



SPONSOR: Rep. Osienski & Rep. Baumbach & Rep. Brady & Rep. Heffernan & Rep. Kowalko & Rep. Longhurst & Rep. Lynn & Rep. Minor-Brown & Sen. Paradee & Sen. Lockman & Sen. S. McBride & Sen. Pinkney & Sen. Townsend  
Reps. Bentz, Griffith, Lambert, Matthews, Mitchell, Morrison, K. Williams, Wilson-Anton; Sens. Poore, Sokola, Sturgeon, Walsh

HOUSE OF REPRESENTATIVES  
151st GENERAL ASSEMBLY

HOUSE BILL NO. 150

AN ACT TO AMEND TITLES 4, 11, 16, AND 30 OF THE DELAWARE CODE CREATING THE DELAWARE MARIJUANA CONTROL ACT.

1 WHEREAS, current federal and state policies prohibiting the use of marijuana inadequately control the use of the  
2 substance and instead, contribute to the development of a robust illegal market; and

3 WHEREAS, the legalization of marijuana would effectively eliminate the illegal market for marijuana in Delaware  
4 by diverting demand away from such illicit cartels and enterprises, and provide law enforcement officials the legal means  
5 necessary to ensure the safe legal use of marijuana in Delaware; and

6 WHEREAS, the legalization of marijuana would address criminal justice concerns related to the production,  
7 possessions, and transportation of the substance, recognizing a black individual is four times more likely to be arrested for  
8 marijuana possession than a white individual despite equal rates of use; and

9 WHEREAS, it is the responsibility of the General Assembly to ensure that Delawareans most impacted by  
10 prohibition are guaranteed access to the legal marijuana market; and

11 WHEREAS, the creation of a legal framework to regulate the production and sale of marijuana in the State of  
12 Colorado and the State of Washington has generated a \$1 billion industry and yielded more than 18,000 well-paying jobs in  
13 each state; and

14 WHEREAS, Delaware recognizes the economic benefits of a legal marijuana market as well as the importance of  
15 regulating the substance in a manner similar to alcohol and restricting its use to persons over 21 years old.

16 NOW, THEREFORE:

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all  
18 members elected to each house thereof concurring therein):

19 Section 1. Amend Subchapter IV, Chapter 47, Title 16 of the Delaware Code by making deletions as shown by  
20 strikethrough and insertions as shown by underline as follows:

21           § 4750. State-legal marijuana activities.

22           The offenses and penalties provided for in this chapter do not apply to marijuana-related conduct allowed under  
23 the Delaware Medical Marijuana Act, Chapter 49A of this title or the Delaware Marijuana Control Act, Chapter 13 of Title  
24 4.

25           Section 2. Amend § 4764, Title 16 of the Delaware Code by making deletions as shown by strike through and  
26 insertions as shown by underline as follows:

27           § 4764. Possession of marijuana; class B misdemeanor, unclassified misdemeanor, or civil violation.

28           (c) Any person 21 years of age or older who knowingly or intentionally possesses a personal use quantity of a  
29 controlled substance or a counterfeit controlled substance classified in § 4714(d)(19) of this title, except as otherwise  
30 authorized by this chapter, shall be assessed a civil penalty of \$100 in addition to such routine assessments necessary for  
31 the administration of civil violations and the marijuana shall be forfeited. Private use or consumption by a person 21 years  
32 of age or older of a personal use quantity of a controlled substance or a counterfeit controlled substance classified in §  
33 4714(d)(19) of this title shall likewise be punishable by a civil penalty under this subsection. Any person 18 years of age or  
34 older, but under 21 years of age, who commits any of the acts described in this subsection knowingly or intentionally  
35 possesses a personal use quantity of a controlled substance or a counterfeit controlled substance classified in § 4714(d)(19)  
36 of this title or who uses or consumes a personal use quantity of a controlled substance or a counterfeit controlled substance  
37 classified in § 4714(d)(19) of this title shall be assessed a civil penalty of \$100 for the first offense and shall be guilty of an  
38 unclassified misdemeanor and fined \$100 for a second or subsequent offense. Unpaid fines shall double if not paid within  
39 90 days of final adjudication of the violation.

40           Section 3. Amend § 4902A, Title 16 of the Delaware Code by making deletions as shown by strike through and  
41 insertions as shown by underline as follows:

42           § 4902A. Definitions.

43           (15) "Registered safety compliance facility" means a nonprofit entity registered under § 4915A of this title by  
44 the Department to provide 1 or more of the following services: testing marijuana produced for medical use or under  
45 Chapter 13 of Title 4 for potency and contaminants; and training cardholders and prospective compassion center agents  
46 cardholders, compassion center agents, and owners and employees of entities operating under Chapter 13 of Title 4.

47           The training may include, but need not be limited to, information related to 1 or more of the following:

- 48           a. The safe and efficient cultivation, harvesting, packaging, labeling, and distribution of marijuana;
- 49           b. Security and inventory accountability procedures; and
- 50           c. Up-to-date scientific and medical research findings related to medical marijuana.

51 Section 4. Amend Chapter 4, Title 4 of the Delaware Code by making deletions as shown by strike through and  
52 insertions as shown by underline as follows:

53 § 401 Division of Alcohol and Tobacco Enforcement.

54 The Division of Alcohol and Tobacco Enforcement of the Department of Safety and Homeland Security is  
55 established as follows for the administrative, ministerial, budgetary and clerical functions for the enforcement of the alcohol  
56 laws of this Code, and youth access to tobacco laws in §§ 1115 through 1127 of Title 11, and the marijuana laws of this  
57 title.

58 § 402 Location of office.

59 § 403 Duties and powers of the Division.

60 The Division shall:

61 (1) Investigate, prevent, and arrest for violations of this title, make seizure of alcoholic liquor, manufactured,  
62 sold, kept, or transported in contravention thereof, and confiscate such alcoholic liquor whenever required by any  
63 provision of this title;

64 (2) Arrange for the proper sampling, testing and analyzing of alcoholic liquor offered for sale in this State  
65 upon receipt of a complaint regarding health by entering into an agreement with the Director of Forensic Science  
66 Laboratories of the Department of Health and Social Services Department of Safety and Homeland Security Division  
67 of Forensic Science to test alcoholic liquor product when requested by the Division. This subsection does not apply to  
68 home breweries.

69 (3) Only require an inventory by a package store licensee if it has evidence to support a finding that such  
70 licensee has violated this title.

71 (4) Investigate, prevent, and arrest for violations of this title; seize marijuana, including marijuana products  
72 and accessories that are manufactured, sold, kept, or transported in contravention thereof; and confiscate such  
73 marijuana, including marijuana products and accessories, whenever required by any provision of this title;

74 (5) Arrange for the proper sampling, testing, and analyzing of marijuana, including marijuana products and  
75 accessories, that is offered for sale in this State upon receipt of a complaint regarding health by entering into an  
76 agreement with the Department of Safety and Homeland Security Division of Forensic Science to test marijuana and  
77 marijuana products when requested by the Division.

78 Section 5. Amend Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as  
79 shown by underline as follows:

80 Chapter 13. The Delaware Marijuana Control Act.

81 Subchapter I. General Provisions.

82 § 1301. Purpose and findings.

83 (a) In the interest of creating jobs with community benefits, eliminating the cannabis illegal market to allow law  
84 enforcement to focus on violent crime and property crimes, and promoting individual freedom, the General Assembly finds  
85 and declares that the personal use of marijuana should be legal for persons 21 years of age or older and taxed in a manner  
86 similar to alcohol.

87 (b) In the interest of the health and public safety of our citizenry, the General Assembly further finds and declares  
88 that marijuana must be regulated in a manner similar to alcohol to ensure all of the following:

89 (1) Individuals will have to show proof of age before purchasing marijuana.

90 (2) Selling, distributing, or transferring marijuana to minors and other individuals under the age of 21 remains  
91 illegal.

92 (3) Driving under the influence of marijuana remains illegal.

93 (4) Legitimate, taxpaying businesspeople, not criminal actors, conduct sales of marijuana.

94 (5) Marijuana sold in this State will be tested, labeled, and subject to additional regulations to ensure that  
95 consumers are informed and protected.

96 (c) The General Assembly further finds and declares that it is necessary to ensure consistency and fairness  
97 throughout this State, and therefore, that the matters addressed by this chapter are of statewide concern, except as specified  
98 in this chapter.

99 § 1302. Definitions.

100 As used in this chapter:

101 (1) “Appeals Commission” means 3 persons, 1 from each County, appointed by the Governor with the advice  
102 and consent of the majority of the Senate.

103 (2) “Commissioner” means the person appointed by the Governor and confirmed by the Senate who serves as  
104 the Marijuana Commissioner for the State.

105 (3) “Compassion center” means an entity registered as a compassion center under § 4914A of Title 16.

106 (4) “Consumer” means an individual 21 years of age or older who purchases marijuana, marijuana products,  
107 or marijuana accessories for personal use by the individual or other individuals 21 years of age or older, but not for  
108 resale to others.

109 (5) “Department” means the Department of Safety and Homeland Security.

110           (6) “Disproportionately impacted area” means an area identified by the Commissioner in collaboration with  
111 state and local agencies that have high rates of arrest, conviction, and incarceration relating to the sale, possession, use,  
112 cultivation, manufacture, or transport of marijuana.

113           (7) “Division” means the Division of Alcohol and Tobacco Enforcement.

114           (8) "Immature plant" means a nonflowering marijuana plant, no taller than 8 inches and no wider than 8  
115 inches; that is produced from a cutting, clipping, or seedling; is in a cultivating container; and which does not have  
116 buds that may be observed by visual examination.

117           (9) “Labor peace agreement” means an agreement between a licensee and any bona fide labor organization  
118 that prohibits labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other  
119 economic interference with the applicant’s business. This agreement means that the licensee or applicant has agreed  
120 not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent,  
121 the licensee’s or applicant’s employees. The agreement shall provide a bona fide labor organization access at  
122 reasonable times to areas in which the licensee’s or applicant’s employees work, for the purpose of meeting with  
123 employees to discuss the employees’ right to representation, employment rights under state law, and terms and  
124 conditions of employment. This type of agreement shall not mandate a particular method of election or certification of  
125 the bona fide labor organization.

126           (10) “License” means any license or permit to cultivate, possess, manufacture, sell, transport, or test marijuana  
127 or marijuana products and accessories authorized or issued by the Commissioner under this chapter.

128           (11) “Locality” means a “municipal corporation” under § 801 of Title 22.

129           (12) “Marijuana” means as defined in § 4701 of Title 16.

130           (13) “Marijuana accessories” means any equipment, products, or materials of any kind which are used,  
131 intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting,  
132 manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging,  
133 repackaging, storing, vaporizing, or containing marijuana; or for ingesting, inhaling, or otherwise introducing  
134 marijuana into the human body.

135           (14) “Marijuana cultivation facility” or “cultivation facility” means an entity licensed to cultivate, prepare,  
136 and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and  
137 to other marijuana cultivation facilities, but not to consumers. A marijuana cultivation facility may not produce  
138 marijuana concentrates, tinctures, extracts, or other marijuana products.

139           (15) “Marijuana establishment” means an entity licensed as a marijuana cultivation facility, a marijuana  
140 testing facility, a marijuana product manufacturing facility, or a retail marijuana store.

141           (16) “Marijuana product manufacturing facility” means an entity licensed to purchase marijuana;  
142 manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to marijuana  
143 product manufacturing facilities and retail marijuana stores, but not to consumers.

144           (17) “Marijuana products” means products that are comprised of marijuana, including concentrated marijuana,  
145 and other ingredients and are intended for use or consumption, such as edible products, ointments, and tinctures.

146           (18) “Marijuana testing facility” means an entity licensed to test marijuana for potency and contaminants.

147           (19) “Microbusiness license” means a license issued pursuant to Part C of Subchapter III of this title which  
148 includes any of the following:

149                   a. Marijuana cultivation facility license.

150                   b. Marijuana product manufacturing license.

151           (20) “Open license” means a license issued pursuant to Part A of Subchapter III of this title that is not a social  
152 equity license or microbusiness license which includes all of the following:

153                   a. Retail marijuana store license

154                   b. Marijuana testing facility license.

155                   c. Marijuana cultivation facility license.

156                   d. Marijuana product manufacturing license.

157           (21) “Person” means as defined in § 302 of Title 1.

158           (22) “Possession limit” means the amount of marijuana that may be possessed at any one time by an  
159 individual over the age of 21 who is not a registered qualifying patient or a registered designated caregiver under  
160 Chapter 49A of Title 16.

161           (23) “Public place” means any indoor or outdoor area or portion thereof generally accessible to the public.

162           (24) “Retail marijuana” means “marijuana”, as defined in § 4701 of Title 16, that is cultivated, manufactured,  
163 distributed, or sold by a licensed retail marijuana establishment.

164           (25) “Retail marijuana store” means an entity licensed to purchase marijuana from marijuana cultivation  
165 facilities; to purchase marijuana and marijuana products from marijuana product manufacturing facilities; and to sell  
166 marijuana and marijuana products to consumers.

167           (26) “Social equity license” means a license issued pursuant to Part B of Subchapter III of this title for any of  
168 the following:

- 169                    a. Retail marijuana store license.  
170                    b. Marijuana testing facility license.  
171                    c. Marijuana cultivation facility license.  
172                    d. Marijuana product manufacturing license.

173                    (27) "Smoking" means one of the following:

- 174                    a. The burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains marijuana.  
175                    b. The use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any  
176                    form.

177                    (28) "Unreasonably impracticable" means that the measures necessary to comply with the regulations require  
178                    such a high investment of risk, money, time, or any other resource or asset that the operation of a marijuana  
179                    establishment is not worthy of being carried out in practice by a reasonably prudent businessperson.

180                    (29) "Work" means as defined in § 3302 of Title 19.

181                    § 1303. Personal use of marijuana.

182                    (a) All of the following acts are lawful and are not an offense under the law of this State or the law of any locality  
183                    within this State and are not the basis for seizure or forfeiture of assets under the law of this State for an individual 21 years  
184                    of age or older:

185                    (1) Possessing, using, displaying, purchasing, or transporting marijuana accessories or 1 ounce or less of  
186                    marijuana, of which no more than 5 grams may be concentrated marijuana, outside of a motor vehicle.

187                    (2) Possessing and transporting marijuana accessories or 1 ounce or less of marijuana, of which no more than  
188                    5 grams may be concentrated marijuana, inside of a motor vehicle as long as the marijuana accessories or marijuana is  
189                    in sealed packaging or is not readily accessible to anyone inside the motor vehicle. A violation of this subsection is a  
190                    civil offense punishable by a civil penalty of \$50.

191                    (3) Transferring 1 ounce or less of marijuana without remuneration to an individual who is 21 years of age or  
192                    older as long as receiving the transferred marijuana would not cause the receiving individual to be over the possession  
193                    limit.

194                    (4) Assisting another individual who is 21 years of age or older in any of the acts described in paragraphs (1),  
195                    (2), and (3) of this subsection.

196                    (b) The following acts remain unlawful and an offense under the law of this State:

197                    (1) Consuming marijuana in public or in a moving vehicle, as defined and punished under § 4764(d) of Title

198                    16.

199           (2) Growing, manufacturing, selling, or cultivating marijuana without a license granted under this chapter or  
200 Chapter 49A of Title 16, as defined and punished under Chapter 47 of Title 16.

201           (3) Unlawfully using a license or identification card as defined and punished under § 2751 of Title 21.

202           § 1304. Marijuana accessories authorized.

203           An individual who is 21 years of age or older is authorized to manufacture, possess, and purchase marijuana  
204 accessories, and to distribute or sell marijuana accessories, to an individual who is 21 years of age or older.

205           § 1305. Places of employment.

206           (a) Nothing in this chapter is intended to require an employer to permit or accommodate any of the following  
207 while the employee is at work: the use, consumption, possession, transfer, display, transportation, sale, or growing of  
208 marijuana.

209           (b) Nothing in this chapter is intended to affect the ability of employers to do any of the following:

210           (1) Have policies restricting the use of marijuana by employees at work.

211           (2) Have policies necessary to prevent the loss of a monetary or licensing-related benefit under federal law or  
212 regulations.

213           (3) Discipline employees under policies necessary to prevent the loss of a monetary or licensing-related  
214 benefit under federal law or regulations.

215           (4) Discipline employees who are under the influence of marijuana at work. For purposes of this section,  
216 “under the influence” means that because of marijuana use, the individual is less able than the individual would  
217 ordinarily have been, either mentally or physically, to exercise clear judgment, sufficient physical control, or due care  
218 in exercising the responsibilities of their job.

219           § 1306. Driving under the influence prohibited.

220           Nothing in this chapter is intended to allow driving under the influence of marijuana or driving while impaired by  
221 marijuana or to supersede laws related to driving under the influence of marijuana or driving while impaired by marijuana.  
222 This chapter is not intended to prevent the State from enacting and imposing penalties for driving under the influence of or  
223 while impaired by marijuana.

224           § 1307. Individuals under age 21; prohibitions.

225           (a) Nothing in this chapter is intended to permit the transfer of marijuana, with or without remuneration, to an  
226 individual under the age of 21 or to allow an individual under the age of 21 to purchase, possess, use, transport, or consume  
227 marijuana.



228           (b) It is unlawful for an individual under the age of 21 years to knowingly enter or remain in an establishment  
229 licensed under this chapter. A violation of this subsection is a civil offense punishable by a civil penalty of \$50.

230           § 1308. Private property rights.

231           Nothing in this chapter prohibits a person, employer, school, hospital, detention facility, corporation, or any other  
232 entity who occupies, owns, or controls a property from prohibiting or otherwise regulating the possession, consumption,  
233 use, display, transfer, distribution, sale, transportation, or growing of marijuana on or in that property, except that in the  
234 case of the rental of a residential dwelling, a landlord may only prohibit the possession of marijuana or the consumption of  
235 marijuana by non-smoked means if any one of the following applies:

236                   (1) The building is the primary residence of the landlord, no more than 3 rooms in the building are rented to  
237 tenants, and no more than 3 tenants occupy such building.

238                   (2) Residence is merely incidental to detention or to the provision of medical, geriatric, educational,  
239 counseling, religious, or similar services, including prisons, student housing provided by a college or school, long term  
240 care facilities, and hospitals.

241                   (3) Failing to prohibit marijuana possession or consumption would violate federal law or regulations or cause  
242 the landlord to lose a monetary or licensing-related benefit under federal law or regulations.

243           § 1309. Unlawful marijuana extraction, penalties.

244           (a) It is unlawful for a person, other than a marijuana product manufacturer complying with this chapter and  
245 department regulations, to extract compounds from marijuana using solvents other than water, glycerin, propylene glycol,  
246 vegetable oil, or food grade ethanol (ethyl alcohol).

247           (b) It is unlawful for a person to extract compounds from marijuana using ethanol in the presence or vicinity of  
248 open flame.

249           (c) Violation of this section is a class G felony punishable by up to 3 years' incarceration and a fine of up to  
250 \$5,000.

251           § 1310. Lawful operation of marijuana-related facilities.

252           (a) It is lawful and may not be an offense under the law of this State, or be the basis for seizure or forfeiture of  
253 assets under the law of this State, for an individual 21 years of age or older to do any of the following:

254                   (1) Manufacture, possess, or purchase marijuana accessories or sell marijuana accessories to an individual  
255 who is 21 years of age or older in a manner set forth in this chapter.

256                   (2) Possess, display, or transport marijuana or marijuana products; purchase marijuana from a marijuana  
257 cultivation facility; purchase marijuana or marijuana products from a marijuana product manufacturing facility; or sell

258 marijuana or marijuana products to consumers if the person conducting the activities described in this paragraph (a)(2)  
259 of this section holds a valid license to operate a retail marijuana store or is acting in the person's capacity as an owner,  
260 employee, or agent of a licensed retail marijuana store.

261 (3) Cultivate, harvest, process, package, transport, display, or possess marijuana; deliver or transfer marijuana  
262 to a marijuana testing facility; sell marijuana to a marijuana cultivation facility, a marijuana product manufacturing  
263 facility, or a retail marijuana store; or purchase marijuana from a marijuana cultivation facility if the person conducting  
264 the activities described in this paragraph (a)(3) of this section holds a valid license to operate a marijuana cultivation  
265 facility or is acting in the person's capacity as an owner, employee, or agent of a licensed marijuana cultivation facility.

266 (4) Package, process, transport, manufacture, display, or possess marijuana or marijuana products; deliver or  
267 transfer marijuana or marijuana products to a marijuana testing facility; sell marijuana or marijuana products to a retail  
268 marijuana store or a marijuana product manufacturing facility; purchase marijuana from a marijuana cultivation  
269 facility; or purchase marijuana or marijuana products from a marijuana product manufacturing facility if the person  
270 conducting the activities described in this paragraph (a)(4) of this section holds a current, valid license to operate a  
271 marijuana product manufacturing facility or is acting in the person's capacity as an owner, employee, or agent of a  
272 licensed marijuana product manufacturing facility.

273 (5) Possess, cultivate, process, repackage, store, transport, display, transfer, or deliver marijuana or marijuana  
274 products if the person holds a current, valid license to operate a marijuana testing facility or is acting in the person's  
275 capacity as an owner, employee, or agent of a licensed marijuana testing facility.

276 (6) Lease or otherwise allow the use of property owned, occupied, or controlled by any person, for any of the  
277 activities conducted lawfully under this chapter.

278 (b)(1) An entity licensed under this chapter may not sell or deliver marijuana or marijuana products on Sundays,  
279 Thanksgiving, Easter, or Christmas or at hours other than those prescribed by the rules or regulations of the Commissioner.

280 (2) A holder of license for a retail marijuana store may not sell or deliver marijuana or marijuana products on  
281 Thanksgiving, Easter, or Christmas or between the hours of 1:00 a.m. and 9:00 a.m. on Mondays through Saturdays,  
282 and on Sundays before noon or after 8:00 p.m. Any locality with a population of 50,000 or more may limit sales under  
283 this subsection within the boundaries of the locality to a maximum of 4 hours on Sundays as established by ordinance  
284 of the locality. The closing hours for days of the week other than Sunday may be made earlier in any locality having a  
285 population of 50,000 or more persons, by ordinance of the municipal corporation; provided however, that such  
286 ordinance be consistent with the State and federal constitutions and must treat all businesses fairly. During the months

287 of October through December, a holder of a license for a retail marijuana store may have sales take place beginning at  
288 8:00 a.m. on Fridays through Saturdays and 10:00 a.m. on Sundays.

289 (3) Any holder of a license for a retail marijuana store who wishes to sell marijuana or marijuana products on  
290 Sundays must pay a biennial license fee of \$500.00 for the issuance of a special license to sell marijuana and marijuana  
291 products on Sundays, which is in addition to any other license fees which may be required of the holder.

292 (c) Marijuana and marijuana products may not be sold in an establishment licensed to sell alcoholic liquors under  
293 Title 4.

294 § 1311. Enforcement.

295 Inspections and enforcement activities are to be conducted under Subchapter VI of Chapter 47 of Title 16.

296 § 1312. Contracts enforceable.

297 Contracts related to the operation of a licensed marijuana establishment registered under this chapter are  
298 enforceable. A contract entered into by a licensed marijuana establishment or its employees or agents as permitted under a  
299 valid license, or by those who allow property to be used by a licensed marijuana establishment, its employees, or its agents  
300 as permitted under a valid registration, is not unenforceable on the basis that cultivating, obtaining, manufacturing,  
301 distributing, dispensing, transporting, selling, possessing, or using marijuana is prohibited by federal law.

302 § 1313. Verifying the age of marijuana consumers.

303 In any prosecution for an offense under Chapter 47 of Title 16, it is an affirmative defense that the individual who  
304 is under 21 years old presented identification, with a photograph of such individual affixed thereon, to the accused and the  
305 identification set forth information which would lead a reasonable person to believe such individual was 21 years old or  
306 older.

307 § 1314. Medical marijuana provision not affected.

308 Nothing in this chapter may be construed to limit any privileges or rights of a medical marijuana patient, primary  
309 caregiver, or medical marijuana compassion center under the Delaware Medical Marijuana Act, Chapter 49A of Title 16.

310 § 1315. Oversight Committee; annual report by the Commissioner.

311 (a) The Delaware Marijuana Control Act Oversight Committee is established to evaluate and make  
312 recommendations regarding the implementation of this chapter.

313 (1) The Oversight Committee shall consist of 15 members who possess the qualifications and are appointed as  
314 follows:

315 a. The Secretary of the Department, or designee appointed by the Secretary.

- 316                    b. The Director of the Division of Revenue, or designee appointed by the Director of the Division of  
317 Revenue.
- 318                    c. The Director of the Division of Public Health, or designee appointed by the Director of the Division of  
319 Public Health.
- 320                    d. The Director of the Division of Substance Abuse and Mental Health, or designee appointed by the  
321 Director of the Division of Substance Abuse and Mental Health.
- 322                    e. The Director of the Delaware Medical Marijuana Program.
- 323                    f. The Chief Officer of the Division of Diversity and Inclusion.
- 324                    g. The Director of the Small Business Division.
- 325                    h. 1 member, appointed by the Speaker of the House of Representatives.
- 326                    i. 1 member, appointed by the President Pro Tempore of the Senate.
- 327                    j. 1 marijuana advocate from each county appointed by the Speaker of the House of Representatives.
- 328                    k. 1 marijuana advocate from each county appointed by the President Pro Tempore of the Senate.
- 329                    (2) The members of the Oversight Committee shall serve at the pleasure of the appointing authority.
- 330                    (3) A quorum shall consist of a majority of the membership of the Oversight Committee.
- 331                    (4) The Oversight Committee shall select a chair and vice chair from among its members.
- 332                    (5) Staff support for the Oversight Committee shall be provided by the Division.
- 333                    (6) The Oversight Committee shall meet at least 2 times per year for the purpose of evaluating and making  
334 recommendations to the Governor, the General Assembly, and the Department regarding the following:
- 335                    a. The ability of consumers in all areas of the State to obtain legal marijuana.
- 336                    b. The sufficiency of the regulatory and security safeguards under this chapter and adopted by the  
337 Commissioner to ensure that access to and use of marijuana cultivated is provided only to individuals age 21 or  
338 over.
- 339                    c. Any recommended additions or revisions to the Commissioner’s regulations or this chapter, including  
340 relating to security, safe handling, labeling, and nomenclature.
- 341                    d. Any research studies regarding health effects of using marijuana.
- 342                    e. The impact of the Delaware Marijuana Control Act on decreasing the illegal sales and production of  
343 marijuana.

344 f. The impact of the Delaware Marijuana Control Act on other aspects of public safety, including the  
345 incidence of people driving under the influence, using marijuana in places or in a manner prohibited by this  
346 chapter, and the use of prescription opioids and illegal opioids.

347 g. Any research and recommendations to implement current best practices for the development of a  
348 diverse workforce among marijuana establishments, including diversity among employees, licensees, and owners  
349 of marijuana establishments.

350 (b) The Commissioner shall submit to the Governor and members of the General Assembly an annual report  
351 setting forth all matters of interest and all statistics concerning marijuana regulation and control in the State, including the  
352 following:

353 (1) The number of licenses of each kind issued within the State and the number cancelled during the year.

354 (2) The amount of marijuana and marijuana products sold within the State.

355 (3) Statistics regarding diversity among marijuana establishments, including diversity of employees, licensees,  
356 and owners of marijuana establishments.

357 (4) Outcomes and effectiveness of the issuance of social equity licenses which shall include all of the  
358 following:

359 a. The number of and types of social equity licenses issued.

360 b. The number of persons or entities receiving financial assistance.

361 c. The location of the social equity licenses.

362 d. If applicable

363 , the number of new jobs or other forms of economic output created as a result of the social equity  
364 licenses.

365 (5) Other data as may make a complete report to the people of this State.

366 (c) If marijuana is decriminalized under federal law, the Commissioner shall submit a report to the Governor and  
367 the General Assembly evaluation the state's compliance with the changed federal law and make recommendations as to any  
368 changes needed in this State's marijuana law to be compliant with federal law.

369 Subchapter II. Marijuana Commissioner and Appeals Commission.

370 § 1316. Marijuana Commissioner; Appeals Commission; qualifications; appointment; term; compensation.

371 (a) The Commissioner must be a resident of this State and suitably educated and experienced to carry out the  
372 duties and responsibilities set forth in this chapter.

373           (b) The Commissioner and the 3 members of the Appeals Commission, consisting of 1 member from each County,  
374 shall be appointed by the Governor and confirmed by a majority of the members elected to the Senate and shall serve at the  
375 pleasure of the Governor.

376           (c) The Commissioner may name a Deputy Commissioner. The Commissioner may, during an absence from the  
377 State, appoint the Deputy Commissioner to serve as Acting Commissioner during such absence. In the event of death,  
378 resignation, temporary incapacity, or removal of the Commissioner, and prior to the appointment of a successor, the  
379 Governor may appoint the Deputy Commissioner, or such other person as deemed qualified by the Governor, to serve as  
380 Acting Commissioner. The Acting Commissioner has all the powers and shall perform all the duties and functions of the  
381 Commissioner during the Commissioner's absence or incapacity or until a successor is qualified and appointed.

382           (d) The Commissioner is to be compensated as provided for in the Annual Budget Act.

383           (e) The members of the Appeals Commission are to be compensated at the rate of \$150 per meeting together with  
384 the reasonable expenses for no more than 12 meetings per year.

385           (f) The Appeals Commission shall meet and elect a chair who shall convene meetings of the Commission as  
386 frequently as needed to consider appeals of the Commissioner's decision.

387           § 1317. Duties and powers of the Commissioner.

388           (a) The Commissioner, in accordance with the Administrative Procedures Act, Chapter 101 of Title 29, shall do all  
389 of the following:

390           (1) Adopt rules and regulations consistent with § 1324 of this title and other provisions of this chapter or of  
391 any other law of this State, and all such rules and regulations have the force and effect of law. A rule or regulation may  
392 not extend, modify, or conflict with any law of this State or the reasonable implications thereof. A rule or regulation  
393 adopted under this paragraph (a)(1) of this section must focus primarily on public safety and the best interests of the  
394 consumer and may not unduly restrict competition within the marijuana industry.

395           (2) Establish rules and regulations for the effective control of the business of cultivation, manufacture, and  
396 sale of marijuana and marijuana products within the State, including the time, place, and manner in which marijuana  
397 and marijuana products may be sold and dispensed, not inconsistent with § 1324 of this title and other provisions of  
398 this chapter or with any other law of this State.

399           (3) Establish health and safety regulations for the indoor and outdoor cultivation of marijuana by marijuana  
400 establishments under this chapter. Such rules and regulations under this section must be consistent with applicable  
401 rules and regulations established under the regulatory authority of the Department of Agriculture and the Department  
402 of Natural Resources and Environmental Control and may include all of the following:

- 403                    a. Prohibition of the use of pesticides that are neither organic nor federally approved for marijuana.  
404                    b. Standards for the use of carbon dioxide.  
405                    c. Standards for water use.  
406                    d. Standards for disposal of waste.  
407                    e. Standards for indoor and outdoor air quality.

408                    (3) Grant, refuse, or cancel licenses required by this chapter for the cultivation, manufacture, or sale of  
409 marijuana and marijuana products, or other licenses required by this chapter in regard thereto and to transfer any  
410 license granted. The Commissioner must provide the applicant or licensee with written communication regarding any  
411 decision to grant, refuse, or cancel licenses required by this chapter for the cultivation, manufacture, or sale of  
412 marijuana and marijuana products, or other licenses required by this chapter in regard thereto, and when transferring  
413 any license granted.

414                    (4) Hear complaints in regard to the appointments of, or the conduct of business in, any establishment where  
415 marijuana or marijuana products are licensed to be sold upon receipt of a petition signed by at least 10 individuals who  
416 are residents of the same neighborhood. Ten days' notice of such hearings, together with a recital of the complaint,  
417 must be sent by the Commissioner's office by registered mail to the address of the holder of the license for the  
418 establishment. Like notice must be delivered at the establishment by affixing the notice addressed to the holder of the  
419 license to the outside of an entrance door to the establishment. The hearings must be public and conducted by the  
420 Commissioner. The Commissioner, for the purpose of such hearings, has the power to issue subpoenas, compel the  
421 attendance of witnesses, administer oaths, take testimony, and compel the production of pertinent books, payrolls,  
422 accounts, papers, records, and documents. In case any person summoned to testify or to produce any such written or  
423 printed evidence refuses, without reasonable cause, to be examined, to answer a legal and pertinent question, or to  
424 produce any such written or printed evidence, the Commissioner conducting the hearing may certify the fact of any  
425 such refusal to the Superior Court of the county in which such hearing is held and the court may proceed against the  
426 person so refusing as for a contempt and punish such person in the same manner as persons are punished for contempt  
427 of court.

428                    (5) Compel the attendance of witnesses and the production of contracts, papers, books, accounts, and other  
429 documents. Subpoenas issued must be signed by the Commissioner and may be served by any sheriff, deputy sheriff,  
430 constable, or any agent of the Division and return thereof made to the Commissioner. The Commissioner may enforce  
431 compliance with a subpoena issued under this subsection by filing a motion to compel in the Superior Court, which

432 shall have jurisdiction over the matter. The court may award costs and attorney fees if it determines that  
433 noncompliance with a Commissioner subpoena was unjustified, intentional, or in bad faith.

434 (6) Act, for purposes of this chapter, as the competent authority in connection with other matters pertinent  
435 thereto.

436 (7) Provide such special seals, labels, and wrappers as deemed necessary for protection of the public against  
437 imitations, adulterations, and frauds, and prescribe the proper use of the seals, labels, and wrappers.

438 (8) Provide such warning signs as may be required by this chapter and distribute such signs to license holders  
439 and promulgate regulations with respect to the posting of said signs. The Commissioner may charge a nominal fee to  
440 cover printing, handling, and distribution costs.

441 (9) Coordinate with the Division of Small Business, Development and Tourism and the Department of  
442 Agriculture to connect potential marijuana establishments licensed under this chapter with programs that support  
443 business development, including farms and programs that support small businesses owned by minorities, women, and  
444 veterans.

445 (10) Establish rules and regulations for the effective collection of data regarding retail sales of marijuana and  
446 marijuana products by consumers to track compliance of possession limits.

447 (11) Consult with the Division of Alcohol and Tobacco Enforcement before adopting or establishing any rules  
448 or regulations that concern enforcement.

449 (b) The Commissioner's decision on any appeal or hearing under this chapter must be in writing and is final and  
450 conclusive unless a party to such hearing files an appeal within 30 days from the date of the postmark on the  
451 Commissioner's decision by mailing notice of the appeal to the Commissioner's office. Upon receipt of the appeal, the  
452 Commissioner shall notify the chair of the Appeals Commission of the pending appeal and the chair shall convene the  
453 Appeals Commission with at least 20 days' notice to all parties. The Appeals Commission shall hear the appeal and shall  
454 review the matter on the record; act in accordance with the Administrative Procedures Act, Chapter 101 of Title 29; and  
455 affirm, reverse, or modify the decision of the Commissioner. A decision of the Commissioner may only be reversed upon a  
456 finding of abuse of discretion.

457 (c) The Commissioner may appear before the Appeals Commission for any appeal of a Commissioner's decision  
458 and may appeal any decision of the Appeals Commission or any decision of the Superior Court on appeal from the Appeals  
459 Commission.

460 § 1318. Oath of Office of Commissioner and employees.



461 The Commissioner, members of the Appeals Commission, and any hearing officer shall, on entering office, take  
462 the oath or affirmation set forth in article XIV of the Constitution of this State. Any other employee may be required to take  
463 the oath or affirmation set forth in article XIV of the Constitution of this State at the discretion of the Secretary of the  
464 Department of Safety and Homeland Security.

465 § 1319. Conflict of interest.

466 (a) The Commissioner, members of the Appeals Commission, and any hearing officer or such person's spouse,  
467 parent, legal guardian, son, or daughter residing at such person's residence, may not have a financial interest in any entity  
468 that sells, manufactures, cultivates, or uses marijuana; provided, however, such persons may invest in mutual funds or  
469 similar financial instruments that hold no more than a 10% interest in any such entity.

470 (b) Neither the Commissioner nor any person employed in the office of the Commissioner shall receive any  
471 commission or profit whatsoever from, or have any interest whatsoever in a business licensed under this chapter to  
472 cultivate, manufacture, purchase, or sell marijuana or marijuana products; provided, however, that nothing in this section  
473 shall prevent the Commissioner, a member of the Appeals Commission, a hearing officer, or an employee from purchasing  
474 and keeping marijuana or marijuana products for the personal use of him or herself, or members of his or her family or his  
475 or her guests if such purchase is otherwise permitted by this chapter.

476 (c) The Commissioner and the members of the Appeals Commission shall annually file the Financial Report  
477 required under § 5813 of Title 29 with the Public Integrity Commission.

478 § 1320. Commissioner's statement of interest in marijuana business.

479 When notified of appointment as Commissioner or to the Appeals Commission, the individual so notified shall  
480 furnish in duplicate and in writing to the Governor and to the President Pro Tempore of the Senate a statement of every  
481 interest, direct or indirect, and however small, held or owned by the individual as a member or as a stockholder in any  
482 partnership, corporation, or other association engaged in the sale or in the cultivation or manufacture of marijuana or  
483 marijuana products or in any undertaking, industry, or business in which marijuana or marijuana products are used or  
484 required. Prior to taking the oath of office, the Commissioner and members of the Appeals Commission must wholly and  
485 fully dispose of all interests, except those permitted by § 1320 of this chapter. One copy of the statement must be inserted in  
486 the permanent records of the office of the Commissioner open to public inspection.

487 § 1321. Employees of the Division; Commissioner.

488 The Department of Safety and Homeland Security shall appoint, employ, or dismiss every officer or employee, not  
489 appointed by the Governor, necessary for carrying out the work of the Division, Appeals Commission, and Commissioner;  
490 establish salaries, subject to the Annual Appropriation in the Budget Act; and assign official titles and duties. The

491 Department may engage the services of experts and persons engaged in the practice of a relevant profession. At the  
492 discretion of the Secretary of the Department of Safety and Homeland Security, officers and employees of the Division  
493 shall have the police powers of constables and other police officers of the State, counties, and other subdivisions of the  
494 State; shall be conservators of the peace throughout the State; shall be eligible for certification by the Council on Police  
495 Training; and may suppress all acts of violence and enforce the provisions of this chapter.

496 § 1322. Property and profits of the office of the Commissioner.

497 All property owned by the office of the Commissioner and all associated profits is the property of the State.

498 Subchapter III. Regulation and Licensure.

499 § 1323. Regulations.

500 (a) The Commissioner shall adopt regulations necessary for implementation of this chapter consistent with § 1324  
501 of this title and other provisions of this chapter. The regulations may not prohibit the operation of marijuana establishments,  
502 either expressly or through regulations that make their operation unreasonably impracticable. Regulations and fees for  
503 marijuana cultivation facilities may be varied based on the size of the facility to ensure that the operation of smaller  
504 facilities is not made unreasonably impracticable. The Commissioner shall include all of the following in the regulations:

505 (1) Procedures for the issuance, renewal, suspension, transfer, and revocation of a registration to operate a  
506 marijuana establishment with all procedures subject to the Administrative Procedures Act, Chapter 101 of Title 29.

507 (2) A competitive scoring process to determine which applicants may obtain licenses to operate each type of  
508 marijuana establishment if more qualified applicants apply than the Commissioner may license under this subchapter  
509 and that ensures applicants will follow best practices for community engagement, consumer protection, food safety,  
510 worker safety, family support jobs, diversity, public safety, and environmental stewardship. The competitive scoring  
511 process for retail marijuana stores must be varied to account for geographic distribution or population density, or both.

512 (3) The criteria for the competitive scoring process for all license types must include the following:

513 a. The experience, training, and expertise of the applicant and managing officers.

514 b. The applicant's plans for safety, security, and the prevention of diversion.

515 c. The applicant's plans for operations, training, and staffing, including all of the following:

516 1. A social responsibility plan outlining diversity goals, including plans to recruit and hire people of  
517 color, women, and veterans and to support their ownership and promotion within the organization, as well as  
518 the percent of employees it plans to hire from within the respective city or region of the State.

519 2. A plan to provide a safe, healthy, and economically beneficial working environment with fair  
520 scheduling practices, family-supporting wages, and benefits for its employees.

521 3. Any criminal, civil, or regulatory history encountered by other entities the applicant and managing  
522 officers have previously controlled or managed.

523 4. The suitability of the proposed location for the facilities.

524 5. Any other criteria deemed appropriate by the Commissioner.

525 (4) The criteria for the competitive scoring process for open license types must include the following:

526 a. The applicant's submission of an attestation signed by a bona fide labor organization stating that the  
527 applicant has entered into a labor peace agreement with such bona fide labor organization.

528 b. For applications for marijuana cultivation facility license and marijuana product manufacturing facility  
529 license only, all of the following:

530 1. Applicant's submission of an attestation affirming that the applicant has a project labor agreement,  
531 or will utilize a project labor agreement, for construction or retrofit of facilities, or other applicable project,  
532 associated with the licensed entity.

533 2. An environment and sustainability plan, including efforts it will take to minimize the  
534 environmental impact, and resources needs of its facilities and other business operations, such as plans to  
535 minimize water usage, employing organic cultivation methods, and adoption of other sustainable business  
536 practices.

537 (5) Except as provided in subpart A and B of subchapter III, a non-refundable \$5,000 application fee for all  
538 marijuana establishments that may be adjusted annually for inflation.

539 (6) Qualifications for licensure that are directly and demonstrably related to the operation of a marijuana  
540 establishment.

541 (7) Procedures for how establishments licensed under this chapter must track marijuana from seed to sale.

542 (8) Security requirements for marijuana establishments, including lighting, physical security, video, and alarm  
543 requirements.

544 (9) Requirements for the transportation and storage of marijuana and marijuana products by marijuana  
545 establishments.

546 (10) Employment and training requirements for licensees, employees, and agents of marijuana establishments,  
547 including the following:

548 a. That each marijuana establishment create an identification badge for each employee or agent.

549 b. That employees of retail marijuana store establishments be trained in recognizing valid identification  
550 cards.

551           (11) Requirements to prevent the sale or diversion of marijuana and marijuana products to individuals under  
552 the age of 21. To protect individual privacy, the Commissioner may not require a consumer to provide a retail  
553 marijuana store with personal information other than government-issued identification to determine the consumer's age  
554 and a retail marijuana store may not be required to acquire and record personal information about consumers.

555           (12) Standards for marijuana product manufacturers to use so that consumers can determine the amount of  
556 marijuana in each product and compare the amount of marijuana in different products based upon the standard  
557 measurements, including a definition of the amount of delta-9 tetrahydrocannabinol that constitutes a single serving in  
558 a marijuana product.

559           (13) Requirements for marijuana and marijuana products sold or distributed by marijuana establishments,  
560 including information for consumers and labeling requirements for marijuana products that include all of the following:

561           a. The length of time it typically takes for a product to take effect.

562           b. The amount of marijuana in the product using the standard established in this section, not to exceed 10  
563 mg per serving.

564           c. The serving size and the number of servings in each package, not to exceed 5 servings.

565           d. Ingredients and possible allergens.

566           e. A nutritional fact panel.

567           f. The requirement that information on the packaging may not mislead consumers.

568           g. The specific batch number of the product.

569           h. Educational information for consumers to educate consumers, including evidence-based information  
570 about how to interpret the information on the label, health effects, and potential interactions with prescription and  
571 nonprescription medications.

572           i. Opaque, child-resistant packaging, which must be designed or constructed to be significantly difficult  
573 for children under 5 years of age to open and not difficult for normal adults to use properly as defined by 16 C.F.R.  
574 § 1700.20.

575           j. A standard symbol indicating edible marijuana products contain marijuana so that marijuana products  
576 are clearly identifiable.

577           k. A warning label that explains evidence-based harms from consuming marijuana, including the impact  
578 on developing brains, the impact on an individual's ability to operate machinery, and any interference with  
579 prescription drugs.

580           (14) Health and safety regulations and standards for the manufacture of marijuana products by marijuana  
581 establishments consistent with other State requirements for food, including all of the following:

582           a. Prohibition of the manufacture of products that look like candy or cartoon characters.

583           b. Restrictions or prohibitions on additives to marijuana and marijuana-infused products, including  
584 additives that are toxic, designed to make the product more addictive, or designed to make the product more  
585 appealing to children, but not including common baking and cooking items.

586           c. Standards for the safe manufacture of marijuana extracts and concentrates.

587           d. Requirements for random sample testing, including the manner and frequency of testing, to ensure  
588 quality control, including by ensuring that marijuana and marijuana-infused products are accurately labeled for  
589 potency. The testing analysis must include testing for residual solvents, poisons, or toxins; harmful chemicals;  
590 dangerous molds or mildew; filth; harmful microbials such as E. Coli or salmonella; and pesticides.

591           (15) Restrictions on the advertising, marketing, and signage of marijuana and marijuana products, including a  
592 prohibition on mass-market campaigns that have a high likelihood of reaching minors.

593           (16) Restrictions on the display of marijuana and marijuana products, including requirements that marijuana  
594 and marijuana products may not be displayed in a manner that is visible to the general public from a public right-of-  
595 way.

596           (17) Requirements governing visits to cultivation facilities and product manufacturers, including the  
597 requirement that these marijuana establishment log visitors.

598           (18) Requirements that educational materials be disseminated to consumers who purchase marijuana-infused  
599 products.

600           (19) Standards for the operation of testing laboratories, including requirements for equipment and  
601 qualifications for personnel, consistent with the requirements established under Chapter 49A of Title 16 for a registered  
602 safety compliance facility.

603           (20) Civil penalties for the failure to comply with regulations made under this chapter.

604           (21) Procedures for receiving and processing consumer complaints about marijuana establishments.

605           Part A.

606           Open Licenses.

607           § 1324. Retail marijuana store licenses.

608           (a) A retail marijuana store license may only be issued to a person selling retail marijuana or retail marijuana  
609 products under the terms and conditions of this chapter. A license issued under this section is valid for 2 years. Each  
610 application for a retail marijuana store license must contain all of the following:

611                   (1) The application materials required by the Commissioner, including the location where the retail marijuana  
612 store will operate.

613                   (2) The application fee in an amount determined by the Commissioner.

614                   (3) Proof of compliance with § 1323(a)(3) and (4) of this chapter.

615           (b) A retail marijuana store licensee shall pay the Commissioner \$10,000 biennially for the retail marijuana store  
616 license. A retail marijuana store licensee must renew the license biennially by paying the fee required by this subsection  
617 and by providing documentation of a labor peace agreement.

618           (c) A retail marijuana store may purchase retail marijuana from a licensed retail marijuana cultivation facility or  
619 may cultivate its own retail marijuana if it obtains a retail marijuana cultivation facility license under § 1326 of this chapter.

620           (d) A retail marijuana store shall track all of its retail marijuana and retail marijuana products from the point that  
621 they are transferred from a retail marijuana cultivation facility or retail marijuana products manufacturer to the point of sale.

622           (e)(1) A retail marijuana store licensee may also sell retail marijuana products that are prepackaged and labeled as  
623 required by this chapter.

624                   (2) A retail marijuana store licensee may transact with a retail marijuana products manufacturing licensee for  
625 the purchase of retail marijuana products upon a retail marijuana products manufacturing licensee's licensed premises  
626 or a retail marijuana store's licensed premises.

627           (f)(1) A retail marijuana store may not sell more than 1 ounce of retail marijuana or its equivalent in retail  
628 marijuana products, including retail marijuana concentrate, except for nonedible, nonpsychoactive retail marijuana  
629 products, including ointments, lotions, balms, and other nontransdermal topical products, during a single transaction to an  
630 individual.

631                   (2) Prior to initiating a sale to an individual, an employee of the retail marijuana store making the sale shall  
632 verify that the purchaser has a valid government-issued photo identification card showing that the individual is 21  
633 years of age or older. If an individual under 21 years of age presents a fraudulent proof of age, any action relying on  
634 the fraudulent proof of age is not grounds for the revocation or suspension of any license issued under this section.

635                   a. If a retail marijuana store licensee or employee has reasonable cause to believe that an individual is  
636 under 21 years of age and is exhibiting fraudulent proof of age in an attempt to obtain any retail marijuana or  
637 marijuana product, the licensee or employee is authorized to confiscate such fraudulent proof of age, if possible,

638 and shall, within 72 hours after the confiscation, remit it to a state or local law enforcement agency. The failure to  
639 confiscate such fraudulent proof of age or to remit to a state or local law enforcement agency within 72 hours after  
640 the confiscation does not constitute a criminal offense.

641 b. If a retail marijuana store licensee or employee believes that an individual is under 21 years of age and  
642 is exhibiting fraudulent proof of age in an attempt to obtain any retail marijuana or retail marijuana product, the  
643 licensee or employee, employee of the Division, or any law enforcement officer as defined in § 222 of Title 11,  
644 acting in good faith and upon reasonable grounds therefor, may detain and question such person in a reasonable  
645 manner for the purpose of ascertaining whether the person is guilty of any unlawful act regarding the purchase of  
646 retail marijuana. The questioning of an individual by an employee or a peace or police officer does not render the  
647 licensee, the employee, or the peace or police officer civilly or criminally liable for slander, false arrest, false  
648 imprisonment, malicious prosecution, or unlawful detention.

649 (h) A retail marijuana store must provide a sample of its products to a facility that has a marijuana testing facility  
650 license for testing and research purposes as required by regulations adopted under this chapter. A retail marijuana store  
651 shall maintain a record of what was provided to the testing facility, the identity of the testing facility, and the results of the  
652 testing.

653 (i) All retail marijuana and retail marijuana products sold at a licensed retail marijuana store must be packaged and  
654 labeled as required by this chapter.

655 (j) A retail marijuana store shall comply with all provisions of State and federal law in regard to individuals with  
656 disabilities.

657 (k)(1) A retail marijuana store may only sell retail marijuana; retail marijuana products; marijuana accessories;  
658 nonconsumable products such as apparel; and marijuana related products, such as childproof packaging containers, but is  
659 prohibited from selling or giving away any consumable product, including cigarettes or alcohol, or any edible product that  
660 does not contain marijuana, including sodas, candies, or baked goods.

661 (2) A retail marijuana store may not sell any retail marijuana or retail marijuana products that contain nicotine  
662 or alcohol if the sale of the alcohol would require a license under this title.

663 (3) A retail marijuana store may not sell retail marijuana or retail marijuana products over the Internet or  
664 deliver retail marijuana or retail marijuana products to a person not physically present in the retail marijuana store's  
665 licensed premises.

666 (l) A display case containing marijuana concentrate must include the potency of the marijuana concentrate next to  
667 the name of the product using the standard established under this chapter.

668 (m) A properly registered compassion center under § 4914A of Title 16 who is issued a retail marijuana store  
669 license issued under this subsection is considered a business registration separate and distinct from the registration issued  
670 under § 4914A of Title 16.

671 § 1325. Marijuana testing facility licenses.

672 (a) A marijuana testing facility license may be issued to a person who performs testing and research on retail  
673 marijuana under the terms and conditions of this chapter. A license issued under this section is valid for 2 years. Each  
674 application for a marijuana testing facility license must contain all of the following:

675 (1) The application materials required by the Commissioner, including the location where the marijuana  
676 testing facility will operate.

677 (2) The application fee in an amount determined by the Commissioner.

678 (3) Proof of compliance with § 1323(a)(3) and (4) of this chapter.

679 (b) A marijuana testing facility licensee shall pay the Commissioner \$10,000 biennially for the marijuana testing  
680 facility license. A marijuana testing facility licensee must renew the license biennially by paying the fee required by this  
681 subsection and by providing documentation of a labor peace agreement.

682 (c) The Commissioner shall promulgate rules related to acceptable testing and research practices, including testing,  
683 standards; quality control analysis; equipment certification and calibration; chemical identification; identifying other  
684 substances; and other measurers used in bona fide research methods.

685 (d) A person who has a financial interest in a marijuana testing facility license from the Commissioner for testing  
686 purposes may not have a financial interest in a registered compassion center, a marijuana cultivation facility, a marijuana  
687 products manufacturing facility, or a retail marijuana store. A person that has a financial interest in a registered compassion  
688 center, a marijuana cultivation facility, a marijuana products manufacturing facility, or a retail marijuana store may not  
689 have a financial interest in a facility that has a marijuana testing facility license or is a registered safety compliance facility.

690 § 1326. Marijuana cultivation facility licenses.

691 (a) A marijuana cultivation facility license may be issued only to a person who cultivates retail marijuana for sale  
692 and distribution to licensed retail marijuana stores, marijuana products manufacturing licensees, or other marijuana  
693 cultivation facilities under the terms and conditions of this chapter. A license issued under this section is valid for 2 years.  
694 Each application for a marijuana cultivation facility license must contain all of the following:

695 (1) The application materials required by the Commissioner, including the location where the marijuana  
696 cultivation facility will operate.

697 (2) The application fee in an amount determined by the Commissioner.



698 (3) Proof of compliance with § 1323(a)(3) and (4) of this chapter.

699 (b) A marijuana cultivation facility licensee shall pay the Commissioner biennially for the marijuana cultivation  
700 facility license according to the rates below. A marijuana cultivation facility licensee must renew the license biennially by  
701 paying the fee required by this subsection and by providing documentation of a labor peace agreement. The license fee for a  
702 marijuana cultivation facility shall be as follows:

703 (1) For an indoor facility that is equal to or between 2,501 and 7,500 square feet or for an outdoor facility that  
704 is equal to or between 1.1 and 2.5 acres, the fee is \$5,000.

705 (2) For an indoor facility that is between 7,501 and 10,000 square feet or for an outdoor facility that is equal to  
706 or between 2.6 and 5 acres, the fee is \$7,500.

707 (3) For an indoor facility that is equal to or greater than 10,001 square feet or for an outdoor facility that is  
708 equal to or greater than 5.1 acres, the fee is \$10,000.

709 (c) A marijuana cultivation facility shall track the marijuana it cultivates from seed or immature plant to wholesale  
710 purchase.

711 (d) A marijuana cultivation facility must provide a sample of its products to a facility that has a marijuana testing  
712 facility license for testing and research purposes as required by regulations adopted under this chapter. A marijuana  
713 cultivation facility shall maintain a record of what was provided to the testing facility, the identity of the testing facility, and  
714 the testing results.

715 (e) Retail marijuana or retail marijuana products may not be consumed on the premises of a retail marijuana  
716 cultivation facility.

717 (f) No marijuana cultivation facility license may be issued for an indoor facility exceeding 12,500 square feet or  
718 for an outdoor facility exceeding 7.5 acres unless additional tiers are created by the Commissioner under § 1326(h) of this  
719 chapter.

720 (g) At the time of renewal under § 1326(b) of this chapter, a marijuana cultivation facility licensee may request a  
721 one tier increase in size each renewal period, as long as an updated safety, security and prevention of diversion plan is  
722 provided as required under § 1323(a)(3)b. of this chapter.

723 (h) The Commissioner may create additional tiers under § 1326(b)(1) of this chapter anytime 2 years after [the  
724 effective date of this Act] if demand requires additional tiers.

725 § 1327. Marijuana product manufacturing facility license.

726           (a) A marijuana product manufacturing facility license may be issued only to a person who manufactures and  
727 distributes marijuana products under the terms and conditions of this chapter. A license issued under this section is valid for  
728 2 years. Each application for a marijuana product manufacturing facility license must contain all of the following:

729           (1) The application materials required by the Commissioner, including the location where the marijuana  
730 product manufacturing facility will operate.

731           (2) The application fee in an amount determined by the Commissioner.

732           (3) Proof of compliance with § 1323(a)(3) and (4) of this chapter.

733           (b) A marijuana product manufacturing facility licensee shall pay the Commissioner \$10,000 biennially for the  
734 marijuana product manufacturing facility license. A marijuana product manufacturing facility licensee must renew the  
735 license biennially by paying the fee required by this subsection and by providing documentation of a labor peace  
736 agreement.

737           (c) A marijuana product manufacturing facility shall track all of its marijuana products from the point the  
738 marijuana is received from the retail marijuana cultivation facility until the products are transferred to a retail marijuana  
739 store.

740           (d) A marijuana product manufacturing facility may not do any of the following:

741           (1) Add any marijuana to a food product where the manufacturer of the food product holds a trademark to the  
742 food product's name; except that a manufacturer may use a trademarked food product if the manufacturer uses the  
743 product as a component or as part of a recipe and where the marijuana product manufacturer does not state or advertise  
744 to the consumer that the final retail marijuana product contains a trademarked food product.

745           (2) Intentionally or knowingly label or package a retail marijuana product in a manner that would cause a  
746 reasonable consumer confusion as to whether the retail marijuana product was a trademarked food product.

747           (3) Label or package a product in a manner that violates any federal trademark law or regulation.

748           (e) Retail marijuana products shall be prepared in a marijuana product manufacturing facility that is used  
749 exclusively for the manufacture and preparation of retail marijuana or retail marijuana products and using equipment that is  
750 used exclusively for the manufacture and preparation of retail marijuana products.

751           (f) All licensed premises on which retail marijuana products are manufactured must meet the sanitary standards for  
752 retail marijuana product preparation promulgated under this chapter and as applicable under all of the following:

753           (1) Section 122(3)u of Title 16 and related regulations, the State of Delaware Food Code, § 4458 of Title 16 of  
754 the Delaware Administrative Code, and the Cottage Food Regulations, § 4458A of Title 16 of the Delaware  
755 Administrative Code.

756 (2) Chapter 35 of Title 16.

757 (3) Chapter 41 of Title 16.

758 (4) Chapter 43 of Title 16.

759 (g) All retail marijuana products must be shelf-stable and not require refrigeration to prevent spoilage.

760 (h) A retail marijuana product must be sealed and conspicuously labeled in compliance with this article and any  
761 rules promulgated under this chapter.

762 (1) A marijuana product manufacturing facility shall package and label each product manufactured as required  
763 by the rules established by the Commissioner, including the use of the standard symbol.

764 (2) An edible retail marijuana product must list its ingredients and may list its compatibility with dietary  
765 practices.

766 (3) The standard symbol requirements as established by the Commissioner do not apply to a multi-serving  
767 liquid retail marijuana product that is impracticable to mark if the product complies with all statutory and rule  
768 packaging requirements for multi-serving edibles and with all of the following enhanced requirements to reduce the  
769 risk of accidental ingestion:

770 a. A multi-serving liquid is packaged in a structure that uses a single mechanism to achieve both child-  
771 resistance and accurate pouring measurement of each liquid serving in increments equal to or less than 10  
772 milligrams of active THC per serving, with no more than 500 milligrams of active THC total per package.

773 b. The measurement component is within the child-resistant cap or closure of the bottle and is not a  
774 separate component.

775 (i) Retail marijuana or retail marijuana products may not be consumed on the premises of a marijuana product  
776 manufacturing facility.

777 (j) A marijuana product manufacturing facility must provide a sample of its products to a facility that has a  
778 marijuana testing facility license for testing and research purposes as required by regulations adopted under this chapter. A  
779 marijuana product manufacturing facility shall maintain a record of what was provided to the testing facility, the identity of  
780 the testing facility, and the results of the testing.

781 Part B.

782 Social Equity Licenses.

783 § 1328. Social equity applicant.

784 A social equity applicant is a Delaware resident that meets one of the following criteria:

785           (a) An applicant for any type of license with at least 51% ownership and control by 1 or more individuals who  
786 have resided for at least 5 of the preceding 10 years in a disproportionately impacted area.

787           (b) An applicant for any type of license with at least 51% ownership and control by 1 or more individuals who  
788 meets one of the following criteria:

789                   (1) Was convicted of or adjudicated delinquent for any marijuana-related offense except for delivery to a  
790 minor.

791                   (2) Is married to or the child of a person who was convicted of or adjudicated delinquent for any marijuana-  
792 related offense.

793           § 1329. Social equity application and fees.

794           (a) A social equity license issued under Part B of this subchapter is valid for 2 years. Each application for a social  
795 equity license must contain all of the following:

796                   (1) The application materials required by the Commissioner.

797                   (2) The discounted application fee in the amount of \$1,000.

798                   (3) Proof of compliance with § 1324(a)(2)(a) of this chapter.

799           (b) A social equity licensee shall pay the Commissioner biennially for the social equity license at a discounted rate  
800 of 40% of the applicable open license. A social equity licensee must renew the license biennially by paying the fee required  
801 by this subsection, providing confirmation that all of the criteria in § 1328 are satisfied, and by providing documentation of  
802 a labor peace agreement.

803           § 1330. Technical assistance.

804           The Commissioner shall develop a technical assistance program to aid social equity applicants in applying for a  
805 license and finding financial resources. The Commissioner may partner with the Division of Small Business to administer  
806 workshops to assist social equity applicants and licensees in applying for a license and operating a business.

807           § 1331. Financial assistance.

808           The Commissioner shall establish a Social Equity Fund that may do all of the following:

809                   (1) To provide low-interest rate loans to social equity applicants.

810                   (2) To provide grants to qualified social equity applicants.

811           Part C.

812           Microbusiness Licenses.

813           §1332. Microbusiness license.

814 A microbusiness applicant is an applicant for a marijuana cultivation facility license or a marijuana product  
815 manufacturing license who meets all the following criteria:

816 (1) 51% ownership and control by 1 or more individuals who have resided in Delaware for at least 5 of the  
817 preceding 10 years.

818 (2) Intends to employ no more than 10 employees.

819 (3) Will not operate a facility occupying more than 2500 square feet.

820 (4) Will not possess more than 1,000 marijuana plants each month.

821 § 1333. Microbusiness application and fees.

822 (a) A microbusiness license issued under Part B of this subchapter is valid for 2 years. Each application for a  
823 microbusiness license must contain all of the following:

824 (1) The application materials required by the Commissioner.

825 (2) The discounted application fee in the amount of \$3,000.

826 (3) Proof of compliance with § 1324(a)(2)(a) of this chapter.

827 (b) A microbusiness licensee shall pay the Commissioner biennially for the microbusiness license at a discounted  
828 rate of 40% of the applicable open license. A microbusiness licensee must renew the license biennially by paying the fee  
829 required by this subsection and by providing confirmation that all of the criteria in § 1332 are satisfied.

830 Part C.

831 Issuing of All Licenses.

832 § 1334. Licensing Process.

833 (a) Beginning 13 months after [the effective date of this Act], the Commissioner shall begin accepting applications  
834 for all licenses, including open, social equity, and microbusiness licenses.

835 (b) Beginning 14 months after [the effective date of this Act], the Commissioner shall begin issuing licenses.

836 (c) Beginning 15 months after [the effective date of this Act], the Commissioner shall issue the following number  
837 of cultivation facility licenses provided a sufficient number of qualified applicants exist:

838 (1) Facility less than 2500 square feet:

839 a. 20 microbusiness licenses.

840 b. 10 social equity licenses.

841 (2) Facility more than 2500 square feet:

842 a. 20 open licenses.

843 b. 10 social equity licenses.

844 (d) Beginning 16 months after [the effective date of this Act], the Commissioner shall issue the following number  
845 of product manufacturing facility licenses:

846 (1) 10 open licenses.

847 (2) 10 social equity licenses.

848 (3) 10 microbusiness licenses.

849 (e) Beginning 19 months after [the effective date of this Act], the Commissioner shall issue the following number  
850 of licenses provided a sufficient number of qualified applicants exist:

851 (1) Retail store licenses:

852 a. 15 open licenses.

853 b. 15 social equity licenses.

854 (2) Testing facility licenses:

855 a. 3 open licenses.

856 b. 2 social equity licenses.

857 (f) Impossibility of performance because of opposition by localities or lack of qualified applications is a defense to  
858 any lawsuit brought against the Commissioner to comply with the issuance of the required number of licenses.

859 (g) At any time 2 years after [the effective date of this Act], the Commissioner may accept applications for any of  
860 type license and issue licenses in excess of the numbers identified in subsection (c) of this section for any of the following  
861 reasons:

862 (1) The Commissioner determines that additional stores or facilities are needed.

863 (2) The number of licenses for a particular type of license is less than the number permitted for that type of  
864 license in subsection (c) of this section.

865 Subchapter IV. Determination of Applications.

866 § 1335. Local control.

867 (a) A locality may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing  
868 facilities, marijuana testing facilities, or retail marijuana stores through the enactment of an ordinance or through an  
869 initiated or referred measure.

870 (b) A locality may enact ordinances or regulations that are not in conflict with this chapter or in conflict with  
871 regulations enacted under this chapter, governing the time, place, manner, and number of marijuana establishment  
872 operations. A locality may establish civil penalties for violation of an ordinance or regulations governing the time, place,  
873 and manner of a marijuana establishment that may operate in such locality.

874 § 1336. Procedural requirements governing Commissioner's action; hearing; appeal.

875 (a) The Commissioner shall distribute and receive all of the applications for licensure under this chapter and shall  
876 refer an application to the Division for investigation. If it appears that any application should not be granted, the  
877 Commissioner shall so notify the applicant stating the reason for denial.

878 (b) Hearings on applications for licensure under this chapter.

879 (1) If 10 or more persons who reside or own property within 1 mile of the premises where the license is to  
880 operate or in any locality within 1 mile of the premises where the license is to operate file a protest against the issuance  
881 of the license with the Commissioner within 30 days from the filing of the application, then a hearing must be held to  
882 consider the application and protest and, specifically, the concerns of the members of the community within which the  
883 license is to operate.

884 (2) The Commissioner may hold a hearing in the absence of a protest.

885 (3) The Commissioner shall cause notice of the time and location of the hearing to be published in 2  
886 consecutive issues of the same newspapers within which the applicant published notice of the applicant's application  
887 for the license.

888 (4) The Commissioner shall send notice of the time and location of the hearing to the applicant and to each of  
889 the persons who signed the protest and provided a legible name and address; provided, however, that it is sufficient for  
890 the Commissioner to send notice to a legal agent representing a person.

891 (5) The Commissioner shall conduct the hearing and shall make and keep a record of the hearing. The record  
892 must include the evidence, the Commissioner's findings of fact, the Commissioner's decision, and a brief statement of  
893 the reasons for the decision.

894 (6) The Commissioner shall issue a written decision after the hearing. The Commissioner's decision must show the  
895 manner in which the Commissioner construed the law and applied it to the facts, must recite any objections presented by  
896 the community, and must show how and the extent to which the Commissioner took community concerns into account and  
897 gave them due consideration when making the decision.

898 (c) The Commissioner's decision on an application must be in writing and is final and conclusive unless a party to  
899 such hearing files an appeal within 30 days from the date of the postmark on the Commissioner's decision by mailing notice  
900 of the appeal to the Commissioner's office. Upon receipt of the appeal, the Commissioner shall notify the chair of the  
901 Appeals Commission of the pending appeal and the chair shall convene the Appeals Commission with at least 20 days'  
902 notice to all parties. The Appeals Commission shall hear the appeal and shall review the matter on the record; act in

903 accordance with the Administrative Procedures Act, Chapter 101 of Title 29; and affirm, reverse, or modify the decision of  
904 the Commissioner. A decision of the Commissioner may only be reversed upon a finding of abuse of discretion.

905 (d) A party who is aggrieved by a final decision of the Appeals Commission may file a written appeal with the  
906 Superior Court within 30 days of the date that the Appeals Commission's decision was mailed. The Superior Court's review  
907 of an appeal shall be on the record and in accordance with the Administrative Procedures Act, subchapter V of Chapter 101  
908 of Title 29. The Superior Court's review shall take into account the experience and specialized competence of the  
909 Commissioner and the purpose under which the Commissioner acted. Further, the Superior Court's review, in the absence  
910 of fraud, shall be limited to whether the Commissioner's decision is supported by substantial evidence on the record and is  
911 free from legal error.

912 § 1337. Decision upon application for renewal of license; time of making.

913 On or before the first day of the month preceding the biennial expiration date of a license, the Commissioner shall  
914 render a decision upon every application properly and completely made to it on or before the first day of the third month  
915 preceding the biennial expiration date of a license.

916 § 1338. Grounds for refusal of license; transfer or extension of premises.

917 (a) The Commissioner may not grant a license under this chapter in any county or subdivision thereof, if granting a  
918 license is contrary to any law in such county or subdivision thereof adopted under § 1335 of this chapter.

919 (b) The Commissioner may refuse to license an applicant if the Commissioner has substantial evidence that would  
920 reasonably support a belief that any of the following apply:

921 (1) There are sufficient licensed premises in the locality, or the granting of a license in the locality stated in  
922 the application is not otherwise demanded by public interest or convenience.

923 (2) The applicant appears to be financially irresponsible.

924 (3) The applicant has made false statements to the Commissioner.

925 (4) The applicant, including any of the applicant's directors or officers, or any of the applicant's shareholders  
926 who hold more than 10% of the outstanding issued shares, has been convicted of an offense that may impact the  
927 qualifications, functions, or duties of the business or profession for which the application is made, except that if the  
928 Commissioner determines that the applicant is otherwise suitable to be issued a license, and granting the license would  
929 not compromise public safety, the Commissioner shall conduct a thorough review of the nature of the crime,  
930 conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the  
931 applicant to be issued a license based on the evidence found through the review. In determining which offenses may



932 impact the qualifications, functions, or duties of the business or profession for which the application is made, the  
933 Commissioner shall include the following:

934 a. A violent Title 11 or Title 31 felony conviction as defined in §4201(c) of Title 11 or its functional  
935 equivalent under the laws of the United States, any state or territory of the United States, or any other country.

936 b. Any Class A through C felony conviction as defined in Title 11 or its functional equivalent under the  
937 laws of the United States, any state or territory of the United States, or any other country.

938 c. Any felony conviction regarding an offense against public administration as defined in Subchapter VI  
939 of Title 11 or its functional equivalent under the laws of the United States, any state or territory of the United  
940 States, or any other country.

941 d. A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving  
942 away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing,  
943 offering to furnish, administering, or giving any controlled substance to a minor.

944 (5) A prior conviction, for possession of, possession for sale, sale, manufacture, transportation, or cultivation  
945 of a controlled substance may not be a ground for denial of a license.

946 (6) A substantial objection to the granting of the license has been presented by the community within which  
947 the license is to operate, or that the granting of such license is otherwise not in the public interest. For the purposes of  
948 this subsection, the term "substantial objection" includes 1 or more of the following:

949 a. Any objection, or group of objections, presented to the Commissioner either individually or as a group,  
950 by persons who reside within 5 miles of where the licensee is to operate, sufficient to give the Commissioner  
951 reason to believe that a majority of the residents in that 5 mile radius within which the licensee is to operate  
952 oppose the issuance of the license.

953 b. Any objection, or group of objections, presented to the Commissioner either individually or as a group,  
954 the content of which gives the Commissioner reason to believe the quality of life of the community within which  
955 the licensee is to operate will be adversely affected by the granting of the license.

956 (c) The Commissioner may refuse to grant a license to sell marijuana, marijuana products, or marijuana  
957 accessories to any new establishment to be located in the vicinity of a church, school, college or substance abuse treatment  
958 facility as defined under § 2203 of Title 16. The Commissioner may issue a license to any establishment located in the  
959 vicinity of a church, school, or college when such establishment has been located in a place prior to the time any church,  
960 school, or college may thereafter be located in the vicinity of such establishment.

961 (d) The Commissioner shall refuse to grant a license for the sale of marijuana, marijuana products, or marijuana  
962 accessories for consumption on or off the premises when there is an existing licensed establishment of the same type within  
963 1200 feet by accessible public road or street in any incorporated city or town, or within 1 mile by accessible public road or  
964 street in any unincorporated or rural area. If there is an existing licensed establishment less than 1 mile but more than nine  
965 tenths of 1 mile by accessible public road or street in any unincorporated or rural area, the Commissioner may grant such  
966 license. This subsection does not apply to any of the following:

967 (1) Any existing license or to the sale, transfer of ownership, or renewal of an existing license.

968 (2) Any licensee who desires to move the location of the licensee's license to a location within 500 feet  
969 thereof by accessible public road or street or any licensee located in a shopping center or shopping mall who desires to  
970 move the location of the licensee's license any distance within the same shopping center or shopping mall, whether  
971 such center or mall consists of 1 or more than 1 separate buildings.

972 (e) Any holder of an existing license who desires to move the location of the existing license due to the destruction  
973 of the building, loss of lease, diversion of highway traffic pattern, or other reason beyond the control of the licensee, shall  
974 have preference in the issuance of a new license provided that the application satisfies this section and all other  
975 requirements under this chapter.

976 (f) The Commissioner may not grant a new license of any type and may not grant an extension of premises of an  
977 existing license of any type unless the application for said new license or for said extension is accompanied by a Certificate  
978 of Compliance from the appropriate political subdivision showing all of the following:

979 (1) That the premises where the license is to be used are properly zoned for the applicant's intended use.

980 (2) That all necessary permits have been approved.

981 (3) That the applicant has complied with all other applicable licensing requirements of the appropriate  
982 political subdivision.

983 (g) Subsection (f) of this section does not apply to any application for a temporary extension of premises as  
984 authorized by Commissioner rule if such application has not been objected to by the appropriate political subdivision and  
985 the political subdivision was provided with notice of the application by the applicant within 7 days of the date the  
986 application is filed with the Commissioner.

987 § 1339. Finality of Commissioner's decision refusing license.

988 If an application is not timely protested, but the Commissioner determines that the application should nevertheless  
989 be denied, the Commissioner shall render the decision promptly in writing. The Commissioner's decision shall be final and

990 conclusive unless, within 30 days after notice thereof has been mailed by the Commissioner's office, the applicant files an  
991 appeal in the office of the Commissioner. The appeal shall follow the procedure outlined in § 1342 of this chapter.

992 § 1340. Improvements to premises.

993 The Commissioner may not require an applicant to make improvements to the premises before the issuance of a  
994 license; however, the Commissioner may issue a license to sell marijuana, marijuana products, or marijuana accessories  
995 upon the condition that certain improvements shall be made to the premises.

996 Subchapter V. Cancellation or Suspension of License.

997 § 1341. Grounds for cancellation, suspension, or fines.

998 (a) The Commissioner may cancel every license made use of on behalf of any person other than the one to whom  
999 or on behalf of whom it has been issued.

1000 (b) If the Commissioner has reasonable grounds to believe that a licensee has committed any of the violations in  
1001 subsection (c) of this section, the Commissioner may do one or more of the following:

1002 (1) Suspend the licensee's license.

1003 (2) Cancel the licensee's license if the Commissioner determines the violations to be repeated and continuous,  
1004 or egregious.

1005 (3) Fine the licensee.

1006 (c) It is a violation for a licensee to do any of the following:

1007 (1) Violate any provision of this chapter or any regulation of the Commissioner or the Department of Health  
1008 and Social Services under this chapter.

1009 (2) Make any false representation or statement to the Commissioner in order to induce or prevent action by the  
1010 Commissioner.

1011 (3) Not maintain an acceptable bond, if a bond is required.

1012 (4) Maintain a noisy, lewd, disorderly, or unsanitary establishment or supply impure or otherwise deleterious  
1013 marijuana or marijuana products.

1014 (5) Habitually use dangerous or narcotic drugs, or is in the habit of using alcoholic beverages or marijuana  
1015 products to excess.

1016 (6) Sell marijuana or marijuana products to minors in contravention of § 1305 of this chapter.

1017 (7) Possess on the licensee's licensed premises or sell or offer for sale any marijuana or marijuana products not  
1018 purchased or sold under this chapter.

1019           (8) Use any seal, labels, or wrapper not purchased from or through the Commissioner which are deceptively  
1020 similar to those used by the Commissioner.

1021           (9) Be convicted of a felony or be convicted of violating any of the marijuana laws of this State, general or  
1022 local, including the provisions of this chapter.

1023           (10) Admit guilt or be adjudged guilty of violations of local, municipal, county, or State regulations,  
1024 ordinances, or codes related to the operation of a licensed premises.

1025           (11) Discipline, threaten, or otherwise penalize any person for refusing to violate or aiding the enforcement of  
1026 the provisions of this chapter or the rules of the Commissioner.

1027           (d) Notwithstanding subsection (b) of this section, the Commissioner may cancel or suspend a license if there is  
1028 any other reason which, in the opinion of the Commissioner, warrants cancelling or suspending the license.

1029           (e) The Commissioner may not cancel or suspend any license for the sale of marijuana products or impose any fine  
1030 for an alleged violation of § 1305 of this chapter where the licensee or its employee has made a reasonable effort to  
1031 determine the age of a purchaser of the marijuana products. For purposes of this subsection, a licensee or its employee is  
1032 deemed to have made a reasonable effort to determine the age of a purchaser if, prior to any sale of marijuana products, the  
1033 licensee or its employee requires the purchaser to display identification, with a photograph of the purchaser thereon affixed,  
1034 which sets forth information that would lead a reasonable person to believe the purchaser to be 21 years of age or older.

1035           (f) The Commissioner may also suspend a license for any of the grounds for refusal of a license under § 1332 of  
1036 this chapter.

1037           (g) The Commissioner may cancel any retail license if it has reasonable grounds to believe that the license was  
1038 granted in violation of this chapter, or any regulation enacted pursuant to § 1323 of this chapter.

1039           § 1342. Public hearing and right of appeal.

1040           (a) The Commissioner may not cancel or suspend a license, or fine a licensee, before both of the following occur:

1041           (1) The licensee has been given a public hearing by the Commissioner at which time the licensee is entitled to  
1042 legal representation and to present witnesses.

1043           (2) The ground for canceling or suspending a license is established by clear and convincing evidence.

1044           (b) The Commissioner shall keep a full and complete record of all proceedings incident to a hearing under  
1045 subsection (a) of this section. The Commissioner shall record all testimony at such hearing, but need not have it transcribed  
1046 unless an order of the Commissioner is appealed to the Superior Court under subsection (d) of this section.

1047           (c) An order of the Commissioner relative to suspension or cancellation of a license, or fining a licensee, becomes  
1048 final 10 days after the licensee receives notice thereof, unless, within 10 days of the date of the postmark on the  
1049 Commissioner's decision, a written appeal is filed in the Superior Court. No bond may be required for filing such appeal.

1050           (d) The appeal must state the grounds upon which a review is sought. After the appeal is filed, service shall be  
1051 made by the Sheriff upon the Commissioner. The Commissioner shall certify and file with the court all documents and  
1052 papers and a transcript of all testimony taken in the matter, together with the Commissioner's findings therein as soon as  
1053 practicable but in no event later than 20 calendar days from the date of service of the appeal. The Superior Court's review of  
1054 an appeal shall be on the record and the Superior Court shall take into account the experience and specialized competence  
1055 of the Commissioner and the purpose under which the Commissioner acted. Further, the Superior Court's review, in the  
1056 absence of fraud, shall be limited to whether the Commissioner's decision is supported by substantial evidence on the  
1057 record and is free from legal error.

1058           (e) An appeal without bond may be taken from the decision of the Superior Court to the Supreme Court in the  
1059 same manner as is provided in civil cases. Upon the final determination of judicial proceedings, the Commissioner shall  
1060 enter an order in accordance with such determination, or shall take such further or other action as the Court may order. A  
1061 petition for Supreme Court review shall act as a supersedeas.

1062           § 1343. Effect of cancellation or surrender of license; notice.

1063           (a) The cancellation or acceptance of a surrender of a license entails the loss of the privilege conferred by the  
1064 license and entails the acceptance of or the seizure by the Commissioner of any marijuana or marijuana products found in  
1065 the possession of the licensee, except those which occur solely by reason of the death of the licensee.

1066           (b) Notice of the order of the cancellation or acceptance of the surrender of a license may be served by an officer  
1067 designated by the Commissioner; by affixing a duplicate thereof to the outside of the entrance door of the licensed  
1068 premises; by leaving a duplicate with the holder of the license, or with any member of the family of the holder over the age  
1069 of 18 years at the residence of the holder; or otherwise as in the judgment of the Commissioner will give notice of such  
1070 cancellation or acceptance of the surrender. All cancellations or acceptances of surrender of a license take effect as soon as  
1071 the order is served.

1072           (c) The cancellation or acceptance of surrender of a license does not prevent the filing of any criminal proceedings  
1073 for any offense against the licensee while the license was in force. No conviction obtained for any offense prevents the  
1074 Commissioner from cancelling a license or from making at the same time a seizure of marijuana or marijuana products as  
1075 provided in this title.

1076           (d) The Commissioner shall adopt regulations for seizure of marijuana and marijuana products that preserves and  
1077 does not destroy the marijuana or marijuana products.

1078           § 1344. Payments to former licensee.

1079           The Department of Finance shall, within 30 days of the date of the cancellation or acceptance of surrender of a  
1080 license, remit to the former licensee a part of the license fee which has been paid and pertains to the unexpired term of the  
1081 license. In addition, the Commissioner shall remit to the former licensee the amount originally received by the  
1082 Commissioner from the former licensee in payment for such marijuana or marijuana products accepted or seized as remains  
1083 in packages sealed by the Commissioner, after paying or deducting therefrom all costs and expenses incurred by the  
1084 Commissioner by reason of the acceptance or seizure of the marijuana or marijuana products of the former licensee. When  
1085 other legally acquired marijuana or marijuana products have been accepted or seized under this section, the value thereof as  
1086 determined by the Commissioner must be remitted by the Commissioner to the former licensee, after paying or deducting  
1087 therefrom all costs and expenses incurred by the Commissioner by reason of the acceptance or seizure of the marijuana or  
1088 marijuana products of the former licensee. No payment may be made for illegally acquired marijuana or marijuana products  
1089 that have been seized under this section.

1090           Subchapter VI. Transfer of License; Death of Licensee

1091           § 1345. Transfer of license.

1092           (a) The rights conferred by a license may be transferred by the Commissioner to any representative designated by  
1093 the person to whom or on behalf of whom the license was originally granted, if such representative is a person approved by  
1094 the Commissioner. In the case of death of a licensee, the Commissioner may transfer the license to a qualified person  
1095 recommended by the executor or administrator of the estate of the deceased licensee.

1096           (b) In instances where the Commissioner has approved the transfer of a license, all matters concerning marijuana  
1097 inventories must be handled directly between the transferor and the transferee and all payments must be made directly and  
1098 not through the Commissioner.

1099           § 1346. Death of licensee; payments to licensee's estate.

1100           If any licensee dies and no application is made for transfer of the license, or the Commissioner refuses to permit  
1101 the transfer of the license to another person, the Department of Finance shall return to the legal representative of such  
1102 deceased licensee a share of the license fee received by the Department proportionate to the number of full calendar months  
1103 of the unexpired term. If the marijuana or marijuana products in possession of the licensee at the time of the licensee's death  
1104 are delivered to the Commissioner and the Commissioner ascertains that such marijuana or marijuana products have been  
1105 received by the deceased licensee according to law, the Commissioner must pay to the legal representative the amount

1106 originally received by the Commissioner for such marijuana or marijuana products less 10% thereof, or the appraised value  
1107 less 10% thereof.

1108 Subchapter VII. Owner and Financial Interests of Licensee.

1109 § 1347. Commissioner approval.

1110 The commissioner may refuse approval of changes in the ownership, officers, or directors, financial interest, or  
1111 lease in connection with any license. No such change shall be implemented until reported to and approved by the  
1112 Commissioner.

1113 § 1348. Change in ownership.

1114 (a) In order to change ownership of a license of a licensee, all of the following must be filed with the  
1115 Commissioner on behalf of the new owner or owners:

1116 (1) An application.

1117 (2) A financial statement of the new owner or owners.

1118 (3) Personal financial statements of all individuals, partners, or stockholders holding at least 10 percent of the  
1119 corporate stock.

1120 (4) A copy of the agreement of the terms of the sale or other exchange of financial interest, including stock  
1121 distribution.

1122 (5) Copy of all documents explaining interest and profit/loss distribution.

1123 (6) Any application fee required by the Commissioner.

1124 (7) Any other documents requested by the Commissioner.

1125 (b) A change in ownership includes a change in the entire ownership, change in the partial ownership, or the sale  
1126 or exchange of shares of stock by stockholders.

1127 § 1349. Change in officers or directors.

1128 (a) Each person elected as an officer or director of a licensee shall notify the Commissioner within 7 days after the  
1129 election and provide all information requested by the Commissioner.

1130 (b) No new officer or director may act as an officer or director until approved by the Commissioner.

1131 § 1350. Changes in Financial Interest.

1132 No person may obtain a financial interest in a license or licensee without doing all of the following:

1133 (1) Notification to the Commissioner.

1134 (2) Providing all information and documents requested by the Commissioner.

1135 § 1351. Fees.

1136 If there is a change in ownership or financial interest more than 10%, a fee of \$5,000 or 15% of the value of the  
1137 transaction, whichever is higher, is required.

1138 Subchapter VIII. Marijuana Regulation Fund; Taxes.

1139 § 1352. Marijuana Regulation Fund.

1140 The Marijuana Regulation Fund is established consisting of fees collected and civil penalties imposed under this  
1141 chapter and taxes imposed under this subchapter. The Department of Finance shall administer the fund.

1142 § 1353. Levy and rate of marijuana control enforcement tax; collection.

1143 (a) A tax is imposed on the retail sale of marijuana products under this chapter in this State. This tax is not  
1144 imposed on the sale of medical marijuana products under Chapter 49A of Title 16.

1145 (b) The tax imposed under this section is at the rate of 15% of the retail sales price of the marijuana product.

1146 (c) If the tax imposed under this section does not equal an amount calculable to a whole cent, the tax shall be equal  
1147 to the next higher whole cent.

1148 (d) Except as otherwise provided by the Commissioner, the amount of the tax shall be separately stated on an  
1149 invoice, receipt, or other similar document that the marijuana retailer provides to the consumer at the time the retail sale  
1150 occurs.

1151 (e) A person may not knowingly sell, purchase, install, transfer, or possess electronic devices or software programs  
1152 for the purposes of either of the following:

1153 (1) Hiding or removing records of retail sales of marijuana products.

1154 (2) Falsifying records of retail sales of marijuana products.

1155 (f) A marijuana retailer may not discount a marijuana item or offer a marijuana item for free if the retail sale of the  
1156 marijuana item is made in conjunction with the retail sale of any other item.

1157 § 1354. Collection of tax; quarterly reports of retail marijuana store licensees.

1158 (a) The marijuana control enforcement tax imposed on the consumer under § 1353 of this chapter shall be  
1159 collected at the point of sale and remitted by each retail marijuana store licensee that engages in the retail sale of marijuana  
1160 products. The marijuana control enforcement tax is considered a tax upon the retail marijuana store licensee that is required  
1161 to collect the tax, and the retail marijuana store licensee is considered a taxpayer.

1162 (b) A retail marijuana store licensee shall file a report to the Commissioner on or before the last day of January,  
1163 April, July, and October of each year for the previous calendar quarter.



1164           (c) A retail marijuana store licensee shall pay the marijuana control enforcement tax to the Commissioner in the  
1165 form and manner prescribed by the Commissioner, but not later than with each quarterly report, without regard to an  
1166 extension granted under subsection (e) of this section.

1167           (d) A retail marijuana store licensee shall file the reports required under this section regardless of whether any tax  
1168 is owed.

1169           (e) For good cause, the Commissioner may extend the time for filing a report under this section. The extension  
1170 may be granted at any time if a written request is filed with the Commissioner during or prior to the period for which the  
1171 extension may be granted. The Commissioner may not grant an extension of more than 30 days.

1172           (f) The fact that a retail marijuana store licensee's name is signed to a report is prima facie evidence for all  
1173 purposes that the reports were actually signed by such distributor or a duly authorized agent. Such statements shall contain  
1174 a declaration by the person making the same, to the effect that the statements contained therein are true and are made under  
1175 penalties of perjury, which declaration shall have the same force and effect as a verification of the return and are in lieu of  
1176 such verification.

1177           (g) The quarterly reports or payments of tax under this section are considered to have been duly and timely filed if  
1178 such reports or payments are deposited in the United States mail with postage prepaid on or before the last day of January,  
1179 April, July, and October of each year for the previous calendar quarter. The Commissioner may grant a retail marijuana  
1180 store licensee a reasonable extension of time for good cause.

1181           (h) In lieu of depositing tax payments in the United States mail, a retail marijuana store licensee may hand deliver  
1182 said payment to the Commissioner or the Commissioner may require retail marijuana stores to make electronic transfers of  
1183 such funds to the appropriate state account.

1184           (i) When the last day of January, April, July, and October falls on a weekend or state holiday, the due date of the  
1185 statement and tax shall be the next following business day of the State.

1186           § 1355. Retention of records by retail marijuana store licensee; penalties.

1187           (a) Each retail marijuana store licensee shall maintain and keep, for a period of 3 years, such records of marijuana  
1188 products sold within this State by such retail marijuana store licensee, together with invoices, bills of lading, and other  
1189 pertinent records and papers as may be required by the Commissioner for the reasonable administration of this chapter.

1190           (b) Whoever violates this section shall be fined not more than \$1,000 and the costs of prosecution, or imprisoned  
1191 not more than 1 year, or both.

1192           § 1356. Inspection of records.

1193           (a) The Commissioner, or any agent or employee duly authorized by the Commissioner, may inspect the record of  
1194 all purchases, receipts, sales, and distribution of marijuana products of every retail marijuana store licensee shall at all times  
1195 during the business hours of the day.

1196           (b) The Commissioner shall inspect the records of all purchases, receipts, sales, and distribution of marijuana  
1197 products of retail marijuana store licensees to the extent deemed necessary by the Secretary, by or through such agent or  
1198 employee as may be duly authorized by it, to ascertain whether the retail marijuana store licensees are complying with this  
1199 chapter. If it is found that a retail marijuana store licensee is not complying with this chapter, the Commissioner shall report  
1200 to the Attorney General how the retail marijuana store licensee is failing to comply with this chapter.

1201           § 1357. Discontinuance, sale, or transfer of business by retail marijuana store licensee; penalties.

1202           (a) Whenever a person ceases to engage in business as retail marijuana store licensee within this State under §  
1203 1337 through § 1340 of this chapter, all taxes, penalties, and interest under this chapter not yet due and payable under the  
1204 provisions of this chapter shall, notwithstanding such provisions, become due and payable concurrently with the  
1205 discontinuance, sale, or transfer, and the retail marijuana store licensee shall concurrently with such discontinuance, sale, or  
1206 transfer make a report and pay all such taxes, interest, and penalties.

1207           (b) If a retail marijuana store license is transferred under § 1345 of this chapter, the purchaser or transferee shall be  
1208 liable to this State for the amount of all taxes, penalties, and interest under this chapter, accrued against any retail marijuana  
1209 store licensee selling or transferring a business, on the date of such sale or transfer, but only to the extent of the value of the  
1210 property and business thereby acquired from such distributor or retailer.

1211           (c) A person who violates this section is punished with a fine of not less than \$50 and the costs of the prosecution,  
1212 or imprisoned not more than 1 year, or both.

1213           § 1358. Penalties for failure to file reports or pay tax when due.

1214           (a) When a retail marijuana store licensee fails to file monthly reports with the Commissioner under § 1354 of this  
1215 chapter or when a retail marijuana store licensee fails to pay the Commissioner the amount of taxes due to this State as  
1216 required by § 1348 of this chapter, a penalty of \$50 for each business day accrues up to a maximum of \$3,000 for each  
1217 report.

1218           (b) Any tax due under § 1353 of this chapter bears an interest at the rate of 1% per month, or fraction thereof, until  
1219 the tax due is paid.

1220           (c) Commissioner may waive all or any part of the penalty and interest when it is established to the satisfaction of  
1221 the Commissioner that failure to file the monthly report or pay the tax by the last day of January, April, July, and October  
1222 was not with intent to violate the law.

1223           § 1359. Enforcement; liability; notices of determination and assessment.

1224           (a) Every person who collects any amount under § 1353 of this chapter shall hold the same in trust for the State  
1225 and for the payment thereof to the Commissioner in the manner and at the time provided in § 1354 of this chapter.

1226           (b) In any action or proceeding for the collection of the marijuana control enforcement tax or penalties or interest  
1227 imposed in connection therewith, an assessment by the Commissioner of the amount of the tax due and interest or penalties  
1228 due to the State constitutes prima facie evidence of the claim of the State, and the retail marijuana store licensee has the  
1229 burden of proof to show that the assessment was incorrect and contrary to law.

1230           (c) Promptly after the date of a determination of the marijuana control enforcement tax or penalties or interest due,  
1231 the Commissioner shall notify the person against whom the assessment is made by mail. Within 60 days after the date of  
1232 notification, such person may file with the Commissioner a petition for redetermination of such assessment. Every petition  
1233 for redetermination must state specifically the reason or reasons which the petitioner believes entitles the petitioner to such  
1234 redetermination. The Secretary must dispose of a petition for redetermination within 90 days after the receipt of the  
1235 petition. The Secretary must promptly provide notice of the decision to the petitioner, in writing.

1236           (d) The petitioner may appeal the decision by the Secretary under this section to the Superior Court of this State  
1237 within 60 days of the date of the decision.

1238           § 1360. Collection of delinquent taxes.

1239           If a retail marijuana store licensee is in default for more than 10 days in payment of any taxes or penalties thereon  
1240 payable under the terms of this chapter, the Commissioner may issue a warrant under its official seal, and signed by its  
1241 Secretary, directed to the sheriff of any county of the State, commanding the sheriff to levy upon and sell the goods and  
1242 chattels of such retail marijuana store licensee, without exemption, found within the sheriff's jurisdiction, for the payment  
1243 of the amount of such delinquency, with the added penalties and interest and the cost of executing the warrant, and to return  
1244 such warrant to the Commissioner and to pay the Commissioner the money collected by virtue thereof within the time to be  
1245 therein specified, which shall not be less than 20 nor more than 60 days from the date of the warrant. The sheriff, to whom  
1246 any such warrant is directed, shall proceed upon the same in all respects and with like effect and in the same manner as  
1247 prescribed by law in respect to executions issued against the goods and chattels upon judgments by a court of record, and  
1248 shall be entitled to the same fees for services in executing the warrant, to be collected in the same manner; provided, that  
1249 nothing in this section shall be construed as forfeiting or waiving any rights to collect such taxes by an action upon any  
1250 bond that may be filed with the Commissioner under the provisions of this chapter, or by suit or otherwise, and in case such  
1251 suit, action or other proceeding shall have been instituted for the collection of said tax, such suit, action or other proceeding  
1252 shall not be construed as waiving any other right herein provided.

1253           § 1361. Penalties.

1254           (a)(1) A person who fails or refuses to pay the tax imposed under § 1353 of this chapter; fails to file a report under  
1255 § 1354 of this chapter; makes any false statement in any application, report or statement required by this subchapter; refuses  
1256 to permit the Commissioner or any deputy to examine records under this subchapter; or fails to keep proper records of  
1257 quantities of marijuana products sold under this chapter; or collects or causes to be repaid to any person any tax not being  
1258 entitled to the same under § 1353 of this chapter is punished as follows:

1259                   a. For the first offense, fined not more than \$500 or imprisoned not more than 6 months, or both.

1260                   b. For a second and any subsequent offense, fined not more than \$1,000 or imprisoned not more than 1  
1261 year, or both.

1262           (2) In addition to the penalty under subsection (a)(1) of this section, the defendant must pay all taxes and  
1263 penalties due the State under this chapter and pay to the State any other moneys wrongfully withheld or illegally  
1264 refunded. Each day or part thereof during which any person shall engage in business as a distributor or retailer without  
1265 being the holder of a valid license constitutes a separate offense.

1266           (b) Whoever refuses or neglects to make any statement, report, or return under this subchapter, or knowingly  
1267 makes, aids, or assists any other person in making a false statement in a report to the Commissioner or in connection with  
1268 an application for refund of any tax is fined not less than \$100 nor more than \$1,000, or imprisoned not less than 30 days  
1269 nor more than 1 year, or both. The Superior Court of this State has exclusive jurisdiction over violations of this subchapter.

1270           (c) The Delaware State Police are authorized and directed to assist in the enforcement of this section.

1271           § 1362. Collection of bad checks; service charge; interest.

1272           If a check received in payment of moneys due the Commissioner under this chapter is returned to the  
1273 Commissioner by the maker's bank because of insufficient funds, closed account, stopped payment, or any other reason,  
1274 there shall be imposed upon the maker a service charge of \$10 and interest at the rate of 1% per month, or fraction thereof,  
1275 shall accrue on the tax, if any, from the date such tax was due to be paid. A statement shall be sent to the maker demanding  
1276 payment within 15 days of the original amount of the check plus the added service charge, interest, if any, and the cost of  
1277 the postage incurred in mailing the statement. Failure of the maker to respond to the demand within 15 days shall constitute  
1278 cause for the Commissioner to suspend the maker's retail marijuana store license and 30 days thereafter, to revoke the  
1279 maker's retail marijuana store license.

1280           § 1363. Rules and regulations.

1281 The Commissioner shall make and publish such rules and regulations with respect to the collection and payment of  
1282 the taxes imposed by this chapter as it deems proper, and all such rules and regulations that are not inconsistent with the  
1283 provisions of this chapter have the force and effect of law.

1284 § 1364. Deposit of receipts.

1285 All money received by the Commissioner under this chapter must be deposited, not later than the close of the  
1286 business day next following such receipt, to the Division of Revenue of the Department of Finance to the credit of the  
1287 Marijuana Regulation Fund.

1288 § 1365. Apportionment of revenue.

1289 Revenues generated by the marijuana control enforcement tax under § 1353 of this chapter must be accounted for  
1290 to the State Treasurer and all proceeds must be placed into a special account known as the Marijuana Regulation Fund. The  
1291 funds in the Marijuana Regulation Fund in each fiscal year must be appropriated by the General Assembly as follows:

1292 (1) First, to the administrative costs and expenses of the Commissioner, the Division, including administrative  
1293 expenses, including payroll and other employment costs.

1294 (2) After the payment under paragraph (1) of this section, any remainder shall be appropriated as determined  
1295 by the General Assembly.

1296 § 1366. Financial statements of the Commissioner.

1297 The Commissioner shall render an account to the State Treasurer, in the manner and at the time required by the  
1298 latter, of its receipts and disbursements, and of its assets and liabilities. The State Treasurer may not, however, require such  
1299 reports to be rendered more often than quarterly.

1300 § 1367. Annual audit.

1301 The State Auditor of Accounts shall annually examine and audit the operation of the Office of the Commissioner.

1302 Section 6. Amend § 1903, Title 30 of the Delaware Code by making deletions as shown by strike through and  
1303 insertions as shown by underline as follows:

1304 § 1903. Computation of taxable income.

1305 (e) In computing net income for businesses operating in compliance with Chapter 49A of Title 16 or Chapter 13 of  
1306 Title 4, there is allowed as a deduction from state taxes all the ordinary and necessary expenses paid or incurred during the  
1307 taxable year in carrying on any trade or business, including reasonable allowance for salaries or other compensation for  
1308 personal services actually rendered.

1309 Section 7. The regulations required by § 1324 of Title 4 must be adopted not later than 1 year after the effective  
1310 date of this Act.

1311 Section 8. Amend Subchapter IV, Chapter 47, Title 16 of the Delaware Code by making deletions as shown by  
1312 strike through and insertions as shown by underline as follows:

1313 § 4764 Possession of marijuana; class B misdemeanor, unclassified misdemeanor, or civil violation.

1314 (j) Notwithstanding any provision of law to the contrary, any person who ~~prior to December 18, 2015,~~ was  
1315 convicted of a single offense arising from an original charge under this section or any predecessor statute, law or ordinance  
1316 prohibiting the possession, use or consumption of marijuana or any controlled substance or counterfeit controlled substance  
1317 classified in § 4714(d)(19) of this title shall be eligible for mandatory expungement of the records of the conviction and all  
1318 indicia of arrest pursuant to the provisions of § 4373 of Title 11, provided the applicant is otherwise eligible for mandatory  
1319 expungement as specified therein. Upon issuance of the order of expungement, the records of the conviction and any indicia  
1320 of arrest shall be dealt with in accordance with the procedures specified in §§ 4373, 4376, and 4377 of Title 11.

1321 § 4770 Expungement Eligibility.

1322 (a) Notwithstanding the provisions of any law to the contrary, including any limitation under §4373 of Title 11, an  
1323 individual shall be eligible for mandatory expungement of the records of the conviction and all indicia of arrest under §  
1324 4373 of Title 11, provided that the person has not been convicted of any violent felonies as defined under § 4201 (c) of  
1325 Title 11, if the individual was convicted of either of the following:

1326 (1) Any offense or offenses under § 4764 of this subchapter or any predecessor statute, law, or ordinance  
1327 prohibiting the possession, use or consumption of marijuana or any controlled substance or counterfeit controlled  
1328 substance classified under § 4714(d)(19) of this title.

1329 (2) Any offense or offenses under § 4771 of this title or any predecessor statute, law, or ordinance prohibiting  
1330 the possession or use of drug paraphernalia as defined under § 4701(18) of this title.

1331 (b) Upon issuance of the order of expungement, the records of the arrest and conviction and any indicia of arrest  
1332 shall be dealt with in accordance with the procedures specified under § 4373, § 4376, and § 4377 of Title 11.

1333 Section 9. Amend § 1448, Title 11 of the Delaware Code by making deletions as shown by strike through and  
1334 insertions as shown by underline as follows:

1335 § 1448. Possession and purchase of deadly weapons by persons prohibited; penalties.

1336 (a) Except as otherwise provided in this section, the following persons are prohibited from purchasing, owning,  
1337 possessing, or controlling a deadly weapon or ammunition for a firearm within the State:

1338 (9) Any person, if the deadly weapon is a semi-automatic or automatic firearm, or a handgun, who, at the  
1339 same time, possesses a controlled substance in violation of § 4763, ~~or § 4764~~ of Title 16.

1340 (b) Any prohibited person as set forth in subsection (a) of this section who knowingly possesses, purchases, owns  
1341 or controls a deadly weapon or ammunition for a firearm while so prohibited shall be guilty of possession of a deadly  
1342 weapon or ammunition for a firearm by a person prohibited.

1343 (c) Possession of a deadly weapon by a person prohibited is a class F felony, unless said deadly weapon is a  
1344 firearm or ammunition for a firearm, and the violation is one of paragraphs (a)(1)-(8) of this section, in which case it is a  
1345 class D felony, or unless the person is eligible for sentencing pursuant to subsection (e) of this section, in which case it is a  
1346 class C felony. As used herein, the word "ammunition" shall mean 1 or more rounds of fixed ammunition designed for use  
1347 in and capable of being fired from a pistol, revolver, shotgun or rifle but shall not mean inert rounds or expended shells,  
1348 hulls or casings.

1349 (d) Any person who is a prohibited person solely as the result of a conviction for an offense which is not a felony  
1350 shall not be prohibited from purchasing, owning, possessing or controlling a deadly weapon or ammunition for a firearm if  
1351 5 years have elapsed from the date of conviction.

1352 (e) (1) Notwithstanding any provision of this section or Code to the contrary, any person who is a prohibited  
1353 person as described in this section and who knowingly possesses, purchases, owns or controls a firearm or destructive  
1354 weapon while so prohibited shall receive a minimum sentence of:

- 1355 a. Three years at Level V, if the person has previously been convicted of a violent felony;
- 1356 b. Five years at Level V, if the person does so within 10 years of the date of conviction for any violent  
1357 felony or the date of termination of all periods of incarceration or confinement imposed pursuant to said  
1358 conviction, whichever is the later date; or
- 1359 c. Ten years at Level V, if the person has been convicted on 2 or more separate occasions of any violent  
1360 felony.

#### SYNOPSIS

The Delaware Marijuana Control Act regulates and taxes marijuana in the same manner as alcohol. It allows adults over the age of 21 to legally possess and consume under 1 ounce of marijuana for personal use. It does not permit people to grow their own marijuana.

Section 1: Amends Chapter 47 of Title 16 to provide that the offenses and penalties under Uniform Controlled Substances Act do not apply to marijuana-related conduct allowed under the Delaware Marijuana Control Act or the Delaware Medical Marijuana Act, Chapter 49A of Title 16.

Section 2: Amends § 4764 of Title 16 to eliminate any penalty for possessing 1 ounce or less of marijuana for individuals over the age of 21 but maintains the existing civil penalty for possession of 1 ounce or less for adults age 18 to 21.

Section 3: Amends § 4902A of Title 16 so that the definition of a registered safety compliance facility includes not just marijuana produced for medical use but also marijuana produced under the Delaware Marijuana Control Act.

Section 4: Amends § Chapter 4 of Title 4 to expand DATE's duties and powers to the Delaware Marijuana Control Act.

Section 5: This Act creates the Delaware Marijuana Control Act. Subchapter I contains definitions and general provisions. Where definitions or analogous provisions exist in the Delaware Code, the definitions are referenced and the language from existing statutes is used. This section of the Act permits individuals over age 21 to possess, use, purchase, or

transport 1 ounce (28 grams) or less of marijuana, no more than 5 grams of which may be concentrated, by individuals 21 years of age or older if the individuals are in compliance with this chapter. It permits the operation of marijuana businesses if they operate under licenses granted under Chapter 49A of Title 16, but imposes the same limits on hours and holiday sales as apply to sales of alcohol. It prohibits the use of marijuana in public, by drivers or passengers in vehicles, and prohibits the smoking of marijuana anywhere that smoking tobacco or cigarettes is not permitted. Marijuana may not be sold in an establishment licensed to sell alcohol. Employers and some owners of residential housing can prohibit the use of marijuana. There are specific provisions imposing the same penalties as with alcohol sales, for individuals under the age of 21 using false identification to purchase marijuana, and for businesses that fail to verify the age of marijuana consumers.

This Act creates the Delaware Marijuana Control Act Oversight Committee. This Oversight Committee will coordinate the implementation of this Act with the Medical Marijuana Program, the Division of Public Health, the Division of Substance Abuse and Mental Health, and the public. The Oversight Committee will review the effectiveness of the Delaware Marijuana Control Act in regard to the safe operation of facilities licensed under this Act, the impact of this Act on public safety, and the impact of this Act on public health. The Commissioner must submit an annual report to the Governor and the members of the General Assembly setting forth all matters of interest and all statistics concerning marijuana regulation and control in the State including: the number of licenses of each variety issued with the State; including the name and address of each person licensed to cultivate, manufacture, or sell marijuana or marijuana products in the State; the amount of marijuana and marijuana products sold within the State; the number of licenses of each kind granted and the number cancelled during the year, and the outcomes and effective of the issuance of social equity licenses.

Subchapter II creates the Marijuana Commissioner and Appeals Commission. The Commissioner has the power to establish health and safety regulations for marijuana cultivation that are consistent with applicable rules and regulations established by the Department of Natural Resources and Environmental Control and the Department of Agriculture. The Commissioner must consult with the Division of Alcohol and Tobacco Enforcement before adopting or establishing policies that concern enforcement. Finally, they must coordinate with the Division of Small Business, Development, and Tourism so that potential businesses licensed under this Act have access to programs, particularly those that support small businesses owned by minorities, women, and veterans.

Subchapter III sets up the regulations and licenses under the Delaware Marijuana Control Act. The Marijuana Commissioner has the authority to adopt regulations to implement this Act and includes specific requirements that marijuana establishments must meet to obtain licenses. Regulations must require that products containing marijuana use of a symbol and a standard measurement to be used on all marijuana products so they are easily identified as containing marijuana and consumers can identify the amount of marijuana in different products; be in opaque, child-resistant packaging; and contain a warning label explaining evidence-based harms from consuming marijuana, including the impact on developing brains. The regulations must also contain security requirements, testing requirements, advertising restrictions, and require that food products comply with State food safety laws.

There are separate licensing requirements for retail marijuana stores, marijuana testing facilities, marijuana cultivation facilities, and marijuana product manufacturing facilities. Licensing requirements also differ between open licenses, social equity licenses, and microbusiness licenses. The application fee is \$5,000 for open licenses, \$3,000 for microbusiness licenses, social equity licensees and microbusiness licensees. There is a \$10,000 biennial fee for most open licenses, with reduced licensing fees for microbusinesses and social equity licenses. Cultivation licenses are determined square footage of the grow rates. As part of the competitive scoring process the Commissioner will use to determine which applicant may obtain licenses to operate each type of marijuana establishment, applicants for open licenses will submit an environmental and sustainability plan, as well as attestations affirming that (1) the applicant has a project labor agreement with a bona fide labor organization, and (2) the applicant has or will utilize a project labor agreement.

Subchapter III establishes the criteria for a social equity applicant, requires the Commissioner to develop a financial assistance and technical assistance programming to aid social equity applicants. It also establishes the criteria for a microbusiness license.

Subchapter VII provides the Commission the authority to refuse approval of changes in the ownership, officers, or directors, financial interest or lease in connection with any license. The subchapter also details the requirements when there is a change in ownership of a license or licensee, a change in officers and directors, and changes in the financial interest of a license or licensee.

Subchapter VIII creates the Marijuana Regulation Fund. This fund will consist of fees collected, penalties imposed, and taxes collected under this Act. It creates the marijuana control enforcement tax on retail marijuana in the amount of 15% that will be appropriated as determined by the General Assembly.

Section 6: Creates a State tax deduction for all ordinary and necessary expenses paid or incurred by a marijuana establishment to reflect the inability of a business licensed under this Act to deduct these expenses from federal taxes and thus state taxes. This creates a more level playing field with other businesses.

Section 7: Provides that the initial regulations required under this Act be adopted not later than 12 months after the effective date of this Act.

Section 8: This section allows for the expungement of prior marijuana related offenses as long as the individual has no convictions for violent felonies.



Section 9: Removes possession of marijuana from the list of activities that prohibits a person from at the same time, possessing a handgun.