

Wilmington, Delaware  
May 1, 2025

**#0045**

**Sponsor:**

**Council  
Member  
Johnson**

**Co-Sponsors:**

**Council  
Members  
Cabrera  
Harlee  
Owens  
McCoy  
Spadola**

**WHEREAS**, in 2023, the State of Delaware legalized recreational marijuana use for adults 21 years and older (House Bill 1), and passed the Delaware Marijuana Control Act (House Bill 2), which created the framework for licensing and regulating marijuana businesses for the following marijuana-related uses: retail (30 licenses), cultivation (60 licenses), manufacturing (30 licenses) and testing (5 licenses); and

**WHEREAS**, the Delaware Marijuana Control Act enables municipalities to enact ordinances or regulations that govern the time, place and manner that marijuana establishments, including retail stores, may operate in the municipalities, provided there is no conflict with State laws and regulations; and

**WHEREAS**, the Delaware Marijuana Control Act created the Justice Reinvestment Fund and social equity license opportunities, which are intended to redress some of the harms of the War on Drugs on Disproportionately Impacted Areas (DIAs), which are defined as “census tracts in the State of Delaware identified by the Commissioner [of Marijuana] 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”; and

**WHEREAS**, Wilmington has the highest concentration of DIAs in the State; and

**WHEREAS**, the Delaware Marijuana Control Act imposes a 15% state tax on the retail sales price of marijuana products and appropriates 7% of such revenue to the Justice Reinvestment Fund; and

**WHEREAS**, City Council, through the passage of Resolution 24-063 on November 21, 2024, voiced its strong support of the Justice Reinvestment Fund and social equity business licenses for individuals directly impacted by the War on Drugs and their immediate families; and

**WHEREAS**, Resolution 24-063 explains in great detail how marijuana-related arrests, convictions and incarcerations have had devastating, generational impacts on the family bonds, economic well-being, educational outcomes and mental and physical health of countless individuals and their families residing in DIAs in Wilmington; and

**WHEREAS**, City Council, through the passage of Resolution 24-063, requested the Delaware General Assembly to make provisions for the City of Wilmington to receive a direct allocation of the 15% State Retail Marijuana Tax or to be authorized to levy a local municipal tax on recreational marijuana revenue in order to bolster the City's capacity to develop the necessary holistic support systems for the extensive, disproportionate needs of the high concentration of DIAs in the City; and

**WHEREAS**, pursuant to Title 22 (Municipalities), Chapter 20 (Limitation on Municipal Taxing Powers) of the Delaware Code, municipalities in the State only have the power to levy, assess, or collect a tax of any kind whatsoever as expressly authorized in its municipal charter or in Title 22; and

**WHEREAS**, there is no express provision in the City's Charter or in Title 22 that authorizes the City to impose a local excise tax on the retail sales of marijuana.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON**, the Wilmington City Council urges the General Assembly to enact legislation enabling the City of Wilmington to impose a local marijuana excise

tax of up to 3% in order to bolster the City’s capacity to develop the necessary holistic support systems for the City’s high concentration of DIAs.

**BE IT FURTHER RESOLVED**, that the Wilmington City Council specifically requests that the members of the General Assembly amend Title 22 (Municipalities), Chapter 9 (Municipal User Tax) of the Delaware Code with the addition of the underlined language to read as follows:

**§ 901 - 908.**

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**§ 909. Marijuana Excise Tax.**

(a) For purposes of this section:

(1) “Marijuana” shall have the same meaning as defined in 16 Del. C. § 4701.

(2) “Marijuana products” shall have the same meaning as defined in 4 Del. C. § 1302.

(3) “Medical use” shall have the same meaning as defined in 16 Del. C. § 4902(A).

(4) “Registered compassion center” shall have the same meaning as defined in 16 Del. C. § 4902(A).

(5) “Retail marijuana” shall have the same meaning as defined in 4 Del. C. § 1302.

(6) “Retail marijuana store” shall have the same meaning as defined in 4 Del. C. § 1302.

(b) Any municipality with a population greater than 50,000 may impose, by duly enacted ordinance, a local excise tax of no more than three percent (3%) of the sales price on all sales of retail marijuana or marijuana products by a retail marijuana store located in the boundaries of the municipality, in addition to any amounts imposed by the State. The procedures and policies for the collection and distribution of the excise tax imposed pursuant to this section shall be established by duly enacted ordinance of the municipality.

(c) Notwithstanding anything to the contrary herein, any excise tax imposed pursuant to this section shall not apply to sales of marijuana for medical use by a registered compassion center.

Passed by City Council,

ATTEST: \_\_\_\_\_  
City Clerk

**SYNOPSIS:** This Resolution urges the Delaware General Assembly to enact legislation that will amend Title 22 (Municipalities), Chapter 9 (Municipal User Tax) of the Delaware Code to enable the City of Wilmington to impose a local excise tax of up to 3% on the sale of marijuana and marijuana products by a retail marijuana store located within the boundaries of the City, in addition to any amounts imposed by the State. The State's Retail Marijuana Tax rate is 15%. The additional revenue generated by the local marijuana excise tax would be allocated to bolster the City's capacity to develop holistic support systems that benefit the high concentration of Disproportionately Impacted Areas (DIAs) in the City.