

Wilmington, Delaware
November 21, 2024

#0510

Sponsor:

**Council
Member
Johnson**

WHEREAS, the legalization and regulation of recreational marijuana in the State of Delaware has introduced new challenges, as well as new opportunities for the government of the City of Wilmington and its residents. In accordance with the 2022-2025 Wilmington City Council Strategic Plan goal of promoting a “Prosperous and Sustainable Wilmington” for the benefit of all residents, it is incumbent on the Council to responsibly evaluate and assess the full costs of current and past marijuana policies on the City’s population; and

WHEREAS, the honorable members of the Delaware General Assembly have demonstrated leadership and foresight in the institution of policies that both facilitate entrepreneurship, prioritize social equity, and seek to address the historical impacts of policies, like the War on Drugs, on the quality of life of countless Delawareans. The Council of the City of Wilmington deems it necessary and appropriate to institute laws and policies that support, reinforce, and further these priorities; and

WHEREAS, House Bill 1 (HB 1), An Act to Amend Title 16 of the Delaware Code Relating to Marijuana, removed penalties for personal possession and use of marijuana and marijuana accessories and legalized marijuana possession, use, purchase and transportation for those 21 years and older; and

WHEREAS, House Bill 2 (HB 2), An Act to Amend Titles 4, 11, 16, and 30 of the Delaware Code Relating to Creation of the Delaware Marijuana Control Act, codified regulation and taxes for recreational marijuana use in the State of Delaware. The Act established a foundation for the cultivation, manufacturing, and sale of marijuana; created the

Justice Reinvestment Fund; and social equity license opportunities to improve the quality of life for communities most affected by the War on Drugs era policies; and

WHEREAS, HB 1 and HB 2 are two of many efforts by the State of Delaware to foster equity and positively impact disadvantaged communities, particularly within the contexts of the criminal justice system. In 2021, Senate Bill 112, which is known as the “Clean Slate Act,” expanded the eligibility for automatic expungements to include marijuana possession, as long as the individual has no prior or subsequent convictions 5 years after the conviction. In the same year, the 151st General Assembly approved House Bill 244 (HB 244) to reduce the financial burden of certain fines, fees, and restitution costs on criminal justice-involved individuals; and

WHEREAS, the Justice Reinvestment Fund and social equity licensing components of HB 2 built on our State’s achievements by directly targeting these initiatives towards redressing some of the harms of the War of Drugs on Disproportionally Impacted Areas (DIAs). DIAs 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.” Table 1, herein included as Exhibit A, provides detailed arrest rates for Wilmington’s DIAs. Applicants who have lived in a DIA for at least 5 of the last 15 years; have been convicted of or adjudicated delinquent of marijuana-related offense; or has had a parent, legal guardian, child, spouse, or dependent who was convicted of or an adjudicated delinquent of any marijuana-related offense under Delaware law prior to April 23, 2023 can benefit from reduced licenses, fees, and community investments; and

WHEREAS, the Justice Reinvestment Fund is allocated to grants and initiatives that address restorative justice, jail diversion, workforce development, and technical assistance in DIAs. It also aims to reduce drug-related arrests and the State's prison population, develops technology for restoring civil rights and expunging criminal records, supports Social Equity applicants with business-related expenses and provides re-entry services. However, the impacts of the more than four decade the War on Drugs, have extended beyond individual relationships with the criminal justice system. Wilmington's DIAs face an array of disparities in health, economic, and educational outcomes. Table 2, herein attached as Exhibit B, provides further details on the socioeconomic status of Wilmington's census tracts containing DIAs; and

WHEREAS, 35 DIAs are composed of communities within the City of Wilmington. Although recreational marijuana use is now permitted in the State of Delaware, the implications of past convictions for these activities have had resounding effects. Spending more than one day incarcerated can lead to job and income loss, damage to an individual's reputation, and a decline in social and emotional well-being. Individuals who have been incarcerated face higher rates of worse physical and mental health compared to the overall population, with 44% having a mental health disorder, and often having limited access to quality healthcare. In the State of Delaware, an individual without prior offenses could be required to wait as many as five years for an expungement. In the interim, background checks have posed barriers to gaining employment, housing, and public assistance. A Pew Research Center study estimated that family income dropped by 22% during incarceration and 15% after re-entry. Additionally, financial aid programs, such as Delaware's SEED (Student Excellence Equals Degree) and Inspire Scholarships, along with other federally-backed educational loans

have been restricted due to marijuana convictions. Such convictions or adjudications also triggered license revocations or denials for numerous professions, ranging from commercial driving licenses (CDLs) to careers in plumbing. Throughout the years, these convictions and adjudications have contributed to economic instability; homelessness; health problems, such as high blood pressure and substance abuse for affected individuals; and disruptions in family relationships; and

WHEREAS, marijuana-related incarcerations have had generational impacts on the family bonds, economic well-being, and psychosocial health of DIAs in Wilmington. Incarceration due to marijuana-related convictions disrupts entire family units, creating challenges in balancing responsibilities, supporting children, and caring for incarcerated loved ones. Marijuana convictions have impacted family reunification even after incarceration. In custody matters, consideration of marijuana-related offenses has resulted in loss of child custody, reduced visitation rights, and the imposition of additional restrictions from child welfare authorities. For non-citizens, such offenses have triggered family separations due to deportation, denial of naturalization, and other immigration complications; and

WHEREAS, Wilmington's children have been particularly affected. Children of incarcerated parents face increased risks of delinquency, substance abuse, and risky behaviors. They experience psychological strain, antisocial behavior, and are more likely to experience school disciplinary issues and economic hardship than their peers. Black children are 7.5 times and Hispanic children 2.3 times more likely to be affected, creating a cycle of vulnerability and potential incarceration; and

WHEREAS, the War on Drugs has had collective impacts on criminal justice-involved individuals and families locally and nationally, including the 35 DIAs located in the City of

Wilmington. These areas continue to face high rates of recidivism, crime, poverty, and unemployment; and

WHEREAS, census tracts corresponding with the DIAs in the City of Wilmington include 6.01, 9, 14, 15, 16, 19.02, 21, 22, 23, 29 and 30.02. These areas follow distinct patterns of disadvantage. As illustrated by Table 1, herein attached as Exhibit A, marijuana-related arrest rates in these areas have been as high as 35.76%, directly impacting more than one of every three residents. The median household incomes are approximately \$42,266. Table 2, included herein as Exhibit B, demonstrates incomes ranging from \$25,538 in census tract 29 to \$58,767 in census tract 19.02. Housing insecurity, which is defined as the percentage of adults 18 years and older not able to pay mortgage, rent, or utility bills in the past 12 months, averages at about 30%, ranging from 37.5% in census tract 22 to 16.4% in census tract 15. In census tract 29, 57.3%, or about one in every two households, received public assistance or SNAP (Supplemental Nutrition Assistance Program) benefits within the past 12 months. In census tract 22, approximately one-third of households relied on public assistance to meet their family's needs; and

WHEREAS, DIAs in Wilmington exhibit high social vulnerability index (SVI) scores, which is a composite measure based on indicators of a household's housing type, access to transportation, socioeconomic status, and other characteristics. A score of one denotes the highest vulnerability. Wilmington's census tracts with DIAs have SVI scores between 0.83 in census tract 14 and 1 in census tract 22. Census tracts 21,16, 29, and 30.02 have SVI scores at or above 0.93; and

WHEREAS, the State's area deprivation index (SDI) scores measure the relative disadvantage of a neighborhood based on factors including income, education, employment

and house quality on a scale of zero to 10. Census tracts 9, 30.02, 22, 23, 6.01, 29 and 21, all of which contain a DIA, have SDI scores of 10, signaling the greatest disadvantages compared with other neighborhoods. None of the census tracts had an SDI score of less than 5; and

WHEREAS, the inordinate arrests in Wilmington’s DIAs have negatively affected police-community relations and fostered racial disparities in quality-of-life indicators over time. Since 1978, the incarceration rate for Black people in Delaware has increased by 104%, exacerbating racial disparities in the prison system. In Delaware, 86.8% of those receiving prison sentences for drug offenses are Black, with most coming from Wilmington. While studies have repeatedly shown no racial disparities in marijuana usage, Black individuals have been four times more likely to be arrested for marijuana possession, despite making up about half of Wilmington’s overall population; and

WHEREAS, the cumulative effects of the War on Drugs on individuals who were arrested, their families, and the communities they reside in are substantial. The City of Wilmington has the highest concentration of DIAs in the State. Delaware’s current model for the legalization and taxation of recreational marijuana represents an unprecedented opportunity to address not only the direct impacts of marijuana-related arrests and convictions on local communities, but also the residual impacts on Wilmingtonians’ quality of life over the more four-decade enforcement period; and

WHEREAS, taxes and fees applied to the sales of recreational marijuana have been instrumental in generating sustainable funding for public services, including community reinvestment programs, K-12 education, affordable housing, homelessness services, drug education, drug rehabilitation, mental health services, childcare, environmental programs, and to subsidize the costs of transportation infrastructure. The needs of Wilmington’s DIAs are

extensive and necessitate a multi-level approach to providing resources and developing holistic support structures that account for the indirect costs of marijuana-related prosecutions and convictions on the economic potential, educational opportunity, physical and mental health, and socioemotional relationships of residents; and

WHEREAS, Title 4 § 1382 of the Delaware Code imposes a 15% state tax on the retail sales price of marijuana products, and § 1386 appropriates 7% of such revenue to the Justice Reinvestment Fund. The furtherance of the State’s goals of facilitating entrepreneurship, prioritizing social equity and inclusion, and counteracting the historical impacts of the War on Drugs in the City of Wilmington necessitates sustainable local resources.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON that this Legislative body respectfully requests that the Delaware General Assembly make provisions for the City of Wilmington to receive a direct allocation or be accorded with the authority to levy a municipal tax on recreational marijuana revenue; and

BE IT FURTHER RESOLVED that this Legislative body expresses strong support for the new opportunities embodied by the establishment of social equity business licenses and the Justice Reinvestment Fund for individuals directly impacted by the War on Drugs and their immediate families; and

BE IT FURTHER RESOLVED that the additional revenue generated by recreational marijuana retail sales would be pivotal to bolstering Wilmington’s capacity to develop the types of holistic support systems for disproportionately impacted areas (DIAs) that could change the trajectories of countless lives in the present and future.

Passed by City Council,

ATTEST: _____
City Clerk

SYNOPSIS: In accordance with the 2022-2025 Wilmington City Council Strategic Plan goal of promoting a “Prosperous and Sustainable Wilmington” for the benefit of all residents, this Resolution respectfully requests that the Delaware General Assembly make provisions for the City of Wilmington to receive a direct allocation, or be accorded with the authority to levy a municipal tax on, recreational marijuana revenue to bolster the City’s capacity to develop more holistic support systems that benefit Disproportionately Impacted Areas (DIAs).

EXHIBIT A

(Table 1: Marijuana-Related Arrest Rates in the City of Wilmington for All Disproportionately Impacted Areas (DIAs) (by Census GEO-ID))

Table 1: Marijuana-Related Arrest Rates in the City of Wilmington for All Disproportionately Impacted Areas (DIAs) (by Census GEO-ID)

Census GEO-ID of DIAs	DIA Population	DIA Arrest Rate Per 50,000 Persons	Percentage Of DIA Population Arrested for Marijuana-Related Offenses Since 2013
100030005001	973	4,419	8.84%
100030006011	1,083	3,001	6.00%
100030006021	1,150	5,739	11.48%
100030004003	770	6,169	12.34%
100030005002	1,012	3,409	6.82%
100030006013	895	5,196	10.39%
100030006022	958	6,420	12.84%
100030006023	768	5,599	11.20%
100030009001	742	14,892	29.78%
100030009002	821	3,654	7.31%
100030009003	704	5,682	11.36%
100030030022	1,070	6,262	12.52%
100030002005	961	3,330	6.66%
100030016001	881	3,575	7.15%
100030028001	1,631	5,089	10.18%
100030028002	747	7,430	14.86%
100030029001	699	6,724	13.45%
100030029002	671	5,291	10.58%
100030029004	996	6,325	12.65%
100030107041	1,146	5,803	11.60%
100030016002	741	17,881	35.76%
100030016003	797	6,148	12.29%
100030021001	927	9,871	19.74%
100030021002	882	5,102	10.20%
100030022001	1,366	4,722	9.44%
100030022002	717	10,251	20.50%
100030022003	791	5,879	11.76%

100030026001	721	3,467	6.93%
100030026002	1,050	5,619	11.24%
100030026003	1,153	5,030	10.06%
100030026004	806	7,382	14.76%
100030027001	1,548	4,360	8.72%
100030023001	876	8,505	17.01%
100030023002	892	5,325	10.64%
100030023003	1,235	5,061	10.12%

EXHIBIT B

(Table 2: Socioeconomic Status of Disproportionately Impacted Areas (DIAs) in
Wilmington, Delaware (By Census Tract))

Table 2: Socioeconomic Status of Disproportionately Impacted Areas (DIAs) in Wilmington, Delaware (By Census Tract)

Census Tract	Median Income	Poverty Rate	Housing Insecurity	Public Assistance	Social Vulnerability Index (SVI) Score	State Area Deprivation Index (SDI) Score
9	\$30,799	27.0%	34.8%	38.5%	0.85	10
30.02	\$35,531	22.1%	37%	33.4%	0.93	10
19.02	\$58,767	29.9%	22.8%	41.1%	0.88	8
22	\$46,597	30.9%	37.5%	31%	1	10
23	\$44,253	30.1%	28.7%	42.9%	0.97	10
6.01	\$55,015	32.7%	32.7%	43.1%	0.87	10
29	\$25,538	33.8%	33.7%	57.3%	0.97	10
16	\$35,344	29.2%	33.7%	53.9%	0.94	9
21	\$30,802	34.5%	33.8%	37.3%	0.99	10
14	\$52,979	33.1%	16.9%	45.8%	0.83	8
15	\$49,306	31.2%	16.4%	40.9%	0.84	6