



Office of the Marijuana Commissioner

June 2024

Commissioner Rob Coupe

Deputy Commissioner Paul Hyland

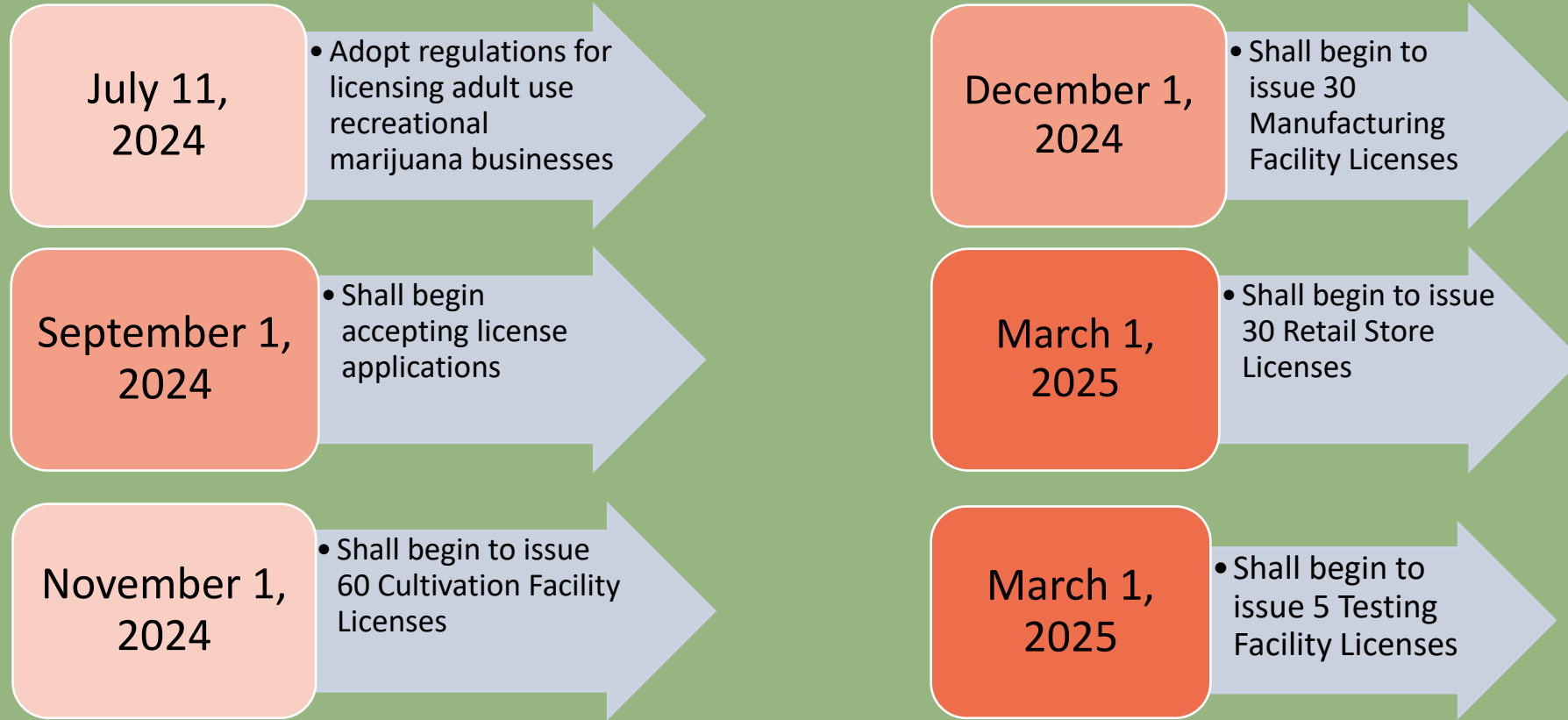
OMC SOCIAL EQUITY WORKSHOPS

Agenda

- Timeline for Implementation
- License Types & Cost
- Social Equity Licenses
- Disproportionately Impacted Areas (DIA) Map
- License Application and Selection Process
- Social Equity Applicant Eligibility Verification Process
- Social Equity Program Financial Support
- Legislative Requests – Technical Fixes and New Legislation



Timeline for Implementation



License Types

Cultivation - 60

Open Cultivation License: 20

Social Equity Cultivation (≥ 2500 ft²): 10

Microbusiness Cultivation: 20

Social Equity Cultivation (≤ 2500 ft²): 10

Retail - 30

Open Retail License: 15

Social Equity Retail License: 15

Manufacturing - 30

Open Manufacturing: 10

Social Equity Manufacturing: 10

Microbusiness Manufacturing: 10

Testing Lab - 5

Open Testing Lab: 3

Social Equity Testing Lab: 2

Total All Licenses – 125

Total Social Equity Licenses - 47



Application & License Costs:

- Application fee is \$5,000
- Discount: **Social Equity application fee is \$1,000**; Microbusiness application fee \$3,000 (§1337 & §1341)
- OMC license fee is \$10,000 for two-year license (adjusted costs for Cultivation license based on plant grow canopy size cost \$2,500, \$7,500, or \$10,000)
- **Social Equity and Microbusiness licenses are discounted to 40% of regular license and cost \$4,000 for two-year license.**
- Sunday Sales require a \$500 biennial license fee §1309 (b)(3).
- **(Note: T4 §1309(b) May not sell or deliver on Thanksgiving, Easter or Christmas)**



Social Equity License Program:

This program is designed to create a more inclusive and equitable marijuana industry by providing opportunities for those disproportionately impacted by past marijuana laws.

Who Benefits?

- Individuals with past marijuana-related convictions.
- Residents of neighborhoods heavily affected by past marijuana enforcement.

How Does It Work?

- **Reserved Licenses:** A portion of available licenses are specifically designated for social equity applicants.
- **Reduced Fees:** Applying for a marijuana business license can be expensive. This program reduces those fees for qualified applicants.
- **Community Investment:** Tax revenue from marijuana sales will fund programs that support communities harmed by past marijuana laws.



Social Equity License Program:

§ 1336 Social equity applicant.

Applicant must have **at least 51% ownership and control... and meet one of the following criteria.**

- **Criteria 1:** have resided for at least 5 of the preceding 15 years in a **disproportionately impacted area** as defined in §1302 Definitions.
- **Criteria 2: Was convicted** of or adjudicated delinquent of a marijuana-related offense under Delaware law prior to April 23,2023, except any of the following:
 - Delivery to a minor.
 - Any marijuana offense with a Tier 3 quantity of marijuana as defined in § 4751C of Title 16.
(5000 grams of Marijuana = 11.02 pounds)
- **Criteria 3: Had or has a parent, legal guardian, child, spouse, or dependent who was convicted** of or adjudicated delinquent for any marijuana-related offense under Delaware law prior to April 23, 2023, that would qualify under Criteria 2 above.

Updated 3.22.24 with HB334



§ 1338 Technical assistance

The Commissioner shall develop a technical assistance program to aid social equity applicants...

Disproportionately Impacted Areas (DIA):

- § 1302 (7) “Disproportionately-impacted area” means census tracts in the State of Delaware identified by the Commissioner in collaboration with state and local agencies that have high rates of arrest, conviction, and incarceration relating to the sale, possession, use, cultivation, manufacture, or transport of marijuana.
- § 1336 (1) An applicant for any type of license with at least 51% ownership and control by 1 or more individuals **who have resided for at least 5 of the preceding 15 years in a disproportionately-impacted area**, as defined in § 1302 of this title.




§ 1302 Definitions.(7)

§ 1336. Social Equity Applicant. (1)

Social Equity (SE) License Process:

License process

SE Eligibility Verification → Application → Lottery → Selected Applicant → Conditional license → Active license

- Social Equity Eligibility Verification Process – submit registration form at the OMC Website. Process available June 2025.
- Verification process will be conducted by CSI – Creative Services, Inc. 
- If verified as an eligible Social Equity applicant, you will receive a Social Equity Verification Number to use on your application.
- License Application Process will open on September 1 and conclude on September 30th



Social Equity License Program Workshops:

- **New Castle County (6/5/2024)** Stanton Campus Delaware Technical Community College
(400 Stanton Christiana Rd, Newark, DE 19713)
- **Sussex County (6/12/2024)** Owens Campus Delaware Technical Community College
(21179 College Dr, Georgetown, DE 19947)
- **City of Wilmington (6/18/2024)** Wilmington Campus Delaware Technical Community College
(333 N Shipley St, Wilmington, DE 19801)
- **Kent County (6/26/2024)** Dover Library, Loockerman St., Dover, DE 19901 **(New Location and Date)**
- Check in and networking from 3:00 pm to 4:00 pm. Presentations begin at 4:00 pm. Panel Discussion at 5:00 pm concludes with networking from 5:30 pm to 6:00 pm



§ 1338 Technical assistance .

The Commissioner shall develop a technical assistance program to aid social equity applicants...

Social Equity License Program Financial Support:

- Pending at this time...



§ 1339 Financial assistance

The Commissioner shall investigate opportunities for public and private sources of financial assistance that could support social equity applicants.

Legislative Requests – Technical Fixes and New Legislation

HB 334 - Legislative Technical Fixes – passed awaiting Governor’s signature

License process

Application → Lottery → Selected Applicant → Conditional license → Active license

Social Equity and Micro Business Residency Requirements Challenged

Dormant Commerce Clause

New Legislation

HB 408 Conversion License for existing OMM License Holders

HB425 Merging the Office of Medical Marijuana (OMM) into the OMC

HB285 makes modifications to current OMM program – passed awaiting Governor’s signature

Watching:

HB355 provides reassurance to banking industry working with state regulated marijuana industry



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DAG Adria Martinelli, Legal Counsel



Website [OMC.Delaware.gov](https://www.OMC.Delaware.gov)
Also on **Facebook**, **Instagram** and **X**



**THE OFFICE OF THE
MARIJUANA
COMMISSIONER**

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CANNABIS BANKING

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Cannabis Banking Solutions

Financial solutions provided to cannabis-related businesses, including dispensaries, growers, processors, and ancillary businesses to support the industry*

- Accounts available for multi-state operations (medical and recreational)
- Electronic delivery of documents for all accounts (no need to come into a branch)
- Competitive pricing, plus earnings credit to offset account fees
- Business Online Banking with electronic Bill Pay and Mobile Check Deposit
- Treasury Management Services –
 - ACH Origination
 - Remote Deposit Capture
 - Positive Pay for checks and ACH with payee verification
 - Commercial sweep accounts
 - Lockbox service
 - BAI2 File format available
- Customer portal for secure transfer of data and streamlined account onboarding
- Automated monitoring and alert notifications
- Cash handling with vetted third-party armored couriers
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- Deposit Account Control Agreements (DACA)
- Escrow accounts

Our dedicated team has over 7 years experience in banking the cannabis industry. Our mission is to be a trusted and reliable source for all of your banking needs! Contact us today at SelectDivision@shoreunitedbank.com to get started!

*All product offerings are subject to account review and approval.

Member FDIC Equal Housing Lender



Doing Business in Delaware Primer:
Presented for the OMC Social Equity Workshop

June 2024

Basics of Business Formation



Corporations

- Must incorporate. In DE, visit the Division of Corporations (corp.delaware.gov)
- Must pay Corporate Income Tax (8.7% rate) on income allocated and apportioned to DE.
- Must have a business license for each type of commerce.
 - Generally \$75 for a first location
 - May owe Gross Receipts Tax
- If paying wages or other remuneration, must file withholding.
- Must obtain a Federal Employer Identification Number (FEIN) from the IRS (www.irs.gov)

LLCs, Partnerships, and Sole Props

- LLC's formed in Delaware must pay an annual fee to Division of Corporations. (corp.delaware.gov)
- Business Income will flow through to owners Personal Income Tax accounts.
- Must have a business license for each type of commerce.
 - Generally \$75 for a first location
 - May owe Gross Receipts Tax
- If paying wages or other remuneration, must file withholding.
- Must obtain a Federal Employer Identification Number (FEIN) from the IRS (www.irs.gov)
 - Unless a Sole Prop with no employees

Business Licenses and Gross Receipts (GRT)



Delaware does not currently impose a retail sales tax on typical sales

GRT has a large monthly exclusion, but no deductions

If you derive income from multiple license types you will require multiple licenses

Retail Marijuana sales are exempt from GRT, but paraphernalia is not

Likely Business License Types				
OMC License	Revenue License	License Fee	Monthly Exclusion	Tax Rate
Testing	General Services	\$75 + \$25 for additional site	\$100,000	0.3983%
Cultivation	Wholesale	\$75 per site	\$100,000	0.3983%
Manufacturing	Food Processor	\$75 per site	\$100,000	0.1991%
Manufacturing	Manufacturers	\$75 per site	\$1,250,000	0.1260%
Retailer	Retail Sales	\$75 + \$15 crime fee + \$25 + \$15 crime fee for additional site	\$100,000	0.7468%

Example Retail GRT Form



DELAWARE FORM DIVISION OF REVENUE GRT-TAX GROSS RECEIPTS TAX



RESET

PRINT

BUSINESS NAME AND ADDRESS	TAXPAYER ID	AMENDED
Wood Stone Revel Farms 13579 Unknown Rd. Mystery Town, DE 29321		<input type="checkbox"/>
	TAX PERIOD STARTING	10-01-2024
	TAX PERIOD ENDING	10-31-2024
	DUE ON OR BEFORE	11-15-2024

1.	TOTAL GROSS RECEIPTS	\$	1,000,000.00
2.	EXCLUSION AMOUNT	\$	100,000.00
3.	TAXABLE GROSS RECEIPTS	\$	900,000.00
3a.	GROSS RECEIPTS RATE		.3983 %
4.	GROSS RECEIPTS TAX DUE	\$	3,584.70
5.	NEW BUSINESS FACILITY CREDITS	\$	0.00
6.	TOTAL TAX DUE	\$	3,584.70

Tax Certification and costs of doing business



- OMC license applications and renewals will require Certificates of Tax Clearance for corporations or individuals with substantial ownership in a marijuana related business (MRB).
 - Required forms: Form 8821 and Form CLR-APP
 - The fee for this service is \$40 for corporations and \$20 for individuals
 - Promised turn around is 3-5 weeks, though marijuana and alcohol license requests are given priority
- For MRB income taxes only, a deduction is now allowed for:
 - An amount equal to the ordinary and necessary business expenses paid or incurred for the taxable year by a marijuana business operating...which is disallowed as a deduction for federal purposes pursuant to § 280E of the Internal Revenue Code [26 U.S.C. § 280E].

Trust Taxes and responsible parties



- A trust tax is a case where a person or business collects a tax for the State to satisfy the liability owed by another party in a transaction
 - The retail marijuana sales taxes (15%) is a trust tax.
 - Withholding tax is a trust tax.
- Failure to pay a trust tax can result in additional penalties on willfully fraudulent “responsible parties”.
- The Director of Revenue has the authority, as granted by Title 30 §535 of the Delaware Code, to penalize “responsible parties” described as an officer or employee of a corporation, or a member, officer or employee of a pass-through entity who willfully fails to collect, account for and pay over tax imposed by Title 4 or Title 30.
- The “responsible party” penalty may be levied upon individuals who, as a matter of status or authority, are responsible to collect and account for the retail sales tax (15%) because of significant control over an employer’s finances and which of the employer’s debts are being satisfied.

Kiadii
Harmon,
Esquire

MM.
MARON MARVEL.

Nik Patel



Delaware Recreational Licensing

S O C I A L E Q U I T Y I N F O R M A T I O N S E S S I O N

James Brobyn, President

Jennifer Stark, Treasurer

Anthony Massey, Director of Operations

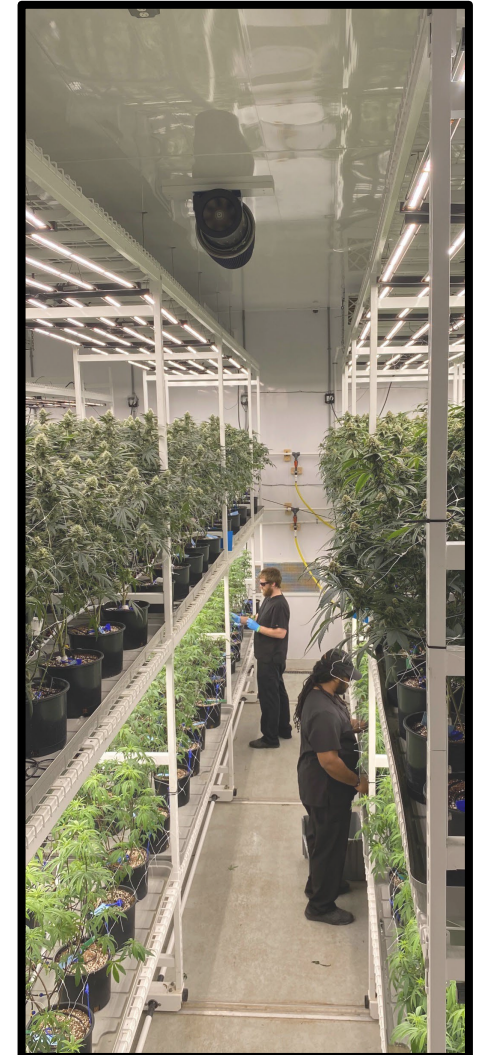


DELAWARE CANNABIS
INDUSTRY ASSOCIATION

ABOUT US

The DCIA is the leading voice for Delaware's legal cannabis businesses. The DCIA advocates for a responsible and successful medical and adult-use cannabis industry by promoting sensible laws and regulations while promulgating best practices and resources among members.

- Founded January 2023.
- Founding members comprise all six of the compassion center license holders.
- Led the charge to create and pass HB285 - Medical Marijuana Improvement Act - in 2023
- Working with OMC on funding social equity grants with funds raised through license conversion fees paid by the current compassion centers.



OUR PURPOSE

To build a thriving cannabis industry the “Delaware Way” - our practice of working together, even through our differences, to find common ground, innovate, and get things done.

DCIA is working to:

- Ensure safe access to regulated cannabis for all medical and adult-use consumers.
- Ensure social equity and social justice initiatives are well thought out and executed at a high level.
- Develop a cannabis market that rewards consumers with high quality products with prices competitive to our neighbors in MD and NJ.



WHY JOIN DCIA?

- DCIA is here after you've been awarded a conditional or operational license
- DCIA will welcome new license holders as members once they've been issued a conditional license.
 - Social Equity conditional license holders will get one free year of membership (\$1,200)
 - Membership will give you access to our network of service providers at discounted rates
 - Technology solutions like Dutchie POS
 - Discounted legal services
 - Real estate
 - Vetted and reputable insurance providers
 - Other business operations
- DCIA is YOUR voice in Dover to protect and help you grow your cannabis business and to ensure a robust and thriving regulated market.

DCIA GOALS

1. Speak with a unified voice
2. Education and Advocacy
 - a. Create a political environment that ensures the cannabis industry will thrive in the First State
3. Events
 - a. Develop opportunities for collaboration and partnerships
4. Create buying power
 - a. Deliver exclusive group buying power for members



SIZE OF MARKET



300M

150M

54M

Total Addressable Market (TAM)

TAM includes medical, recreational, and the illicit market. These estimates come from New Frontier Data.

Estimated Recreational Market

Once the market gets up to speed, it's estimated the total combined legal market will exceed \$281M*.

*stat taken from OMC 2023 Annual Report estimate

2023 Medical Market

In 2023 Delaware had \$54M in cannabis sales.

COST TO ENTER



Cultivation

Indoor

Construction + equipment cost = \$450 / sqft

- 2,500 sqft = **\$1.25M**
- 5,000 sqft = **\$2.5M**

Revenue

- Wholesale @ \$2,500-\$5,000 / lb. for year 1-2
- Wholesale @ <\$2,000 for year 2+

Operating Expenses

- 18 months of operational capital = \$500k-\$1M



Retail

New Storefront

Construction + equipment cost = \$150 / sqft

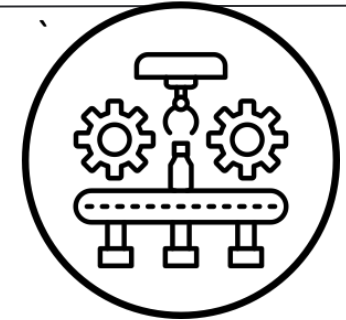
- 2,000 sqft = **\$300K**
- 3,500 sqft = **\$525K**

Revenue

- 100 customers / day @ \$75 / cart = \$7,500 / day (year 1-2)
- 50 customers / day @ \$50 / cart = \$2,500 / day (years 2+)

Operating Expenses

- 18 months of operational capital = \$500k-\$1M



Manufacturing

Extraction

Construction + equipment cost = \$250 / sqft

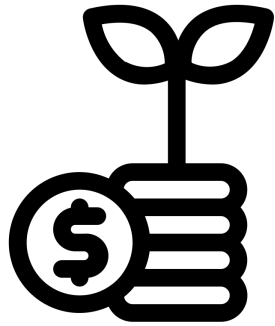
- 1,500 sqft = **\$375K**
- 3,000 sqft = **\$750K**

Product Manufacturing

Construction + equipment cost = \$150 / sqft

- 1,500 sqft = **\$225K**
- 3,000 sqft = **\$500K**

ARE YOU FUNDABLE?



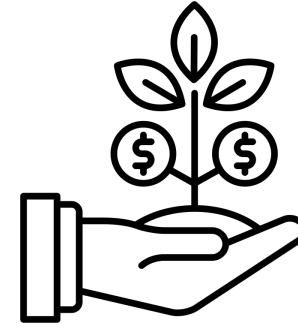
Business Finance & Tax Considerations

- Corporate structure
 - 280e @ Federal
 - 280e @ State
 - Banking
- Payroll, payment processing, & cash management
 - GAAP accounting
- Marketing limitations
 - Tax compliance



Legal, Contracts, & Regulatory

- License application
 - Contracts
 - Real estate
 - HR Product liability
- Regulatory compliance
- Advertising / labeling
- Intellectual property
 - M&A
- Fundraising



Capital Markets

- ~~• Private equity~~
- ~~• Venture Capital~~
- Family offices
- Angel investors
 - ~~• Bank loans~~
- Private lines of credit
 - Private debt
- State supported benefits / funding

PANEL DISCUSSION

