149th GENERAL ASSEMBLY
FISCAL NOTE

BILL:	**HOUSE BILL NO. 110**
SPONSOR:	**Representative Keeley**
DESCRIPTION:	**AN ACT TO AMEND TITLE 16 AND TITLE 30 OF THE DELAWARE CODE CREATING THE DELAWARE MARIJUANA CONTROL ACT.**

Assumptions:

1. This Act creates the Delaware Marijuana Control Act which provides for the following:
    a. permits individuals over age 21 to possess, use, purchase, or transport 1 ounce (28 grams) or less of marijuana while no more than 5 grams of which may be in a concentrated form;
    b. permits the operation of marijuana businesses if operated under proposed licenses and restrictions defined within the Act;
    c. creates the Delaware Marijuana Control Act Oversight Committee which 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;
    d. creates the Division of Marijuana Control and Enforcement within the Department of Safety and Homeland Security offering similar powers and duties to the existing Division of Alcohol and Tobacco Enforcement;
    e. 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 and;
    f. Creates the Marijuana Regulation Fund which would consist of the fees collected, penalties imposed, and taxes collected under this Act.

2. The following costs are for the implementation and support of the 2 new Divisions required by this Act including the Division of Marijuana Control and Enforcement and the Office of the Marijuana Commissioner. Ongoing costs are estimated at $1,769,492 and one-time costs are estimated at $814,768 and are as follows:
    a. Creation of a new Division of Marijuana Control and Enforcement
        i. Ongoing Costs – $1,333,486
            1. $1,283,486 in Personnel Costs for 15.0 FTEs (includes OECs)
            2. $50,000 in Contractual Services for rent and utilities
        ii. One-Time Costs - $808,614
            1. $429,000 for creation of License Tracking System
            2. $216,314 in Supplies for equipment (uniforms, firearms, radios, PC's)
            3. $75,000 for evidence storage building
            4. $35,000 for office furniture and office supplies
            5. $18,700 for video surveillance and electronic access systems
            6. $18,000 for purchase, training, and associated costs for a drug detection K-9 unit
            7. $10,000 for an evidence inventory system

8. $6,600 for training
9. Indeterminable amount for hiring a consultant to draft marijuana regulations and review the policies and procedures for marijuana regulation and enforcement
10. Indeterminable amount for facility costs to house new positions

b. Creation of a new Office of the Marijuana Commissioner

i. Ongoing Costs - $436,006

1. $436,006 in Personnel Costs for 5 FTEs (includes OECs)
2. Unknown amount for rent and utilities

ii. One-Time Costs - $6,154

1. $6,154 for computers and office equipment

3. The following costs are associated with the Division of Public Health within the Delaware Department of Health and Social Services relating to the operational costs associated with the regulatory responsibilities and oversight of the growing operations. The Division of Public Health currently has the same responsibilities for the medical marijuana program. Annual Personnel and associated operating costs are estimated at $556,064 while one-time start-up costs are estimated at $15,500 and are as follows:

a. The Division of Public Health would require 8.0 additional FTEs to inspect and monitor the additional facilities.

i. 1.0 FTE (Investigative Supervisor) at an annual cost of $73,267 (includes OECs)
ii. 2.0 FTEs (Investigator III) at an annual cost of $131,702 (includes OECs)
iii. 5.0 FTEs (Investigator II) at an annual cost of $296,831 (includes OECs)
iv. Ongoing operating costs for fleet vehicles, office space, and supplies would total $54,264
v. One-time costs for items such as furniture totaling $15,500
1.

4. The following costs associated with the training of State and local law enforcement officers to increase the number of Drug Recognition Officers (DRE) statewide is expected however indeterminable:

a. $3,000 per officer

i. Approximately 16 Delaware State Police Officers are trained at this time
ii. Delaware State Police has 2 Officers that can train others
iii. Indeterminable: total number of law enforcement Officers intended to be trained
iv. Indeterminable: for overtime to cover shifts of those in training

5. This analysis does not take into account the following:

a. Any possible loss in Federal funding related to the passage of this Act.

b. Any possible increase in the Division of Forensic Science's projected work load for the Toxicology Unit due to increased testing for DUI (drug) cases.

c. Any possible loss in revenue to the Fund to Combat Violent Crimes which provides funding for State and local law enforcement from a surcharge on certain types of convictions. State law enforcement agencies could be required to switch fund existing expenditures to the General Fund due to a decline in revenues from the legalization of small quantities of marijuana.

d. Any possible portion of the application or license fees that might be returned if the license is not granted.

6. Estimated revenue from a newly created excise tax on marijuana ranges from $9,000,000 to $50,000,000 annually. This estimate utilizes the Colorado Legislative Council's methodology which would yield demand estimates between 250,000 and 450,000 ounces annually. This estimate also assumes the price range per ounce to be around the national average of $250 to $300 per ounce. Lastly, this estimate does not take into account any additional legalization of recreational marijuana in Delaware's regional market. It is indeterminable to estimate when the levels of revenue are expected to be at full capacity due to the requirements of setting up the necessary infrastructure and the inability to determine initial demand for the products. In addition, there are many difficulties surrounding the projection of revenue that will be generated including uncertainties with Federal Law relating to the treatment of marijuana income.

7. The total fiscal impact of this Act is indeterminable due to the inability to determine when the annual amount of revenue this Act is estimated to generate from fees and taxation will begin to offset the operational costs that are mentioned above. For the purpose of this analysis, the effective date of this Act is assumed to be January 1, 2019.

Cost:

Fiscal Year 2019: Indeterminable, but a minimum of $ 1,993,046

Fiscal Year 2020: Indeterminable, but a minimum of $ 2,325,556 offset by fees, civil penalties and taxes imposed by this Act

Fiscal Year 2021: Indeterminable, but a minimum of $ 2,325,556 offset by fees, civil penalties and taxes imposed by this Act.

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