

Delaware Bill Aims to Resolve FBI Issue for Adult Use Sales

Legislation Aims to Resolve FBI's Denial of Service Code, Allowing Cannabis License Background Checks to Proceed

Delaware lawmakers have swiftly introduced legislation aimed at resolving a significant hurdle that has delayed the state's adult-use cannabis sales. On April 3, Representative Ed Osienski (D-Newark) and Senator Trey Paradee (D-Dover) filed House Bill 110 to address the FBI's denial of a service code necessary for criminal background checks. This denial has stalled the licensing process for cannabis businesses in Delaware.

FBI Denial Due to Lack of Specificity in State Laws

The FBI's denial, issued on March 31, 2025, was based on the assertion that Delaware's Title 4 Cannabis Code was too vague in outlining who must undergo criminal background checks. The FBI refused to provide the necessary service code, citing concerns about the overbreadth of the law. This refusal has delayed the state's ability to proceed with background checks required for applicants seeking cannabis business licenses.

House Bill 110 Clarifies Background Check Requirements

House Bill 110, filed by Osienski and Paradee, aims to provide clarity and specificity in the state's cannabis laws to comply with the FBI's standards. The bill identifies specific categories of individuals who must undergo fingerprint-based background checks before obtaining a cannabis license. These categories include:

Applicants for a cannabis establishment license

Employees, contractors, and volunteers working at or for a cannabis establishment

Directors, officers, board members, or agents of a cannabis business

Individuals holding an ownership interest of 10% or more in a licensed cannabis establishment

Lawmakers Express Commitment to Resolving the Issue

Representative Osienski acknowledged the frustration caused by the delay but expressed optimism about the legislation's potential to resolve the issue. "I'm optimistic that this bill will provide the necessary fix to get Delaware's adult-use cannabis market back on track," Osienski said. He is committed to getting the bill passed quickly to ensure the launch of adult-use sales in Delaware.

Senator Paradee also emphasized the economic impact of the delay, noting the revenue Delaware is losing as a result. "The state is actively losing out on revenue at a time when critical federal funding has been cut by

the White House,” Paradee stated. He reiterated his commitment to establishing the cannabis market as quickly as possible.

Impact of the FBI Denial on Delaware’s Cannabis Market

The FBI’s refusal to provide the service code has severely impacted Delaware’s timeline for launching adult-use cannabis sales. In 2024, the OMC awarded 125 conditional licenses to cannabis businesses, but those awards are contingent on completing the necessary background checks. The delay in obtaining the FBI service code has kept these businesses from finalizing their licenses and operating legally.

H.B. 110 Seeks Compliance with Federal Law

The proposed legislation seeks to bring Delaware’s cannabis laws into compliance with Public Law 92-544, which regulates access to FBI criminal history records. This compliance is necessary for the OMC to reapply for the service code and proceed with the background check process for the 125 awarded licenses.

Cannabis Revenue and Social Equity Goals

Under the Delaware Marijuana Control Act, adult-use cannabis sales will be subject to a 15% excise tax. Seven percent of the revenue generated from this tax will be allocated to a Justice Reinvestment Fund, which will support social equity initiatives, including grants and services for communities impacted by cannabis prohibition.

Next Steps: Legislative Review and Approval

H.B. 110 has been referred to the House Economic Development/Banking/Insurance and Commerce Committee for review. If approved, the bill will allow the OMC to reapply for the FBI service code and continue processing licenses for adult-use cannabis businesses. The Delaware General Assembly is in session until June 30, and time is critical to resolve the issue before the end of the session.

Acting Marijuana Commissioner Praises Lawmakers’ Swift Action

Delaware’s Acting Marijuana Commissioner, Paul Hyland, expressed gratitude for the lawmakers’ quick response. “I want to thank Representative Osienski and Senator Paradee for swiftly bringing this critically important legislation together,” Hyland said. He reiterated the OMC’s commitment to implementing a well-regulated and equitable adult-use cannabis market in Delaware.

The Future of Delaware’s Adult-Use Cannabis Market

If House Bill 110 is successfully passed, Delaware may soon be able to resolve the FBI issue and move forward with adult-use cannabis sales. This would bring much-needed revenue to the state and create equitable access to the legal cannabis market for all. With the legislation under review and the deadline approaching, Delawareans are hopeful that the state’s adult-use market will soon be operational.

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