

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

DELTA BEVERAGES, INC., <i>et al.</i>,	:	
	:	
<i>Plaintiffs,</i>	:	
	:	Case No. 3:26-cv-01793
v.	:	
	:	Judge Helmick
JIM CANEPA, Superintendent of the Ohio Division of Cannabis Control, <i>et al.</i>,	:	
	:	
<i>Defendants.</i>	:	

**MOTION TO STAY PROCEEDINGS AND RESPONSE TO MOTION FOR
TEMPORARY RESTRAINING ORDER**

Pursuant to the Court's order of August 2, 2026, Defendant Ohio Attorney General D. Andrew Wilson submits this response to the motion for temporary restraining order. For the reasons set forth herein, Defendant requests a stay of the proceedings on Plaintiffs' motion for temporary restraining order pending the Sixth Circuit Court of Appeals' forthcoming decision in *Titan Logistics Group, LLC v. Tischler*, No. 26-3648, which will be decisional on August 18, 2026.

Respectfully submitted,

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BACKGROUND

The General Assembly enacted S.B. 56, a comprehensive cannabis-regulation bill, seven-and-a-half months ago. Among other provisions, the bill adopted a new definition of hemp. Marijuana and hemp both come from the cannabis plant, whose chemical compound commonly known as THC produces psychoactive effects in humans. Before S.B. 56, hemp and marijuana were defined—under both state and federal law—by the amount of delta-9 THC in the product: federally legal hemp could contain no more than 0.3% percent delta-9 THC by dry weight. But if a product exceeded the delta-9 threshold, it was federally illegal marijuana.

The cannabis industry discovered it could use delta-8 THC and other intoxicating isomers to induce the same psychoactive effects as marijuana while remaining under the delta-9 THC threshold. These intoxicating-hemp products, including hemp beverages, gummies, candies, and other products, proliferated. Plaintiffs in this case “are all manufacturers and sellers of hemp beverages and products.” Doc. 2 at PageID 110.

After bipartisan cries for regulation, Congress closed the intoxicating-hemp loophole. In November 2025, it redefined hemp to refer to the *total* amount of THC contained within the product but delayed the law’s effective date until November 2026. On December 19, Ohio followed suit, adopting a definition of hemp that mirrors federal law. But Ohio’s law took effect on March 20 of this year, eight months before the definition will kick in on the federal side. This case therefore comes in the middle of a unique eight-month period: intoxicating hemp remains legal under federal law until November 12. But under Ohio law, intoxicating-hemp products are now marijuana. And only entities licensed by the Division of Cannabis Control may cultivate, process, or sell marijuana. Plaintiffs do not have licenses to cultivate, process, or sell marijuana, so they became unable to sell their products in Ohio on March 20. Doc. 2 at PageID 111.

Many members of the intoxicating-hemp industry saw the writing on the wall with S.B. 56. They pursued legal action seeking to prevent S.B. 56 from taking effect. With one exception, they found no success. *See Fifty West Brewing Co. LLC v. Canepa*, 181 Ohio St. 3d 1408 (2026) (dismissing writ action seeking to compel enrollment of pre-veto S.B. 56); Decision & Entry, *Saucy Seltzer v. DeWine*, No. 26-CV-2464 (Franklin C.P. Mar. 20, 2026) (denying a temporary restraining order on dormant Commerce Clause claim); Entry, *Strahm v. Yost*, 26 CV 2963 (Franklin C.P. July 15, 2026) (denying a preliminary injunction on dormant Commerce Clause claim); Order, *North Fork Distrib. I, LLC v. Wensinger*, 26 CAS 24 (6th Dist. Ohio App. Ct. July 20, 2026) (staying preliminary injunction on dormant Commerce Clause claim pending appeal).

The lone exception is *Titan Logistics*, where this Court granted a preliminary injunction to ten intoxicating-hemp manufacturers and retailers. *See* Decision, *Titan Logistics Group, LLC v. Tischler*, No. 26-cv-1300 (S.D. Ohio July 13, 2026). This Court's decision was grounded in the dormant Commerce Clause. Although the plaintiffs asserted other claims, the Court found that Ohio's marijuana-regulatory scheme discriminates against out-of-state entities in violation of the dormant Commerce Clause. *See id.* Accordingly, it enjoined the defendants—88 county prosecutors, 9 city attorneys, and the State of Ohio—from taking any enforcement action against any of the plaintiffs' products based on S.B. 56's definition of "hemp." *Id.* at 9. The State of Ohio, which intervened as a defendant, immediately appealed. *See* Notice of Appeal, *Titan Logistics Group, LLC v. Tischler*, No. 26-cv-1300 (S.D. Ohio July 20, 2026). The Sixth Circuit ordered expedited briefing, which will conclude on August 18. Briefing Letter at 1-2, *Titan Logistics Group, LLC v. Tischler*, No. 26-3648 (6th Cir. July 24, 2026). Defendant-Appellant State of Ohio waived oral argument, and as of the date of this filing, no argument has been set. State of Ohio's

Brief at ix, *Titan Logistics Group, LLC v. Tischler*, No. 26-3648 (6th Cir. Aug. 3, 2026). Accordingly, the *Titan Logistics* appeal becomes decisional on August 18.

Plaintiffs, a group of fourteen intoxicating-hemp manufacturers and retailers, sat by while this parade of litigation proceeded. *See* Compl. ¶¶ 1-15, Doc. 1 at PageID 21-23. Some Plaintiffs first entered the fray in June 25, when they moved to intervene as Plaintiffs in *Titan Logistics*. *See* Motion to Intervene, Doc. 40, *Titan Logistics Group, LLC v. Tischler*, No. 26-cv-1300 (S.D. Ohio June 25, 2026). Other Plaintiffs moved to intervene on July 7 and on July 10. *See* Motion to Intervene, Doc. 62, *Titan Logistics Group, LLC v. Tischler*, No. 26-cv-1300 (S.D. Ohio July 7, 2026); Motion to Intervene, Doc. 73, *Titan Logistics Group, LLC v. Tischler*, No. 26-cv-1300 (S.D. Ohio July 10, 2026). Still other Plaintiffs did nothing at all. Ultimately, this Court denied the motions to intervene on July 22. *See* Entry, *Titan Logistics Group, LLC v. Tischler*, No. 26-cv-1300 (S.D. Ohio July 22, 2026).

Only then, many months after the first wave of S.B. 56 litigation, did Plaintiffs seek “emergency” relief. On July 30, Plaintiffs filed a two-count complaint, alleging that S.B. 56 violates the dormant Commerce Clause and deprives them of their ability to engage in interstate commerce in violation of 42 U.S.C. § 1983. Compl. ¶¶ 32-40, Doc. 1 at PageID 27-28. Their dormant Commerce Claim is identical to the claim presented in *Titan Logistics*: they allege that “only companies that source, manufacture, and distribute their hemp-derived products within Ohio may obtain a license permitting them to do so. Plaintiffs are unable to obtain a license because, at minimum, they do not source their hemp from within Ohio.” Compl. ¶ 34, Doc. 1 at PageID 27. Plaintiffs seek a temporary restraining order enjoining Defendants from enforcing Senate Bill 56 criminally, civilly, or administratively against them. Doc. 2 at PageID 107.

Plaintiffs' complaint comes more than four months after S.B. 56 took effect and seven-and-a-half months after Governor DeWine signed it. Considering both Plaintiffs' inexcusable delay in seeking "emergency" relief, as well as the forthcoming Sixth Circuit decision on an identical dormant Commerce Clause claim, this Court should stay proceedings on Plaintiffs' motion for temporary restraining order until the Sixth Circuit issues a decision in *Titan Logistics*.

LAW AND ARGUMENT

The district court has discretion to grant a stay of proceedings, which is rooted in "the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants." *Williams v. City of Cleveland*, No. 1:09CV02991, 2011 U.S. Dist. LEXIS 77773, * 3 (N.D. Ohio July 14, 2011) (quoting *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936)). When district courts consider whether to stay proceedings, they engage in a "balance of hardships." *See Intl. Broth. Of Elec. Workers, Local Union No. 2020 v. AT & T Network Sys*, 879 F.2d 864, 1989 U.S. App. LEXIS 10266, at *23 (6th Cir. July 17, 1989). To determine whether to grant a stay of proceedings, courts consider the following factors: (1) the need for a stay; (2) the stage of litigation; (3) whether the non-moving party will be unduly prejudiced or tactically disadvantaged; (4) whether a stay will simplify the issues; and (5) whether the burden of litigation will be reduced for both the parties and the court. *Fowler v. AT&T, Inc.*, No. 2:23-cv-3172, 2024 U.S. Dist. LEXIS 88454, at *4 (S.D. Ohio May 16, 2024). These factors all counsel a stay of proceedings here.

A. Awaiting the *Titan Logistics* decision will simplify the issues, reduce litigation burdens, and avoid the risk of inconsistent decisions.

Factors one (need for a stay), four (simplification of the issues), and five (burdens of litigation) all favor a stay when a soon-to-be-released decision will resolve the issues presented in the instant case. Indeed, when there is an ongoing parallel proceeding that may resolve the issues

raised by the plaintiffs, courts routinely grant motions to stay. *See, e.g., Hagwood v. Gen. Elec. Co.*, No. 2:07-cv-548, 2007 U.S. Dist. LEXIS 92033, at *2 (S.D. Ohio Dec. 4, 2007) (granting stay to prevent “inconsistent pretrial rulings”); *Ramcharitar v. P&G*, No. 1:15-cv-457, 2016 U.S. Dist. LEXIS 25061, at *4-5 (S.D. Ohio Mar. 1, 2016) (same).

This is particularly true when the Sixth Circuit Court of Appeals has before it “virtually identical questions of law.” *Unroe v. Vilsack*, No. 2:11-cv-592, 2012 U.S. Dist. LEXIS 114480, at *4 (S.D. Ohio Aug. 13, 2012). *Unroe* is instructive on this point. In that case, the defendant seeking a stay was also the defendant in a parallel Sixth Circuit proceeding involving an identical question of law. *Id.* at *5. The district court found that “the Sixth Circuit is virtually certain to decide legal questions that determine, or at least significantly inform, the outcome of this case.” *Id.* at *4. A stay, therefore, would promote judicial economy and “avoid imposing unnecessary costs and burdens on the Court and the parties through duplicative litigation within the same circuit.” *Id.*

Here, as in *Unroe*, the Sixth Circuit is “virtually certain” to decide the precise dormant Commerce Clause issue before the Court in this case. *Id.* at *4. Indeed, Plaintiffs describe themselves as “identically situated to the ones in *Titan Logistics*” and characterize their dormant Commerce Clause claim as identical to the claim in that case. Doc. 2 at PageID 111-12. And of course, counsel for the Attorney General’s Office is defending S.B. 56’s constitutionality in both matters. “Given the identity of the issues” and interests in this case and *Titan Logistics*, it would be “inefficient” to engage in TRO proceedings “only to have to revisit the parties’ arguments in light of the Sixth Circuit’s ruling.” *Unroe*, 2012 U.S. Dist. LEXIS 114480, at *5.

Further, a brief stay while the Sixth Circuit resolves *Titan Logistics* will prevent inconsistent decisions between newly filed THC cases. As of the date of this filing, the *Titan Logistics* preliminary injunction already led to the filing of two “me-too” complaints presenting

the same legal claims and seeking the same relief as *Titan Logistics*: the complaint here and a companion case in the Southern District of Ohio. *See* Complaint, *GL Distro., LLC v. Heck*, No. 3:26-cv-274 (S.D. Ohio July 29, 2026). More lawsuits may follow. Granting a stay here will prevent inconsistent decisions in these cases at the preliminary-injunction stage. Indeed, for this reason, Judge Rice granted Attorney General Wilson’s oral motion to stay proceedings pending the outcome of the *Titan Logistics* appeal. *See* Entry, *GL Distro., LLC v. Heck*, 3:26-cv-274 (S.D. Ohio Aug. 4, 2026). A copy of Judge Rice’s decision is attached hereto as Exhibit A.

Awaiting the outcome of *Titan Logistics* will resolve the dormant Commerce Clause claim, lessen the burden on the parties and the Court of engaging in emergency proceedings, and avoid the risk of inconsistent decisions.

B. Plaintiffs’ inexcusable delay in seeking emergency relief forecloses any finding of prejudice or tactical disadvantage.

Nor will Plaintiffs suffer any prejudice from a brief stay. As an initial matter, “delay alone is generally not sufficient to prevent a stay, as it is inherent in any stay.” *Sec’y United States DOL v. Kavalec*, 2019 U.S. Dist. LEXIS 190045, at *10 (N.D. Ohio Nov. 1, 2019). And when the party opposing the stay did not diligently seek relief in the first instance, this factor can *favor* a stay. *Id.* at *11 (granting a stay when a “lengthy investigation prior to bringing suit suggests that there is no pressing need to resolve [the] claims against Defendants”); *Ramcharitar*, 2016 U.S. Dist. LEXIS 25061, at *8 (granting a stay when “Plaintiffs’ four month delay in prosecuting their lawsuit contravenes any alleged urgency in adjudicating the matter”).

Any delay in these proceedings is primarily attributable to Plaintiffs themselves, not to a brief stay to await the outcome of *Titan Logistics*. Plaintiffs waited seven-and-a-half months after S.B. 56’s enactment and more than four months after its effective date to seek “emergency” relief. This delay is particularly inexcusable considering the tight timelines here. When the new federal

definition of hemp takes effect on November 12, Plaintiffs' products will be deemed "marijuana" under both state and federal law. And because there is no interstate market for federally illegal marijuana, any dormant Commerce Clause claim will extinguish. *See Peridot Tree Wa., Inc. v. Wash. St. Liquor & Cannabis Control Bd.*, 162 F.4th 1179, 1181 (9th Cir. 2026) ("[W]e decline to extend the dormant Commerce Clause to interstate commerce in a drug market that Congress has declared illegal."). So, Plaintiffs' dormant Commerce Clause claim had a shelf life of eight months; yet, they spent four of those months idle. Only *after* another group of plaintiffs obtained preliminary relief did Plaintiffs' so-called "emergency" arise. Their failure to act diligently should not subject Defendants to yet another round of emergency litigation, particularly here, where a dispositive decision from the Sixth Circuit is imminent.

Finally, any stay in this case will be brief. *See Ramcharitar*, 2016 U.S. Dist. LEXIS 25061, at *8 (noting that a stay pending the outcome of parallel FTC proceedings will not be "indefinite"). The Sixth Circuit issued a markedly expedited schedule for the *Titan Logistics* briefing. To further speed the process, the State of Ohio waived oral argument, making the case decisional in just two weeks. A short stay will not prejudice Plaintiffs.

C. A stay will avoid regulatory confusion and chaos.

Finally, a stay here will stave off regulatory confusion and chaos. According to the Complaint, all fourteen Plaintiffs ceased selling intoxicating-hemp products in Ohio when S.B. 56 took effect on March 20, 2026. Compl. ¶¶ 1-14, Doc. 1 at PageID 21-23. They further each allege that they source hemp from out of state and that they "sell direct to consumers, distributors, and retail stores on a national scale." *Id.* at ¶ 15, Doc. 1 at PageID 23. They ask for temporary relief allowing them to restart their wide-ranging intoxicating-hemp businesses.

But Plaintiffs' intoxicating-hemp businesses have lain dormant for more than four months and getting them back up and running will be an enormous task. By their own admission in the Complaint, getting those businesses back up and running will involve at least the following: (1) obtaining out-of-state hemp, (2) resuming direct sales to consumers, (3) resuming sales to distributors, and (4) resuming sales to retail stores, all on a "national scale." If the Court grants a TRO here, but the Sixth Circuit resolves the dormant Commerce Clause claim in Defendant's favor in *Titan Logistics*, how will Plaintiffs unwind their "national" intoxicating-hemp operations? How will the out-of-state hemp be disposed? What will distributors and retailers do with intoxicating-hemp products they purchased under the auspices of the TRO? How will consumers know that intoxicating-hemp beverages purchased during the TRO are now illegal substances? What guidelines should law enforcement officers follow when encountering Plaintiffs' products? A brief stay to await the outcome of *Titan Logistics* avoids these issues.

CONCLUSION

For these reasons, Defendant respectfully requests that this Court stay the proceedings on Plaintiffs' motion for temporary restraining order pending the Sixth Circuit's decision in *Titan Logistics*.

Respectfully submitted,

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/s/ Julie M. Pfeiffer

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CERTIFICATE OF SERVICE

I hereby certify that on August 5, 2026, the foregoing was filed with the Court. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties for whom counsel has entered an appearance. Parties may access this filing through the Court's system.

/s/ Julie M. Pfeiffer

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