those facts.

2. I am the Vice President of Government Affairs for North Fork Distribution I, Inc. d/b/a Cycling Frog, located in Seattle, Washington.

3. Cycling Frog was founded in 2021 with the sole focus of manufacturing hemp-derived TCH and CBD products, including drinks (hemp beverages). Each of our hemp beverages contain less than three-tenths per fluid ounce of any tetrahydrocannabinol.

4. Customers in Ohio can purchase Cycling Frog hemp beverages either directly from Cycling Frog to be shipped to Ohio, or at local retailers in Ohio.

5. Cycling Frog's largest demographic is 30-50 year-old women, and individuals who are sober-curious, as our hemp beverages allow individuals to engage socially without suffering the adverse effects of alcohol.

6. Over the past 6 years, Cycling Frog has invested approximately \$5,000,000 in its hemp beverage product line through product development, sales team, marketing, management, and inventory.

7. The average monthly sales for hemp beverages are \$150,000-\$200,000. This constitutes 75% of Cycling Frog's monthly overall sales. Cycling Frog's highest sales months are summer (June-August) and the Holidays (November-December). Cycling Frog's Ohio sales constitute approximately 20% of their national sales.

8. Cycling Frog's hemp beverages have a shelf-life of 1 year. Cycling Frog currently has 32,000 cases of finished product that could be sold in Ohio if the veto is lifted.

9. Cycling Frog contracts an outsourced copacker on a monthly basis, with a one-month lead time. The longer the veto remains in place, Cycling Frog's ability to manufacture THC drinks that will meet Ohio's intended labeling and testing policies.

10. If the veto remains in place, Cycling Frog anticipates losing approximately 20% of its business-to-business sales in Ohio. This will cause Cycling Frog to have to terminate approximately 3-4 employees in sales and associated administrative roles.

I declare under penalty of perjury under the laws of the State of Oregon that the foregoing is true and correct to the best of my knowledge, information, and belief.

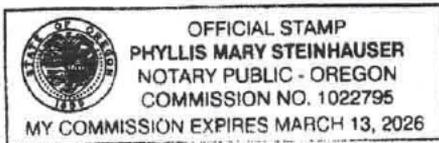
Dylan Summers

Dylan Summers

Dated: March 6th, 2020

Subscribed and sworn to before me this 6th day of March, 2020.

Phyllis Mary Steinhauser



My Commission Expires: March 16, 2020

Exhibit D

**(An unredacted version of this exhibit is being filed under seal
with an accompanying motion to seal.)**

COUNTY OF *New Haven*)
) SS
STATE OF CONNECTICUT)

AFFIDAVIT OF JOSEPH GRABOWSKI

I, Joseph Grabowski, after first being duly cautioned and sworn, hereby depose and state as follows:

1. I am over the age of eighteen (18) and I have personal knowledge of the facts set forth in this Affidavit and am competent to testify as to those facts.

2. I am one of the owners of Sarene Craft Beer, a craft beer distributor with distribution centers in Connecticut, Kentucky, New York, Ohio, and Pennsylvania. Our distribution center in Ohio is located in Columbus, and operates under Sarene Craft Beer Distributors Ohio LLC. A majority of products from this distribution warehouse are sold in Ohio, with some going to Indiana and Kentucky.

3. When Sarene Craft Beer first formed in 2014, our focus was on distributing craft beer, which was a significant portion of the beer market at the time. However, over the past several years, alcohol sales in general have declined. Beer sales in 2023 was at an all-time 25 year low.

4. As the federal definition of hemp allowed for the introduction of hemp beverages in 2018, and as the market for hemp-based products grew, we began replacing some of our beer inventory with hemp-based drinks. In 2025, our average

monthly sales revenue of all hemp beverages was [REDACTED] increasing and peaking at approximately [REDACTED] in July and August. The hemp beverages constituted [REDACTED] of our overall sales in 2025.

5. Prior to S.B. 56, hemp beverages with 5 mg or less of THC constituted approximately 45% of our hemp beverage sales in Ohio. The carveout for hemp beverage sales in S.B. 56 would only permit the sale of beverages with 5 mg or less of THC. Notwithstanding S.B. 56's requirement for products with THC of 5 mg or less, if we are permitted to continue distributing these products at 5 mg or lower, we anticipate still being able to maintain our previous sales amount, if not increase. This expectation is empirically based; another one of the states we operate in, Connecticut, recently enacted a similar law, allowing for sales of hemp beverages but at a lower mg level than what was previously permitted. Prior to the change in law, approximately 95% of our sales were at levels higher than the currently authorized reduced amount. We were concerned that our sales would plummet, but the opposite happened. Our consumer base was receptive to the products with the lower amount, and our sales still increased by 77%.

6. That said, if the veto is lifted, it will be important to know what the labeling and testing policies will be as quickly as possible, as that may impact our current inventory and any possibility to purchase already existing inventory from our manufacturers.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9. We understand many manufacturers, retailers, and distributors across the nation are working with federal congressional leaders on creating safe and effective regulations to permit the sale of hemp beverages. We, too, have been an integral part of

that effort; not just at the federal level, but at the State level, including Ohio, as well. Our goal is to ensure these products are continued to be sold, but in a safe way and marked to individuals 21 and over. In fact, a key demographic for hemp beverages is women aged 30-50 years old.

10. If the veto is determined to be null and void, and we are permitted to distribute hemp beverages containing no more than 5 mg THC over the next nine months, our ability to remain profitable will permit us to not only continue this advocacy for safe and effective reform, but also allow us to maintain our business.

11. Over the last two years, we have invested over \$2,000,000 into expanding our hemp beverage side of the business, through employment of additional personnel, equipment, and incurring additional warehousing expenses. For instance, we had 10 employees in 2023, and 28 employees in December 2025.

12. Since the veto, we have had to lay off 4 sales employees and 4 operational employees. We anticipate having to terminate many more if the veto remains. Hemp beverages constitute a majority of our business; if we are unable to sell or distribute any hemp beverages over the next year, while simultaneously risk losing our Distribution Agreements, we very likely face having to go out of business.

13. One additional concern is that very recent guidance from the Ohio Cannabis Control Department is that if the veto remains in place, then our current inventory in Ohio will have to be destroyed. Not only will it be considered unlawful to

possess the products in the state of Ohio, but it will similarly be considered unlawful to transport the products across state lines for sale in other states. This will result in a concrete loss of [REDACTED] and we will have to create new distribution centers in Indiana and Kentucky costing even more (if we are not already out of business by that time).

I declare under penalty of perjury under the laws of the State of Ohio that the foregoing is true and correct to the best of my knowledge, information, and belief.



Joseph Grabowski

Dated: 3/6/26

Subscribed and sworn to before me this 6th day of March, 2026.



My Commission Expires: 03/31/2026

