



SPONSOR: Rep. Keeley

HOUSE OF REPRESENTATIVES  
149th GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 1  
TO  
HOUSE BILL NO. 110

1 AMEND House Bill No. 110 by deleting "(Two-thirds of all members elected to each house thereof concurring  
2 therein)" in the enactment clause after "DELAWARE" and before the colon and inserting in lieu thereof "(Three-fifths of  
3 all members elected to each house thereof concurring therein)".

4 FURTHER AMEND House Bill No. 110 between lines 109 and 110 by inserting the following:

5 "(23) "Work" means as defined in § 3302 of Title 19."

6 FURTHER AMEND House Bill No. 110 on line 120 by deleting "are" between "acts" and "unlawful" and  
7 inserting in lieu thereof "remain".

8 FURTHER AMEND House Bill No. 110 on line 123 by inserting "selling," between "manufacturing," and "or"  
9 therein.

10 FURTHER AMEND House Bill No. 110 between lines 124 and 125 by inserting the following:

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

12 FURTHER AMEND House Bill No. 110 by deleting lines 128 through 132 in their entirety and inserting in lieu  
13 thereof the following:

14 "§ 4905B. Places of employment.

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

17 Nothing in this chapter is intended to affect the ability of employers to do any of the following:

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

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

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

23 (4) Discipline employees who are under the influence of marijuana at work. For purposes of this section,  
24 "under the influence" means that because of marijuana use, the individual is less able than the individual would

ordinarily have been, either mentally or physically, to exercise clear judgment, sufficient physical control, or due care in exercising the responsibilities of their job.”.

FURTHER AMEND House Bill No. 110 on line 139 by inserting “(a)” before “Nothing” therein.

FURTHER AMEND House Bill No. 110 between lines 141 and 142 by inserting the following:

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

FURTHER AMEND House Bill No. 110 by deleting lines 142 through 148 in their entirety and inserting in lieu thereof “§ 4908B [Reserved].”.

FURTHER AMEND House Bill No. 110 by deleting lines 226 through 234 in their entirety and inserting in lieu thereof

“In any prosecution for an offense under Chapter 47 of this title, it is an affirmative defense that the individual who is”.

FURTHER AMEND House Bill No. 110 between lines 246 and 247 by inserting the following and redesignating accordingly:

“b. Director of the Division of Revenue, or designee appointed by the Director of the Division of Revenue.”.

FURTHER AMEND House Bill No. 110 between lines 281 and 282 by inserting the following:

“§ 4918B. Duties and powers of the Department of Health and Social Services.

(a) The Department of Health and Social Services shall establish health and safety regulations for the indoor and outdoor cultivation of marijuana by marijuana establishments under this chapter, including all of the following:

(1) Prohibition of the use of pesticides that are neither organic nor federally-approved for marijuana.

(2) Standards for the use of carbon dioxide.

(3) Standards for water use.

(4) Standards for disposal of waste.

(5) Standards for indoor and outdoor air quality.

(b) Rules and regulations established under this section must be consistent with applicable rules and regulations established under the regulatory authority of the Department of Agriculture and the Department of Natural Resources and Environmental Control.”.

FURTHER AMEND House Bill No. 110 on line 295 by deleting “of” between “Laboratories” and “the” and inserting in lieu thereof: “or”.

FURTHER AMEND House Bill No. 110 on line 360 by deleting “Delaware Economic Development Office” between “the” and “to” and inserting in lieu thereof “Division of Small Business, Development and Tourism and the Department of Agriculture”.

FURTHER AMEND House Bill No. 110 on line 362 inserting “farms and” before “programs” therein.

FURTHER AMEND House Bill No. 110 between lines 434 and 435 by inserting the following and redesignating accordingly:

“(5) Procedures for how establishments licensed under this chapter must track marijuana from seed to sale.”.

FURTHER AMEND House Bill No. 110 by deleting lines 439 through 441 in their entirety and inserting the following:

“(8) Employment and training requirements for licensees, employees, and agents of marijuana establishments including the following:

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

b. That employees of retail marijuana establishment be trained in recognizing valid identification cards.”.

FURTHER AMEND House Bill No. 110 on line 452 by inserting “information for consumers and” between “including” and “labeling”.

FURTHER AMEND House Bill No. 110 on line 454 by deleting “section.” after “this” by inserting in lieu thereof “section, not to exceed 10 mg per serving.”.

FURTHER AMEND House Bill No. 110 between lines 454 and 455 by inserting the following and redesignating accordingly:

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

FURTHER AMEND House Bill No. 110 between lines 457 and 458 by inserting the following and redesignating accordingly:

“g. The specific batch number of the product.

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

FURTHER AMEND House Bill No. 110 by deleting lines 465 through 467 in their entirety and inserting in lieu thereof the following:

“(12) Health and safety regulations and standards for the manufacture of marijuana products by marijuana establishments consistent with other State requirements for food, including all of the following:”.

FURTHER AMEND House Bill No. 110 by deleting line 468 and inserting in lieu thereof the following:

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

FURTHER AMEND House Bill No. 110 on line 473 by deleting “testing” between “sample” and “to” and inserting in lieu thereof “testing, including the manner and frequency of testing.”.

FURTHER AMEND House Bill No. 110 between lines 490 and 491 by inserting the following:

89 “(20) Procedures for receiving and processing consumer complaints about marijuana establishments.”.

90 FURTHER AMEND House Bill No. 110 between lines 498 and 499 by inserting the following:

91 “(4) Proof of compliance with § 4918B of this title.”.

92 FURTHER AMEND House Bill No. 110 by deleting line 570 and inserting in lieu thereof the following:

93 “(2) Beginning 13 months after [the effective date of this Act], the Commissioner shall accept”.

94 FURTHER AMEND House Bill No. 110 between lines 592 and 593 by inserting the following:

95 “(4) Proof of compliance with § 4918B of this title.”.

96 FURTHER AMEND House Bill No. 110 by deleting line 611 and inserting in lieu thereof the following:

97 “(2) Beginning 13 months after [the effective date of this Act], the Commissioner shall accept”.

98 FURTHER AMEND House Bill No. 110 between lines 632 and 633 by inserting the following:

99 “(4) Proof of compliance with § 4918B of this title.”.

100 FURTHER AMEND House Bill No. 110 by deleting line 647 and inserting in lieu thereof the following:

101 “(1) Beginning 10 months after [the effective date of this Act], the Commissioner shall accept”.

102 FURTHER AMEND House Bill No. 110 on line 657 by deleting “registrations” between “30” and “for” and  
103 inserting in lieu thereof “licenses”.

104 FURTHER AMEND House Bill No. 110 on line 658 by deleting “registrations” between “15” and “for” and  
105 inserting in lieu thereof “licenses”.

106 FURTHER AMEND House Bill No. 110 on line 659 by deleting “registrations” between “10” and “for” and  
107 inserting in lieu thereof “licenses”.

108 FURTHER AMEND House Bill No. 110 on line 660 by deleting “registrations” between “10” and “for” and  
109 inserting in lieu thereof “licenses”.

110 FURTHER AMEND House Bill No. 110 between lines 675 and 676 by inserting the following:

111 “(4) Proof of compliance with § 4918B of this title.”.

112 FURTHER AMEND House Bill No. 110 between lines 681 and 682 by inserting the following and redesignating  
113 accordingly:

114 “(d) A marijuana product manufacturing facility shall track all of its marijuana products from the point the  
115 marijuana is received from the retail marijuana cultivation facility until the products are transferred to a retail marijuana  
116 store.”.

117 FURTHER AMEND House Bill No. 110 on line 697 by deleting “Code” between “Administrative” and “and” and  
118 inserting in lieu thereof “Code.”.

119 FURTHER AMEND House Bill No. 110 by deleting lines 702 through 704 in their entirety and inserting in lieu  
120 thereof the following:

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

122 FURTHER AMEND House Bill No. 110 on line 731 by deleting “No later than” between “(2)” and “14” and  
123 inserting in lieu thereof “Beginning”.

124 FURTHER AMEND House Bill No. 110 on line 733 by deleting “No later than” between “(3)” and “16” and  
125 inserting in lieu thereof “Beginning”.

126 FURTHER AMEND House Bill No. 110 on line 756 after “marijuana” by deleting “establishments.” and inserting  
127 in lieu thereof “establishments, but not in excess of the locality’s schedule of fees for establishments licensed under Title  
128 4.”.

129 FURTHER AMEND House Bill No. 110 on line 893 by inserting “or Department of Health and Social Services”  
130 between “Commissioner” and “under”.

131 FURTHER AMEND House Bill No. 110 on line 1026 by deleting “Commissioner and the Division,” between  
132 “the” and “including” and inserting in lieu thereof “Commissioner, the Division, and the Department of Health and Social  
133 Services.”.

134 FURTHER AMEND House Bill No. 110 on line 1041 by deleting “alcohol, tobacco, and marijuana” between “of”  
135 and “abuse” and inserting in lieu thereof “substance”.

136 FURTHER AMEND House Bill No. 110 on line 1043 by deleting “marijuana” after “of” and inserting in lieu  
137 thereof “drugs”.

138 FURTHER AMEND House Bill No. 110 between lines 1043 and 1049 by inserting the following:

139 “e. Ten percent to the Department of Safety and Homeland Security to improve Driving Under the Influence  
140 enforcement by training law-enforcement personnel as drug recognition experts to use physiological indicators of drug use  
141 and performance in roadside cognition and psychomotor tests; to purchase devices that measure THC levels, as they  
142 become available; to implement pilot programs to better identify and deter drugged driving; and for forensic testing of  
143 blood samples.”.

#### SYNOPSIS

This Amendment revises House Bill No. 110 to incorporate the recommendations from the HCR 52 Adult Use Cannabis Task Force. The specific changes are as follows:

- Removes the two-thirds vote requirement because instead of creating new crimes, the Act references existing crimes that already prohibit and punish specific acts.
- Replaces the two-thirds vote requirement with a three-fifths vote requirement because the Act creates new fees and a new tax.
- Adds a definition of “work” that references the definition in § 3302 of Title 19.
- Clarifies that certain acts are currently unlawful and remain unlawful under the Act, so that it is clear that if not explicitly permitted, acts remain unlawful.
- States explicitly that selling marijuana without a license remains illegal and punishable under Chapter 47 of Title 16.
- States explicitly that using false or fraudulent identification is illegal and punishable under § 2751 of Title 21.
- Revises the employment section as follows:
  - Replaces “in the workplace” with “work” to cover any location where an employee is engaged in work.
  - Reorders the first sentence to be clear that employers are not required to permit any marijuana activities.

- Adds a definition of “under the influence” that is modeled on the definition in § 4177(c) of Title 21.
- Adds explicit protections for employers to take actions to prevent penalties under federal law, consist with the Delaware Medical Marijuana Act.
- Prohibits an individual under age 21 from entering or remaining in a marijuana establishment and punishes a violation with a civil penalty of \$50.
- Removes the false identification crime because this already prohibited and punished under § 2751 of Title 21.
- Removes the crime of selling marijuana or marijuana products to an individual under age 21 because these acts are already crimes under Chapter 47 of Title 16, but preserves the affirmative defense where the individual under age 21 presented identification that would lead a reasonable person to believe such individual was 21 years old or older.
- Adds the Director of the Division of Revenue as a member of the Delaware Marijuana Control Act Oversight Committee.
- Moves responsibility for the regulation of the safe cultivation of marijuana to the Department of Health and Social Services (“DHSS”), prohibits the use of pesticides that are neither organic or federally-approved, and requires standards for the use of carbon dioxide. Requirements established by DHSS under this chapter must be consistent with the requirements established by the Department of Agriculture and the Department of Natural Resources and Environmental Control. Compliance with the DHSS regulations is a requirement for all licenses and noncompliance is grounds for a license to be cancelled, suspended, or the licensee fined.
- Changes the reference from the Delaware Economic Development Office to the Division of Small Business, Development and Tourism and the Department of Agriculture and requires the Commissioner to also connect potential marijuana establishments with farms.
- Adds a clear, general requirement that licensees track marijuana from seed to sale.
- Adds a specific training requirement for licensees and employees of retail marijuana store licensees.
- Adds a requirement that information be provided to consumers regarding the serving size and number of servings per package and limits the amount of marijuana in each serving to 10 mg and limits the number of servings in each package to 5.
- Adds a requirement that the specific batch number be included on the label of each marijuana product.
- Adds a requirement that consumers receive evidence-based information about how to interpret the information on the marijuana product label, health effects, and potential interactions with prescription and nonprescription medications.
- Prohibits products that look like candy or cartoon characters.
- Adds that the random testing requirements include the manner and frequency of testing.
- Requires procedures for receiving and processing consumer complaints about marijuana establishments.
- Requires that applications for all marijuana establishments provide proof of compliance with DHSS regulations under this chapter.
- Requires that all retail marijuana products be shelf-stable and not require refrigeration.
- Limits fees charged by localities to the amount of the fees charged to businesses with an alcohol license under Title 4.
- Provides funds to DHSS for administrative costs under this chapter.
- Provides funding for the prevention, treatment, and education regarding substance abuse instead of only alcohol, tobacco, and marijuana abuse.
- Provides funding to train more law enforcement officers across the state as Drug Recognition Experts, purchase devices that measure THC levels as they become available, implement pilot programs to better identify and deter drugged driving, and for forensic testing of blood samples.
- Corrects typographical errors.