

STATE OF NEW YORK

9364

IN ASSEMBLY

February 23, 2022

Introduced by M. of A. PEOPLES-STOKES -- read once and referred to the Committee on Economic Development

AN ACT to amend the cannabis law, in relation to requiring that the sale or delivery of cannabis products by distributors to retailers be in exchange for cash to be paid at the time of delivery or on terms requiring payment by such retailer for such cannabis products

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

1 Section 1. The cannabis law is amended by adding a new section 78-a to
2 read as follows:

3 § 78-a. Terms of sale. 1. As used in this section:

4 a. "Credit period" means a period beginning on the date cannabis
5 products are delivered and ending thirty days thereafter.

6 b. "Payment period" means the period beginning on the date cannabis
7 products are delivered and ending on the thirtieth day following the
8 date on which cannabis products are delivered.

9 c. "Final payment date" means the last day of a payment period.

10 d. "Notification date" means, notwithstanding section twenty-five of
11 the general construction law, for deliveries on:

12 (i) Monday, the Monday immediately following a final payment date;

13 (ii) Tuesday, the Tuesday immediately following the final payment
14 date;

15 (iii) Wednesday, the Wednesday immediately following the final payment
16 date;

17 (iv) Thursday, the Thursday immediately following the final payment
18 date;

19 (v) Friday, the Friday immediately following the final payment date.

20 e. "Retailer" means a person licensed to sell cannabis products at
21 retail for on-premise consumption or for off-premise consumption
22 (including a person holding a permit granted by the board pursuant to
23 this article).

24 f. "Cannabis product" shall have the same meaning as the term is
25 defined in subdivision nine of section three of this chapter.

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

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1 g. "Cash" means and includes currency and coin of the United States of
2 America, certified check, money order, electronic funds transfer, bank
3 officer's check or draft, or a check drawn on the account of the retail-
4 er payable to the distributor and dated no later than the date of deliv-
5 ery of the cannabis products and which is honored upon presentment for
6 payment, provided, however, that if any check or other instrument
7 described herein tendered by a retailer on the delinquent list is not
8 honored upon presentment for payment, the license of such retailer may
9 be suspended for not more than fifteen days for the first offense, and
10 not more than sixty days for a subsequent offense, which penalty shall
11 be in addition to the penalty provided for by the provisions of subdivi-
12 sion six of this section, and provided further, that nothing herein
13 contained shall require a distributor to accept a check tendered by or
14 drawn on the account of a retailer on the delinquent list unless the
15 same has been certified.

16 h. "Distributor" shall have the same meaning as the term is defined in
17 subdivision twenty-four of section three of this chapter.

18 2. No distributor licensed under this chapter shall sell or deliver
19 any cannabis product to any retailer except:

20 (a) for cash to be paid at the time of delivery; or

21 (b) on terms requiring payment by such retailer for such cannabis
22 products on or before the final payment date of the credit period for
23 which delivery is made.

24 3. Each such distributor is hereby required, on or before the respec-
25 tive notification dates for each retailer license, to give written
26 notice of default, by first class mail, to all such licensees therein
27 who have failed to make payment to him or her on or before their final
28 payment date for cannabis products sold or delivered to them during a
29 credit period ending on their final payment date. No retailer shall be
30 placed in default if the distributor has issued an account credit to the
31 retailer, which after application to all debts owed by the retailer, is
32 equal to or greater than the amount of the default. Any such retailer
33 receiving such notice shall not thereafter purchase cannabis products
34 except for cash until such time as the board determines that his or her
35 name shall not be published on the delinquent list as provided in subdivi-
36 sion four of this section, or until such time as the board permits
37 sales or deliveries to him or her as provided in subdivision five of
38 this section. Each such distributor is hereby required to file with the
39 board, on or before each notification date, copies of the notices sent
40 by him or her to all delinquent retailer licensees as required in this
41 subdivision, and in addition, if the board shall so require, a written
42 list setting forth the names and addresses of all such delinquent
43 retailers. The board, in its discretion, may extend for a period not
44 exceeding three days the date for giving written notice of default to
45 delinquent retailers and extend for three days the date for filing with
46 the board the copies of notices sent to such retailers and/or the writ-
47 ten list of delinquent retailers as required in this subdivision. The
48 board, in its discretion, may limit the documents to be filed to those
49 relating to retailers who are to be added or deleted from the default
50 list and direct that the distributor shall maintain copies of all other
51 documents required under this section for future inspection by the
52 board. The board shall, as soon as practicable after each notification
53 date, compile and publish and furnish each distributor a list, to be
54 designated the delinquent list, containing the names and addresses of
55 all retailers who have been reported by distributors pursuant to the
56 provisions of this section as having failed to make payment as required

1 by this section for cannabis products sold or delivered to them, and no
2 such distributor, on or after the fifth day after the receipt of such
3 delinquent list, shall knowingly, willfully or intentionally sell or
4 deliver any cannabis products to any such retailer whose name appears on
5 such list, except for cash, until such time as the name of such retailer
6 is removed therefrom, except as hereinafter permitted. The receipt of a
7 delinquent list by a distributor shall constitute knowledge of the names
8 of the retailers who have failed to make payment for cannabis products
9 as required by this section. The failure of any distributor to comply
10 with the foregoing provisions of this section may, at the discretion of
11 the board, subject the license of such distributor to suspension for not
12 more than five days for the first offense, and not more than thirty days
13 for a subsequent offense. The board may publish the delinquent list on
14 its website; provided, however, that full access shall be restricted to
15 those distributors and access to their specific status shall be provided
16 to retailers. Such publication shall be considered receipt thereof by
17 all distributors.

18 4. In the event that any dispute shall exist between any distributor
19 and a retailer to whom he or she shall have sold cannabis products,
20 either as to the fact of payment or as to the amount due for such canna-
21 bis products or as to the quantity of the cannabis products sold or
22 delivered, which dispute cannot be adjusted between them, the board is
23 hereby authorized to receive statements from each of the parties to such
24 dispute as to the facts and circumstances thereof and to determine
25 whether or not such retailer's name should be published on the appropri-
26 ate delinquent list.

27 5. The board in the case of a retailer who has actually made payment
28 for cannabis products, or on good cause shown to it, may permit sales or
29 deliveries to any retailer who has received notice of default or who is
30 named on any delinquent list, on terms other than for cash, but within
31 the limitations of this section, prior to the publication of the next
32 appropriate delinquent list.

33 6. The license of any retailer who purchases or accepts delivery of
34 cannabis products on any terms, other than as provided in this section,
35 may be suspended for not more than five days for the first offense and
36 not more than thirty days for a subsequent offense. The failure of any
37 such retailer to pay any amount in default before the expiration of the
38 period of suspension shall be deemed and punishable as a subsequent
39 offense until paid. In addition, the board may require any such retail-
40 er, after default in making payment in accordance with the provisions of
41 this section to make payment in cash for cannabis products subsequently
42 delivered.

43 7. All retailers who fail to pay distributors for cannabis products
44 sold or delivered to such retailers by such distributors subsequent to
45 the effective date of this section, shall liquidate and pay such unpaid
46 balances to such distributors in equal monthly installments over a peri-
47 od of three months from the date upon which such unpaid balances become
48 due. The board, shall not, however, because of such an indebtedness or
49 failure to pay such balance refuse to renew the license of any such
50 licensee.

51 8. Nothing herein contained shall be construed to require any distrib-
52 utor to extend credit to any retailer nor to restrain any distributor
53 from seeking to enforce by legal action or otherwise, payment of any sum
54 or sums of money due or alleged to be due to any such distributor for
55 cannabis products sold or delivered to any such retailer.

1 9. The board is hereby authorized to do such acts, prescribe such
2 forms and make such rules, regulations and orders as it may deem neces-
3 sary or proper fully to effectuate the provisions of this section,
4 including but not limited to the changing of any date on which any act
5 or function pursuant to this section is to be performed by any licensee
6 or by the board.

7 10. For the purpose of raising the moneys necessary to defray the
8 expenses incurred in the administration of this section, on or before
9 the tenth day after this section becomes a law, there shall be paid to
10 the board by each distributor licensed under this chapter to sell canna-
11 bis products to retailers, a sum equivalent to ten per centum of the
12 biennial license fee prescribed by this chapter for each such licensee.
13 A like sum shall be paid by each person hereafter applying for any such
14 license or the renewal of any such license, and such sum shall accompany
15 the application and the license fee prescribed by this chapter for such
16 license or renewal, as the case may be.

17 § 2. This act shall take effect January 1, 2023. Effective immediate-
18 ly, the addition, amendment and/or repeal of any rule or regulation
19 necessary for the implementation of this act on its effective date are
20 authorized to be made and completed on or before such effective date.