151st GENERAL ASSEMBLY
FISCAL NOTE

BILL:	**HOUSE BILL NO. 305**
SPONSOR:	**Representative Osienski**
DESCRIPTION:	**AN ACT TO AMEND TITLES 4, 11, 16, AND 30 OF THE DELAWARE CODE RELATING TO CREATION OF THE DELAWARE MARIJUANA CONTROL ACT.**

Assumptions:

1. This Act, known as the Delaware Marijuana Control Act, becomes effective upon signature by the Governor.
2. This Act regulates and taxes marijuana in the same manner as alcohol and allows adults over age 21 to possess and consume under one ounce of marijuana. Other provisions of this Act relevant to this fiscal projection include:
   a. permitting the operation of marijuana businesses (i.e., retail stores, testing, cultivation, and product manufacturing facilities) if operated under proposed licenses and restrictions as defined within the Act;
   b. creates the Delaware Marijuana Control Act Oversight Committee to evaluate and make recommendations regarding the implementation of this Act;
   c. expands upon the powers and duties of the Division of Alcohol and Tobacco Enforcement (DATE) of the Department of Safety and Homeland Security (DSHS) for the enforcement of marijuana laws;
   d. creates a Marijuana Commissioner who would have the authority to adopt regulations to implement this Act, including the establishment of requirements related to obtaining licenses for marijuana establishments and the products sold at these establishments;
   e. creates an Appeals Commission who shall hear an applicant or licensee's appeal of a decision of the Marijuana Commissioner;
   f. creates the Marijuana Regulation Fund (MRF), administered by the Office of the State Treasurer, which would consist of the fees collected, civil penalties imposed, and taxes collected under this Act; and
   g. creates the Justice Reinvestment Fund to allocate 7% of the tax revenue collected to be used for programs and initiatives focusing on restorative justice and other related issues.
3. This Act expands upon the DATE's duties and powers and creates an Office of the Marijuana Commissioner and Appeals Commission. Recurring annual costs are estimated at $1,862,577, and one-time costs are estimated at $623,571 and are as follows:
   a. Addition of 14.0 FTE positions to the DATE for marijuana regulation and enforcement.
      i. Recurring Costs - $1,337,812
         1. $1,137,812 in Personnel Costs, including Other Employment Costs (OECs), for 1.0 FTE, Captain; 1.0 FTE, Lieutenant; 1.0 FTE, Sergeant; 8.0 FTE, Marijuana Enforcement Agent III (same as Alcohol & Tobacco Enforcement Agent III); 1.0 FTE, Deputy Attorney General; 1.0 FTE, Public Information Officer; 1.0 FTE, Management Analyst III; and adjustments to the base salary of the Division Director and Deputy Director for DATE.

2. $200,000 for the estimated rent and utilities for a DATE marijuana facility to house the new positions.

ii. One-Time Costs - $609,571

1. $100,000 to upgrade the current alcohol license tracking and violation system to accommodate marijuana.

2. $14,000 for travel needs for DATE to visit a regulated state(s) to observe marijuana regulation, enforcement, public health, and agricultural practices.

3. $75,000 for an external evidence storage building with security.

4. $20,000 startup costs for purchase, training, and equipping a drug detection K9 and equipping an existing vehicle in DATE's fleet.

5. $300,571 in supplies for equipment (uniforms, firearms, radios), computers, office furniture, and office supplies.

6. $100,000 for hiring a consultant to draft marijuana regulations and review the policies and procedures for marijuana regulation and enforcement.

b. Addition of 5.0 FTE positions for the creation of an Office of the Marijuana Commissioner.

i. Recurring Costs - $524,765

1. $419,590 in Personnel Costs, including OECs, for 1.0 FTE, Marijuana Commissioner; 1.0 FTE, Deputy Marijuana Commissioner; 1.0 FTE, Deputy Attorney General; 1.0 FTE, Paralegal I; and 1.0 FTE, Administrative Specialist II.

2. $5,175 for estimated annual compensation and reimbursement of reasonable expenses related to creating a three-member Appeals Commission.

3. $100,000 for the estimated rent and utilities for a facility to house the new positions.

ii. One-Time Costs - $14,000 for computer equipment and office furniture startup costs for new positions.

4. The Department of Finance (DOF), Division of Revenue (DOR), anticipates a need for personnel to assess, collect, review taxpayer accounts to identify deficiencies of a retail marijuana tax and conduct necessary audits. Recurring annual costs are estimated at $140,671, and one-time costs are estimated at $1,034,600 and are as follows:

a. Addition of 7.0 FTE positions for collecting and auditing a marijuana tax.

i. Recurring Costs - $140,671 in Fiscal Year 2023 Personnel Costs, including OECs, for 1.0 FTE, Tax Auditor Supervisor; 3.0 FTE, Tax Auditor III; 2.0 FTE, Tax Auditor II, and 1.0 FTE, Tax Auditor I.

ii. One-Time Costs - $1,034,600

1. $1,000,000 for the creation of forms and programming of a new tax type in the revenue collection system.

2. $19,600 for computer equipment and office furniture startup costs for new positions.

3. $15,000 for the purchase of a safe for the anticipated collection of cash receipts.

5. The DATE anticipates that it would develop and execute a Memorandum of Understanding (MOU) with the Department of Health and Social Services (DHSS), Division of Public Health (DPH), which will require personnel for the enforcement of regulations associated with this Act. Recurring annual costs for the DPH are estimated at $103,005, and one-time costs are estimated at $16,800 and are as follows:

a. Addition of 6.0 FTE positions for investigating the regulated activities to assure compliance with applicable laws.

i. Recurring Costs - $103,005 in Fiscal Year 2023 Personnel Costs, including OECs, for 6.0 FTE, Investigator II.

ii. One-Time Costs - $16,800 for computer equipment and office furniture startup costs for new positions.

6. The DATE anticipates that it would develop and execute an MOU with the Department of Agriculture (DDA), which will require personnel for the enforcement of regulations associated with this Act. Recurring annual costs for the DDA are estimated at $37,663, and one-time costs are estimated at $14,000 and are as follows:

   a. Addition of 2.0 FTE positions for investigating the regulated activities to assure compliance with applicable laws.

      i. Recurring Costs - $37,663 in Fiscal Year 2023 Personnel Costs, including OECs, for 2.0 FTE, Agricultural Specialist.

      ii. One-Time Costs - $14,000 for computer equipment, office furniture, and other necessary startup costs for the new positions.

7. This Act will result in additional revenue by introducing application fees, license fees, civil penalties imposed, and a marijuana control enforcement tax of 15% percent. The accompanying Fee Impact for this Act estimates that the State may receive a minimum of $925,000 in Fiscal Year 2024 from application and license fees, assuming that a sufficient applicant pool exists and the maximum number of licenses issued.

8. All Fiscal Year 2023 personnel costs for the DATE and the Office of the Marijuana Commissioner have been estimated for 9-months of funding, with the annualization of the remaining 3-months incorporated into subsequent year estimates. Additionally, a 2% inflation cost has been included for projected increases to salary, health insurance, and OECs.

9. All Fiscal Year 2023 personnel costs for the DOR, DPH, and the DDA have been estimated for 3-months of funding, with the annualization of the remaining 9-months incorporated into subsequent year estimates. Additionally, a 2% inflation cost has been included for projected increases to salary, health insurance, and OECs.

10. Lastly, this fiscal impact assumes that the Fiscal Year 2023 operational costs associated with this Act would have to initially be funded through the General Fund as any revenue received by the generation of fees, penalties, and taxes to the MRF would not occur until after the implementation and the hiring of the necessary FTE positions. Provided that enough revenue is collected to offset the operational costs identified, it is assumed that the DATE, Office of the Marijuana Commissioner, and the Appeals Commission would be funded from revenues from the MRF in subsequent fiscal years. Recurring identified budgetary needs for the DOR, DPH, and the DDA are projected to remain funded by the General Fund until otherwise determined by the General Assembly.

Cost:

	One-Time	General Fund	Marijuana Regulation Fund
Fiscal Year 2023:	$1,688,971	$2,143,916	
Fiscal Year 2024:		$1,147,862	$2,409,893
Fiscal Year 2025:		$1,170,820	$2,451,952

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