151st GENERAL ASSEMBLY
FEE IMPACT

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.**

In accordance with 29 Del. C. §913, the following information is provided relating to licenses and fees.

Description of the Legislation:

This Act, known as the Delaware Marijuana Control 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. Additionally, this Act creates a Marijuana Regulation Fund (MRF), consisting of imposed fees, taxes, and civil penalties, and a Justice Reinvestment Fund (JRF) composed of 7% of the total marijuana tax money receipted monthly to the MRF.

The Marijuana Commissioner (Commissioner) may begin accepting applications for all licenses, including open, social equity, and microbusiness licenses, 13 months after the effective date of this Act. The non-refundable application fees for these licenses are $5,000, $1,000, and $3,000, respectively.

Licenses may be issued as determined by the Commissioner, 14 months after the effective date of this Act. All licenses are valid for two years, and fees are paid on a biennial basis. In addition to a regular license by establishment type, this Act allows for the issuance of social equity licenses and microbusiness licenses at a discounted rate of 40% of the applicable open license. This Act further defines the number of licenses to be issued based on the type of marijuana establishment as follows:

Retail Marijuana Store License – A retail marijuana store licensee shall pay $10,000 biennially. Provided enough qualified applicants exist, the Commissioner shall issue 15 open licenses and 15 social equity licenses, beginning 19 months after the effective date of this Act.

Marijuana Testing Facility License – A marijuana testing facility licensee shall pay $10,000 biennially. Provided enough qualified applicants exist, the Commissioner shall issue three open licenses and two social equity licenses, beginning 19 months after the effective date of this Act.

Marijuana Cultivation Facility License – A marijuana cultivation facility under 2,500 square feet is subject to a biennial application fee of $1,000 for a social equity license or a biennial $3,000 application fee for a microbusiness license. Provided enough qualified applicants exist, the Commissioner shall issue 20 microbusiness and ten social equity licenses to facilities in this category. For facilities larger than 2,501 square feet, providing enough qualified applicants exist, the Commissioner shall issue ten social equity licenses and 20 open licenses. These licenses are tiered based upon facility size and range from $2,000 to $4,000 for a social equity license and $5,000 to $10,000 for an open license. The Commissioner shall issue these licenses beginning 15 months after the effective date of this Act.

Marijuana Product Manufacturing Facility License – A marijuana product manufacturing facility licensee shall pay $10,000 biennially. Provided enough qualified applicants exist, the Commissioner shall issue ten open licenses, ten social equity licenses, and ten microbusiness licenses, beginning 16 months after the effective date of this Act.

Special License for Sunday – Biennial license fee of $500 for the issuance of a special license to sell marijuana and marijuana products on Sundays, which is additional to any other license fees required of the holder.

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

Affected Entities:

Department of Safety and Homeland Security, Office of the Marijuana Commissioner *(creation of)*, Division of Alcohol and Tobacco Enforcement (DATE); Department of Justice (DOJ); Department of Finance, Division of Revenue; Office of the State Treasurer; Department of Agriculture; and Department of Health and Social Services, Division of Public Health

Fiscal Impact:

Revenues generated by these fees would not be received until a minimum of 13 months after this Act is signed into law. Fiscal estimates of revenues generated by these fees assume that the Commissioner has enough qualified applicants and can issue the total number of licenses within the time frames defined by the type of marijuana establishment in this Act. The total number of applications received, the number of licensees that will apply to sell on Sundays, or how many marijuana establishments may file for a change in ownership is indeterminable and not factored into this estimate. Since these fees are paid on a biennial basis, it is assumed that these fees will be received during the Fiscal Year 2024 and then not again until Fiscal Year 2026, outside the three-year projection of this Fee Impact.

Fiscal Year 2023:	No Fees Collected
Fiscal Year 2024:	Minimum of $925,000
Fiscal Year 2025:	Assume no significant collection of fees until biennial license renewals in FY 26

Intended Use of Revenue:

Revenues generated must be placed into the MRF and are intended to support the administrative costs and expenses of the Commissioner, the DATE, including payroll and other employment costs. Additionally, specific administrative costs and expenses of the DOJ incurred to administer the JRF may use funding from the MRF. Lastly, 7% of the total marijuana tax money received from the preceding month shall be withdrawn from the MRF and credited to the JRF. Any remainder in the MRF shall be appropriated as determined by the General Assembly.

Funding in the JRF during each fiscal year shall be appropriated to the DOJ to administer grants, contracts, services, or initiatives that focus on issues such as restorative justice, jail diversion, workforce development, industry-specific technical assistance or mentoring services for economically disadvantaged persons in disproportionally impacted areas, addressing underlying causes of crime, reducing drug-related arrests, reducing the prison population, and creating or developing technology to assist with the restoration of civil rights and expungement of criminal records. Any remainder in the JRF at the end of each fiscal year is not subject to reversion.

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