



Summary of HB 110: *The Delaware Marijuana Control Act*

Rep. Helene Keeley and Sen. Margaret Rose Henry sponsor Delaware's HB 110, which would replace marijuana prohibition with taxation and regulation. Here are some key features of the bill, as amended on June 12, 2018:

Adult Cultivation and Possession Limits

- Adults who are 21 and older would be allowed to:
 - possess up to one ounce of marijuana, no more than five grams of which may be of concentrated marijuana; and
 - give up to one ounce of marijuana to other adults 21 and older.
- Home cultivation is not allowed.

State Regulation and Licensing

- HB 110 provides for four types of regulated marijuana businesses: dispensaries, cultivation facilities, product manufacturers, and laboratories.
 - Beginning 11 months after the effective date, the Marijuana Commissioner may license compassion centers as adult-use retailers and cultivation facilities. A month later they may receive product manufacturing licenses.
 - Beginning one year after the effective date, 75 additional cultivation facilities will be licensed, including at least 30 licensees that cultivate no more than 1,000 square feet and no more than 10 licensees growing 7,501 or more square feet.
 - Beginning 19 months after the effective date, 40 more retailers will be licensed.
 - Beginning 16 months after the effective date, 25 more product manufacturers will be licensed.
 - The department may issue additional licenses after set time periods.
- The Division of Marijuana Control and Enforcement, located within the Department of Safety and Homeland Security, would develop comprehensive rules, including governing security, laboratory testing, packaging, labeling, recordkeeping, inspections, and restricting advertising.
- The Department of Health and Social Services will regulate the safe cultivation of marijuana and will set requirements for carbon dioxide and water use, along with air quality and disposal of waste.
- Prohibits the use of pesticides that are not organic or federally approved.
- Requires seed-to-sale tracking by licensees.
- Includes training requirements for licensees and employees of retailers.
- Requires ID badges for each cannabis business employee.
- Prohibits products that look like candy or cartoon characters.
- Requires procedures to be developed to receive consumer complaints.
- Limits the amount of marijuana in each serving to 10 mg of THC and limits the number of servings in each package to five.
- Ensures cannabis consumers receive accurate information about how to interpret the information on the cannabis product label, health effects, and potential interactions with prescription and nonprescription medications.

Local Control

- Localities could enact regulations and licensing requirements, limit the number of cannabis establishments, or ban the businesses altogether.

- The state regulatory agency would be required to forward each application for a marijuana establishment to the locality where it would operate and to consider the locality's input on licensing.

Taxation and Fees

- Cannabis would be taxed at a rate of \$50 per ounce for flowers and \$15 per ounce for other parts of marijuana (leaves or trim). This tax would be imposed on sales from a cultivator to a retailer, and rates would be adjusted for inflation.
- Non-refundable application fees of up to \$5,000 would be imposed on marijuana establishments, with the amount adjusted for inflation.
- Each licensee would have to pay a \$10,000 biennial renewal fee.
- After paying for regulatory costs, the revenue from taxes and fees would be divided as follows:
 - 20% to the Delaware Department of Education;
 - 10% to the Delaware Division of Social Services for distribution to qualified community-based nonprofit organizations to support job placement, mental health treatment, substance abuse disorder treatment, system navigation services, and legal services to address barriers to re-entry for communities that have been disproportionately affected by past federal and state marijuana prohibition policies;
 - 10% to the Delaware Department of Health and Social Services for use in programs for the prevention or treatment of substance abuse;
 - 10% to the Delaware Department of Health and Social Services for a public education campaign educating youth and adults about the health and safety risks of alcohol, tobacco, marijuana, and other drugs;
 - 10% to train more law enforcement officers across the state as Drug Recognition Experts, purchase devices that measure THC levels as they become available, implement pilot programs to better identify and deter drugged driving, and for forensic testing of blood samples; and
 - the remaining 40% to the General Fund.

Employers and Private Property

- Landlords could prohibit marijuana smoking at their rentals.
- Property owners could prohibit the consumption and display of cannabis.
- Employers do not have to allow any marijuana-activities. They do not have to accommodate employees under the influence, nor their possession of marijuana anywhere the employee is working.
- Includes explicit protections for employers to take actions to prevent penalties under federal law, consistent with the Delaware Medical Marijuana Act.

Prohibited Conduct and Penalties

- Smoking marijuana in public remains illegal, punishable by a \$200 criminal fine, imprisonment of up to five days, or both.
- Using a fake ID or otherwise falsely misrepresenting one's age would remain illegal.
- The department could suspend or revoke the registration of a marijuana establishment if it commits multiple or serious violations of the law or regulations.

Existing Law

- The existing medical marijuana law would not be affected by HB 110, except that pre-existing medical marijuana licensed businesses receive priority in licensing.