



Annual Report 2023

Office of the Marijuana Commissioner

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Commissioner's Letter

On behalf of the team at the Office of the Marijuana Commissioner (OMC), I present the OMC 2023 Annual Report. House Bill 2 from the 152nd Delaware General Assembly created the OMC and entrusted the Commissioner and the staff to establish and regulate the adult use recreational marijuana industry in Delaware. Since the law took effect in July 2023, the OMC has been working diligently to draft regulations, develop a fair and equitable application process to issue licenses, and establish rigorous standards to address health concerns associated with the recreational consumption of marijuana products.

The launching of the adult use recreational marijuana industry is a huge undertaking and requires the help of many government and non-government agencies to be successful. We have been inspired by the support we have received from our partners and stakeholders. Several states have already transitioned from a medical marijuana program to an adult use recreational model with varied results. The OMC is intently reviewing what worked well in those states and what challenges they faced during the transition. From that review, we have identified several critical areas that Delaware needs to focus on to be successful. The first area is the prompt launching of the State regulated marketplace for adult use recreational sales to reduce the negative impact of the illicit market. A second critical focus area is to create a fair and equitable license application process for disadvantaged individuals and families disproportionately impacted by the prohibition of marijuana over the past eight decades. Finally, and most importantly, is a focus on developing strategies to ensure a safe marijuana market which protects the most vulnerable citizens including children, the elderly, and individuals with addiction concerns.

As the OMC moves forward with the development of the rules and regulations, we will be offering the public an early, informal opportunity to review and comment on the elements of the regulations. Starting in February 2024, individual sections will be posted weekly on our website. It is our hope that this early engagement with the community and stakeholders will enhance transparency and foster a shared commitment to the OMC's goals.

Executive Summary

This first annual report from the Office of the Marijuana Commissioner (OMC) and subsequent annual reports will provide a record of the accomplishments and challenges encountered while implementing the Delaware Marijuana Control Act (DMCA), which legalized adult use recreational marijuana.

The legislation to pass the Marijuana Control Act was accomplished in two separate bills during the 152nd General Assembly, House Bill 1 ([Delaware Marijuana Control Act, HB 1](#)) and House Bill 2 ([Delaware Marijuana Control Act, HB 2](#)), Representative Edward Osienski was the primary sponsor for both bills along with Senator Trey Paradee. HB1 and HB2 passed the House in early March, were both passed by the Senate on March 28, 2023, and then enacted without the signature of Governor Carney on April 27, 2023. Commissioner Rob Coupe was nominated by Governor Carney, confirmed by the Senate in June and sworn-in as Commissioner on July 17, 2023.

In the first six months since the Office of the Marijuana Commissioner (OMC) was established, much of the focus has been on meeting with stakeholders and partners from across the state. The meetings with both government and non-government organizations, included visits to the neighboring states of New Jersey and Maryland. In addition to meeting with stakeholders and our partners, another critical priority has been building the infrastructure of the OMC which included offices, equipment, branding and hiring staff. As of December 2023, all five OMC staff positions have been filled. The OMC website (omc.delaware.gov) is operational including the “Contact Us” tab which features the OMC email (OMC@delaware.gov) and the office phone number (302) 244-DOMC (3662).

Listed below are the major projects the OMC team has focused on in 2023. These initiatives are critical for the adult use recreational marijuana industry to become operational over the next 18 months. The projects include establishing rules and regulations, creating the license application process, developing the Social Equity program, and acquiring a new seed to sale software contract for the state.

Stakeholder Engagement

The OMC has established relationships with government agencies, and non-government agencies, collectively working together to transition from a medical marijuana program to a combined medical and adult use recreational program. The existing medical marijuana industry operators have offered tremendous support and educational opportunities for the OMC staff and agency partners to learn about marijuana production through facility tours and briefings.

State of Delaware Agency Partners

| | |
|---|--|
| Office of Medical Marijuana | Office of the State Treasurer |
| Department of Agriculture | Department of Technology and Information |
| Delaware State University | Division of Small Business |
| Delaware Technical and Community College | Office of Highway Safety |
| Division of Alcohol and Tobacco Enforcement | Delaware State Police |
| Division of Public Health | Delaware Justice Information System |
| Public Health Lab | Criminal Justice Council |
| Department of Finance | Developmental Disability Council |
| Division of Revenue | Council for Persons with Disabilities |
| Division of Gaming Enforcement | Government Information Center |
| Department of Justice | Office of Management & Budget/GSS |
| Justice of the Peace Courts | Office of Management & Budget/Planning |

Other Governmental

Maryland Cannabis Administration
New Jersey Cannabis Control Board
Marijuana Control Act Oversight Committee
Marijuana Appeals Commission (DE)
Office of the Child Advocate

Marijuana Industry Partners

NCS Analytics
High Tide Lab
First State Compassion
Columbia Care
Fresh Delaware
The Farm
Best Buds
Valor Cannabis
Marcu Industries Consulting
Delaware Cannabis Industry Association

External and NGO Partners

NCC Chamber of Commerce
Delaware Bar Association
Delaware Cannabis Advocacy Network
Delmarva Power and Light
Delaware Banker's Association
Cannabis Regulators Association
League of Local Governments
Addiction Action Committee
Delaware Pharmacists Society
SUD Support Groups (Treatment & Prevention)
Cannabis Regulators Association (CANNRA)

Oversight Committee

The enabling legislation that created the OMC also created the Marijuana Control Act Oversight Committee (Oversight Committee). The Oversight Committee meets a minimum of twice a year for the purpose of evaluating and making recommendations to the Governor, the General Assembly, the Department of Safety and Homeland Security (DSHS) and the Marijuana Commissioner on issues related to product safety, consumer supply, the effect of the Act on public safety and public health.

The 15 members of the Marijuana Oversight Act Committee include:

DSHS Secretary or designee appointed by the Secretary:

Deputy Secretary Kimberly Chandler

Director of the Division of Revenue, or designee:

Director Kathy Revel

Director of the Division of Public Health, or designee:

Deputy Director Rebecca Walker

Director of the Division of Substance Abuse and Mental Health, or designee:

Director Joanna R. Champney

Director of the Delaware Medical Marijuana Program, or designee:

Director Joseph Schlimer

Chief Diversity Officer of the Division of Diversity, Equity and Inclusion, or designee:

Chief Richard Potter

Director of the Division of Small Business, or designee:

Director Regina Mitchell

One member of the House of Representatives, appointed by the Speaker of the House:

Representative Edward Osienski

One member of the Senate, appointed by the President Pro Tempore of the Senate:

Senator Trey Paradee

Delaware State Senate Appointed Marijuana Advocates:

Richard Jester, New Castle County

Zoë Patchell, Kent County

Mark Jacobs, Sussex County

House of Representatives Appointed Marijuana Advocates:

Laura Sharer, New Castle County

Adam Windett, Kent County

Jene Duffy, Sussex County

The Oversight Committee had its initial meeting on November 15, 2023, the agenda and minutes for the meeting can be found on the [Public Meeting Calendar: State of Delaware](https://publicmeetings.delaware.gov/#!/meeting/76575) <https://publicmeetings.delaware.gov/#!/meeting/76575>.

Appeals Commission

The Appeals Commission was created in § 1321 of the enabling legislation to be appointed by the Governor and confirmed by the Senate. The 3-member Appeals Commission consists of one member from each County and will meet regularly to hear and consider appeals of decisions made by the Marijuana Commissioner.

The Honorable William L. Chapman, Jr.

New Castle County

Reverend Rita M. Paige

Kent County

Michael Houghton, Esquire

Sussex County

Licensing

In accordance with the enabling legislation §1343, the Commissioner may begin receiving license applications September 1, 2024, for all license types. To reduce paper and create an online digital license application process, the OMC has committed to using the software application Salesforce to receive license applications and is working with the Department of Technology and Information (DTI) to setup up the online process.

Beginning October 1, 2024, the Commissioner has the authority to issue up to the following number of licenses:

| | |
|--|----|
| Open Cultivation License: | 20 |
| Social Equity Cultivation (≥ 2500 ft ²): | 10 |
| Microbusiness Cultivation: | 20 |
| Social Equity Cultivation (≤ 2500 ft ²): | 10 |
| Open Manufacturing: | 10 |
| Social Equity Manufacturing: | 10 |
| Microbusiness Manufacturing: | 10 |
| Open Retail License: | 15 |
| Social Equity Retail License: | 15 |
| Open Testing Lab: | 3 |
| Social Equity Testing Lab: | 2 |

Regulations, application guidance documents, and the link to the disproportionately impacted area maps will be available on the OMC website (omc.delaware.gov) before the online licensing portal system is operational.

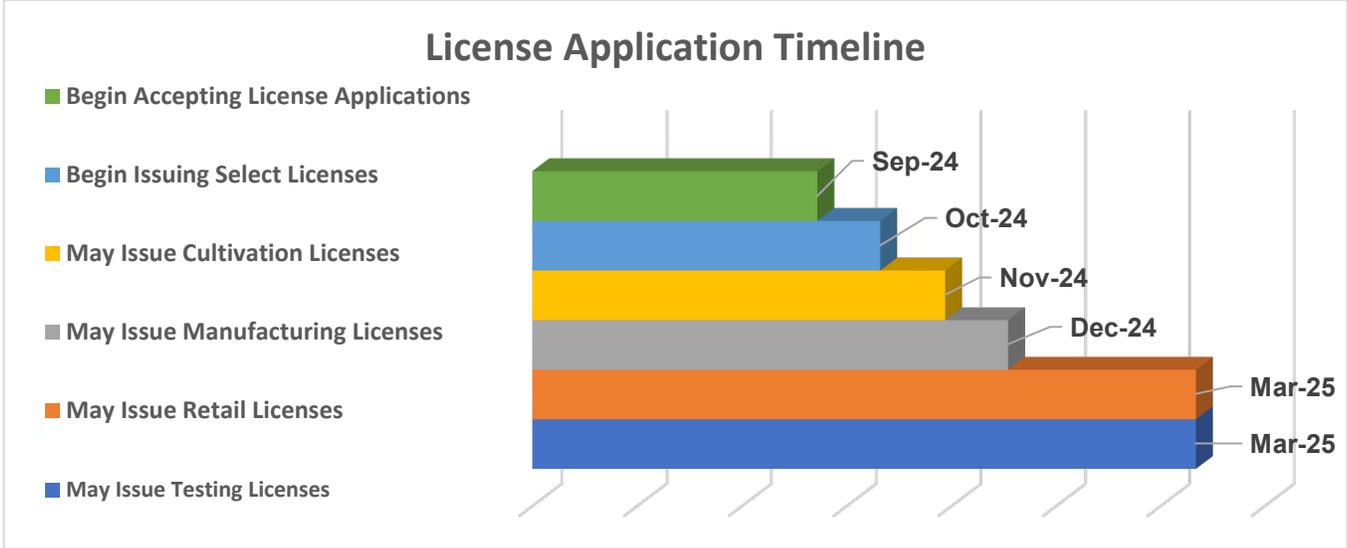
The legislation calls for the balance of the licenses to be issued over a series of months beginning:

November 1, 2024, for cultivation,

December 1, 2024, for manufacturing,

March 1, 2025, for retail and testing licenses.

Subsequent annual reports will highlight statistical data regarding license holders and their progress in becoming operational.



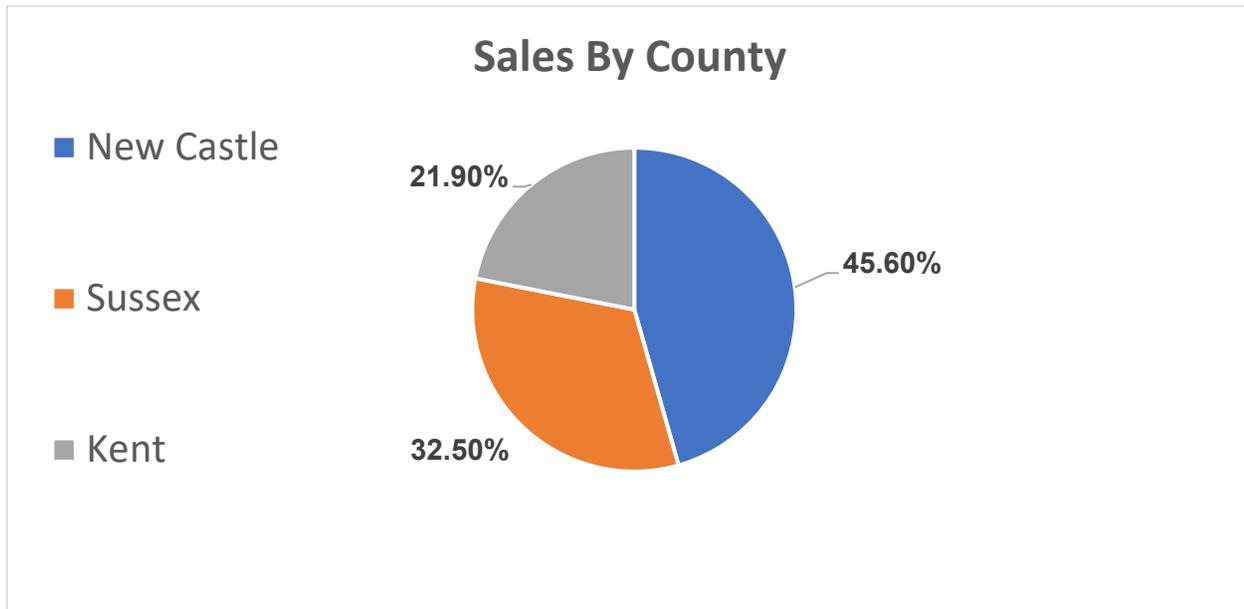
Social Equity Licenses

Social equity licenses are created under the enabling legislation to facilitate participation in the regulated marketplace by individuals adversely affected by marijuana prohibition laws. Social equity license applicants must demonstrate that they resided in a disproportionately impacted area for five of the preceding 10 years, and or, that the applicant or immediate family member of the applicant was convicted of a qualifying marijuana related offense. The Office of the Marijuana Commissioner is working with state partners to identify the “disproportionately impacted areas” in Delaware. An interactive map will be published with the impacted areas broken down by census tracts.

As outlined above, there are 47 social equity licenses allocated, the Delaware social equity license applicants will have access to additional technical assistance to provide guidance in the application process, help in identifying financial resources and the basics of operating a business. All social equity applicants will have access to a reduced application fee and 40% discounted license fee.

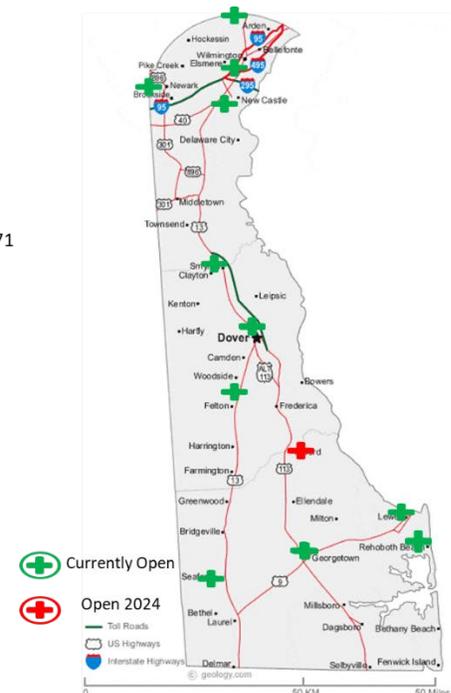
Marijuana Industry in Delaware

While the long-term impact from the legalization of adult use recreational marijuana on the medical marijuana program in Delaware is still unknown, looking at the 12 current medical marijuana retail locations can provide some insight into the purchase patterns of Delawareans. According to purchase records, New Castle County had the largest portion of sales with 45.6%, Sussex County had 32.5% of sales and Kent County had 21.9% of sales.



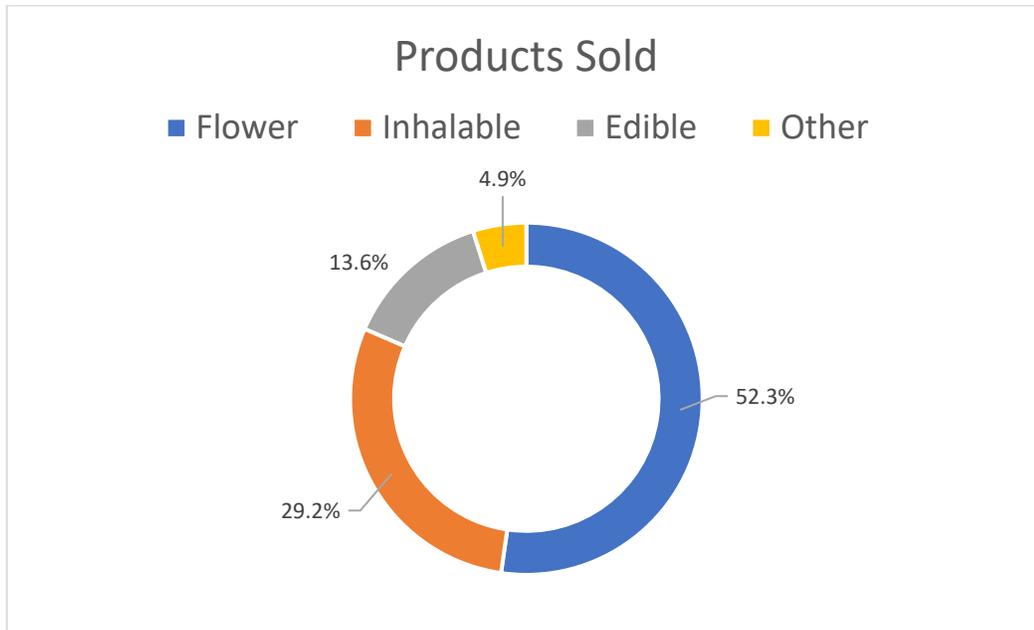
The current marijuana industry in Delaware consists only of the medical marijuana program providers. There are six licensed companies, five have active cultivation facilities, four have active manufacturing facilities, and combined there are 12 active retail locations, with one additional location opening in Milford, Delaware in early 2024.

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|--------------------------|------------------------------|--------------------------|
| • Best Buds (CannTech) | 516 Jefferic Blvd | Dover, DE 19901 |
| • Best Buds (CannTech) | 23 Georgetown Plaza | Georgetown, DE 19947 |
| • Columbia Care Delaware | 5608 Concord Pike | Wilmington, DE 19803 |
| • Columbia Care Delaware | 200 S. Dupont Hwy | Smyrna, DE 19977 |
| • Columbia Care Delaware | 36725 Bayside Outlet Dr | Rehoboth Beach, DE 19971 |
| • First State Compassion | 37 Germay Dr | Wilmington, DE 19804 |
| • First State Compassion | 12000 Old Vine Blvd Unit 102 | Lewes, DE 19958 |
| • Fresh Delaware | 800 Ogletown RD | Newark, DE 19911 |
| • Fresh Delaware | Milford Shopping Center | Milford, DE 19964 |
| • Fresh Delaware | 22982 Sussex Hwy | Seaford, DE 19973 |
| • The Farm | 105 Irish Hills Rd | Felton, DE 19943 |
| • The Farm | 240 S. DuPont Hwy | New Castle, DE 19720 |
| • Valor Cannabis | 4555 Kirkwood Hwy | Wilmington, DE 19808 |

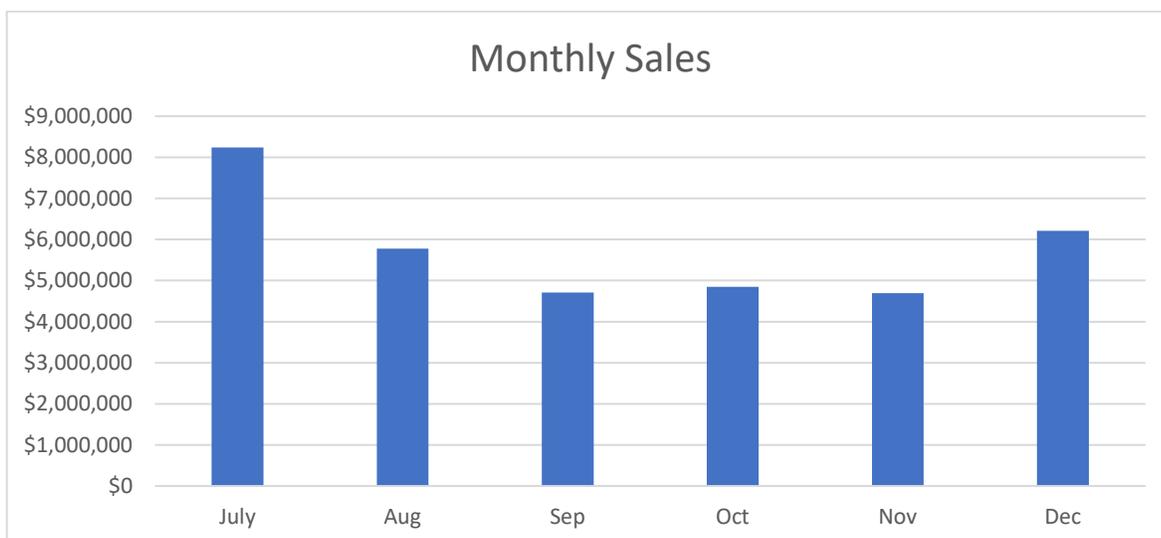


Sales Data

In 2023, the total sales of marijuana products for the Delaware Medical Marijuana Program exceeded \$53.8 million. This included smokable flower sales of \$28.3M, which represents 2,625,742.04 grams (5,788.8 pounds) at an average price of \$10.80 per gram. Smokable flower was the most popular marijuana product type, making up 52.3% of purchases, followed by inhalable products at 29.2%, edible products like gummies and baked goods were 13.6% and topicals and tinctures were 4.9% of sales.



In July 2023, when the State of Maryland initiated adult use recreational sales, the average monthly medical marijuana sales in Delaware were \$8.24M per month. Since July, sales of medical marijuana in Delaware have decreased to a low of \$4.7M in November before rebounding to \$5.2M in December.



Capacity

At the end of 2023, the medical marijuana vendors collectively had 3,352 pounds of flower in inventory. The amount of inventory on hand for medical marijuana businesses is limited by regulations. Current regulations allow them to have no more than 1,000 pounds of product onsite.

Economic Impact

While it is difficult to confidently project the economic impact of adult use recreational sales in Delaware, looking at the current medical marijuana program participant's purchase habits can be an indicator of what to expect. In 2023, the 17,000 medical marijuana patients spent an average of \$3,303 per year on marijuana products. When that is compared to the conservative, projected adult use recreational purchase population of 85,000 the estimated annual sales would be \$281M with potential tax revenues of \$42M.

Federal Legislative Landscape

As of December 2023, there had been 21 federal bills filed dealing with marijuana, cannabis, hemp, or expungement of marijuana offenses. Of these 21 bills, the most impactful would be the "Secure And Fair Enforcement Regulation Banking Act" or the SAFER Banking Act of 2023, which would allow banks and credit unions to conduct business with cannabis businesses, and their workers, in states where cannabis is legal. This federal legislation would make the marijuana industry immediately safer by reducing the cash amounts on premise that marijuana businesses hold, by allowing marijuana related businesses access to traditional banking services.

The second noteworthy federal initiative is the rescheduling of marijuana or cannabis in the Controlled Substance Act (CSA) from the most restrictive schedule, Schedule 1, which is reserved for drugs that have no medical use and are highly addictive, down to Schedule 3. Rescheduling to Schedule 3 would allow marijuana businesses to claim traditional business expenses such as rent or personnel costs, which are prohibited by the IRS 280E tax code.

The Office of the Marijuana Commissioner will continue to monitor these federal initiatives closely to ensure that Delaware is prepared in the event one of the legislative initiatives become law.