STATE OF NEW YORK

6184--A

2019-2020 Regular Sessions

IN SENATE

May 21, 2019

Introduced by Sens. METZGER, MAY, SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the agriculture and markets law, in relation to the growth of industrial hemp and the regulation of hemp extract; and to repeal certain provisions of such law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 1 of section 505 of the agriculture and markets law, as added by chapter 524 of the laws of 2014, is amended to read as follows:

1. "Industrial hemp" means the plant Cannabis sativa L. and any part of such plant**, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers**, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

§ 2. Section 506 of the agriculture and markets law, as amended by section 1 of part OO of chapter 58 of the laws of 2017, is amended to read as follows:

§ 506. Growth, sale, distribution, transportation and processing of industrial hemp and products derived from such hemp permitted. [~~Notwithstanding any provision of law to the contrary, industrial~~] **1. Industrial** hemp and products derived from such hemp are agricultural products which may be grown, produced [~~and~~]**,** possessed [~~in the state, and~~]**,** sold, distributed, transported [~~or~~] **and/or** processed [~~either~~] in [~~or out of~~] state [~~as part of agricultural pilot programs pursuant to authorization under federal law and the provisions of this article~~] **pursuant to authorization under federal law and/or the provisions of this article**. [~~Notwithstanding any provision of law to the contrary restricting the growing or cultivating, sale, distribution, transportation or processing~~

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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~~of industrial hemp and products derived from such hemp, and subject to authorization under federal law, the~~]

2. The commissioner may authorize the growing or cultivating of industrial hemp as part of agricultural pilot programs conducted by the department and/or an institution of higher education to study the growth and cultivation, sale, distribution, transportation and processing of such hemp and products derived from such hemp provided that the sites and programs used for growing or cultivating industrial hemp are certified by, and registered with, the department.

3. The industrial hemp used for research pursuant to this section shall be sourced from authorized New York state industrial hemp producers. The research partner may obtain an exemption for only grain or fiber from this requirement upon a satisfactory showing to the department that a suitable variety of industrial hemp for the research project is not grown in New York and/or the use of New York sourced hemp is not practicable for the project. Hemp for extracts can only be sourced from authorized New York state industrial hemp producers.

4. Nothing in this section shall limit the jurisdiction of the department under any other article of this chapter.

§ 3. Section 507 of the agriculture and markets law is REPEALED and a new section 507 is added to read as follows:

§ 507. Licensing; fees. 1. No person shall grow, process, produce, distribute and/or sell industrial hemp or products derived from industrial hemp in the state unless (a) licensed biennially by the commissioner or (b) authorized by the commissioner as part of an agricultural research pilot program established under this article.

2. Application for a license to grow industrial hemp shall be made upon a form prescribed by the commissioner, accompanied by a per-acre license fee and a non-refundable application fee of five hundred dollars.

3. The applicant shall furnish evidence of his or her good character, experience and competency, that the applicant has adequate facilities, equipment, process controls, testing capability and security to grow hemp.

4. Growers who intend to cultivate hemp for cannabinoids shall be required to obtain licensure from the department pursuant to article twenty-nine-A of this chapter.

5. A renewal application shall be submitted to the commissioner at least sixty days prior to the commencement of the next license period.

§ 4. Section 508 of the agriculture and markets law is REPEALED and a new section 508 is added to read as follows:

§ 508. Compliance action plan. If the commissioner determines, after notice and an opportunity for hearing, that a licensee has negligently violated a provision of and/or a regulation promulgated pursuant to this article, that licensee shall be required to comply with a corrective action plan established by the commissioner to correct the violation by a reasonable date and to periodically report to the commissioner with respect to the licensee's compliance with this article for a period of no less than the next two calendar years following the commencement date of the compliance action plan. The provisions of this section shall not be applicable to research partners conducting hemp research pursuant to a research partner agreement, the terms of which shall control.

§ 5. Section 509 of the agriculture and markets law is REPEALED and a new section 509 is added to read as follows:

§ 509. Granting, suspending or revoking licenses. The commissioner may decline to grant a new license, may decline to renew a license, may

suspend or revoke a license already granted after due notice and opportunity for hearing whenever he or she finds that:

1. any statement contained in an application for an applicant or licensee is or was false or misleading;

2. the applicant or licensee does not have good character, the required experience and/or competency, adequate facilities, equipment, process controls, testing capability and/or security to produce hemp or products derived from hemp;

3. the applicant or licensee has failed or refused to produce any records or provide any information demanded by the commissioner reasonably related to the administration and enforcement of this article; or

4. the applicant or licensee, or any officer, director, partner, holder of ten percent of the voting stock, or any other person exercising any position of management or control has failed to comply with any of the provisions of this article or rules and regulations promulgated pursuant thereto.

§ 6. Section 510 of the agriculture and markets law is REPEALED and a new section 510 is added to read as follows:

§ 510. Regulations. The commissioner may develop regulations consistent with the provisions of this article for the growing and cultivation, sale, distribution, and transportation of industrial hemp grown in the state, including:

1. the authorization or licensing of any person who may: acquire or possess industrial hemp plants or seeds; grow or cultivate industrial hemp plants; and/or sell, purchase, distribute, or transport such industrial hemp plants, plant parts, or seeds;

2. maintaining relevant information regarding land on which industrial hemp is produced within the state, including the legal description of the land, for a period of not less than three calendar years;

3. the procedure for testing of industrial hemp produced in the state for delta-9-tetrahydrocannabinol levels, using a representative non-decarboxylated sample of flowers and leaves from the whole plant or other similarly reliable methods;

4. the procedure for effective disposal of industrial hemp plants or products derived from hemp that are produced in violation of this article;

5. a procedure for conducting at least a random sample of industrial hemp producers to verify that hemp is not produced in violation of this article;

6. any required security measures; and

7. such other and further regulation as the commissioner deems appropriate or necessary.

§ 7. Section 511 of the agriculture and markets law is REPEALED and a new section 511 is added to read as follows:

§ 511. Prohibitions. Except as authorized by state law, and regulations promulgated thereunder, the growth, cultivation, processing, sale, and/or distribution of industrial hemp is prohibited.

§ 8. Section 512 of the agriculture and markets law is REPEALED and a new section 512 is added to read as follows:

§ 512. Industrial hemp data collection and best farming practices. The commissioner shall have the power to collect and publish data and research concerning, among other things, the growth, cultivation, production and processing methods of industrial hemp and products derived from industrial hemp and work with the New York state college of agriculture and life science at Cornell pursuant to section fifty-seven hundred twelve of the education law and the Cornell cooperative exten-

sion pursuant to section two hundred twenty-four of the county law to promote best farming practices for industrial hemp which are compatible with state water quality and other environmental objectives.

§ 9. Sections 513 and 514 of the agriculture and markets law are REPEALED and two new sections 513 and 514 are added to read as follows:

§ 513. Access to criminal history information through the division of criminal justice services. In connection with the administration of this article, the commissioner is authorized to request, receive and review criminal history information through the division of criminal justice services (division) with respect to any person seeking a license or authorization to undertake a hemp pilot project. At the commissioner's request, each researcher, principal and/or officer of the applicant shall submit to the department his or her fingerprints in such form and in such manner as specified by the division, for the purpose of conducting a criminal history search and returning a report thereon in accordance with the procedures and requirements established by the division pursuant to the provisions of article thirty-five of the executive law, which shall include the payment of the prescribed processing fees for the cost of the division's full search and retain procedures and a national criminal history record check. The commissioner, or his or her designee, shall submit such fingerprints and the processing fee to the division. The division shall forward to the commissioner a report with respect to the applicant's previous criminal history, if any, or a statement that the applicant has no previous criminal history according to its files. Fingerprints submitted to the division of criminal justice services pursuant to this section may also be submitted to the federal bureau of investigation for a national criminal history record check. If additional copies of fingerprints are required, the applicant shall furnish them upon request.

§ 514. Aids to enforcement. 1. The commissioner shall have full access to all premises, buildings, factories, farms, vehicles, cars, boats, airplanes, vessels, containers, packages, barrels, boxes, and/or cans for the purpose of enforcing the provisions of this article. The commissioner may, at such locations, examine industrial hemp and hemp products and may open any package and/or container reasonably believed to contain industrial hemp or hemp products, to determine whether such industrial hemp or hemp products follow applicable law or regulation.

2. A search warrant shall be issued by any court to which application is made therefor, whenever it shall be made to appear to such court that a licensee has: refused to permit any industrial hemp to be inspected or samples taken therefrom; refused to permit access to any premises, or place where licensed activities are conducted; and/or refused or prevented access thereto by any inspector of the department and that such inspector has reasonable grounds to believe that such person has any industrial hemp in his or her possession, or under his or her control and/or is in violation of the provisions or regulations of this article. In such a case, a warrant shall be issued in the name of the people, directed to a police officer, commanding him or her to: (a) search any place of business, factory, building, premises, or farm where licensed activities have occurred and any vehicle, boat, vessel, container, package, barrel, box, tub or can, containing, or believed to contain industrial hemp in the possession or under the control of any person who shall refuse to allow access to such hemp for inspection or sampling, (b) permit the inspection and sampling of any industrial hemp found in the execution of the warrant, as the officer applying for the search warrant shall designate when the same is found, by an inspector

or a department official authorized by the commissioner or by this chapter, and/or (c) permit access to any place where access is refused or prevented, and to allow and enable a department inspector or other department official to conduct an inspection of the place. The provisions of article six hundred ninety of the criminal procedure law shall apply to such warrant as far as applicable thereto. The officer to whom the warrant is delivered shall make a return in writing of his or her proceedings thereunto to the court which issued the same.

3. The commissioner may quarantine industrial hemp when he or she has reason to believe that such commodity does not meet the definition thereof, set forth in subdivision one of section five hundred five of this article, or is otherwise in violation of or does not meet a standard set forth in, applicable law or regulation. The quarantine may by the issuance of an order directing the owner or custodian of industrial hemp not to distribute, dispose of, or move that commodity without the written permission of the commissioner. The commissioner may also quarantine a product by placing a tag or other appropriate marking thereon or adjacent thereto that provides and requires that such product must not be distributed, disposed of, or moved without his or her written permission, or may quarantine a product by otherwise informing the owner or custodian thereof that such condition must be complied with.

4. The commissioner may seize industrial hemp by taking physical possession of industrial hemp when he or she has substantial evidence to believe that such commodity does not meet the definition thereof, set forth in subdivision one of section five hundred five of this article, or is otherwise in violation of, or does not meet a standard set forth in, applicable law or regulation.

5. Subsequent to quarantining or seizing industrial hemp, as authorized in subdivisions three and four of this section, the commissioner shall promptly give the owner or custodian thereof an opportunity to be heard to show cause why such industrial hemp should not be ordered destroyed. The commissioner shall, thereafter, consider all the relevant evidence and information presented and shall make a determination whether such industrial hemp should be ordered to be destroyed; that determination may be reviewed as provided for in article seventy-eight of the civil practice law and rules.

§ 10. The agriculture and markets law is amended by adding a new article 29-A to read as follows:

ARTICLE 29-A

REGULATION OF HEMP EXTRACT

Section 520. Definitions.
521. Rulemaking authority.
522. Cannabinoid related hemp extract licensing.
523. Cannabinoid grower licenses.
524. Cannabinoid manufacturer license.
525. Cannabinoid extractor license.
526. Cannabinoid license applications.
527. Information to be requested in applications for licenses.
528. Fees.
529. Selection criteria.
530. Limitations of licensure; duration.
531. License renewal.
532. Form of license.
533. Amendments to license and duty to update information submitted for licensing.
534. Record keeping and tracking.

535. Inspections and ongoing requirements.
536. Packaging and labeling of hemp extract.
537. Provisions governing the growing, manufacturing and extracting of hemp extract.
538. Laboratory testing.
539. Advertising.
540. Research.
541. Regulations.
542. Cannabinoid permit.
543. New York hemp product.
544. Penalties and violations of this article.
545. Hemp workgroup.
546. Prohibitions.
547. Severability.

§ 520. Definitions. Wherever used in this article unless otherwise expressly stated or unless the context or subject matter requires a different meaning, the following terms shall have the representative meanings hereinafter set forth or indicated:

1. "Applicant" means a for-profit entity or not-for-profit corporation and includes board members who submit an application to become a licensee.

2. "Hemp extract" means any product made or derived from industrial hemp, including the seeds thereof and all derivatives whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than an amount of the plant Cannabis sativa L. and any part of such plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than an amount determined by the department in regulation, used or intended for human or animal consumption or use for its cannabinoid content, as determined by the commissioner in regulation. Hemp extract excludes industrial hemp used or intended exclusively for an industrial purpose and those food and/or food ingredients that are generally recognized as safe by the department, and shall not be regulated as hemp extract within the meaning of this article.

3. "Cannabinoid grower" means a person licensed by the department, and in compliance with article twenty-nine of this chapter, to acquire, possess, cultivate, and sell hemp extract for its cannabinoid content.

4. "Cannabinoid manufacturer" means a person licensed by the department to acquire, possess, and manufacture hemp extract from licensed cannabinoid growers or cannabinoid extractors for the manufacture and sale of hemp extract products marketed for cannabinoid content and used or intended for human or animal consumption or use.

5. "Cannabinoid extractor" means a person licensed by the department to acquire, possess, extract and manufacture hemp extract from licensed cannabinoid growers for the manufacture and sale of hemp extract products marketed for cannabinoid content and used or intended for human or animal consumption or use.

6. "License" means a license issued pursuant to this article.

7. "Industrial hemp" means the plant Cannabis sativa L. and any part of such plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

§ 521. Rulemaking authority. 1. The department shall perform such acts, prescribe such forms and propose such rules, regulations and

orders as it may deem necessary or proper to fully effectuate the provisions of this article.

2. The department shall have the power to promulgate any and all necessary rules and regulations governing the production, processing, transportation, distribution, and sale of hemp extract, including but not limited to the licensing of cannabinoid growers, manufacturers, extractors and retailers, including, but not limited to:

(a) prescribing forms and establishing application, reinstatement, and renewal fees;

(b) the qualifications and selection criteria for licensing, or permitting;

(c) limitations on the number of licenses to be awarded;

(d) the books and records to be created and maintained by licensees, and permittees, including the reports to be made thereon to the department, and inspection of any and all books and records maintained by any licensee, or permittee, and on the premises of any licensee or permittee;

(e) methods of producing, processing, and packaging hemp extract; conditions of sanitation, and standards of ingredients, quality, and identity of hemp extract products cultivated, processed, packaged, or sold by licensees; and

(f) hearing procedures and additional causes for cancellation, revocation, and/or civil penalties against any person licensed, or permitted by the department.

3. The department, in consultation with the department of environmental conservation and the New York state energy research and development agency, shall promulgate necessary rules and regulations governing the safe production of hemp extract, including environmental and energy standards.

§ 522. Cannabinoid related hemp extract licensing. 1. Persons growing, processing, extracting, and/or manufacturing hemp extract or producing hemp extract products distributed, sold or marketed for cannabinoid content and used or intended for human or animal consumption or use, shall be required to obtain the following license or licenses from the department, depending upon the operation:

(a) cannabinoid grower license;

(b) cannabinoid manufacturer license;

(c) cannabinoid extractor license.

2. Notwithstanding subdivision one of this section, those persons growing, processing or manufacturing food or food ingredients from industrial hemp pursuant to article twenty-nine of this chapter, which food or food ingredients are generally recognized as safe, shall be subject to regulation and/or licensing by the department.

§ 523. Cannabinoid grower licenses. 1. A cannabinoid grower's license authorizes the acquisition, possession, cultivation and sale of hemp extract grown or used for its cannabinoid content on the licensed premises of the grower.

2. A person holding a cannabinoid grower's license shall not sell hemp extract products marketed, distributed or sold for its cannabinoid content and intended for human consumption or use without also being licensed as a manufacturer or extractor pursuant to this article or otherwise permitted pursuant to section five hundred forty-two of this article.

3. Persons growing industrial hemp pursuant to article twenty-nine of this chapter are not authorized to and shall not sell hemp extract for human or animal consumption or use, other than as food or a food ingre-

dient that has been generally recognized as safe in accordance with the department or determined by the state to be safe for human consumption as food or a food ingredient without also being licensed as a manufacturer or extractor pursuant to this article or otherwise permitted pursuant to section five hundred forty-two of this article.

4. A person authorized under article twenty-nine of this chapter as an industrial hemp grower shall apply for a cannabinoid grower license provided it can demonstrate to the department that its cultivation of industrial hemp meets all the requirements for hemp extract cultivated under a cannabinoid grower license.

§ 524. Cannabinoid manufacturer license. 1. A cannabinoid manufacturer license authorizes the licensee's acquisition, possession, and manufacture of hemp extract from a licensed cannabinoid grower or cannabinoid extractor for the processing of hemp extract or the production of hemp extract products marketed, distributed or sold for cannabinoid content and used or intended for human or animal consumption or use.

2. Notwithstanding subdivision one of this section, nothing shall prevent a cannabinoid manufacturer from manufacturing industrial hemp products not used or intended for human or animal consumption or use.

§ 525. Cannabinoid extractor license. 1. A cannabinoid extractor license authorizes the licensee's acquisition, possession, extraction and manufacture of hemp extract from a licensed cannabinoid grower for the processing of hemp extract or the production of hemp extract products marketed, distributed or sold for cannabinoid content and used or intended for human or animal consumption or use.

2. No cannabinoid extractor licensee shall engage in any other business on the licensed premises; except that nothing contained in this article shall prevent a cannabinoid extractor licensee from also being licensed as a cannabinoid grower on the same premises.

3. Notwithstanding subdivisions one and two of this section, nothing shall prevent a cannabinoid extractor from manufacturing industrial hemp products not used or intended for human or animal consumption or use.

4. A person authorized under article twenty-nine of this chapter as an industrial hemp processor shall qualify for a cannabinoid extractor license provided it can demonstrate to the department that its extraction of industrial hemp meets all the requirements for hemp extract under a cannabinoid extractor license.

§ 526. Cannabinoid license applications. 1. Persons shall apply for a cannabinoid grower license, cannabinoid manufacturer license and/or a cannabinoid extractor license by submitting an application upon a form supplied by the department, providing all the requested information, verified by the applicant or an authorized representative of the applicant.

2. A separate license shall be required for each facility at which growing, manufacturing and/or extracting is conducted.

3. Each applicant shall remit with its application the fee for each requested license.

§ 527. Information to be requested in applications for licenses. 1. The department shall have the authority to prescribe the manner and form in which an application must be submitted to the department for licensure under this article.

2. The commissioner is authorized to adopt regulations, including by emergency rule, establishing information which must be included on an application for licensure under this article. Such information may include, but is not limited to: information about the applicant's identity, including racial and ethnic diversity; information about prior use

of farmland; ownership and investment information, including the corporate structure; evidence of good moral character, including the submission of fingerprints by the applicant to the division of criminal justice services; information about the premises to be licensed; financial statements; and any other information prescribed in regulation.

3. All license applications shall be signed by the applicant (if an individual), by a managing partner (if a limited liability corporation), by an officer (if a corporation), or by all partners (if a partnership). Each person signing such application shall verify it as true under the penalties of perjury.

4. All license or permit applications shall be accompanied by a check, draft or other forms of payment as the department may require or authorize in the amount required by this article for such license or permit.

5. If there be any change, after the filing of the application or the granting of a license, in any of the facts required to be set forth in such application, a supplemental statement giving notice of such change, cost and source of money involved in the change, duly verified, shall be filed with the department within ten days after such change. Failure to do so shall, if willful and deliberate, be cause for revocation of the license.

6. In giving any notice, or taking any action in reference to a licensee of a licensed premises, the department may rely upon the information furnished in such application and in any supplemental statement connected therewith, and such information may be presumed to be correct, and shall be binding upon a licensee or licensed premises as if correct. All information required to be furnished in such application or supplemental statements shall be deemed material in any prosecution for perjury, any proceeding to revoke, cancel or suspend any license, and in the department's determination to approve or deny the license.

7. The department may, in its discretion, waive the submission of any category of information described in this section for any category of license or permit, provided that it shall not be permitted to waive the requirement for submission of any such category of information solely for an individual applicant or applicants.

§ 528. Fees. The department shall have the authority to charge licensees a biennial license fee. Such fee may be based on the amount of hemp extract to be grown, processed, manufactured or extracted by the licensee, the gross annual receipts of the licensee for the previous license period, or any other factors deemed appropriate by the department.

§ 529. Selection criteria. 1. An applicant shall furnish evidence:

(a) its ability to effectively maintain a delta-9-tetrahydrocannabinol concentration that does not exceed a percentage of delta-9-tetrahydrocannabinol cannabis set by the commissioner on a dry weight basis of combined leaves and flowers of the plant of the genus cannabis, or per volume or weight of cannabis product;

(b) its ability to comply with all applicable state laws and regulations;

(c) that the applicant is ready, willing and able to properly carry on the activities for which a license is sought; and

(d) that the applicant is in possession of or has the right to use land, buildings and equipment sufficient to properly carry on the activity described in the application.

2. The department, in considering whether to grant the license application, shall consider whether:

(a) it is in the public interest that such license be granted, taking into consideration whether the number of licenses will be adequate or excessive to reasonably serve demand;

(b) the applicant and its managing officers are of good moral character and do not have an ownership or controlling interest in more licenses or permits than allowed by this chapter;

(c) preference shall be given to applicants that are currently farming in the state and are eligible or currently receiving an agricultural assessment pursuant to article twenty-five-AA of this chapter; and

(d) the applicant satisfies any other conditions as determined by the department.

3. If the commissioner is not satisfied that the applicant should be issued a license, the commissioner shall notify the applicant in writing of the specific reason or reasons for denial.

4. The commissioner shall have authority and sole discretion to determine the number of licenses issued pursuant to this article.

§ 530. Limitations of licensure; duration. 1. No license pursuant to this article may be issued to a person under the age of eighteen years.

2. The department shall have the authority to limit, by canopy, plant count or other means, the amount of hemp extract allowed to be cultivated, processed, extracted or sold by a licensee.

3. All licenses under this article shall expire two years after the date of issue and be subject to any rules or limitations prescribed by the commissioner in regulation.

§ 531. License renewal. 1. Each license, issued pursuant to this article, may be renewed upon application therefor by the licensee and the payment of the fee for such license as prescribed by this article.

2. In the case of applications for renewals, the department may dispense with the requirements of such statements as it deems unnecessary in view of those contained in the application made for the original license, but in any event the submission of photographs of the licensed premises shall be dispensed with, provided the applicant for such renewal shall file a statement with the department to the effect that there has been no alteration of such premises since the original license was issued.

3. The department may make such rules as may be necessary, not inconsistent with this chapter, regarding applications for renewals of licenses and permits and the time for making the same.

4. The department shall provide an application for renewal of a license issued under this article not less than ninety days prior to the expiration of the current license.

5. The department may only issue a renewal license upon receipt of the prescribed renewal application and renewal fee from a licensee if, in addition to the criteria in section five hundred twenty-seven of this article, the licensee's license is not under suspension and has not been revoked.

6. The department shall have the authority to charge applicants for licensure under this article a non-refundable application fee. Such fee may be based on the type of licensure sought, cultivation and/or production volume, or any other factors deemed reasonable and appropriate by the department to achieve the policy and purpose of this chapter.

§ 532. Form of license. Licenses issued pursuant to this article shall specify:

1. the name and address of the licensee;

2. the activities permitted by the license;

3. the land, buildings and facilities that may be used for the licensed activities of the licensee;

4. a unique license number issued by the department to the licensee; and

5. such other information as the commissioner shall deem necessary to assure compliance with this chapter.

§ 533. Amendments to license and duty to update information submitted for licensing. 1. Upon application of a licensee to the department, a license may be amended to allow the licensee to relocate within the state, to add or delete licensed activities or facilities, or to amend the ownership or organizational structure of the entity that is the licensee. The fee for such amendment shall be two hundred fifty dollars.

2. In the event that any of the information provided by the applicant changes either while the application is pending or after the license is granted, within ten days of any such change, the applicant or licensee shall submit to the department a verified statement setting forth the change in circumstances of facts set forth in the application. Failure to do so shall, if willful and deliberate, be cause for revocation of the license.

3. A license shall become void by a change in ownership, substantial corporate change or location without prior written approval of the commissioner. The commissioner may promulgate regulations allowing for certain types of changes in ownership without the need for prior written approval.

4. For purposes of this section, "substantial corporate change" shall mean:

(a) for a corporation, a change of eighty percent or more of the officers and/or directors, or a transfer of eighty percent or more of stock of such corporation, or an existing stockholder obtaining eighty percent or more of the stock of such corporation; and

(b) for a limited liability company, a change of eighty percent or more of the managing members of the company, or a transfer of eighty percent or more of ownership interest in said company, or an existing member obtaining a cumulative of eighty percent or more of the ownership interest in said company.

§ 534. Record keeping and tracking. 1. The commissioner shall, by regulation, require each licensee pursuant to this article to adopt and maintain security, tracking, record keeping, record retention and surveillance systems, relating to all hemp extract at every stage of acquiring, possession, manufacture, transport, sale, or delivery, or distribution by the licensee, subject to regulations of the commissioner.

2. Every licensee shall keep and maintain upon the licensed premises, adequate books and records of all transactions involving the licensee and sale of its products, which shall include all information required by rules promulgated by the department.

3. Each sale shall be recorded separately on a numbered invoice, which shall have printed thereon the number, the name of the licensee, the address of the licensed premises, and the current license number.

4. Such books, records and invoices shall be kept for a period of five years and shall be available for inspection by any authorized representative of the department.

§ 535. Inspections and ongoing requirements. All licensees shall be subject to reasonable inspection by the department, in consultation with the department of health, and a person who holds a license must make himself or herself, or an agent thereof, available and present for any

inspection required by the department. The department shall make reasonable accommodations so that ordinary business is not interrupted and safety and security procedures are not compromised by the inspection.

§ 536. Packaging and labeling of hemp extract. 1. The department, in consultation with the department of health, is hereby authorized to promulgate rules and regulations governing the packaging and labeling of hemp extract products, sold or possessed for sale in New York state.

2. Such regulations shall include, but not be limited to, requiring labels warning consumers of any potential impact on human health resulting from the consumption of hemp extract products that shall be affixed to those products when sold, if such labels are deemed warranted by the department. No label may state that hemp extract can treat, cure or prevent any disease without approval pursuant to federal law.

3. Such rules and regulations shall establish a QR code which may be used in conjunction with similar technology for labels and establish methods and procedures for determining, among other things, serving sizes for hemp extract products, active cannabinoid concentration per serving size, number of servings per container, and the growing region, state or country of origin if not from the United States. Such regulations shall also require a supplement fact panel that incorporates data regarding serving sizes and potency thereof.

4. The packaging, sale, or possession by any licensee of any hemp product intended for human or animal consumption or use not labeled or offered in conformity with rules and regulations promulgated in accordance with this section shall be grounds for the imposition of a fine, and/or the suspension, revocation or cancellation of a license.

§ 537. Provisions governing the growing, manufacturing and extracting of hemp extract. 1. No licensed cannabinoid grower, manufacturer or extractor shall sell, or agree to sell or deliver in the state any hemp extract products, as the case may be, except in sealed containers containing quantities in accordance with size standards pursuant to rules adopted by the department. Such containers shall have affixed thereto such labels as may be required by the rules of the department.

2. Licensed cannabinoid growers shall be prohibited from using pesticides.

3. All hemp extract products shall be extracted and manufactured in accordance with good manufacturing processes, pursuant to Part 111 or 117 of Title 21 of the Code of Federal Regulations as may be modified and decided upon by the commissioner in regulation.

4. Within thirty days of the effective date of this article, the department shall approve the manufacture, distribution, and sale of beverages containing no more than twenty milligrams of cannabidiol per twelve ounce beverage. The hemp extract used in such beverages shall be grown, extracted and manufactured in the state of New York. The department shall issue guidance on the label, warning, point of sale, and advertising for such beverages.

5. Terpenes derived from the hemp plant are generally recognized as safe.

§ 538. Laboratory testing. 1. Every cannabinoid manufacturer and cannabinoid extractor shall contract with an independent laboratory to test the hemp extract products produced by the licensed manufacturer or extractor. The commissioner, in consultation with the commissioner of health, shall approve the laboratory and require that the laboratory report testing results in a manner determined by the commissioner. The commissioner is authorized to issue regulations requiring the laboratory to perform certain tests and services.

2. Cannabinoid manufacturers and cannabinoid extractors shall make laboratory test reports available to persons holding a cannabinoid permit pursuant to section five hundred forty-two of this article for all cannabis products manufactured by the licensee.

3. On-site laboratory testing by licensees is permissible; however, such testing shall not be certified by the department and does not exempt the licensee from the requirements of quality assurance testing at a testing laboratory pursuant to this section.

§ 539. Advertising. The department shall promulgate rules and regulations governing the advertising of hemp extract and any other related products or services as determined by the commissioner.

§ 540. Research. 1. The department shall promote research and development through public-private partnerships to bring new hemp extract and industrial hemp derived products to market within the state.

2. The commissioner may develop and carry out research programs which may include programs at the New York state college of agriculture and life sciences, pursuant to section fifty-seven hundred twelve of the education law and/or New York state university research institutions relating to industrial hemp and hemp extract.

§ 541. Regulations. The commissioner shall make regulations to implement this article.

§ 542. Cannabinoid permit. The department is hereby authorized to issue cannabinoid permits to retailers, wholesalers, and distributors authorizing them to sell cannabis products derived from hemp extract. The commissioner shall have the authority to set fees for such permit, to establish the period during which such permit is authorized, and to make rules and regulations, including emergency regulations, to implement this section.

§ 543. New York hemp product. The commissioner may establish and adopt official grades and standards for hemp extract and hemp extract products as he or she may deem advisable, which are produced for sale in this state and, from time to time, may amend or modify such grades and standards.

§ 544. Penalties and violations of this article. Notwithstanding the provision of any law to the contrary, the failure to comply with the requirements of this article, the rules and regulations promulgated thereunder, may be punishable by a fine of not more than one thousand dollars for a first violation; not more than five thousand dollars for a second violation; and not more than ten thousand dollars for a third violation and each subsequent violation thereafter.

§ 545. Hemp workgroup. The commissioner shall appoint a New York state industrial hemp and hemp extract workgroup, composed of researchers, producers, processors, manufacturers and trade associations, to make recommendations for the industrial hemp and hemp extract programs, state and federal policies and policy initiatives, and opportunities for the promotion and marketing of industrial hemp and hemp extract as consistent with federal and state laws, rules and regulations, which workgroup shall continue for such time as the commissioner deems appropriate.

§ 546. Prohibitions. Except as authorized in this article, the manufacturing of hemp extract for human or animal consumption and the distribution and/or sale thereof is prohibited in this state unless the manufacturer is licensed under this article. Hemp extract and products derived therefrom for human and animal consumption produced outside the state shall not be distributed or sold in this state unless they meet all standards and requirements established for such product manufactured

in the state under this article and its rules and regulations as determined by the department.

§ 547. Severability. If any provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

§ 11. This act shall take effect on the ninetieth day after it shall have become a law.