

STATE OF NEW YORK

3506--B

2017-2018 Regular Sessions

IN ASSEMBLY

January 27, 2017

Introduced by M. of A. PEOPLES-STOKES, GOTTFRIED, LUPARDO, SEPULVEDA, WEPRIN, HUNTER, HYNDMAN, PICHARDO, BLAKE -- Multi-Sponsored by -- M. of A. FARRELL, MOSLEY, SEAWRIGHT, SIMON, SKARTADOS, STECK -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to the description of marihuana, and the growing of and use of marihuana by persons twenty-one years of age or older; to amend the civil practice law and rules, in relation to removing certain references to marihuana relating to forfeiture actions; to amend the vehicle and traffic law, in relation to making technical changes regarding the definition of marihuana; to amend the penal law, in relation to the qualification of certain offenses involving marihuana and to exempt certain persons from prosecution for the use, consumption, display, production or distribution of marihuana; to amend the alcoholic beverage control law, in relation to providing for the licensure of persons authorized to produce, process and sell marihuana; to amend the state finance law, in relation to establishing the New York state marihuana revenue fund, the New York state drug treatment education fund and the New York state community grants reinvestment fund; to amend the tax law, in relation to providing for the levying of an excise tax on certain sales of marihuana; to amend the criminal procedure law, the civil practice law and rules, the general business law, the state finance law, the executive law, the penal law and the vehicle and traffic law, in relation to making conforming changes; to repeal sections 221.05, 221.10, 221.15, 221.20, 221.25, 221.30, 221.35 and 221.40 of the penal law relating to the criminal possession and sale of marihuana; to repeal paragraph (f) of subdivision 2 of section 850 of the general business law relating to drug related paraphernalia; to repeal section 150.75 of the criminal procedure law relating to appearance tickets for certain marihuana offenses; and making an appropriation therefor

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

LBD05327-07-7

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

1 Section 1. This act shall be known and may be cited as the "marihuana
2 regulation and taxation act".

3 § 2. Legislative findings and intent. The legislature finds that
4 existing marihuana laws have not been beneficial to the welfare of the
5 general public. Existing laws have been ineffective in reducing or curb-
6 ing marihuana use and have instead resulted in devastating collateral
7 consequences that inhibit an otherwise law-abiding citizen's ability to
8 access housing, employment opportunities, and other vital services.
9 Existing laws have also created an illicit market which represents a
10 threat to public health and reduces the ability of the legislature to
11 deter the accessing of marihuana by minors. Existing marihuana laws have
12 also disproportionately impacted African-American and Latino communi-
13 ties.

14 The intent of this act is to regulate, control, and tax marihuana in a
15 manner similar to alcohol, generate millions of dollars in new revenue,
16 prevent access to marihuana by those under the age of twenty-one years,
17 reduce the illegal drug market and reduce violent crime, reduce partic-
18 ipation of otherwise law-abiding citizens in the illicit market, end the
19 racially disparate impact of existing marihuana laws and create new
20 industries and increase employment.

21 Nothing in this act is intended to limit the authority of any district
22 government agency or office or employers to enact and enforce policies
23 pertaining to marihuana in the workplace, to allow driving under the
24 influence of marihuana, to allow individuals to engage in conduct that
25 endangers others, to allow smoking marihuana in any location where smok-
26 ing tobacco is prohibited, or to require any individual to engage in any
27 conduct that violates federal law or to exempt anyone from any require-
28 ment of federal law or pose any obstacle to the federal enforcement of
29 federal law.

30 Nothing in this act is intended to limit any privileges or rights of a
31 medical marihuana patient or medical marihuana caregiver under the New
32 York Compassionate Care Act.

33 § 3. Section 3302 of the public health law, as added by chapter 878 of
34 the laws of 1972, subdivisions 1, 14, 16, 17 and 27 as amended and
35 subdivisions 4, 5, 6, 7, 8, 11, 12, 13, 15, 18, 19, 20, 21, 22, 23, 24,
36 25, 26, 28, 29 and 30 as renumbered by chapter 537 of the laws of 1998,
37 subdivisions 9 and 10 as amended and subdivisions 34, 35, 36, 37, 38, 39
38 and 40 as added by chapter 178 of the laws of 2010, paragraph (a) of
39 subdivision 20, the opening paragraph of subdivision 22 and subdivision
40 29 as amended by chapter 163 of the laws of 1973, subdivision 31 as
41 amended by section 4 of part A of chapter 58 of the laws of 2004, subdi-
42 vision 41 as added by section 6 of part A of chapter 447 of the laws of
43 2012, and subdivisions 42 and 43 as added by section 13 of part D of
44 chapter 60 of the laws of 2014, is amended to read as follows:

45 § 3302. Definitions of terms of general use in this article. Except
46 where different meanings are expressly specified in subsequent
47 provisions of this article, the following terms have the following mean-
48 ings:

49 1. "Addict" means a person who habitually uses a controlled substance
50 for a non-legitimate or unlawful use, and who by reason of such use is
51 dependent thereon.

2. "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject.

3. "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. No person may be authorized to so act if under title VIII of the education law such person would not be permitted to engage in such conduct. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman when acting in the usual and lawful course of the carrier's or warehouseman's business.

4. ~~"Concentrated Cannabis" means~~
~~(a) the separated resin, whether crude or purified, obtained from a plant of the genus Cannabis; or~~
~~(b) a material, preparation, mixture, compound or other substance which contains more than two and one-half percent by weight of delta-9 tetrahydrocannabinol, or its isomer, delta-8 dibenzopyran numbering system, or delta-1 tetrahydrocannabinol or its isomer, delta-1-(6) mono-terpene numbering system.~~

5.] "Controlled substance" means a substance or substances listed in section thirty-three hundred six of this ~~chapter~~ title.

~~6.]~~ 5. "Commissioner" means commissioner of health of the state of New York.

~~7.]~~ 6. "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

~~8.]~~ 7. "Department" means the department of health of the state of New York.

~~9.]~~ 8. "Dispense" means to deliver a controlled substance to an ultimate user or research subject by lawful means, including by means of the internet, and includes the packaging, labeling, or compounding necessary to prepare the substance for such delivery.

~~10.]~~ 9. "Distribute" means to deliver a controlled substance, including by means of the internet, other than by administering or dispensing.

~~11.]~~ 10. "Distributor" means a person who distributes a controlled substance.

~~12.]~~ 11. "Diversion" means manufacture, possession, delivery or use of a controlled substance by a person or in a manner not specifically authorized by law.

~~13.]~~ 12. "Drug" means

(a) substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

(b) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; and

(c) substances (other than food) intended to affect the structure or a function of the body of man or animal. It does not include devices or their components, parts, or accessories.

~~14.]~~ 13. "Federal agency" means the Drug Enforcement Administration, United States Department of Justice, or its successor agency.

~~15.]~~ 14. "Federal controlled substances act" means the Comprehensive Drug Abuse Prevention and Control Act of 1970, Public Law 91-513, and any act or acts amendatory or supplemental thereto or regulations promulgated thereunder.

~~16.]~~ 15. "Federal registration number" means such number assigned by the Federal agency to any person authorized to manufacture, distribute, sell, dispense or administer controlled substances.

1 ~~[17.]~~ 16. "Habitual user" means any person who is, or by reason of
2 repeated use of any controlled substance for non-legitimate or unlawful
3 use is in danger of becoming, dependent upon such substance.

4 ~~[18.]~~ 17. "Institutional dispenser" means a hospital, veterinary
5 hospital, clinic, dispensary, maternity home, nursing home, mental
6 hospital or similar facility approved and certified by the department as
7 authorized to obtain controlled substances by distribution and to
8 dispense and administer such substances pursuant to the order of a prac-
9 titioner.

10 ~~[19.]~~ 18. "License" means a written authorization issued by the
11 department or the New York state department of education permitting
12 persons to engage in a specified activity with respect to controlled
13 substances.

14 ~~[20.]~~ 19. "Manufacture" means the production, preparation, propa-
15 gation, compounding, cultivation, conversion or processing of a
16 controlled substance, either directly or indirectly or by extraction
17 from substances of natural origin, or independently by means of chemical
18 synthesis, or by a combination of extraction and chemical synthesis, and
19 includes any packaging or repackaging of the substance or labeling or
20 relabeling of its container, except that this term does not include the
21 preparation, compounding, packaging or labeling of a controlled
22 substance:

23 (a) by a practitioner as an incident to his administering or dispens-
24 ing of a controlled substance in the course of his professional prac-
25 tice; or

26 (b) by a practitioner, or by his authorized agent under his super-
27 vision, for the purpose of, or as an incident to, research, teaching, or
28 chemical analysis and not for sale; or

29 (c) by a pharmacist as an incident to his dispensing of a controlled
30 substance in the course of his professional practice.

31 ~~[21. "Marihuana" means all parts of the plant of the genus Cannabis,~~
32 ~~whether growing or not, the seeds thereof, the resin extracted from any~~
33 ~~part of the plant, and every compound, manufacture, salt, derivative,~~
34 ~~mixture, or preparation of the plant, its seeds or resin. It does not~~
35 ~~include the mature stalks of the plant, fiber produced from the stalks,~~
36 ~~oil or cake made from the seeds of the plant, any other compound, manu-~~
37 ~~facture, salt, derivative, mixture, or preparation of the mature stalks~~
38 ~~(except the resin extracted therefrom), fiber, oil, or cake, or the~~
39 ~~sterilized seed of the plant which is incapable of germination.~~

40 ~~22.]~~ 20. "Narcotic drug" means any of the following, whether produced
41 directly or indirectly by extraction from substances of vegetable
42 origin, or independently by means of chemical synthesis, or by a combi-
43 nation of extraction and chemical synthesis:

44 (a) opium and opiate, and any salt, compound, derivative, or prepara-
45 tion of opium or opiate;

46 (b) any salt, compound, isomer, derivative, or preparation thereof
47 which is chemically equivalent or identical with any of the substances
48 referred to in ~~[subdivision]~~ paragraph (a) of this subdivision, but not
49 including the isoquinoline alkaloids of opium;

50 (c) opium poppy and poppy straw.

51 ~~[23.]~~ 21. "Opiate" means any substance having an addiction-forming or
52 addiction-sustaining liability similar to morphine or being capable of
53 conversion into a drug having addiction-forming or addiction-sustaining
54 liability. It does not include, unless specifically designated as
55 controlled under section ~~[3306]~~ thirty-three hundred six of this ~~[arti-~~
56 ~~cle]~~ title, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and

1 its salts (dextromethorphan). It does include its racemic and levorota-
2 tory forms.

3 ~~[24-]~~ 22. "Opium poppy" means the plant of the species *Papaver*
4 *somniferum* L., except its seeds.

5 ~~[25-]~~ 23. "Person" means individual, institution, corporation, govern-
6 ment or governmental subdivision or agency, business trust, estate,
7 trust, partnership or association, or any other legal entity.

8 ~~[26-]~~ 24. "Pharmacist" means any person licensed by the state depart-
9 ment of education to practice pharmacy.

10 ~~[27-]~~ 25. "Pharmacy" means any place registered as such by the New
11 York state board of pharmacy and registered with the Federal agency
12 pursuant to the federal controlled substances act.

13 ~~[28-]~~ 26. "Poppy straw" means all parts, except the seeds, of the
14 opium poppy, after mowing.

15 ~~[29-]~~ 27. "Practitioner" means:

16 A physician, dentist, podiatrist, veterinarian, scientific investi-
17 gator, or other person licensed, or otherwise permitted to dispense,
18 administer or conduct research with respect to a controlled substance in
19 the course of a licensed professional practice or research licensed
20 pursuant to this article. Such person shall be deemed a "practitioner"
21 only as to such substances, or conduct relating to such substances, as
22 is permitted by his license, permit or otherwise permitted by law.

23 ~~[30-]~~ 28. "Prescribe" means a direction or authorization, by
24 prescription, permitting an ultimate user lawfully to obtain controlled
25 substances from any person authorized by law to dispense such
26 substances.

27 ~~[31-]~~ 29. "Prescription" shall mean an official New York state
28 prescription, an electronic prescription, an oral prescription~~[7]~~ or an
29 out-of-state prescription~~[7, or any one]~~.

30 ~~[32-]~~ 30. "Sell" means to sell, exchange, give or dispose of to anothe-
31 er, or offer or agree to do the same.

32 ~~[33-]~~ 31. "Ultimate user" means a person who lawfully obtains and
33 possesses a controlled substance for his own use or the use by a member
34 of his household or for an animal owned by him or in his custody. It
35 shall also mean and include a person designated, by a practitioner on a
36 prescription, to obtain such substance on behalf of the patient for whom
37 such substance is intended.

38 ~~[34-]~~ 32. "Internet" means collectively computer and telecommuni-
39 cations facilities which comprise the worldwide network of networks that
40 employ a set of industry standards and protocols, or any predecessor or
41 successor protocol to such protocol, to exchange information of all
42 kinds. "Internet," as used in this article, also includes other
43 networks, whether private or public, used to transmit information by
44 electronic means.

45 ~~[35-]~~ 33. "By means of the internet" means any sale, delivery,
46 distribution, or dispensing of a controlled substance that uses the
47 internet, is initiated by use of the internet or causes the internet to
48 be used.

49 ~~[36-]~~ 34. "Online dispenser" means a practitioner, pharmacy, or person
50 in the United States that sells, delivers or dispenses, or offers to
51 sell, deliver, or dispense, a controlled substance by means of the
52 internet.

53 ~~[37-]~~ 35. "Electronic prescription" means a prescription issued with
54 an electronic signature and transmitted by electronic means in accord-
55 ance with regulations of the commissioner and the commissioner of educa-
56 tion and consistent with federal requirements. A prescription generated

1 on an electronic system that is printed out or transmitted via facsimile
2 is not considered an electronic prescription and must be manually
3 signed.

4 ~~[38.]~~ 36. "Electronic" means of or relating to technology having elec-
5 trical, digital, magnetic, wireless, optical, electromagnetic or similar
6 capabilities. "Electronic" shall not include facsimile.

7 ~~[39.]~~ 37. "Electronic record" means a paperless record that is
8 created, generated, transmitted, communicated, received or stored by
9 means of electronic equipment and includes the preservation, retrieval,
10 use and disposition in accordance with regulations of the commissioner
11 and the commissioner of education and in compliance with federal law and
12 regulations.

13 ~~[40.]~~ 38. "Electronic signature" means an electronic sound, symbol, or
14 process, attached to or logically associated with an electronic record
15 and executed or adopted by a person with the intent to sign the record,
16 in accordance with regulations of the commissioner and the commissioner
17 of education.

18 ~~[41.]~~ 39. "Registry" or "prescription monitoring program registry"
19 means the prescription monitoring program registry established pursuant
20 to section thirty-three hundred forty-three-a of this article.

21 ~~[42.]~~ 40. "Compounding" means the combining, admixing, mixing, dilut-
22 ing, pooling, reconstituting, or otherwise altering of a drug or bulk
23 drug substance to create a drug with respect to an outsourcing facility
24 under section 503B of the federal Food, Drug and Cosmetic Act and
25 further defined in this section.

26 ~~[43.]~~ 41. "Outsourcing facility" means a facility that:

27 (a) is engaged in the compounding of sterile drugs as defined in
28 section sixty-eight hundred two of the education law;

29 (b) is currently registered as an outsourcing facility pursuant to
30 article one hundred thirty-seven of the education law; and

31 (c) complies with all applicable requirements of federal and state
32 law, including the Federal Food, Drug and Cosmetic Act.

33 Notwithstanding any other provision of law to the contrary, when an
34 outsourcing facility distributes or dispenses any drug to any person
35 pursuant to a prescription, such outsourcing facility shall be deemed to
36 be providing pharmacy services and shall be subject to all laws, rules
37 and regulations governing pharmacies and pharmacy services.

38 § 4. Paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25,
39 26, 27, 28, 29, 30, 31 and 32 of subdivision (d) of schedule I of
40 section 3306 of the public health law, paragraphs 13, 14, 15, 16, 17,
41 18, 19, 20, 21, 22, 23 and 24 as added by chapter 664 of the laws of
42 1985, paragraphs 25, 26, 27, 28, 29 and 30 as added by chapter 589 of
43 the laws of 1996 and paragraphs 31 and 32 as added by chapter 457 of the
44 laws of 2006, are amended to read as follows:

45 (13) ~~[Marihuana.]~~

46 ~~+(14)]~~ Mescaline.

47 ~~+(15)]~~ (14) Parahexyl. Some trade or other names: 3-Hexyl-1-hydroxy-
48 7,8,9,10-tetra hydro-6,6,9-trimethyl-6H-dibenfo{b,d} pyran.

49 ~~+(16)]~~ (15) Peyote. Meaning all parts of the plant presently classi-
50 fied botanically as Lophophora williamsii Lemaire, whether growing or
51 not, the seeds thereof, any extract from any part of such plant, and
52 every compound, manufacture, salts, derivative, mixture, or preparation
53 of such plant, its seeds or extracts.

54 ~~+(17)]~~ (16) N-ethyl-3-piperidyl benzilate.

55 ~~+(18)]~~ (17) N-methyl-3-piperidyl benzilate.

56 ~~+(19)]~~ (18) Psilocybin.

1 ~~[(20)]~~ (19) Psilocyn.
2 ~~[(21)]~~ (20) Tetrahydrocannabinols. Synthetic tetrahydrocannabinols not
3 derived from the cannabis plant that are equivalents of the substances
4 contained in the plant, or in the resinous extractives of cannabis, sp.
5 and/or synthetic substances, derivatives, and their isomers with similar
6 chemical structure and pharmacological activity such as the following:
7 delta 1 cis or trans tetrahydrocannabinol, and their optical isomers
8 delta 6 cis or trans tetrahydrocannabinol, and their optical isomers
9 delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers
10 (since nomenclature of these substances is not internationally standard-
11 ized, compounds of these structures, regardless of numerical designation
12 of atomic positions covered).
13 ~~[(22)]~~ (21) Ethylamine analog of phencyclidine. Some trade or other
14 names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethyla-
15 mine, N-(1-phenylcyclohexyl) ethylamine cyclohexamine, PCE.
16 ~~[(23)]~~ (22) Pyrrolidine analog of phencyclidine. Some trade or other
17 names 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy, PHP.
18 ~~[(24)]~~ (23) Thiophene analog of phencyclidine. Some trade or other
19 names: 1-{1-(2-thienyl)-cyclohexyl}-piperidine, 2-thienylanalog of
20 phencyclidine, TPCP, TCP.
21 ~~[(25)]~~ (24) 3,4-methylenedioxymethamphetamine (MDMA).
22 ~~[(26)]~~ (25) 3,4-methylenedioxy-N-ethylamphetamine (also known as
23 N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA,
24 MDE, MDEA.
25 ~~[(27)]~~ (26) N-hydroxy-3,4-methylenedioxyamphetamine (also known as
26 N-hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and
27 N-hydroxy MDA.
28 ~~[(28)]~~ (27) 1-{1-(2-thienyl) cyclohexyl} pyrrolidine. Some other
29 names: TCPY.
30 ~~[(29)]~~ (28) Alpha-ethyltryptamine. Some trade or other names:
31 etryptamine; Monase; Alpha-ethyl-1H-indole-3-ethanamine;
32 3-(2-aminobutyl) indole; Alpha-ET or AET.
33 ~~[(30)]~~ (29) 2,5-dimethoxy-4-ethylamphetamine. Some trade or other
34 names: DOET.
35 ~~[(31)]~~ (30) 4-Bromo-2,5-dimethoxyphenethylamine. Some trade or other
36 names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl
37 DOB; 2C-B, Nexus.
38 ~~[(32)]~~ (31) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7), its
39 optical isomers, salts and salts of isomers.
40 § 5. Section 3382 of the public health law, as added by chapter 878 of
41 the laws of 1972, is amended to read as follows:
42 § 3382. Growing of the plant known as Cannabis by unlicensed persons.
43 A person who, without being licensed so to do under this article, grows
44 the plant of the genus Cannabis or knowingly allows it to grow on his
45 land without destroying the same, shall be guilty of a class A
46 misdemeanor, unless the person grows in accordance with sections 221.05
47 and 221.05-a of the penal law.
48 § 6. Paragraph (d) of subdivision 3, subdivision 3-a and paragraphs
49 (a) and (b) of subdivision 11 of section 1311 of the civil practice law
50 and rules, paragraph (d) of subdivision three and subdivision 3-a as
51 added by chapter 655 of the laws of 1990 and paragraphs (a) and (b) of
52 subdivision 11 as amended by section 47 of part A-1 of chapter 56 of the
53 laws of 2010, are amended to read as follows:
54 (d) In a forfeiture action commenced by a claiming authority against a
55 defendant, the following rebuttable presumption shall apply: all
56 currency or negotiable instruments payable to the bearer shall be

1 presumed to be the proceeds of a pre-conviction forfeiture crime when
2 such currency or negotiable instruments are (i) found in close proximity
3 to a controlled substance unlawfully possessed by the defendant in an
4 amount sufficient to constitute a violation of section 220.18 or 220.21
5 of the penal law, or (ii) found in close proximity to any quantity of a
6 controlled substance [~~or marihuana~~] unlawfully possessed by such defend-
7 ant in a room, other than a public place, under circumstances evincing
8 an intent to unlawfully mix, compound, distribute, package or otherwise
9 prepare for sale such controlled substance [~~or marihuana~~].

10 3-a. Conviction of a person in a criminal action upon an accusatory
11 instrument which includes one or more of the felonies specified in
12 subdivision four-b of section thirteen hundred ten of this article, of
13 any felony other than such felonies, shall not preclude a defendant, in
14 any subsequent proceeding under this article where that conviction is at
15 issue, from adducing evidence that the conduct underlying the conviction
16 would not establish the elements of any of the felonies specified in
17 such subdivision other than the one to which the criminal defendant pled
18 guilty. If the defendant does adduce such evidence, the burden shall be
19 upon the claiming authority to prove, by clear and convincing evidence,
20 that the conduct underlying the criminal conviction would establish the
21 elements of the felony specified in such subdivision. Nothing contained
22 in this subdivision shall affect the validity of a settlement of any
23 forfeiture action negotiated between the claiming authority and a crimi-
24 nal defendant contemporaneously with the taking of a plea of guilty in a
25 criminal action to any felony defined in article two hundred twenty [~~or~~
26 ~~section 221.30 or 221.55~~] of the penal law, or to a felony conspiracy to
27 commit the same.

28 (a) Any stipulation or settlement agreement between the parties to a
29 forfeiture action shall be filed with the clerk of the court in which
30 the forfeiture action is pending. No stipulation or settlement agreement
31 shall be accepted for filing unless it is accompanied by an affidavit
32 from the claiming authority that written notice of the stipulation or
33 settlement agreement, including the terms of such, has been given to the
34 office of victim services, the state division of criminal justice
35 services[~~, and in the case of a forfeiture based on a felony defined in~~
36 ~~article two hundred twenty or section 221.30 or 221.55 of the penal law,~~
37 ~~to the state division of substance abuse services~~].

38 (b) No judgment or order of forfeiture shall be accepted for filing
39 unless it is accompanied by an affidavit from the claiming authority
40 that written notice of judgment or order, including the terms of such,
41 has been given to the office of victim services, the state division of
42 criminal justice services[~~, and in the case of a forfeiture based on a~~
43 ~~felony defined in article two hundred twenty or section 221.30 or 221.55~~
44 ~~of the penal law, to the state division of substance abuse services~~].

45 § 7. Subdivision 1 of section 3397-b of the public health law, as
46 added by chapter 810 of the laws of 1980, is amended to read as follows:

47 1. [~~"Marijuana"~~] "Marihuana" means [~~marijuana~~] marihuana as defined in
48 [~~section thirty-three hundred two of this chapter~~] subdivision six of
49 section 220.00 of the penal law and shall also include tetrahydrocanna-
50 binols or a chemical derivative of tetrahydrocannabinol.

51 § 8. Section 114-a of the vehicle and traffic law, as added by chapter
52 163 of the laws of 1973, is amended to read as follows:

53 § 114-a. Drug. The term "drug" when used in this chapter, means and
54 includes any substance listed in section thirty-three hundred six of the
55 public health law and marihuana and concentrated cannabis as defined in
56 section 220.00 of the penal law.

§ 9. Subdivisions 5, 6 and 9 of section 220.00 of the penal law, subdivision 5 as amended by chapter 537 of the laws of 1998, subdivision 6 as amended by chapter 1051 of the laws of 1973 and subdivision 9 as amended by chapter 664 of the laws of 1985, are amended and two new subdivisions 21 and 22 are added to read as follows:

5. "Controlled substance" means any substance listed in schedule I, II, III, IV or V of section thirty-three hundred six of the public health law other than marihuana, but including concentrated cannabis as defined in [~~paragraph (a) of subdivision four of section thirty-three hundred two of such law~~] subdivision twenty-one of this section.

6. "Marihuana" means [~~"marihuana" or "concentrated cannabis" as those terms are defined in section thirty-three hundred two of the public health law~~] all parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. It does not include all parts of the plant Cannabis sativa L., whether growing or not, having no more than three-tenths of one percent tetrahydrocannabinol (THC).

9. "Hallucinogen" means any controlled substance listed in [~~schedule I(d)~~] paragraphs (5), [(18), (19), (20), (21) and (22)] (17), (18), (19), (20) and (21) of subdivision (d) of schedule I of section thirty-three hundred six of the public health law.

21. "Concentrated cannabis" means:

(a) the separated resin, whether crude or purified, obtained from a plant of the genus Cannabis; or

(b) a material, preparation, mixture, compound or other substance which contains more than three percent by weight of delta-9 tetrahydrocannabinol, or its isomer, delta-8 dibenzopyran numbering system, or delta-1 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpene numbering system.

22. "Marihuana products" means marihuana, concentrated cannabis, and marihuana-infused products containing concentrated marihuana or cannabis and other ingredients.

§ 10. Subdivision 4 of section 220.06 of the penal law, as amended by chapter 537 of the laws of 1998, is amended to read as follows:

4. one or more preparations, compounds, mixtures or substances containing concentrated cannabis as defined in [~~paragraph (a) of subdivision four of section thirty-three hundred two of the public health law~~] subdivision twenty-one of section 220.00 of this article and said preparations, compounds, mixtures or substances are of an aggregate weight of one-fourth ounce or more; or

§ 11. Subdivision 10 of section 220.09 of the penal law, as amended by chapter 537 of the laws of 1998, is amended to read as follows:

10. one or more preparations, compounds, mixtures or substances containing concentrated cannabis as defined in [~~paragraph (a) of subdivision four of section thirty-three hundred two of the public health law~~] subdivision twenty-one of section 220.00 of this article and said preparations, compounds, mixtures or substances are of an aggregate weight of one ounce or more; or

§ 12. Subdivision 3 of section 220.34 of the penal law, as amended by chapter 537 of the laws of 1998, is amended to read as follows:

3. concentrated cannabis as defined in [~~paragraph (a) of subdivision four of section thirty-three hundred two of the public health law~~] subdivision twenty-one of section 220.00 of this article; or

§ 13. Section 220.50 of the penal law, as amended by chapter 627 of the laws of 1990, is amended to read as follows:

§ 220.50 Criminally using drug paraphernalia in the second degree.

A person is guilty of criminally using drug paraphernalia in the second degree when he knowingly possesses or sells:

1. Diluents, dilutants or adulterants, including but not limited to, any of the following: quinine hydrochloride, mannitol, mannite, lactose or dextrose, adapted for the dilution of narcotic drugs or stimulants under circumstances evincing an intent to use, or under circumstances evincing knowledge that some person intends to use, the same for purposes of unlawfully mixing, compounding, or otherwise preparing any narcotic drug or stimulant, other than marihuana or concentrated cannabis; or

2. Gelatine capsules, glassine envelopes, vials, capsules or any other material suitable for the packaging of individual quantities of narcotic drugs or stimulants under circumstances evincing an intent to use, or under circumstances evincing knowledge that some person intends to use, the same for the purpose of unlawfully manufacturing, packaging or dispensing of any narcotic drug or stimulant, other than marihuana or concentrated cannabis; or

3. Scales and balances used or designed for the purpose of weighing or measuring controlled substances, under circumstances evincing an intent to use, or under circumstances evincing knowledge that some person intends to use, the same for purpose of unlawfully manufacturing, packaging or dispensing of any narcotic drug or stimulant, other than marihuana or concentrated cannabis.

Criminally using drug paraphernalia in the second degree is a class A misdemeanor.

§ 14. Sections 221.05, 221.10, 221.15, 221.20, 221.25, 221.30, 221.35 and 221.40 of the penal law are REPEALED.

§ 15. The penal law is amended by adding two new sections 221.05 and 221.05-a to read as follows:

§ 221.05 Personal use of marihuana.

1. Notwithstanding any other provision of this chapter, the following acts are lawful under state and local law for persons twenty-one years of age and older:

(a) possessing, using, being under the influence, displaying, purchasing, obtaining, or transporting up to two pounds of marihuana and four and one-half ounces of concentrated cannabis;

(b) transferring, without remuneration, to a person twenty-one years of age and older up to two pounds of marihuana and four and one-half ounces of concentrated cannabis;

(c) possessing, planting, cultivating, harvesting, drying, processing or transporting not more than six living marihuana plants and possessing the marihuana produced by the plants;

(d) smoking, ingesting or otherwise consuming marihuana products;

(e) possessing, using, displaying, purchasing, obtaining, manufacturing, transporting or giving away to persons twenty-one years of age and older marihuana or concentrated cannabis paraphernalia; and

(f) assisting another person who is twenty-one years of age and older or allow property to be used in any of the acts described in paragraphs (a) through (e) of this subdivision.

1 2. Paragraph (e) of subdivision one of this section is intended to
2 meet the requirements of subsection (f) of Section 863 of Title twenty-
3 one of the United States Code (21 U.S.C. § 863 (f)) by authorizing,
4 under state law, any person in compliance with this section to manufac-
5 ture, possess, or distribute marihuana paraphernalia.

6 3. Marihuana products involved in any way with conduct deemed lawful
7 by this section are not contraband nor subject to seizure or forfeiture
8 of assets under article four hundred eighty of this chapter, section
9 thirteen hundred eleven of the civil practice law and rules, or other
10 applicable law, and no conduct deemed lawful by this section shall
11 constitute the basis for approach, search, seizure, arrest, and/or
12 detention.

13 4. (a) Except as provided in subdivision five of this section, none of
14 the following shall, individually or in combination with each other,
15 constitute reasonable suspicion of a crime or be used as evidence in any
16 criminal proceeding:

17 (1) the odor of marihuana or of burnt marihuana;

18 (2) the possession of or the suspicion of possession of marihuana
19 products;

20 (3) The possession of multiple containers of marihuana without
21 evidence of marihuana quantity in excess of sixteen ounces or concen-
22 trated cannabis quantity in excess of four and one-half ounces; or

23 (4) the presence of cash or currency cannot be used as evidence in any
24 cases involving criminal sale of marihuana.

25 (b) The possession of up to two ounces of marihuana and up to sixteen
26 ounces of marihuana products cannot be used as evidence in any cases
27 involving criminal sale of marihuana.

28 5. Subdivision four of this section shall not apply when a law
29 enforcement officer is investigating whether a person is operating or in
30 physical control of a vehicle or watercraft while intoxicated, under the
31 influence of, or impaired by alcohol or a drug or any combination there-
32 of in violation of section eleven hundred ninety-two of the vehicle and
33 traffic law.

34 6. Possession of greater than two pounds of marihuana and greater than
35 four and one-half ounces of concentrated cannabis is a violation punish-
36 able by a fine of not more than one hundred twenty-five dollars per
37 offense.

38 § 221.05-a Personal cultivation of marihuana.

39 1. Personal cultivation of marihuana under paragraph (c) of subdivi-
40 sion one of section 221.05 of this article is subject to the following
41 restrictions:

42 (a) a person shall plant, cultivate, harvest, dry, or process plants
43 in accordance with local ordinances, if any, adopted in accordance with
44 subdivision (2) of this section;

45 (b) the living plants and any marihuana produced by the plants in
46 excess of two pounds are kept within the person's private residence, or
47 upon the grounds of that private residence (e.g., in an outdoor garden
48 area), are in a locked space, and are not visible by normal unaided
49 vision from a public place; and

50 (c) not more than six living plants may be planted, cultivated,
51 harvested, dried, or processed within a single private residence, or
52 upon the grounds of that private residence, at one time.

53 2. (a) A local jurisdiction may enact and enforce reasonable regu-
54 lations to reasonably regulate the actions and conduct in paragraph (c)
55 of subdivision one of section 221.05 of this article, provided that a

1 violation of such a regulation is only subject to an infraction and
2 fine.

3 (b) Notwithstanding paragraph (a) of this subdivision, no local juris-
4 isdiction may completely prohibit persons engaging in the actions and
5 conduct under paragraph (c) of subdivision one of section 221.05 of this
6 article.

7 3. A violation of subdivision one or two of this section is a
8 violation punishable by a fine of not more than one hundred twenty-five
9 dollars per offense.

10 § 16. Section 221.45 of the penal law, as amended by chapter 265 of
11 the laws of 1979, the opening paragraph as amended by chapter 75 of the
12 laws of 1995, is amended to read as follows:

13 § 221.45 [~~Criminal~~] Unlicensed sale of marihuana in the third degree.

14 A person is guilty of [~~criminal~~] unlicensed sale of marihuana in the
15 third degree when he knowingly and unlawfully sells [~~one or more prepa-~~
16 ~~rations, compounds, mixtures or substances containing marihuana and the~~
17 ~~preparations, compounds, mixtures or substances are of an aggregate~~
18 ~~weight of more than twenty-five grams~~] not more than sixteen ounces of
19 marihuana or not more than four and one-half ounces of concentrated
20 cannabis, not including the weight of any other ingredient combined with
21 marihuana to prepare topical or oral administrations, food, drink, or
22 other product.

23 [~~Criminal~~] Unlicensed sale of marihuana in the third degree is [~~a~~
24 ~~class E felony~~] subject to the following:

25 1. A violation punishable by a fine of not more than one hundred twen-
26 ty-five dollars, for a first offense;

27 2. A violation punishable by a fine of not more than two hundred
28 fifty dollars for a second offense;

29 3. A class B misdemeanor and a fine of not more than five hundred
30 dollars for a third or subsequent offense.

31 § 17. Section 221.50 of the penal law, as amended by chapter 265 of
32 the laws of 1979, the opening paragraph as amended by chapter 75 of the
33 laws of 1995, is amended to read as follows:

34 § 221.50 [~~Criminal~~] Unlicensed sale of marihuana in the second degree.

35 A person twenty-one years of age and older is guilty of [~~criminal~~]
36 unlicensed sale of marihuana in the second degree when he knowingly and
37 unlawfully sells one or more preparations, compounds, mixtures or
38 substances containing marihuana and the preparations, compounds,
39 mixtures or substances are of an aggregate weight of more than four
40 ounces, or knowingly and unlawfully sells one or more preparations,
41 compounds, mixtures [~~or substances containing marihuana~~] to a person
42 less than [~~eighteen~~] twenty-one years of age.

43 [~~Criminal~~] Unlicensed sale of marihuana in the second degree is a
44 class [~~D~~] E felony.

45 § 18. Section 221.55 of the penal law, as amended by chapter 265 of
46 the laws of 1979, the opening paragraph as amended by chapter 75 of the
47 laws of 1995, is amended to read as follows:

48 § 221.55 [~~Criminal~~] Unlicensed sale of marihuana in the first degree.

49 A person is guilty of [~~criminal~~] unlicensed sale of marihuana in the
50 first degree when he knowingly and unlawfully sells to a person less
51 than twenty-one years of age one or more preparations, compounds,
52 mixtures or substances containing marihuana and the preparations,
53 compounds, mixtures or substances are of an aggregate weight of more
54 than sixteen ounces.

55 [~~Criminal~~] Unlicensed sale of marihuana in the first degree is a class
56 [~~E~~] E felony.

§ 19. The penal law is amended by adding a new section 221.60 to read as follows:

§ 221.60 Licensing of marihuana production and distribution.

The provisions of this article and of article two hundred twenty of this title shall not apply to any person exempted from criminal penalties pursuant to the provisions of this chapter or possessing, manufacturing, transporting, distributing, selling or transferring marihuana or concentrated cannabis, or engaged in any other action that is in compliance with article eleven of the alcoholic beverage control law.

§ 20. Subdivision 8 of section 1399-n of the public health law, as amended by chapter 13 of the laws of 2003, is amended to read as follows:

8. "Smoking" means the burning of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco or marihuana; provided that it does not include the use of an electronic smoking device that creates an aerosol or vapor, unless local or state statutes extend prohibitions on smoking to electronic smoking devices.

§ 21. Section 2 of the alcoholic beverage control law, as amended by chapter 406 of the laws of 2014, is amended to read as follows:

§ 2. Policy of state and purpose of chapter. It is hereby declared as the policy of the state that it is necessary to regulate and control the manufacture, sale and distribution within the state of alcoholic beverages and marihuana products for the purpose of fostering and promoting temperance in their consumption and respect for and obedience to law; for the primary purpose of promoting the health, welfare and safety of the people of the state, promoting temperance in the consumption of alcoholic beverages and marihuana products; and, to the extent possible, supporting economic growth, job development, and the state's alcoholic beverage production industries and its tourism and recreation industry; and which promotes the conservation and enhancement of state agricultural lands; provided that such activities do not conflict with the primary regulatory objectives of this chapter. It is hereby declared that such policies will best be carried out by empowering the liquor authority of the state to determine whether public convenience and advantage will be promoted by the issuance of licenses to traffic in alcoholic beverages and marihuana products, the increase or decrease in the number thereof and the location of premises licensed thereby, subject only to the right of judicial review provided for in this chapter. It is the purpose of this chapter to carry out these policies in the public interest.

§ 22. Subdivisions 20-a, 20-b, 20-c, 20-d and 20-e of section 3 of the alcoholic beverage control law are renumbered subdivisions 20-j, 20-k, 20-l, 20-m and 20-n and ten new subdivisions 7-e, 20-a, 20-b, 20-c, 20-d, 20-e, 20-f, 20-g, 20-h and 20-i are added to read as follows:

7-e. "Concentrated cannabis" means: (a) the separated resin, whether crude or purified, obtained from a plant of the genus Cannabis; or

(b) a material, preparation, mixture, compound or other substance which contains more than three percent by weight of delta-9 tetrahydrocannabinol, or its isomer, delta-8 dibenzopyran numbering system, or delta-1 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpene numbering system.

20-a. "Marihuana" means all parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks,

1 oil or cake made from the seeds of the plant, any other compound, manu-
2 facture, salt, derivative, mixture, or preparation of the mature stalks
3 (except the resin extracted therefrom), fiber, oil, or cake, or the
4 sterilized seed of the plant which is incapable of germination. It does
5 not include all parts of the plant Cannabis sativa L., whether growing
6 or not, having no more than three-tenths of one percent tetrahydrocanna-
7 binol (THC).

8 20-b. "Marihuana consumer" means a person twenty-one years of age or
9 older who purchases marihuana or marihuana products for personal use by
10 persons twenty-one years of age or older, but not for resale to others.

11 20-c. "Marihuana processor" means a person licensed by the bureau to
12 purchase marihuana and concentrated cannabis from marihuana producers,
13 to process marihuana, concentrated cannabis, and marihuana infused
14 products, package and label marihuana, concentrated cannabis and mari-
15 huana infused products for sale in retail outlets, and sell marihuana,
16 concentrated cannabis and marihuana infused products at wholesale to
17 marihuana retailers.

18 20-d. "Marihuana producer" means a person licensed by the bureau to
19 produce, process, and sell marihuana and concentrated cannabis at whole-
20 sale to marihuana processors, marihuana retailers, or other marihuana
21 producers, but not to consumers.

22 20-e. "Marihuana products" means marihuana, concentrated cannabis, and
23 marihuana-infused products.

24 20-f. "Marihuana-infused products" means products that contain mari-
25 huana, marihuana extracts, or concentrated cannabis and are intended for
26 human use or consumption, such as, but not limited to, edible products,
27 ointments, and tinctures.

28 20-g. "Marihuana retailer" means a person licensed by the bureau to
29 purchase marihuana, concentrated cannabis, and marihuana-infused
30 products from marihuana producers and marihuana processors and sell
31 marihuana, marihuana infused products, and concentrated cannabis in a
32 retail outlet.

33 20-h. "Marihuana retailer for on-premises consumption" means a person
34 licensed by the bureau to purchase marihuana, concentrated cannabis, and
35 marihuana infused products from marihuana producers, marihuana retail-
36 ers, and marihuana processors and sell marihuana products for a customer
37 to consume while the customer is within a facility.

38 20-i. "Unreasonably impracticable" means that the measures necessary
39 to comply with the regulations require such a high investment of risk,
40 money, time or other resource or asset that the operation of a marihuana
41 establishment is not worthy of being carried out by a reasonably prudent
42 businessperson.

43 § 23. Section 65-b of the alcoholic beverage control law, as amended
44 by chapter 519 of the laws of 1999, paragraphs (b) and (c) of subdivi-
45 sion 3 as amended by chapter 257 of the laws of 2013 and the opening
46 paragraph of subdivision 6 as amended by chapter 503 of the laws of
47 2000, is amended to read as follows:

48 § 65-b. Offense for one under age of twenty-one years to purchase or
49 attempt to purchase an alcoholic beverage or marihuana products through
50 fraudulent means. 1. As used in this section: (a) "A device capable of
51 deciphering any electronically readable format" or "device" shall mean
52 any commercial device or combination of devices used at a point of sale
53 or entry that is capable of reading the information encoded on the
54 magnetic strip or bar code of a driver's license or non-driver identifi-
55 cation card issued by the commissioner of motor vehicles;

(b) "Card holder" means any person presenting a driver's license or non-driver identification card to a licensee, or to the agent or employee of such licensee under this chapter; and

(c) "Transaction scan" means the process involving a device capable of deciphering any electronically readable format by which a licensee, or agent or employee of a licensee under this chapter reviews a driver's license or non-driver identification card presented as a precondition for the purchase of an alcoholic beverage or marihuana products as required by subdivision two of this section or as a precondition for admission to an establishment licensed for the on-premises sale of alcoholic beverages or marihuana products where admission is restricted to persons twenty-one years or older.

2. (a) No person under the age of twenty-one years shall present or offer to any licensee under this chapter, or to the agent or employee of such licensee, any written evidence of age which is false, fraudulent or not actually his or her own, for the purpose of purchasing or attempting to purchase any alcoholic beverage or marihuana products.

(b) No licensee, or agent or employee of such licensee shall accept as written evidence of age by any such person for the purchase of any alcoholic beverage or marihuana products, any documentation other than: (i) a valid driver's license or non-driver identification card issued by the commissioner of motor vehicles, the federal government, any United States territory, commonwealth or possession, the District of Columbia, a state government within the United States or a provincial government of the dominion of Canada, or (ii) a valid passport issued by the United States government or any other country, or (iii) an identification card issued by the armed forces of the United States. Upon the presentation of such driver's license or non-driver identification card issued by a governmental entity, such licensee or agent or employee thereof may perform a transaction scan as a precondition to the sale of any alcoholic beverage. Nothing in this section shall prohibit a licensee or agent or employee from performing such a transaction scan on any of the other documents listed in this subdivision if such documents include a bar code or magnetic strip that ~~that~~ may be scanned by a device capable of deciphering any electronically readable format.

(c) In instances where the information deciphered by the transaction scan fails to match the information printed on the driver's license or non-driver identification card presented by the card holder, or if the transaction scan indicates that the information is false or fraudulent, the attempted purchase of the alcoholic beverage or marihuana products shall be denied.

3. A person violating the provisions of paragraph (a) of subdivision two of this section shall be guilty of a violation and shall be sentenced in accordance with the following:

(a) For a first violation, the court shall order payment of a fine of not more than one hundred dollars and/or an appropriate amount of community service not to exceed thirty hours. In addition, the court may order completion of an alcohol awareness program established pursuant to section 19.25 of the mental hygiene law or of a marihuana awareness program.

(b) For a second violation, the court shall order payment of a fine of not less than fifty dollars nor more than three hundred fifty dollars and/or an appropriate amount of community service not to exceed sixty hours. The court also shall order completion of an alcohol or marihuana awareness program as referenced in paragraph (a) of this subdivision if such program has not previously been completed by the offender, unless

1 the court determines that attendance at such program is not feasible due
2 to the lack of availability of such program within a reasonably close
3 proximity to the locality in which the offender resides or matriculates,
4 as appropriate.

5 (c) For third and subsequent violations, the court shall order payment
6 of a fine of not less than fifty dollars nor more than seven hundred
7 fifty dollars and/or an appropriate amount of community service not to
8 exceed ninety hours. The court also shall order that such person submit
9 to an evaluation by an appropriate agency certified or licensed by the
10 office of alcoholism and substance abuse services to determine whether
11 the person suffers from the disease of alcoholism or alcohol or marihua-
12 na abuse, unless the court determines that under the circumstances
13 presented such an evaluation is not necessary, in which case the court
14 shall state on the record the basis for such determination. Payment for
15 such evaluation shall be made by such person. If, based on such evalu-
16 ation, a need for treatment is indicated, such person may choose to
17 participate in a treatment plan developed by an agency certified or
18 licensed by the office of alcoholism and substance abuse services. If
19 such person elects to participate in recommended treatment, the court
20 shall order that payment of such fine and community service be suspended
21 pending the completion of such treatment.

22 (d) Evaluation procedures. For purposes of this subdivision, the
23 following shall apply:

24 (i) The contents of an evaluation pursuant to paragraph (c) of this
25 subdivision shall be used for the sole purpose of [~~determining if such~~
26 ~~person suffers from the disease of alcoholism or alcohol abuse~~] diagnos-
27 ing such person with alcohol or cannabis use disorder.

28 (ii) The agency designated by the court to perform such evaluation
29 shall conduct the evaluation and return the results to the court within
30 thirty days, subject to any state or federal confidentiality law, rule
31 or regulation governing the confidentiality of alcohol and substance
32 abuse treatment records.

33 (iii) The office of alcoholism and substance abuse services shall make
34 available to each supreme court law library in this state, or, if no
35 supreme court law library is available in a certain county, to the coun-
36 ty court law library of such county, a list of agencies certified to
37 perform evaluations as required by subdivision (f) of section 19.07 of
38 the mental hygiene law.

39 (iv) All evaluations required under this subdivision shall be in writ-
40 ing and the person so evaluated or his or her counsel shall receive a
41 copy of such evaluation prior to its use by the court.

42 (v) A minor evaluated under this subdivision shall have, and shall be
43 informed by the court of, the right to obtain a second opinion regarding
44 his or her need for alcoholism or substance use disorder treatment.

45 4. A person violating the provisions of paragraph (b) of subdivision
46 two of this section shall be guilty of a violation punishable by a fine
47 of not more than one hundred dollars, and/or an appropriate amount of
48 community service not to exceed thirty hours. In addition, the court may
49 order completion of an alcohol or substance abuse training awareness
50 program established pursuant to subdivision twelve of section seventeen
51 of this chapter where such program is located within a reasonably close
52 proximity to the locality in which the offender is employed or resides.

53 5. No determination of guilt pursuant to this section shall operate as
54 a disqualification of any such person subsequently to hold public
55 office, public employment, or as a forfeiture of any right or privilege

1 or to receive any license granted by public authority; and no such
2 person shall be denominated a criminal by reason of such determination.

3 6. In addition to the penalties otherwise provided in subdivision
4 three of this section, if a determination is made sustaining a charge of
5 illegally purchasing or attempting to illegally purchase an alcoholic
6 beverage or marihuana products, the court may suspend such person's
7 license to drive a motor vehicle and the privilege of an unlicensed
8 person of obtaining such license, in accordance with the following and
9 for the following periods, if it is found that a driver's license was
10 used for the purpose of such illegal purchase or attempt to illegally
11 purchase; provided, however, that where a person is sentenced pursuant
12 to paragraph (b) or (c) of subdivision three of this section, the court
13 shall impose such license suspension if it is found that a driver's
14 license was used for the purpose of such illegal purchase or attempt to
15 illegally purchase:

16 (a) For a first violation of paragraph (a) of subdivision two of this
17 section, a three month suspension.

18 (b) For a second violation of paragraph (a) of subdivision two of this
19 section, a six month suspension.

20 (c) For a third or subsequent violation of paragraph (a) of subdivi-
21 sion two of this section, a suspension for one year or until the holder
22 reaches the age of twenty-one, whichever is the greater period of time.

23 Such person may thereafter apply for and be issued a restricted use
24 license in accordance with the provisions of section five hundred thirty
25 of the vehicle and traffic law.

26 7. (a) In any proceeding pursuant to subdivision one of section
27 sixty-five of this article, it shall be an affirmative defense that such
28 person had produced a driver's license or non-driver identification card
29 apparently issued by a governmental entity, successfully completed the
30 transaction scan, and that the alcoholic beverage or marihuana products
31 had been sold, delivered or given to such person in reasonable reliance
32 upon such identification and transaction scan. In evaluating the appli-
33 cability of such affirmative defense, the liquor authority shall take
34 into consideration any written policy adopted and implemented by the
35 seller to carry out the provisions of this chapter. Use of a transaction
36 scan shall not excuse any licensee under this chapter, or agent or
37 employee of such licensee, from the exercise of reasonable diligence
38 otherwise required by this section. Notwithstanding the above
39 provisions, any such affirmative defense shall not be applicable in any
40 other civil or criminal proceeding, or in any other forum.

41 (b) A licensee or agent or employee of a licensee may electronically
42 or mechanically record and maintain only the information from a trans-
43 action scan necessary to effectuate the purposes of this section. Such
44 information shall be limited to the following: (i) name, (ii) date of
45 birth, (iii) driver's license or non-driver identification number, and
46 (iv) expiration date. The liquor authority and the state commissioner of
47 motor vehicles shall jointly promulgate any regulation necessary to
48 govern the recording and maintenance of these records by a licensee
49 under this chapter. The liquor authority and the commissioner of health
50 shall jointly promulgate any regulations necessary to ensure quality
51 control in the use of transaction scan devices.

52 8. A licensee or agent or employee of such licensee shall only use the
53 information recorded and maintained through the use of such devices for
54 the purposes contained in paragraph (a) of subdivision seven of this
55 section, and shall only use such devices for the purposes contained in
56 subdivision two of this section. No licensee or agent or employee of a

1 licensee shall resell or disseminate the information recorded during
2 such scan to any third person. Such prohibited resale or dissemination
3 includes, but is not limited to, any advertising, marketing or promo-
4 tional activities. Notwithstanding the restrictions imposed by this
5 subdivision, such records may be released pursuant to a court ordered
6 subpoena or pursuant to any other statute that specifically authorizes
7 the release of such information. Each violation of this subdivision
8 shall be punishable by a civil penalty of not more than one thousand
9 dollars.

10 § 24. Section 65-c of the alcoholic beverage control law, as added by
11 chapter 592 of the laws of 1989, paragraph (a) of subdivision 2 as
12 amended by chapter 409 of the laws of 2016 and subdivision 3 as amended
13 by chapter 137 of the laws of 2001, is amended to read as follows:

14 § 65-c. Unlawful possession of an alcoholic beverage or marihuana
15 product with the intent to consume by persons under the age of twenty-
16 one years. 1. Except as hereinafter provided, no person under the age of
17 twenty-one years shall possess any alcoholic beverage or marihuana prod-
18 uct, as defined in this chapter, with the intent to consume such bever-
19 age or marihuana product.

20 2. A person under the age of twenty-one years may possess any alcohol-
21 ic beverage or marihuana product with intent to consume if the alcoholic
22 beverage or marihuana product is given:

23 (a) to a person who is a student in a curriculum licensed or regis-
24 tered by the state education department and the student is required to
25 taste or imbibe alcoholic beverages or marihuana products in on-campus
26 or off-campus courses which are a part of the required curriculum,
27 provided such alcoholic beverages or marihuana products are used only
28 for instructional purposes during class conducted pursuant to such
29 curriculum; or

30 (b) to the person under twenty-one years of age by that person's
31 parent or guardian.

32 3. Any person who unlawfully possesses an alcoholic beverage or mari-
33 huana product with intent to consume may be summoned before and examined
34 by a court having jurisdiction of that charge; provided, however, that
35 nothing contained herein shall authorize, or be construed to authorize,
36 a peace officer as defined in subdivision thirty-three of section 1.20
37 of the criminal procedure law or a police officer as defined in subdivi-
38 sion thirty-four of section 1.20 of such law to arrest a person who
39 unlawfully possesses an alcoholic beverage or marihuana product with
40 intent to consume. If a determination is made sustaining such charge the
41 court may impose a fine not exceeding fifty dollars and/or completion of
42 an alcohol or drug awareness program established pursuant to section
43 19.25 of the mental hygiene law and/or an appropriate amount of communi-
44 ty service not to exceed thirty hours.

45 4. No such determination shall operate as a disqualification of any
46 such person subsequently to hold public office, public employment, or as
47 a forfeiture of any right or privilege or to receive any license granted
48 by public authority; and no such person shall be denominated a criminal
49 by reason of such determination, nor shall such determination be deemed
50 a conviction.

51 5. Whenever a peace officer as defined in subdivision thirty-three of
52 section 1.20 of the criminal procedure law or police officer as defined
53 in subdivision thirty-four of section 1.20 of the criminal procedure law
54 shall observe a person under twenty-one years of age openly in
55 possession of an alcoholic beverage or marihuana product as defined in
56 this chapter, with the intent to consume such beverage or product in

violation of this section, said officer may seize the beverage or product, and shall deliver it to the custody of his or her department.

6. Any alcoholic beverage or marihuana product seized in violation of this section is hereby declared a nuisance. The official to whom the beverage or product has been delivered shall, no earlier than three days following the return date for initial appearance on the summons, dispose of or destroy the alcoholic beverage or marihuana product seized or cause it to be disposed of or destroyed. Any person claiming ownership of an alcoholic beverage or marihuana product seized under this section may, on the initial return date of the summons or earlier on five days notice to the official or department in possession of the beverage or product, apply to the court for an order preventing the destruction or disposal of the alcoholic beverage or marihuana product seized and ordering the return of that beverage or product. The court may order the beverage or product returned if it is determined that return of the beverage or product would be in the interest of justice or that the beverage or product was improperly seized.

§ 25. The alcoholic beverage control law is amended by adding a new section 65-e to read as follows:

§ 65-e. Restrictions on personal consumption of marihuana. 1. Nothing in sections 221.05 and 221.05-a of the penal law shall be construed to permit any person to:

(a) smoke marihuana in public;

(b) smoke marihuana products in a location where smoking tobacco is prohibited pursuant to section thirteen hundred ninety-nine-o of the public health law;

(c) possess, smoke or ingest marihuana products in or upon the grounds of any school property used for school purposes which is owned by or leased to any elementary or secondary school or school board while children are present; or

(d) smoke or ingest marihuana products while driving, operating a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.

2. For purposes of this section:

(a) "Smoke" means to inhale, exhale, burn, or carry any lighted or heated device or pipe, or any other lighted or heated marihuana or concentrated cannabis product intended for inhalation, whether natural or synthetic, in any manner or in any form.

(b) "Smoke" does not include the use of an electronic smoking device that creates an aerosol or vapor, unless local or state statutes extend prohibitions on smoking to electronic smoking devices.

3. Violations of the restrictions under this section are subject to a fine not exceeding twenty-five dollars or an appropriate amount of community service not to exceed twenty hours.

§ 26. Section 140 of the alcoholic beverage control law, as amended by chapter 810 of the laws of 1981, is amended to read as follows:

§ 140. Applicability of chapter before local option. Until such time as it shall become unlawful to sell alcoholic beverages or marihuana products in any town or city by the vote of the voters in such town or city in the manner provided in this article, all of the provisions of this chapter shall apply throughout the entire state. This article shall not apply to the Whiteface mountain ski center, owned by the state and located in the town of Wilmington, county of Essex.

§ 27. Section 141 of the alcoholic beverage control law, as amended by chapter 319 of the laws of 2007, is amended to read as follows:

§ 141. Local option for towns. 1. Not less than sixty days nor more than seventy-five days before the general election in any town at which the submission of the questions hereinafter stated is authorized by this article, a petition signed by electors of the town to a number amounting to twenty-five per centum of the votes cast in the town for governor at the then last preceding gubernatorial election, acknowledged by the signers or authenticated by witnesses as provided in the election law in respect of a nominating petition, requesting the submission at such election to the electors of the town of one or more of the following questions, may be filed with the town clerk:

Question 1. Tavern alcoholic beverage license. Shall a person be allowed to obtain a license to operate a tavern with a limited-service menu (sandwiches, salads, soups, etc.) which permits the tavern operator to sell alcoholic beverages for a customer to drink while the customer is within the tavern. In addition, unopened containers of beer (such as six-packs and kegs) may be sold "to go" for the customer to open and drink at another location (such as, for example, at his home)?

Question 2. Restaurant alcoholic beverage license. Shall the operator of a full-service restaurant be allowed to obtain a license which permits the restaurant operator to sell alcoholic beverages for a customer to drink while the customer is within the restaurant. In addition, unopened containers of beer (such as six-packs and kegs) may be sold "to go" for the customer to open and drink at another location (such as, for example, at his home)?

Question 3. Year-round hotel alcoholic beverage license. Shall the operator of a year-round hotel with a full-service restaurant be allowed to obtain a license which permits the year-round hotel to sell alcoholic beverages for a customer to drink while the customer is within the hotel. In addition, unopened containers of beer (such as six-packs and kegs) may be sold "to go" for the customer to open and drink at another location (such as, for example, at his home)?

Question 4. Summer hotel alcoholic beverage license. Shall the operator of a summer hotel with a full-service restaurant, open for business only within the period from May first to October thirty-first in each year, be allowed to obtain a license which permits the summer hotel to sell alcoholic beverages for a customer to drink while the customer is within the hotel. In addition, unopened containers of beer (such as six-packs and kegs) may be sold "to go" for the customer to open and drink at another location (such as, for example, at his home)?

Question 5. Retail package liquor or wine store license. Shall a person be allowed to obtain a license to operate a retail package liquor-and-wine or wine-without-liquor store, to sell "to go" unopened bottles of liquor or wine to a customer to be taken from the store for the customer to open and drink at another location (such as, for example, at his home)?

Question 6. Off-premises beer and wine cooler license. Shall the operator of a grocery store, drugstore or supply shop operating in the harbors of Lake Erie be allowed to obtain a license which permits the operator to sell "to go" unopened containers of beer (such as six-packs and kegs) and wine coolers with not more than 6% alcohol to a customer to be taken from the store for the customer to open and drink at another location (such as, for example, at his home)?

Question 7. Baseball park, racetrack, athletic field or stadium license. Shall a person be allowed to obtain a license which permits the sale of beer for a patron's consumption while the patron is within a

1 baseball park, racetrack, or other athletic field or stadium where
2 admission fees are charged?

3 Question 8. Marihuana retailer license. Shall a person be allowed to
4 obtain a license to operate a retail marihuana store, to sell unopened
5 marihuana products to a customer to be taken from the store for the
6 customer to open and consumer at another location (such as, for example,
7 at his home)?

8 Question 9. On-premises marihuana retailer licenses. Shall a person be
9 allowed to obtain a license to operate a facility where the service of
10 food is only incidental and permits the facility operator to sell mari-
11 huana products for a customer to consumer while the customer is within
12 the facility?

13 2. Upon the due filing of such petition complying with the foregoing
14 provisions, such questions shall be submitted in accordance therewith.

15 3. The town clerk shall, within five days from the filing of such
16 petition in his office, prepare and file in the office of the board of
17 elections, as defined by the election law, of the county, a certified
18 copy of such petition. Such questions may be submitted only at the time
19 of a general election. At least ten days before such general election,
20 the board of elections shall cause to be printed and posted in at least
21 four public places in such town, a notice of the fact that all of the
22 local option questions will be voted on at such general election; and
23 the said notice shall also be published at least five days before the
24 vote is to be taken once in a newspaper published in the county in which
25 such town is situated, which shall be a newspaper published in the town,
26 if there be one. Whenever such questions are to be submitted under the
27 provisions of this article the board of elections shall cause the proper
28 ballot labels to be printed and placed on all voting machines used in
29 the town in which such questions are to be submitted, in the form
30 prescribed by the election law in respect of other propositions or ques-
31 tions, upon the face of which shall be printed in full the said ques-
32 tions. Any elector qualified to vote for state officers shall be enti-
33 tled to vote upon such local option questions. As soon as the election
34 shall be held, a return of the votes cast and counted shall be made as
35 provided by law and the returns canvassed by the inspectors of election.
36 If a majority of the votes cast shall be in the negative on all or any
37 of the questions, no person shall, after such election, sell alcoholic
38 beverages or marihuana products in such town contrary to such vote or to
39 the provisions of this chapter; provided, however, that the result of
40 such vote shall not shorten the term for which any license may have been
41 lawfully issued under this chapter or affect the rights of the licensee
42 thereunder; and no person shall after such vote apply for or receive a
43 license to sell alcoholic beverages or marihuana products at retail in
44 such town contrary to such vote, until, by referendum as hereinafter
45 provided for, such sale shall again become lawful.

46 § 28. Subdivision 3 of section 142 of the alcoholic beverage control
47 law is amended to read as follows:

48 3. If a majority of the votes cast shall be in the negative on any or
49 all of the questions, no person shall, after such election, sell alco-
50 holic beverages or marihuana products in such city contrary to such vote
51 or to the provisions of this chapter; provided, however, that the result
52 of such vote shall not shorten the term for which any license may have
53 been lawfully issued under this chapter or affect the rights of the
54 licensee thereunder; and no person shall after such vote apply for or
55 receive a license to sell alcoholic beverages or marihuana products at

1 retail in such city contrary to such vote, until, by referendum as here-
2 inafter provided for, such sale shall again become lawful.

3 § 29. Subdivision 2 of section 147 of the alcoholic beverage control
4 law is amended to read as follows:

5 2. If at the time of any subsequent submission of such questions it
6 shall be lawful to sell alcoholic beverages or marihuana products and a
7 majority of the votes cast shall be in the negative on such questions,
8 then all of the provisions of this article applicable thereto shall
9 become effective.

10 § 30. Article 11 and sections 160, 161, 162, 163 and 164 of the alco-
11 holic beverage control law, article 11 and sections 160, 161, 162 and
12 163 as renumbered by chapter 725 of the laws of 1954, are renumbered
13 article 12 and sections 200, 201, 202, 203, and 204.

14 § 31. The alcoholic beverage control law is amended by adding a new
15 article 11 to read as follows:

16 ARTICLE 11

17 PROVISIONS RELATING TO MARIHUANA

18 Section 165. Definitions.

19 166. Bureau of marihuana policy.

20 167. Administration of the bureau of marihuana policy.

21 168. Licenses issued.

22 169. Licensing limits.

23 170. Actions taken pursuant to a valid license are lawful.

24 171. General prohibitions and restrictions.

25 172. Certain officials not to be interested in the manufacture
26 or sale of marihuana.

27 173. Provisions governing initial rulemaking.

28 174. Provisions governing marihuana producers.

29 175. Provisions governing processors.

30 176. Provisions governing marihuana retailers.

31 177. Provisions governing marihuana on-site consumption
32 licenses.

33 178. Advertising and forms of the issuance of licenses.

34 179. Packaging of marihuana products.

35 180. Labeling of marihuana products.

36 181. Seed to sale tracking.

37 182. Renewals of licenses and permits.

38 183. Information to be provided by applicants.

39 184. Notification to municipalities.

40 185. Licenses, publication, general provisions.

41 186. Revocation of licenses for cause.

42 187. Procedure for revocation or cancellation.

43 188. Decisions of the bureau of marihuana policy and review by
44 the courts.

45 189. Minority and women business enterprises.

46 190. Disposition of moneys received for license fees.

47 191. Persons forbidden to traffic in marihuana.

48 192. Surrender of license; notice to police officials.

49 193. Authority to promulgate rules and regulations.

50 194. Protections for the use of marihuana.

51 195. Discrimination protections for the use of marihuana or
52 medical marihuana.

53 196. Employment protections.

54 197. Protections for persons under state supervision.

55 198. Professional and medical record keeping.

1 § 165. Definitions. Whenever used in this chapter, unless the context
2 requires otherwise:

3 1. "Applicant" means an owner applying for a license pursuant to this
4 article.

5 2. "Bureau" means the bureau of marihuana policy within the authority.

6 3. "Commercial marihuana activity" means the production, processing,
7 possession, storing, laboratory testing, packaging, labeling, transpor-
8 tation, delivery, or sale of marihuana and marihuana products as
9 provided for in this article.

10 4. "Customer" means a natural person twenty-one years of age or older.

11 5. "Delivery" means a licensee that delivers retail marihuana and
12 marihuana products to customers. Retailer licensees and microbusiness
13 licensees are permitted to deliver retail marihuana and marihuana
14 products to customers without obtaining an additional distributor
15 license.

16 6. "Distribution" means the procurement, sale, and transport of mari-
17 huana and marihuana products between entities licensed pursuant to this
18 article.

19 7. "Distributor" means a licensee for the distribution of marihuana
20 and marihuana products between entities licensed pursuant to this arti-
21 cle. Producer licensees, processor licensees, and microbusiness licen-
22 sees are permitted to distribute marihuana and marihuana products
23 between entities licensed pursuant to this article without obtaining an
24 additional distributor license.

25 8. "Labeling" means any label or other written, printed, or graphic
26 matter upon a marihuana product, or upon its container or wrapper, or
27 that accompanies any marihuana product.

28 9. "License" means a state license issued under this article. Each
29 license issued pursuant to this article corresponds to a single place of
30 business.

31 10. "Licensee" means any person or entity holding a license under this
32 article.

33 11. "Marihuana" means all parts of the plant of the genus cannabis,
34 whether growing or not; the seeds thereof; the resin extracted from any
35 part of the plant; and every compound, manufacture, salt, derivative,
36 mixture, or preparation of the plant, its seeds or resin. It does not
37 include the mature stalks of the plant, fiber produced from the stalks,
38 oil or cake made from the seeds of the plant, any other compound, manu-
39 facture, salt, derivative, mixture, or preparation of the mature stalks
40 (except the resin extracted therefrom), fiber, oil, or cake, or the
41 sterilized seed of the plant which is incapable of germination. It does
42 not include all parts of the plant Cannabis Sativa L., whether growing
43 or not, having no more than three-tenths of one percent tetrahydrocanna-
44 binol (THC).

45 12. "Marihuana products" means marihuana, concentrated cannabis, and
46 marihuana-infused products.

47 13. "Marihuana-infused products" means products that contain marihua-
48 na, marihuana extracts, or concentrated cannabis and are intended for
49 human use or consumption, such as, but not limited to, edible products,
50 ointments, and tinctures.

51 14. "Microbusiness" means a licensee that may act as a marihuana
52 producer for the cultivation of marihuana on an area less than ten thou-
53 sand square feet, a marihuana processor, and a marihuana retailer under
54 this article, provided such licensee complies with all requirements
55 imposed by this article on licensed producers, processors, and retailers
56 to the extent the licensee engages in such activities. A "microbusiness"

1 may distribute marihuana and marihuana products to other licensed mari-
2 huana businesses and may deliver marihuana and marihuana products to
3 customers.

4 15. "Nursery" means a licensee that produces only clones, immature
5 plants, seeds, and other agricultural products used specifically for the
6 planting, propagation, and cultivation of marihuana.

7 16. "Onsite consumption" means a marihuana retail licensee or a mari-
8 huana microbusiness that permits the consumption of marihuana and mari-
9 huana products at the licensee's place of business.

10 17. "Owner" means an individual with an aggregate ownership interest
11 of twenty percent or more in a marihuana business licensed pursuant to
12 this article, unless such interest is solely a security, lien, or encum-
13 brance, or an individual that will be participating in the direction,
14 control, or management of the licensed marihuana business.

15 18. "Package" means any container or receptacle used for holding mari-
16 huana or marihuana products.

17 19. "Processor" means a licensee that compounds, blends, extracts,
18 infuses, or otherwise makes or prepares marihuana products, but not the
19 production of the marihuana contained in the marihuana product. A
20 "processor" may also distribute marihuana and marihuana products to
21 other licensed marihuana businesses.

22 20. "Producer" means a licensee that plants, grows, harvests, dries,
23 cures, grades, or trims marihuana. A "producer" may also distribute
24 marihuana to other licensed marihuana businesses.

25 21. "Retailer" means a licensee that sells marihuana or marihuana
26 products directly to customers. A "retailer" may deliver marihuana and
27 marihuana products to customers.

28 22. "Testing facility" means a licensee that tests marihuana and mari-
29 huana products.

30 § 166. Bureau of marihuana policy. There is hereby established in the
31 authority a bureau of marihuana policy. The bureau shall consist of
32 three members. The members of the bureau shall be appointed by the
33 governor by and with the advice and consent of the senate. Not more than
34 two members of the bureau shall belong to the same political party. The
35 chairman of the bureau of marihuana policy heretofore appointed and
36 designated by the governor and the remaining members of such board here-
37 tofore appointed by the governor shall continue to serve as chairman and
38 members of the bureau until the expiration of the respective terms for
39 which they were appointed. Upon the expiration of such respective terms
40 the successors of such chairman and members shall be appointed to serve
41 for a term of three years each and until their successors have been
42 appointed and qualified. The commissioners shall, when performing the
43 work of the bureau, be compensated at a rate of two hundred sixty
44 dollars per day, together with an allowance for actual and necessary
45 expenses incurred in the discharge of their duties.

46 § 167. Administration of the bureau of marihuana policy. 1. The
47 bureau established in section one hundred sixty-six of this article
48 shall heretofore have the power, duty, purpose, responsibility, and
49 jurisdiction to regulate commercial marihuana activity as provided in
50 the Marihuana Regulation and Taxation Act.

51 2. The bureau shall have the exclusive authority to create, issue,
52 renew, discipline, suspend, or revoke licenses for commercial marihuana
53 activities in accordance with the state administrative procedure act,
54 codified at N.Y. A.P.A. Law § 100 et seq.

1 (a) The bureau shall consult with the department of agriculture and
2 markets regarding rules, regulations, and licenses for the cultivation
3 of marihuana.

4 (b) The bureau shall begin issuing licenses not later than eighteen
5 months following the effective date of the Marihuana Regulation and
6 Taxation Act.

7 (i) The bureau shall begin accepting applications no more than fifteen
8 months following the effective date of this act.

9 (ii) Pursuant to section one hundred eighty-four of this article, the
10 bureau shall notify municipalities of any applications for license.

11 (iii) The bureau shall issue an annual license to the applicant
12 between forty-five and ninety days after receipt of an application
13 unless the bureau finds the applicant is not in compliance with regu-
14 lations enacted pursuant to section one hundred seventy-three of this
15 article or the department is notified by the relevant municipality that
16 the applicant is not in compliance with such regulations.

17 (c) The bureau shall have the authority to collect fees in connection
18 with activities they regulate concerning marihuana pursuant to section
19 one hundred ninety of this article.

20 3. (a) Not later than ten months following the enactment of this arti-
21 cle, each municipality may enact an ordinance or regulation specifying
22 the entity within the municipality that is responsible for processing
23 applications submitted for a license to operate a marihuana establish-
24 ment within the boundaries of the municipality and for the issuance of
25 such licenses should the issuance by the municipality become necessary
26 because of a failure by the bureau to adopt regulations pursuant to
27 section one hundred seventy-three of this article or because of a fail-
28 ure by the bureau to process and issue licenses as required by the
29 subdivision two of this section.

30 (b) A municipality may enact ordinances or regulations, not in
31 conflict with this section or with regulations or legislation enacted
32 pursuant to this section, governing the time, place, manner and number
33 of marihuana establishment operations; establishing procedures for the
34 issuance, suspension, and revocation of a license issued by the muni-
35 city in accordance with paragraphs (c) and (d) of this subdivision,
36 such procedures to be subject to all requirements of state administra-
37 tive procedure act, codified as N.Y. A.P.A. Law § 100, et seq. or any
38 successor provision, establishing a schedule of annual operating,
39 licensing, and application fees for marihuana establishments, provided,
40 the application fee shall only be due if an application is submitted to
41 a municipality in accordance with paragraph (d) of this subdivision and
42 a licensing fee shall only be due if a license is issued by a muni-
43 city in accordance with paragraph (c) or (d) of this subdivision; and
44 establishing civil penalties for violation of an ordinance or regulation
45 governing the time, place, and manner of a marihuana establishment that
46 may operate in such a municipality. A municipality may prohibit the
47 operation of marihuana production facilities, marihuana processing
48 facilities, marihuana retail stores, marihuana microbusinesses, or mari-
49 huana testing facilities through the enactment of an ordinance.

50 (c) If the bureau does not issue a license to an applicant within
51 ninety days of receipt of the application filed in accordance with
52 subdivision two and does not notify the applicant of the specific reason
53 for its denial, in writing and within such time period, or if the bureau
54 has adopted regulations pursuant to section one hundred seventy-three of
55 this article but has not issued any licenses within eighteen months of
56 the effective date of this article, for any locality enacting an ordi-

1 nance providing for local processing of applications, the applicant may
2 resubmit its application directly to the municipality pursuant to para-
3 graph (a) of this subdivision, and the municipality may issue an annual
4 license to the applicant. A municipality issuing a license to an appli-
5 cant shall do so within ninety days of receipt of the resubmitted appli-
6 cation unless the municipality finds and notifies the applicant that the
7 applicant is not in compliance with the ordinances and regulations made
8 pursuant to paragraph (b) of this subdivision in effect at the time the
9 application is resubmitted and the municipality shall notify the bureau
10 if an annual license has been issued to the applicant. If an application
11 is submitted to a municipality under this paragraph, the bureau shall
12 forward to the municipality the application fee paid by the applicant to
13 the bureau upon request by the municipality. A license issued by a muni-
14 cipality in accordance with this paragraph shall have the same force and
15 effect as a license issued by the bureau in accordance with subdivision
16 two of this section and the holder of such license shall not be subject
17 to regulation or enforcement by the bureau during the term of that
18 license. A subsequent or renewed license may be issued under this para-
19 graph on an annual basis only upon resubmission to the municipality of a
20 new application submitted to the bureau pursuant to subdivision two of
21 this section. Nothing in this paragraph shall limit such relief as may
22 be available to an aggrieved party under section four hundred one of the
23 state administrative procedure act or any successor provision.

24 (d) If the bureau does not adopt regulations required by section one
25 hundred seventy-three of this article, an applicant may submit an appli-
26 cation directly to a municipality fifteen months following the effective
27 date of this article and the municipality may issue an annual license to
28 the applicant. A municipality issuing a license to an applicant shall do
29 so within ninety days of receipt of the application unless it finds and
30 notifies the applicant that the applicant is not in compliance with
31 ordinances and regulations made pursuant to paragraph (b) of this subdi-
32 vision in effect at the time of application and shall notify the bureau
33 if an annual license has been issued to the applicant. A license issued
34 by a municipality in accordance with this paragraph shall have the same
35 force and effect as a license issued by the bureau in accordance with
36 subdivision two of this section and the licensee shall not be subject to
37 regulation or enforcement by the bureau during the term of that license.
38 A subsequent or renewed license may be issued under this paragraph on an
39 annual basis if the bureau has not adopted regulations required by
40 section one hundred seventy-three of this article at least ninety days
41 prior to the date upon which such subsequent or renewed license would be
42 effective or if the department has adopted regulations pursuant to
43 section one hundred seventy-three of this article but has not, at least
44 ninety days after the adoption of such regulations, issued licenses
45 pursuant to subdivision two of this section.

46 4. The bureau may limit the total amount of marihuana produced in New
47 York based on the demand for marihuana and marihuana products and in an
48 effort to reduce illicit marihuana markets.

49 § 168. Licenses issued. The following kinds of licenses shall be
50 issued by the bureau for the manufacture, production, processing, test-
51 ing, retail sale and delivery of marihuana:

- 52 1. marihuana nursery license;
- 53 2. marihuana producer license;
- 54 3. marihuana processor license;
- 55 4. marihuana distributor license;
- 56 5. marihuana retailer license;

1 6. marihuana microbusiness license;
2 7. marihuana on-site consumption license;
3 8. marihuana delivery license;
4 9. marihuana testing license; and
5 10. any other type of licenses allowed by the bureau.

6 § 169. Licensing limits. 1. All licenses issued under this article
7 shall bear a clear designation indicating that the license is for
8 commercial marihuana activity as distinct from medical marihuana manu-
9 factured, produced and sold for medical use pursuant to title five-A of
10 article thirty-three of the public health law.

11 2. An owner of a marihuana retail store shall not hold a license in
12 another license category of section one hundred sixty-eight of this
13 article, shall not own or have ownership interest in an entity licensed
14 pursuant to title five-A of article thirty-three of the public health
15 law, and shall hold not more than three retail licenses.

16 3. An owner of a marihuana microbusiness shall not hold a license in
17 another license category of section one hundred sixty-eight of this
18 article, shall not own or have ownership interest in a facility licensed
19 pursuant to title five-A of article thirty-three of the public health
20 law, and shall hold not more than one microbusiness license.

21 4. An owner of a marihuana testing facility shall not hold a license
22 in another license category of section one hundred sixty-eight of this
23 article and shall not own or have ownership interest in a facility
24 licensed pursuant to title five-A of article thirty-three of the public
25 health law.

26 5. Only a marihuana retail licensee or a marihuana microbusiness
27 licensee may be issued an on-site consumption license.

28 6. Only a marihuana retail licensee, marihuana microbusiness licensee,
29 or marihuana delivery licensee may be permitted to deliver marihuana
30 directly to customers.

31 7. Only a marihuana producer licensee, marihuana processor licensee,
32 or marihuana distributor licensee may distribute marihuana and marihuana
33 products to other licensed marihuana businesses.

34 8. No marihuana delivery owner may hold more than one marihuana deliv-
35 ery license.

36 9. No marihuana distributor owner may hold more than one marihuana
37 distributor license.

38 10. The bureau shall issue a series of producer licenses distinguished
39 by canopy size and type of lighting used, natural/outdoor light, indoor
40 light, or mixed-light.

41 11. No marihuana producer owner may hold more than one marihuana
42 producer and one marihuana processor license.

43 12. No marihuana processor owner may hold more than three marihuana
44 processor licenses.

45 § 170. Actions taken pursuant to a valid license are lawful. No
46 contracts related to the operation of licenses under this chapter shall
47 be deemed unenforceable on the basis that the actions permitted pursuant
48 to the license are prohibited by federal law. The following actions are
49 not unlawful as provided under this chapter, shall not be an offense
50 under New York law or the laws of any locality within New York, and
51 shall not result in any civil fine, seizure, or forfeiture of assets
52 against any person acting in accordance with this chapter:

53 1. Actions of a licensee, its employees, and its agents, as permitted
54 by this chapter and consistent with rules and regulations of the bureau,
55 pursuant to a valid license issued by the bureau.

1 2. Actions of those who allow property to be used by a licensee, its
2 employees, and its agents, as permitted by this chapter and consistent
3 with rules and regulations of the bureau, pursuant to a valid license
4 issued by the bureau.

5 3. Actions of any person or entity, their employees, or their agents
6 providing a service to a licensee or potential licensee, as permitted by
7 this chapter and consistent with rules and regulations of the bureau,
8 relating to the formation of a business.

9 4. The purchase, possession, or consumption of marihuana, as permitted
10 by this chapter and consistent with rules and regulations of the bureau,
11 obtained from a validly licensed retailer.

12 § 171. General prohibitions and restrictions. 1. No marihuana products
13 may be imported or exported into New York state by a licensee from or to
14 a jurisdiction in which possession, transport, distribution of marihuana
15 or other marihuana related conduct remains illegal under the laws of
16 that jurisdiction.

17 2. (a) No person holding any license pursuant to this article to grow
18 or process marihuana may employ any person who has been convicted of an
19 offense related to the functions, or duties of the business or profes-
20 sion for which the application is made within three years of the appli-
21 cation date, except that if the bureau determines that the owner or
22 licensee is otherwise suitable to be issued a license, and granting the
23 license would not compromise public safety, the bureau shall conduct a
24 thorough review of the nature of the crime, conviction, circumstances,
25 and evidence of rehabilitation of the owner, and shall evaluate the
26 suitability of the owner or licensee to be issued a license based on the
27 evidence found through the review. In determining which offenses are
28 substantially related to the qualifications, functions, or duties of the
29 business or profession for which the application is made, the bureau
30 shall include, but not be limited to, the following:

31 (i) A felony conviction involving fraud and other unlawful conduct
32 related to owning and operating a business.

33 (ii) A felony conviction for hiring, employing, or using a minor in
34 transporting, carrying, selling, giving away, preparing for sale, or
35 peddling, any controlled substance to a minor; or selling, offering to
36 sell, furnishing, offering to furnish, administering, or giving any
37 controlled substance to a minor.

38 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-
39 sion, if the bureau issues its written approval for the employment by a
40 licensee, in a specified capacity, of a person previously convicted of a
41 felony or any of the offenses above enumerated in paragraph (a) of this
42 subdivision, such person, may, unless he or she is subsequently
43 convicted of a felony or any of such offenses, thereafter be employed in
44 the same capacity by any other licensee without the further written
45 approval of the bureau unless the prior approval given by the bureau is
46 terminated.

47 3. No license of any kind may be issued to a person under the age of
48 twenty-one years, nor shall any licensee employ anyone under the age of
49 twenty-one years.

50 § 172. Certain officials not to be interested in the manufacture or
51 sale of marihuana. 1. Except as otherwise provided in section one
52 hundred twenty-eight-a of this chapter, it shall be unlawful for any
53 police commissioner, police inspector, captain, sergeant, roundsman,
54 patrolman or other police official or subordinate of any police depart-
55 ment in the state, to be either directly or indirectly interested in the
56 manufacture or sale of marihuana or to offer for sale, or recommend to

1 any licensee any marihuana. A person may not be denied any license
2 granted under the provisions of sections fifty-four, fifty-five, fifty-
3 nine, sixty-three, sixty-four, seventy-nine, eighty-one, or article
4 seven of this chapter solely on the grounds of being the spouse of a
5 public servant described in this subdivision. The solicitation or recom-
6 mendation made to any licensee, to purchase any marihuana by any police
7 official or subordinate as described in this subdivision, shall be
8 presumptive evidence of the interest of such official or subordinate in
9 the manufacture or sale of marihuana.

10 2. No elective village officer shall be subject to the limitations set
11 forth in subdivision one of this section unless such elective village
12 officer shall be assigned duties directly relating to the operation or
13 management of the police department.

14 § 173. Provisions governing initial rulemaking. 1. Within two hundred
15 forty days after the effective date of this article, the bureau shall
16 perform such acts, prescribe such forms and make such rules, regulations
17 and orders as it may deem necessary or proper to fully effectuate the
18 provisions of this article.

19 2. The bureau shall promulgate necessary rules and regulations govern-
20 ing the licensing of marihuana producers, marihuana processors, marihua-
21 na retailers and marihuana retailers for consumption on-site, including:

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

24 (b) the qualifications for licensure;

25 (c) the books and records to be created and maintained by licensees,
26 the reports to be made thereon to the bureau, and inspection of the
27 books and records;

28 (d) methods of producing, processing, and packaging marihuana, mari-
29 huana-infused products, and concentrated cannabis; conditions of sanita-
30 tion, and standards of ingredients, quality, and identity of marihuana
31 products produced, processed, packaged, or sold by licensees; and

32 (e) security requirements for marihuana retailers and premises where
33 marihuana products are produced or processed, and safety protocols for
34 licensees and their employees.

35 3. The bureau shall promulgate rules and regulations that are calcu-
36 lated to:

37 (a) prevent the distribution of marihuana to persons under twenty-one
38 years of age;

39 (b) prevent the revenue from the sale of marihuana from going to crim-
40 inal enterprises, gangs, and cartels;

41 (c) prevent the diversion of marihuana from this state to other
42 states;

43 (d) prevent marihuana activity that is legal under state law from
44 being used as a cover or pretext for the trafficking of other illegal
45 drugs or other illegal activity;

46 (e) prevent violence and the use of firearms in the cultivation and
47 distribution of marihuana;

48 (f) prevent drugged driving and the exacerbation of other adverse
49 public health consequences associated with the use of marihuana;

50 (g) prevent the growing of marihuana on public lands and the attendant
51 public safety and environmental dangers posed by marihuana production on
52 public lands; and

53 (h) prevent the possession and use of marihuana on federal property.

54 4. Rules and regulations promulgated by the bureau pursuant to subdi-
55 vision three of this section shall not prohibit the operation of mari-

1 huana establishments either expressly or through regulations that make
2 their operation unreasonably impracticable.

3 5. The bureau, in consultation with the department of agriculture and
4 markets and the department of environmental conservation, shall promul-
5 gate necessary rules and regulations governing the safe production of
6 marihuana, including restrictions on the use of pesticides, insecticides
7 and herbicides.

8 § 174. Provisions governing marihuana producers. 1. No producer shall
9 sell, or agree to sell or deliver in the state any marihuana products,
10 as the case may be, except in sealed containers containing quantities in
11 accordance with size standards pursuant to rules adopted by the bureau.
12 Such containers shall have affixed thereto such labels as may be
13 required by the rules of the bureau, together with all necessary New
14 York state excise tax stamps, as required by law.

15 2. No producer shall deliver any marihuana products, except in vehi-
16 cles owned and operated by such producer, or hired and operated by such
17 producer from a trucking or transportation company registered with the
18 bureau, and shall only make deliveries at the licensed premises of the
19 purchaser.

20 3. Each producer shall keep and maintain upon the licensed premises,
21 adequate books and records of all transactions involving the producer
22 and sale of his or its products, which shall include all information
23 required by rules promulgated by the bureau. Each sale shall be recorded
24 separately on a numbered invoice, which shall have printed thereon the
25 number, the name of the licensee, the address of the licensed premises,
26 and the current license number. Such producer shall deliver to the
27 purchaser a true duplicate invoice stating the name and address of the
28 purchaser, the quantity purchased, description and the price of the
29 product, and a true, accurate and complete statement of the terms and
30 conditions on which such sale is made. Such books, records and invoices
31 shall be kept for a period of two years and shall be available for
32 inspection by any authorized representative of the bureau.

33 4. No producer shall furnish or cause to be furnished to any licensee,
34 any exterior or interior sign, printed, painted, electric or otherwise,
35 except as authorized by the bureau. The bureau may make such rules as it
36 deems necessary to carry out the purpose and intent of this subdivision.

37 § 175. Provisions governing processors. 1. No processor shall be
38 engaged in any other business on the premises to be licensed; except
39 that nothing contained in this chapter shall prevent a marihuana produc-
40 er and a marihuana processor from operating on the same premises and
41 from a person holding both licenses.

42 2. No processor shall sell, or agree to sell or deliver in the state
43 any marihuana products, except in a sealed package containing quantities
44 in accordance with size standards pursuant to rules adopted by the
45 bureau. Such containers shall have affixed thereto such labels as may be
46 required by the rules of the bureau, together with all necessary New
47 York state excise tax stamps, as required by law.

48 3. No processor shall deliver any products, except in vehicles owned
49 and operated by such processor, or hired and operated by such processor
50 from a trucking or transportation company registered with the bureau,
51 and shall only make deliveries at the licensed premises of the purchas-
52 er.

53 4. Each processor shall keep and maintain upon the licensed premises,
54 adequate books and records of all transactions involving the business
55 transacted by such processor, which shall show the amount of marihuana
56 products, purchased by such processor together with the names, license

1 numbers and places of business of the persons from whom the same was
2 purchased and the amount involved in such purchases, as well as the
3 amount of marihuana products sold by such processor together with the
4 names, addresses, and license numbers of such purchasers. Each sale
5 shall be recorded separately on a numbered invoice, which shall have
6 printed thereon the number, the name of the licensee, the address of the
7 licensed premises, and the current license number. Such processor shall
8 deliver to the purchaser a true duplicate invoice stating the name and
9 address of the purchaser, quantity purchased, description and the price
10 of the product, and a true, accurate and complete statement of the terms
11 and conditions on which such sale is made. Such books, records and
12 invoices shall be kept for a period of two years and shall be available
13 for inspection by any authorized representative of the bureau.

14 § 176. Provisions governing marihuana retailers. 1. No retail license
15 shall be granted for any premises, unless the applicant shall be the
16 owner thereof, or shall be in possession of said premises under a lease,
17 management agreement or other agreement giving the applicant control
18 over the premises, in writing, for a term not less than the license
19 period.

20 2. No premises shall be licensed to sell marihuana products, unless
21 said premises shall be located in a store, the principal entrance to
22 which shall be from the street level and located on a public thorough-
23 fare in premises which may be occupied, operated or conducted for busi-
24 ness, trade or industry or on an arcade or sub-surface thoroughfare
25 leading to a railroad terminal. There may be not more than one addi-
26 tional entrance which shall be from the street level and located on and
27 giving access to and from a public or private parking lot or parking
28 area having space for not less than five automobiles.

29 3. No marihuana retail license shall be granted for any premises which
30 a license would not be allowed to sell at retail for consumption of
31 alcohol off the premises based on its proximity to a building occupied
32 exclusively as a school, church, synagogue or other place of worship
33 pursuant to the provisions of section one hundred five of this chapter.

34 4. No marihuana retail licensee shall offer for sale any marihuana
35 products in any other container, except in the original sealed package,
36 as received from the producer, distributor or processor. Such containers
37 shall have affixed thereto such labels as may be required by the rules
38 of the bureau, together with all New York state excise tax stamps, as
39 required by law. Such containers shall not be opened nor its contents
40 consumed on the premises where sold.

41 5. No marihuana retail licensee shall sell or transfer marihuana
42 products to any person under the age of twenty-one years.

43 6. No marihuana retail licensee shall sell alcoholic beverages on the
44 same premises where marihuana products are sold.

45 7. No sign of any kind printed, painted or electric, advertising any
46 brand shall be permitted on the exterior or interior of such premises,
47 except by permission of the bureau.

48 8. No retail licensee shall deliver any marihuana products except in
49 vehicles owned and operated by such licensee, or hired and operated by
50 such licensee from a trucking or transportation company registered with
51 the bureau, and shall only make such deliveries at the premises of the
52 purchaser.

53 9. No retail licensee shall keep or permit to be kept upon the
54 licensed premises, any marihuana products in any unsealed container.

55 10. No retail licensee shall sell or deliver any marihuana products to
56 any person with knowledge of, or with reasonable cause to believe, that

1 the person to whom such marihuana products are being sold, has acquired
2 the same for the purpose of peddling them from place to place, or of
3 selling or giving them away in violation of the provisions of this chap-
4 ter or in violation of the rules and regulations of the bureau.

5 11. No premises licensed as a marihuana retailer shall be permitted to
6 remain open during a time when a premises licensed to sell liquor and/or
7 wine for off-premises consumption is not permitted to remain open pursu-
8 ant to the provisions of section one hundred five of this chapter.

9 12. Each marihuana retail licensee shall keep and maintain upon the
10 licensed premises, adequate books and records of all transactions
11 involving the business transacted by such licensee, which shall show the
12 amount of marihuana products, purchased by such licensee together with
13 the names, license numbers and places of business of the persons from
14 whom the same were purchased, and the amount involved in such purchases,
15 as well as the amount of marihuana products, sold by such licensee, and
16 the amount involved in each sale. Such books and records shall be avail-
17 able for inspection by any authorized representative of the bureau.

18 13. All premises licensed under this section shall be subject to
19 inspection by any peace officer described in subdivision four of section
20 2.10 of the criminal procedure law acting pursuant to his or her special
21 duties, or police officer or any duly authorized representative of the
22 bureau, during the hours when the said premises are open for the trans-
23 action of business.

24 § 177. Provisions governing marihuana on-site consumption licenses. 1.
25 No marihuana retailer or microbusiness shall be granted a marihuana
26 on-site consumption license for a premises located in whole or in part
27 inside the boundaries of any city, village or town, unless the local
28 legislative body of such city, village or town, by resolution, expressly
29 authorizes the licensing of such facilities in such city, village or
30 town. The local legislative body may direct an appropriate officer,
31 board or body of such city, village or town as the local licensing
32 authority to authorize individual marihuana facility license applica-
33 tions. In cities of one million or more residents, should the local
34 legislative body authorize such license, no marihuana retailer license
35 for consumption on-site shall be granted unless the community board
36 established pursuant to section twenty-eight hundred of the New York
37 city charter with jurisdiction over the area in which the premises will
38 be located shall also authorize such license.

39 2. No marihuana retailer or microbusiness shall be granted a marihuana
40 on-site consumption license for any premises, unless the applicant shall
41 be the owner thereof, or shall be in possession of said premises under a
42 lease, in writing, for a term not less than the license period except,
43 however, that such license may thereafter be renewed without the
44 requirement of a lease as herein provided. This subdivision shall not
45 apply to premises leased from government agencies, as defined under
46 subdivision twelve-c of section three of this chapter; provided, howev-
47 er, that the appropriate administrator of such government agency
48 provides some form of written documentation regarding the terms of occu-
49 pancy under which the applicant is leasing said premises from the
50 government agency for presentation to the bureau at the time of the
51 license application. Such documentation shall include the terms of occu-
52 pancy between the applicant and the government agency, including, but
53 not limited to, any short-term leasing agreements or written occupancy
54 agreements.

55 3. No marihuana retailer or microbusiness shall be granted a marihuana
56 on-site consumption license for any premises where a license would not

1 be allowed to sell at retail for consumption of alcohol on the premises
2 based on its proximity to a building occupied exclusively as a school,
3 church, synagogue or other place of worship pursuant to the provisions
4 of section one hundred five of this chapter.

5 4. The bureau may consider any or all of the following in determining
6 whether public convenience and advantage and the public interest will be
7 promoted by the granting of licenses and permits for a marihuana on-site
8 consumption license at a particular unlicensed location:

9 (a) The number, classes and character of licenses in proximity to the
10 location and in the particular municipality or subdivision thereof.

11 (b) Evidence that all necessary licenses and permits have been
12 obtained from the state and all other governing bodies.

13 (c) Effect of the grant of the license on vehicular traffic and park-
14 ing in proximity to the location.

15 (d) The existing noise level at the location and any increase in noise
16 level that would be generated by the proposed premises.

17 (e) The history of marihuana violations and reported criminal activity
18 at the proposed premises.

19 (f) Any other factors specified by law or regulation that are relevant
20 to determine the public convenience and advantage and public interest of
21 the community.

22 5. If the bureau shall disapprove an application for a license or
23 permit, it shall state and file in its offices the reasons therefor and
24 shall notify the applicant thereof. Such applicant may thereupon apply
25 to the bureau for a review of such action in a manner to be prescribed
26 by the rules of the bureau. A hearing upon notice to the applicant shall
27 thereupon be held by the bureau or by one of its members at its office
28 most conveniently situated to the office of its duly authorized repre-
29 sentative in a manner to be prescribed in its rules; and on such hearing
30 proof may be taken by oral testimony or by affidavit relative thereto.
31 After such hearing, if the bureau confirms such disapproval, it shall
32 endorse such application accordingly and shall send notice to the appli-
33 cant of its action in such form as the bureau may prescribe. If the
34 bureau does not confirm the disapproval action it may grant such appli-
35 cation and issue such license.

36 6. No marihuana on-site consumption licensee, except persons or corpo-
37 rations operating a hotel, as defined in subdivision fourteen of section
38 three of this chapter, for exclusive use in the furnishing of room
39 service in the manner prescribed by rule or regulation of the bureau,
40 shall keep upon the licensed premises any marihuana products, except
41 those purchased from a licensed producer, and in containers approved by
42 the bureau. Such containers shall have affixed thereto such labels as
43 may be required by the rules of the bureau, together with all necessary
44 excise stamps as required by law. No marihuana retail licensee for
45 on-site consumption shall reuse, refill, tamper with, adulterate, dilute
46 or fortify the contents of any container of marihuana products as
47 received from the manufacturer or wholesaler.

48 7. No marihuana on-site consumption licensee shall sell, deliver or
49 give away, or cause or permit or procure to be sold, delivered or given
50 away any marihuana for consumption on the premises where sold in a
51 container or package containing more than one gram of marihuana.

52 8. No marihuana on-site consumption licensee shall suffer or permit
53 any gambling on the licensed premises, or suffer or permit such premises
54 to become disorderly. The use of the licensed premises, or any part
55 thereof, for the sale of lottery tickets, playing of bingo or games of
56 chance, or as a simulcast facility or simulcast theater pursuant to the

1 racing, pari-mutuel wagering and breeding law, when duly authorized and
2 lawfully conducted thereon, shall not constitute gambling within the
3 meaning of this subdivision.

4 (a) No marihuana on-site consumption licensee shall suffer or permit
5 any person to appear on licensed premises in such manner or attire as to
6 expose to view any portion of the pubic area, anus, vulva or genitals,
7 or any simulation thereof, nor shall suffer or permit any female to
8 appear on licensed premises in such manner or attire as to expose to
9 view any portion of the breast below the top of the areola, or any simu-
10 lation thereof.

11 (b) No marihuana on-site consumption licensee shall suffer, permit or
12 promote an event on its premises wherein the contestants deliver, or are
13 not forbidden by the applicable rules thereof from delivering kicks,
14 punches or blows of any kind to the body of an opponent or opponents,
15 whether or not the event consists of a professional match or exhibition,
16 and whether or not the event or any such act, or both, is done for
17 compensation; provided, however, that this prohibition shall not be
18 applied to any professional match or exhibition which consists of
19 boxing, sparring, wrestling, or martial arts and which is excepted from
20 the definition of the term "combative sport" contained in subdivision
21 three of section one thousand of the general business law.

22 (c) In addition to any other penalty provided by law, a violation of
23 this subdivision shall constitute an adequate ground for instituting a
24 proceeding to suspend, cancel or revoke the license of the violator in
25 accordance with the applicable procedures specified in section one
26 hundred nineteen of this chapter.

27 9. Except where a permit to do so is obtained pursuant to section
28 405.10 of the penal law, no marihuana on-site consumption licensee shall
29 suffer, permit, or promote an event on its premises wherein any person
30 shall use, explode, or cause to explode, any fireworks or other pyro-
31 technics in a building as defined in paragraph e of subdivision one of
32 section 405.10 of the penal law, that is covered by such license or
33 possess such fireworks or pyrotechnics for such purpose. In addition to
34 any other penalty provided by law, a violation of this subdivision shall
35 constitute an adequate ground for instituting a proceeding to suspend,
36 cancel, or revoke the license of the violator in accordance with the
37 applicable procedures specified in section one hundred nineteen of this
38 chapter; provided however, if more than one licensee is participating in
39 a single event, upon approval by the bureau, only one licensee must
40 obtain such permit.

41 10. No restaurant and no premises licensed to sell marihuana products
42 for on-site consumption under paragraph (a) of subdivision six of
43 section sixty-four-a of this chapter shall be permitted to have any
44 opening or means of entrance or passageway for persons or things between
45 the licensed premises and any other room or place in the building
46 containing the licensed premises, or any adjoining or abutting premises,
47 unless ingress and egress is restricted by an employee, agent of the
48 licensee, or other approved method of controlling access to the facili-
49 ty, or unless such premises are a bona fide restaurant with such access
50 for patrons and guests from any part of such building or adjoining or
51 abutting premises as shall serve public convenience in a reasonable and
52 suitable manner; or unless such licensed premises are in a building
53 owned or operated by any county, town, city, village or public authority
54 or agency, in a park or other similar place of public accommodation. All
55 glass in any window or door on said licensed premises shall be clear and
56 shall not be opaque, colored, stained or frosted.

11. A vessel licensed to sell marihuana products for on-site consumption shall not be permitted to sell any marihuana products, while said vessel is moored to a pier or dock, except that vessels sailing on established schedules shall be permitted to sell marihuana products for a period of three hours prior to the regular advertised sailing time.

12. Each marihuana on-site consumption licensee shall keep and maintain upon the licensed premises, adequate records of all transactions involving the business transacted by such licensee which shall show the amount of marihuana products, in an applicable metric measurement, purchased by such licensee together with the names, license numbers and places of business of the persons from whom the same were purchased, the amount involved in such purchases, as well as the sales of marihuana products made by such licensee. The bureau is hereby authorized to promulgate rules and regulations permitting an on-site licensee operating two or more premises separately licensed to sell marihuana products for on-site consumption to inaugurate or retain in this state methods or practices of centralized accounting, bookkeeping, control records, reporting, billing, invoicing or payment respecting purchases, sales or deliveries of marihuana products, or methods and practices of centralized receipt or storage of marihuana products within this state without segregation or earmarking for any such separately licensed premises, wherever such methods and practices assure the availability, at such licensee's central or main office in this state, of data reasonably needed for the enforcement of this chapter. Such records shall be available for inspection by any authorized representative of the bureau.

13. All retail licensed premises shall be subject to inspection by any peace officer, acting pursuant to his or her special duties, or police officer and by the duly authorized representatives of the bureau, during the hours when the said premises are open for the transaction of business.

14. A marihuana on-site consumption licensee shall not provide marihuana products to any person under the age of twenty-one or to any person who is visibly impaired.

§ 178. Advertising and forms of the issuance of licenses. 1. The bureau is hereby authorized to promulgate rules and regulations governing the advertising of marihuana producers, marihuana processors, marihuana retailers, and any marihuana related products or services.

2. The bureau shall promulgate explicit rules prohibiting advertising that:

- (a) is false, deceptive, or misleading;
- (b) promotes overconsumption;
- (c) depicts consumption by children or other minors;
- (d) is designed in any way to appeal to children or other minors;
- (e) is within two hundred feet of the perimeter of a school grounds, playground, child care center, public park, or library;
- (f) is in public transit vehicles and stations;
- (g) is in the form of an unsolicited internet pop-up; or
- (h) is on publicly owned or operated property.

3. The bureau shall promulgate explicit rules prohibiting all marketing strategies and implementation including, but not limited to, branding, packaging, labeling, location of marihuana retailers and marihuana microbusinesses, and advertisements that are designed to:

- (a) appeal to persons less than twenty-one years of age; or
- (b) disseminate false or misleading information to customers.

4. The bureau shall promulgate explicit rules requiring that:

1 (a) all advertisements and marketing accurately and legibly identify
2 the licensee responsible for its content; and

3 (b) any broadcast, cable, radio, print and digital communications
4 advertisements only be placed where the audience is reasonably expected
5 to be twenty-one years of age or older, as determined by reliable,
6 up-to-date audience composition data.

7 § 179. Packaging of marihuana products. 1. The bureau is hereby
8 authorized to promulgate rules and regulations governing the packaging
9 of marihuana products, sold or possessed for sale in New York state.

10 2. Such regulations shall include requiring that:

11 (a) packaging meets requirements similar to the federal "poison
12 prevention packaging act of 1970," 15 U.S.C. Sec 1471 et seq.;

13 (b) all marihuana-infused products shall have a separate packaging for
14 each serving;

15 (c) prior to delivery or sale at a retailer, marihuana and marihuana
16 products shall be labeled and placed in a resealable, child-resistant
17 package; and

18 (d) packages and labels shall not be made to be attractive to chil-
19 dren.

20 § 180. Labeling of marihuana products. 1. The bureau is hereby author-
21 ized to promulgate rules and regulations governing the labeling and
22 offering of marihuana products for sale within this state.

23 2. Such rules and regulations shall be calculated to: (a) prohibit
24 deception of the consumer; (b) afford adequate information as to quality
25 and identity of the product; and (c) achieve national uniformity in this
26 business.

27 3. The bureau may seek the assistance of the department of health when
28 necessary before promulgating rules and regulations under this section.

29 4. Such regulations shall include requiring labels warning consumers
30 of any potential impact on human health resulting from the consumption
31 of marihuana products that shall be affixed to those products when sold,
32 if such labels are deemed warranted by the bureau after consultation
33 with the department of health.

34 5. All marihuana and marihuana product labels and inserts shall
35 include the following information prominently displayed in a clear and
36 legible fashion in accordance with the requirements, including font
37 size, prescribed by the bureau or the department of health: not less
38 than 8 point font:

39 (a) manufacture date and source;

40 (b) for packages containing only dried flower, the net weight of mari-
41 huana in the package;

42 (c) identification of the source and date of cultivation, the type of
43 marihuana or marihuana product and the date of manufacturing and packag-
44 ing;

45 (d) list of pharmacologically active ingredients, including, but not
46 limited to, tetrahydrocannabinol (THC), cannibidiol (CBP), and other
47 cannabinoid content, the THC and other cannabinoid amount in milligrams
48 per serving, servings per package, and the THC and other cannabinoid
49 amount in milligrams for the package total, and the potency of the mari-
50 huana or marihuana product by reference to the amount of tetrahydrocan-
51 nibinol and canibidiol in each serving;

52 (e) for marihuana products, a list of all ingredients and disclosure
53 of nutritional information in the same manner as the federal nutritional
54 labeling requirements in 21 C.F.R. section 101.9;

1 (f) a list of any solvents, nonorganic pesticides, herbicides, and
2 fertilizers that were used in the cultivation, production, and manufac-
3 ture of such marihuana or marihuana product;

4 (g) a warning if nuts or other known allergens are used;

5 (h) information associated with the unique identifier issued by the
6 bureau of marihuana policy; and

7 (i) any other requirements set by the bureau of marihuana policy.

8 6. Only generic food names may be used to describe the ingredients in
9 edible marihuana products.

10 7. Such rules and regulations shall establish methods and procedures
11 for determining serving sizes for marihuana-infused products, active
12 cannabis concentration per serving size, and number of servings per
13 container. Such regulations shall also require a nutritional fact panel
14 that incorporates data regarding serving sizes and potency thereof.

15 8. Such rules and regulations shall require information containing the
16 license number of the marihuana producer and processor facilities where
17 the marihuana was grown and processed.

18 9. The packaging, sale, or possession by any licensee of any marihuana
19 product not labeled or offered in conformity with rules and regulations
20 promulgated in accordance with this section shall be grounds for the
21 imposition of a fine, and/or the suspension, revocation or cancellation
22 of the license.

23 § 181. Seed to sale tracking. 1. No later than fifteen months follow-
24 ing the effective date of the Marihuana Regulation and Taxation Act, the
25 bureau shall establish a seed to sale tracking program for reporting the
26 movement of marihuana and marihuana products throughout the distribution
27 chain that utilizes a unique identifier and secure packaging and is
28 capable of providing information that captures, at a minimum, all of the
29 following:

30 (a) the licensee receiving the product;

31 (b) the transaction date; and

32 (c) the producer from which the product originates, including the
33 associated unique identifier.

34 2. (a) The bureau shall create an electronic database containing the
35 electronic shipping manifests to facilitate the administration of the
36 seed to sale program tracking, which shall include, but not be limited
37 to, the following information:

38 (b) the quantity, or weight, and variety of products shipped;

39 (c) the estimated times of departure and arrival;

40 (d) the quantity, or weight, and variety of products received;

41 (e) the actual time of departure and arrival;

42 (f) a categorization of the product; and

43 (g) the license number and unique identifier issued by the bureau for
44 all licensees involved in the shipping process, including, but not
45 limited to, producer, processor, retailer, and delivery licensees.

46 (3) The database shall be designed to flag irregularities for the
47 bureau to investigate.

48 § 182. Renewals of licenses and permits. 1. Each license and permit,
49 issued pursuant to this article may be renewed upon application therefor
50 by the licensee or permittee and the payment of the annual fee for such
51 license or permit as prescribed by this article. In the case of applica-
52 tions for renewals, the bureau may dispense with the requirements of
53 such statements as it deems unnecessary in view of those contained in
54 the application made for the original license or permit, but in any
55 event the submission of photographs of the licensed premises shall be
56 dispensed with, provided the applicant for such renewal shall file a

1 statement with such bureau to the effect that there has been no alter-
2 ation of such premises since the original license was issued. The
3 bureau may make such rules as may be necessary not inconsistent with
4 this chapter regarding applications for renewals of licenses and permits
5 and the time for making the same. Each applicant must submit to the
6 bureau documentation of the racial, ethnic, and gender diversity of the
7 applicant's employees and owners prior to a license or permit being
8 renewed.

9 2. The bureau shall provide an application for renewal of a license
10 issued under this article not less than sixty days prior to the expira-
11 tion of the current license.

12 § 183. Information to be provided by applicants. 1. The following
13 shall be the information required on an application for a license or
14 permit:

15 (a) A statement of identity as follows:

16 (i) If the applicant is an individual, his or her name, date and place
17 of birth, citizenship, permanent home address, telephone number and
18 social security number, as well as any other names by which he or she
19 has conducted a business at any time.

20 (ii) If the applicant is a corporation or a limited liability corpo-
21 ration, the corporate name of the applicant, its place of incorporation,
22 its main business address (and if such main business address is not
23 within the state, the address of its main place of business within the
24 state), other names by which it has been known or has conducted business
25 at any time, its telephone number, its federal employer identification
26 number, and the names, ages, citizenship, and permanent home addresses
27 of its directors, officers and its shareholders (except that if there be
28 more than ten shareholders then those shareholders holding ten percent
29 or more of any class of its shares).

30 (iii) If the applicant is a partnership, its name, its main business
31 address (and if such main business address is not within the state, the
32 address of its main place of business within the state), other names by
33 which it has been known or has conducted business at any time, its tele-
34 phone number, its federal employer identification number, and the names,
35 ages, citizenship, and permanent home addresses of each of its partners.

36 (b) A statement identifying the street and number of the premises to
37 be licensed, if the premises has a street and number, and otherwise such
38 description as will reasonably indicate the locality thereof; photo-
39 graphs, drawings or other items related to the appearance of the interi-
40 or or exterior of such premises, and a floor plan of the interior, shall
41 be required. The applicant shall also state the nature of his or her
42 interest in the premises; and the name of any other person interested as
43 a partner, joint venturer, investor or lender with the applicant either
44 in the premises or in the business to be licensed.

45 (c) A description of any other marijuana license or permit under this
46 article, within the past ten years, the applicant (including any offi-
47 cers, directors, shareholders or partners listed in the statement of
48 identity under paragraph (a) of this subdivision or the spouse of any
49 such person) or the applicant's spouse held or applied for.

50 (d) A description of the applicant's plan to ensure diversity among
51 the applicant's employees, including strategies for ensuring:

52 (i) gender diversity;

53 (ii) racial and ethnic diversity that reflects the demographics within
54 the municipality in which the applicant's proposed business will be
55 located; and

1 (iii) that persons with prior criminal convictions are not barred from
2 employment.

3 (e) A statement that the location and layout of the premises to be
4 licensed does not violate any requirement of this chapter relating to
5 location and layout of licensed premises, with a copy of the certificate
6 of occupancy for the premises.

7 (f) A statement that the applicant has control of the premises to be
8 licensed by ownership of a fee interest or via a leasehold, management
9 agreement, or other agreement giving the applicant control over the
10 premises, with a term at least as long as the license for which the
11 application is being made, or by a binding contract to acquire the same
12 and a statement of identity under paragraph (a) of this subdivision for
13 the lessor of any leasehold, manager of any management agreement, or
14 other agreement giving the applicant control over the premises, with a
15 copy of the lease, contract, management agreement, or other agreement
16 giving the applicant control over the food and beverage at the premises,
17 or deed evidencing fee ownership of the premises.

18 (g) A financial statement adequate to show all persons who, directly
19 or indirectly have an economic interest in the establishment or acquisi-
20 tion of the business for which the license or permit application is
21 being made, to identify the sources of funds to be applied in such
22 establishment or acquisition, and to describe the terms and conditions
23 governing such establishment with copies of such financial documents as
24 the bureau may reasonably require.

25 (h) The fingerprints of the applicants. Fingerprints submitted by the
26 applicants shall be transmitted to the division of criminal justice
27 services and may be submitted to the federal bureau of investigation for
28 state and national criminal history record checks.

29 2. All license or permit applications shall be signed by the applicant
30 (if an individual), by a managing partner (if a limited liability corpo-
31 ration), by an officer (if a corporation), or by all partners (if a
32 partnership). Each person signing such application shall verify it or
33 affirm it as true under the penalties of perjury.

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

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

44 5. In giving any notice, or taking any action in reference to a licen-
45 see of a licensed premises, the bureau may rely upon the information
46 furnished in such application and in any supplemental statement
47 connected therewith, and such information may be presumed to be correct,
48 and shall be binding upon a licensee or licensed premises as if correct.
49 All information required to be furnished in such application or supple-
50 mental statements shall be deemed material in any prosecution for perju-
51 ry, any proceeding to revoke, cancel or suspend any license, and in the
52 bureau's determination to approve or deny the license.

53 6. The bureau may in its discretion waive the submission of any cate-
54 gory of information described in this section for any category of
55 license or permit, provided that it shall not be permitted to waive the

1 requirement for submission of any such category of information solely
2 for an individual applicant or applicants.

3 § 184. Notification to municipalities. 1. Not less than thirty days
4 before filing any of the following applications, an applicant shall
5 notify the municipality in which the premises is located of such appli-
6 cant's intent to file such an application for a:

7 (a) marihuana producer license;

8 (b) marihuana processor license;

9 (c) marihuana microbusiness license;

10 (d) marihuana retailer license;

11 (e) marihuana retailer license for on-site consumption;

12 (f) marihuana delivery license;

13 (g) marihuana testing license; and/or

14 (h) any other type of licenses allowed by the bureau.

15 2. Such notification shall be made to the clerk of the village, town
16 or city, as the case may be, wherein the premises is located. For
17 purposes of this section:

18 (a) notification need only be given to the clerk of a village when the
19 premises is located within the boundaries of the village; and

20 (b) in the city of New York, the community board established pursuant
21 to section twenty-eight hundred of the New York city charter with juris-
22 isdiction over the area in which the premises is located shall be consid-
23 ered the appropriate public body to which notification shall be given.

24 3. For purposes of this section, "substantial corporate change" shall
25 mean:

26 (a) for a corporation, a change of eighty percent or more of the offi-
27 cers and/or directors, or a transfer of eighty percent or more of stock
28 of such corporation, or an existing stockholder obtaining eighty percent
29 or more of the stock of such corporation; and

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

35 4. Such notification shall be made in such form as shall be prescribed
36 by the rules of the bureau.

37 5. A municipality may express an opinion for or against the granting
38 of such application. Any such opinion shall be deemed part of the record
39 upon which the bureau makes its determination to grant or deny the
40 application.

41 6. Such notification shall be made by: certified mail, return receipt
42 requested; overnight delivery service with proof of mailing; or personal
43 service upon the offices of the clerk or community board.

44 7. The bureau shall require such notification to be on a standardized
45 form that can be obtained on the internet or from the bureau and such
46 notification to include:

47 (a) the trade name or "doing business as" name, if any, of the estab-
48 lishment;

49 (b) the full name of the applicant;

50 (c) the street address of the establishment, including the floor
51 location or room number, if applicable;

52 (d) the mailing address of the establishment, if different than the
53 street address;

54 (e) the name, address and telephone number of the attorney or repre-
55 sentative of the applicant, if any;

56 (f) a statement indicating whether the application is for:

1 (i) a new establishment;
2 (ii) a transfer of an existing licensed business;
3 (iii) a renewal of an existing license; or
4 (iv) an alteration of an existing licensed premises;
5 (g) if the establishment is a transfer or previously licensed prem-
6 ises, the name of the old establishment and such establishment's license
7 serial number;
8 (h) in the case of a renewal or alteration application, the license
9 serial number of the applicant; and

10 (i) the type of license.

11 § 185. Licenses, publication, general provisions. 1. The various types
12 of licenses issued pursuant to this article shall be distinctive in
13 color and design so as to be readily distinguishable from each other.

14 2. No license shall be transferable or assignable except that notwith-
15 standing any other provision of law, the license of a sole proprietor
16 converting to corporate form, where such proprietor becomes the sole
17 stockholder and only officer and director of such new corporation, may
18 be transferred to the subject corporation if all requirements of this
19 chapter remain the same with respect to such license as transferred and,
20 further, the licensee shall transmit to the bureau, within ten days of
21 the transfer of license allowable under this subdivision, on a form
22 prescribed by the bureau, notification of the transfer of such license.

23 3. No license shall be pledged or deposited as collateral security for
24 any loan or upon any other condition; and any such pledge or deposit,
25 and any contract providing therefor, shall be void.

26 4. Licenses issued under this article shall contain, in addition to
27 any further information or material to be prescribed by the rules of the
28 bureau, the following information: (a) name of person to whom license is
29 issued; (b) kind of license and what kind of traffic in marihuana is
30 thereby permitted; (c) description by street and number, or otherwise,
31 of licensed premises; and (d) a statement in substance that such license
32 shall not be deemed a property or vested right, and that it may be
33 revoked at any time pursuant to law.

34 5. There shall be printed and furnished by the bureau to each licensee
35 a statement of the causes for which licenses may be revoked. Such state-
36 ment shall be prepared by the bureau and delivered to the licensee with
37 his or her license or as soon thereafter as may be practicable. Any
38 amendments thereto shall also be sent by the bureau to all licensees as
39 soon as may be practicable after such amendments. Failure to send such
40 statements or changes therein, or failure to receive the same, or any
41 misstatement or error contained in such statements or amendments shall,
42 however, not be an excuse or justification for any violation of law, or
43 prevent, or remit, or decrease any penalty or forfeiture therefor.

44 6. Before commencing or doing any business for the time for which a
45 license has been issued said license shall be enclosed in a suitable
46 wood or metal frame having a clear glass space and a substantial wood or
47 metal back so that the whole of said license may be seen therein, and
48 shall be posted up and at all times displayed in a conspicuous place in
49 the room where such business is carried on, so that all persons visiting
50 such place may readily see the same. It shall be unlawful for any person
51 holding a license to post such license or to permit such license to be
52 posted upon premises other than the premises licensed, or upon premises
53 where traffic in marihuana is being carried on by any person other than
54 the licensee, or knowingly to deface, destroy or alter any such license
55 in any respect. Whenever a license shall be lost or destroyed without
56 fault on the part of the licensee or his or her agents or employees, a

1 duplicate license in lieu thereof may be issued by the bureau in its
2 discretion and in accordance with such rules and regulations and the
3 payment of such fees, not exceeding five dollars, as it may prescribe.

4 § 186. Revocation of licenses for cause. 1. Any license or permit
5 issued pursuant to this article may be revoked, cancelled, suspended
6 and/or subjected to the imposition of a civil penalty for cause, and
7 must be revoked for the following causes:

8 (a) Conviction of the licensee, permittee or his or her agent or
9 employee for selling any illegal marihuana or marihuana products on the
10 premises licensed.

11 (b) For transferring, assigning or hypothecating a license or permit.
12 2. Notwithstanding the issuance of a license or permit by way of
13 renewal, the bureau may revoke, cancel or suspend such license or permit
14 and/or may impose a civil penalty against any holder of such license or
15 permit, as prescribed by this section and section one hundred nineteen
16 of this chapter, for causes or violations occurring during the license
17 period immediately preceding the issuance of such license or permit, and
18 may recover, as provided in section one hundred twelve of this chapter,
19 the penal sum of the bond on file during said period.

20 3. As used in this section, the term "for cause" shall also include
21 the existence of a sustained and continuing pattern of noise, disturb-
22 ance, misconduct, or disorder on or about the licensed premises, related
23 to the operation of the premises or the conduct of its patrons, which
24 adversely affects the health, welfare or safety of the inhabitants of
25 the area in which such licensed premises are located.

26 4. The existence of a sustained and continuing pattern of noise,
27 disturbance, misconduct, or disorder on or about the licensed premises,
28 related to the operation of the premises or the conduct of its patrons,
29 will be presumed upon the sixth incident reported to the bureau by a law
30 enforcement agency of noise or disturbance or misconduct or disorder on
31 or about the licensed premises or related to the operation of the prem-
32 ises or the conduct of its patrons, in any sixty day period, absent
33 clear and convincing evidence of either fraudulent intent on the part of
34 any complainant or a factual error with respect to the content of any
35 report concerning such complaint relied upon by the bureau.

36 § 187. Procedure for revocation or cancellation. 1. Any license or
37 permit issued by the bureau pursuant to this article may be revoked,
38 cancelled or suspended and/or be subjected to the imposition of a mone-
39 tary penalty in the manner prescribed by this section.

40 2. The bureau may on its own initiative or on complaint of any person
41 institute proceedings to revoke, cancel or suspend any retail license
42 and may impose a civil penalty against the licensee after a hearing at
43 which the licensee shall be given an opportunity to be heard. Such hear-
44 ing shall be held in such manner and upon such notice as may be
45 prescribed by the rules of the bureau.

46 3. All other licenses or permits issued under this article may be
47 revoked, cancelled, suspended and/or made subject to the imposition of a
48 civil penalty by the bureau after a hearing to be held in the manner to
49 be determined by the rules of the bureau.

50 4. (a) The provisions of this subdivision shall apply in all cases of
51 licensee or permittee failure after receiving appropriate notice, to
52 comply with a summons, subpoena or warrant relating to a paternity or
53 child support proceeding and arrears in payment of child support or
54 combined child and spousal support referred to the bureau by a court
55 pursuant to the requirements of section two hundred forty-four-c of the

1 domestic relations law or pursuant to section four hundred fifty-eight-b
2 or five hundred forty-eight-b of the family court act.

3 (b) Upon receipt of an order from the court based on arrears in
4 payment of child support or combined child and spousal support pursuant
5 to one of the foregoing provisions of law, the bureau, if it finds such
6 person to have been issued a license or permit, shall within thirty days
7 of receipt of such order from the court, provide notice to the licensee
8 or permittee of, and initiate, a hearing which shall be held at least
9 twenty days and no more than thirty days after the sending of such
10 notice to the licensee or permittee. The hearing shall be solely held
11 for the purpose of determining whether there exists as of the date of
12 the hearing proof that full payment of all arrears of support estab-
13 lished by the order of the court to be due from the licensee or permit-
14 tee have been paid. Proof of such payment shall be a certified check
15 showing full payment of established arrears or a notice issued by the
16 court or the support collection unit, where the order is payable to the
17 support collection unit designated by the appropriate social services
18 district. Such notice shall state that full payment of all arrears of
19 support established by the order of the court to be due have been paid.
20 The licensee or permittee shall be given full opportunity to present
21 such proof of payment at the hearing in person or by counsel. The only
22 issue to be determined by the bureau as a result of the hearing is
23 whether the arrears have been paid. No evidence with respect to the
24 appropriateness of the court order or ability of the respondent party in
25 arrears to comply with such order shall be received or considered by the
26 bureau.

27 (c) Notwithstanding any inconsistent provision of this article or of
28 any other provision of law to the contrary, such license or permit shall
29 be suspended if at the hearing, provided for by paragraph (b) of this
30 subdivision, the licensee or permittee fails to present proof of payment
31 as required by such paragraph. Such suspension shall not be lifted
32 unless the court or the support collection unit, where the court order
33 is payable to the support collection unit designated by the appropriate
34 social services district, issues notice to the bureau that full payment
35 of all arrears of support established by the order of the court to be
36 due have been paid.

37 (d) Upon receipt of an order from the court based on failure to comply
38 with a summons, subpoena, or warrant relating to a paternity or child
39 support proceeding, the bureau, if it finds such person has been issued
40 a license or permit, shall within thirty days of receipt of such order
41 from the court, provide notice to the licensee or permittee that his or
42 her license shall be suspended in sixty days unless the conditions in
43 paragraph (e) of this subdivision are met.

44 (e) Notwithstanding any inconsistent provision of this article or of
45 any other provision of law to the contrary, such license or permit shall
46 be suspended in accordance with the provisions of paragraph (c) of this
47 subdivision unless the court terminates its order to commence suspension
48 proceedings. Such suspension shall not be lifted unless the court issues
49 an order to the bureau terminating its order to commence suspension
50 proceedings.

51 (f) The bureau shall inform the court of all actions taken hereunder
52 as required by law.

53 (g) This subdivision applies to support obligations paid pursuant to
54 any order of child support or child and spousal support issued under
55 provisions of section two hundred thirty-six or two hundred forty of the

1 domestic relations law, or article four, five or five-A of the family
2 court act.

3 (h) Notwithstanding any inconsistent provision of this article or of
4 any other provision of law to the contrary, the provisions of this
5 subdivision shall apply to the exclusion of any other requirements of
6 this article and to the exclusion of any other requirement of law to the
7 contrary.

8 5. Where a licensee is convicted of two or more qualifying offenses
9 within a five year period, the bureau, upon receipt of notification of
10 such second or subsequent conviction pursuant to the provisions of
11 subdivision two of section one hundred six-a of this chapter, shall, in
12 addition to any other sanction or civil or criminal penalty imposed
13 pursuant to this chapter, impose on such licensee a civil penalty not to
14 exceed five hundred dollars. For purposes of this subdivision, a quali-
15 ifying offense shall mean: (a) the offense defined in subdivision one of
16 section sixty-five of this chapter; or (b) the offense defined in para-
17 graph (b) of subdivision one of section sixty-five-b of this chapter.
18 For purposes of this subdivision, a conviction of a licensee or an
19 employee or agent of such licensee shall constitute a conviction of such
20 licensee.

21 § 188. Decisions of the bureau of marihuana policy and review by the
22 courts. Provisions of sections one hundred twenty, one hundred twenty-
23 one and one hundred twenty-four of this chapter shall apply to marihuana
24 licenses issued under this article.

25 § 189. Minority and women-owned business enterprises. The bureau
26 shall:

27 1. actively promote racial, ethnic, and geographic diversity when
28 licensing marihuana growers, processors, and retailers;

29 2. encourage applicants who qualify as a minority or women-owned busi-
30 ness enterprise, as defined in section three hundred ten of the execu-
31 tive law, to apply for licenses;

32 3. in accordance with the Official Compilation of Codes, Rules and
33 Regulations of the State of New York Title 5, Department of Economic
34 Development, Chapter XIV, Division of Minority and Women's Business
35 Development, Part 141, submit an annual master goal plan to promote the
36 inclusion of: (a) minority-owned business enterprises; (b) women-owned
37 business enterprises; and (c) minority and women-owned business enter-
38 prises with justifications for such goals; and

39 4. actively promote and encourage applicants that promote and ensure
40 racial, ethnic, and gender diversity in their workforce when licensing
41 marihuana growers, processors, and retailers.

42 § 190. Disposition of moneys received for license fees. The bureau
43 shall establish a scale of application, licensing, and renewal fees,
44 based upon the cost of enforcing this article and the size of the mari-
45 huana business being licensed, as follows:

46 1. Each licensing authority shall charge each licensee a licensure and
47 renewal fee, as applicable. The licensure and renewal fee shall be
48 calculated to cover the costs of administering this article. The licen-
49 sure fee may vary depending upon the varying costs associated with
50 administering the various regulatory requirements of this article as
51 they relate to the nature and scope of the different licensure activ-
52 ities, but shall not exceed the reasonable regulatory costs to the
53 licensing authority.

54 2. The total fees assessed pursuant to this article shall be set at an
55 amount that will fairly and proportionately generate sufficient total
56 revenue to fully cover the total costs of administering this article.

1 3. All license fees shall be set on a scaled basis by the bureau,
2 dependent on the size of the business.

3 4. The bureau shall deposit all fees collected in the New York state
4 marihuana revenue fund established pursuant to section ninety-nine-bb of
5 the state finance law.

6 § 191. Persons forbidden to traffic in marihuana. 1. The following
7 persons are forbidden to traffic in marihuana:

8 (a) A person under the age of twenty-one years.

9 (b) A person who is not a citizen of the United States or an alien
10 lawfully admitted for permanent residence in the United States.

11 (c) A co-partnership or a corporation, unless each member of the part-
12 nership, or each of the principal officers and directors of the corpo-
13 ration, is a citizen of the United States or an alien lawfully admitted
14 for permanent residence in the United States, not less than twenty-one
15 years of age, and has not been convicted of any felony or any of the
16 misdemeanors, specified in section 230.20 or 230.40 of the penal law, or
17 if so convicted has received, subsequent to such conviction, an execu-
18 tive pardon therefor removing this disability a certificate of good
19 conduct granted by the department of corrections and community super-
20 vision, or a certificate of relief from disabilities granted by the
21 department of corrections and community supervision or a court of this
22 state pursuant to the provisions of article twenty-three of the
23 correction law to remove the disability under this section because of
24 such conviction; provided however that a corporation which otherwise
25 conforms to the requirements of this section and article may be licensed
26 if each of its principal officers and more than one-half of its direc-
27 tors are citizens of the United States or aliens lawfully admitted for
28 permanent residence in the United States; and provided further that a
29 corporation organized under the not-for-profit corporation law or the
30 education law which otherwise conforms to the requirements of this
31 section and article may be licensed if each of its principal officers
32 and more than one-half of its directors are not less than twenty-one
33 years of age and none of its directors are less than eighteen years of
34 age; and provided further that a corporation organized under the not-
35 for-profit corporation law or the education law and located on the prem-
36 ises of a college as defined by section two of the education law which
37 otherwise conforms to the requirements of this section and article may
38 be licensed if each of its principal officers and each of its directors
39 are not less than eighteen years of age.

40 (d) (i) A person who shall have had any license issued under this
41 chapter revoked for cause, until the expiration of two years from the
42 date of such revocation.

43 (ii) A person not licensed under the provisions of this chapter, who
44 has been convicted of a violation of this chapter, until the expiration
45 of two years from the date of such conviction.

46 (e) A corporation or co-partnership, if any officer and director or
47 any partner, while not licensed under the provisions of this chapter,
48 has been convicted of a violation of this chapter, or has had a license
49 issued under this chapter revoked for cause, until the expiration of two
50 years from the date of such conviction or revocation.

51 2. An applicant shall not be denied a state license under this article
52 if the denial is based solely on a conviction for a violation of article
53 two hundred twenty or two hundred twenty-one of the penal law.

54 § 192. Surrender of license; notice to police officials. Within three
55 days after a license shall have been revoked pursuant to this article,
56 notice thereof shall be given to the licensee by mailing such notice

1 addressed to him at the premises licensed. Notice shall also be mailed
2 to the owner of the premises licensed. The holder of such license shall
3 thereupon surrender same to the bureau. The mailing thereof by the
4 licensee to the bureau by registered mail or insured parcel post shall
5 be deemed sufficient compliance with this section. The bureau, imme-
6 diately upon giving notice of revocation, shall serve a written notice
7 thereof upon the commissioner of police, chief of police or chief police
8 officer of the city, or village in which the premises for which the
9 revoked license was issued is situated, or upon the sheriff of the coun-
10 ty or a constable of the town in case the license was issued for prem-
11 ises situated in a town and not within any city or village. Such notice
12 shall include a statement of the number of such license, the name and
13 place of residence of the holder thereof, the location of the licensed
14 premises, and the date when such license was revoked. In case such
15 license be not forthwith surrendered, the bureau shall issue a written
16 demand for the surrender of such license and deliver said demand to the
17 sheriff of the county in which the licensed premises are located, or to
18 any representative of the bureau, and said sheriff or representative
19 shall immediately take possession of such license and return the same to
20 the bureau.

21 § 193. Authority to promulgate rules and regulations. The bureau shall
22 promulgate and implement all rules and regulations as it deems necessary
23 to carry out the purpose and intent of this article.

24 § 194. Protections for the use of marihuana. Individuals and licensed
25 entities shall not be subject to arrest, prosecution, or penalty in any
26 manner, or denied any right or privilege, including but not limited to
27 civil liability or disciplinary action by a business or occupational or
28 professional licensing board or bureau, solely for conduct permitted
29 under this article. For the avoidance of doubt, the appellate division
30 of the supreme court of the state of New York, and any disciplinary or
31 character and fitness committees established by them are occupational
32 and professional licensing boards within the meaning of this section.
33 State or local law enforcement agencies shall not cooperate with or
34 provide assistance to the government of the United States or any agency
35 thereof in enforcing the Controlled Substance Act, 21, U.S.C. § 8012 et
36 seq., solely for actions consistent with this chapter, except as pursu-
37 ant to a valid court order.

38 § 195. Discrimination protections for the use of marihuana or medical
39 marihuana. 1. No school or landlord may refuse to enroll or lease to and
40 may not otherwise penalize a person solely for conduct allowed under
41 sections 221.05 and 221.05-a of the penal law, except as exempted:

42 (a) If failing to do so would cause the school or landlord to lose a
43 monetary or licensing related benefit under federal law or regulations;

44 (b) If the institution has adopted a code of conduct prohibiting mari-
45 huana use on the basis of religious belief;

46 (c) If a property is registered with the New York Smoke-Free Housing
47 Registry, it is not required to permit the smoking of marihuana products
48 on its premises.

49 2. For the purposes of medical care, including organ transplants, a
50 registered qualifying patient's authorized use of medical marihuana must
51 be considered the equivalent of the use of any other medication under
52 the direction of a practitioner and does not constitute the use of an
53 illicit substance or otherwise disqualify a registered qualifying
54 patient from medical care.

55 3. No person may be denied custody of or visitation or parenting time
56 with a minor, and there is no presumption of neglect or child endanger-

1 ment for conduct allowed under sections 221.05 and 221.05-a of the penal
2 law, unless the person's behavior creates an unreasonable danger to the
3 safety of the minor as established by clear and convincing evidence. For
4 the purposes of this section, an "unreasonable danger" determination
5 cannot be based solely on whether, when, and how often a person uses
6 marihuana without separate evidence of harm.

7 § 196. Employment protections. 1. Unless an employer establishes by a
8 preponderance of the evidence that the lawful use of marihuana has
9 impaired the employee's ability to perform the employee's job responsi-
10 bilities, it shall be unlawful to take any adverse employment action
11 against an employee based on either:

12 (a) conduct allowed under sections 221.05 and 221.05-a of the penal
13 law; or

14 (b) the employee's positive drug test for marihuana components or
15 metabolites.

16 2. For the purposes of this section, an employer may consider an
17 employee's ability to perform the employee's job responsibilities to be
18 impaired when the employee manifests specific articulable symptoms while
19 working that decrease or lessen the employee's performance of the duties
20 or tasks of the employee's job position.

21 3. Nothing in this section shall restrict an employer's ability to
22 prohibit or take adverse employment action for the possession or use of
23 intoxicating substances during work hours, or require an employer to
24 commit any act that would cause the employer to be in violation of
25 federal law, or that would result in the loss of a federal contract or
26 federal funding.

27 4. As used in this section, "adverse employment action" means refusing
28 to hire or employ, barring or discharging from employment, requiring a
29 person to retire from employment, or discriminating against in compen-
30 sation or in terms, conditions, or privileges of employment.

31 § 197. Protections for persons under state supervision. A person
32 currently under parole, probation or other state supervision, or
33 released on bail awaiting trial may not be punished or otherwise penal-
34 ized for conduct allowed under sections 221.05 and 221.05-a of the penal
35 law.

36 § 198. Professional and medical record keeping. Any professional
37 providing services in connection with a licensed or potentially licensed
38 business under this chapter, or in connection with other conduct permit-
39 ted under this chapter, and any medical professional providing medical
40 care to a patient, may agree with their client or patient to maintain no
41 record, or any reduced level of record keeping that professional and
42 client or patient may agree. In case of such agreement, the profes-
43 sional's only obligation shall be to keep such records as agreed, and to
44 keep a record of the agreement. Such reduced record keeping is conduct
45 permitted under this chapter, and shall attract the protections of
46 section one hundred ninety-four of this article.

47 § 32. The state finance law is amended by adding three new sections
48 99-bb, 99-cc and 99-dd to read as follows:

49 § 99-bb. New York state marihuana revenue fund. 1. There is hereby
50 established in the joint custody of the state comptroller and the
51 commissioner of taxation and finance a special fund to be known as the
52 "New York state marihuana revenue fund".

53 2. Such fund shall consist of all revenues received by the department
54 of taxation and finance, pursuant to the provisions of article eigh-
55 teen-A of the tax law and all other moneys appropriated thereto from any
56 other fund or source pursuant to law. Nothing contained in this section

1 shall prevent the state from receiving grants, gifts or bequests for the
2 purposes of the fund as defined in this section and depositing them into
3 the fund according to law.

4 3. The moneys in such fund shall be expended for the following
5 purposes:

6 (a) Reasonable costs incurred by the department of taxation and
7 finance for administering and collecting the taxes imposed by this part;
8 provided, however, such costs shall not exceed four percent of tax
9 revenues received.

10 (b) Reasonable costs incurred by the bureau of marihuana policy for
11 implementing, administering, and enforcing the marihuana regulation and
12 taxation act to the extent those costs are not reimbursed pursuant to
13 sections one hundred eighty-nine and one hundred ninety of article elev-
14 en of the alcoholic beverage control law. This paragraph shall remain
15 operative through the two thousand twenty-two -- two thousand twenty-
16 three fiscal year.

17 (c) Beginning with the two thousand nineteen -- two thousand twenty
18 fiscal year and continuing through the two thousand twenty-nine - - two
19 thousand thirty fiscal year, the commissioner of taxation and finance
20 shall annually disburse the following sums for the purposes of data
21 collection and reporting:

22 (1) Seven hundred fifty thousand dollars to the bureau of marihuana
23 policy to track and report data related to the licensing of marihuana
24 businesses, including the geographic location, structure, and function
25 of licensed marihuana businesses, and demographic data, including race,
26 ethnicity, and gender, of license holders. The bureau of marihuana poli-
27 cy shall publish reports on its findings annually and shall make the
28 reports available to the public.

29 (2) Seven hundred fifty thousand dollars to the department of criminal
30 justice services to track and report data related to any infractions,
31 violations, or criminal convictions that occur under any of the remain-
32 ing marihuana statutes. The department of criminal justice services
33 shall publish reports on its findings annually and shall make the
34 reports available to the public.

35 (3) One million dollars to the state university of New York to
36 research and evaluate the implementation and effect of the marihuana
37 regulation and taxation act, and shall, if appropriate, make recommenda-
38 tions to the legislature and governor regarding possible amendments to
39 the marihuana regulation and taxation act. The recipients of these funds
40 shall publish reports on their findings at a minimum of every two years
41 and shall make the reports available to the public. The research funded
42 pursuant to this subdivision shall include but not necessarily be limit-
43 ed to:

44 (A) the impacts on public health, including health costs associated
45 with marihuana use, as well as whether marihuana use is associated with
46 an increase or decrease in use of alcohol or other drugs;

47 (B) the impact of treatment for cannabis use disorder and the effec-
48 tiveness of different treatment programs;

49 (C) public safety issues related to marihuana use, including studying
50 the effectiveness of the packaging and labeling requirements and adver-
51 tising and marketing restrictions contained in the act at preventing
52 underage access to and use of marihuana and marihuana products, and
53 studying the health-related effects among users of varying potency
54 levels of marihuana and marihuana products;

55 (D) marihuana use rates, maladaptive use rates for adults and youth,
56 and diagnosis rates of marihuana-related substance use disorders;

1 (E) marihuana market prices, illicit market prices, tax structures and
2 rates, including an evaluation of how to best tax marihuana based on
3 potency, and the structure and function of licensed marihuana busi-
4 nesses;

5 (F) whether additional protections are needed to prevent unlawful
6 monopolies or anti-competitive behavior from occurring in the nonmedical
7 marihuana industry and, if so, recommendations as to the most effective
8 measures for preventing such behavior;

9 (G) the economic impacts in the private and public sectors, including
10 but not necessarily limited to, job creation, workplace safety, reven-
11 ues, taxes generated for state and local budgets, and criminal justice
12 impacts, including, but not necessarily limited to, impacts on law
13 enforcement and public resources, short and long term consequences of
14 involvement in the criminal justice system, and state and local govern-
15 ment agency administrative costs and revenue;

16 (H) whether the regulatory agencies tasked with implementing and
17 enforcing the marihuana regulation and taxation act are doing so
18 consistent with the purposes of the act, and whether different agencies
19 might do so more effectively; and

20 (I) any environmental issues related to marihuana production and the
21 criminal prohibition of marihuana production.

22 4. After the dispersal of moneys pursuant to subdivision three of this
23 section, the remaining moneys in the fund deposited during the prior
24 fiscal year shall be disbursed as follows:

25 (a) twenty-five percent shall be deposited in the state lottery fund
26 established by section ninety-two-c of this article; provided that such
27 moneys shall be distributed to the education department in accordance
28 with subdivisions two and four of section ninety-two-c of this article
29 and shall not be utilized for the purposes of subdivision three of such
30 section;

31 (b) twenty-five percent shall be deposited in the drug treatment and
32 public education fund established by section ninety-nine-cc of this
33 article; and

34 (c) fifty percent shall be deposited in the community grants reinvest-
35 ment fund established by section ninety-nine-cc of this article.

36 5. On or before the first day of February each year, the commissioner
37 of taxation and finance shall provide a written report to the temporary
38 president of the senate, speaker of the assembly, chair of the senate
39 finance committee, chair of the assembly ways and means committee, the
40 state comptroller and the public. Such report shall detail how the
41 moneys of the fund were utilized during the preceding calendar year, and
42 shall include:

43 (i) the amount of money dispersed from the fund and the award process
44 used for such disbursements;

45 (ii) recipients of awards from the fund;

46 (iii) the amount awarded to each recipient of an award from the fund;

47 (iv) the purposes for which such awards were granted; and

48 (v) a summary financial plan for such monies which shall include esti-
49 mates of all receipts and all disbursements for the current and succeed-
50 ing fiscal years, along with the actual results from the prior fiscal
51 year.

52 6. Moneys shall be payable from the fund on the audit and warrant of
53 the comptroller on vouchers approved and certified by the commissioner
54 of education.

55 § 99-cc. New York state drug treatment public education fund. 1.
56 There is hereby established in the joint custody of the state comp-

1 troller and the commissioner of taxation and finance a special fund to
2 be known as the "New York state drug treatment public education fund".

3 2. Such fund shall consist of revenues received pursuant to the
4 provisions of section ninety-nine-bb of this article and all other
5 moneys appropriated thereto from any other fund or source pursuant to
6 law. Nothing contained in this section shall prevent the state from
7 receiving grants, gifts or bequests for the purposes of the fund as
8 defined in this section and depositing them into the fund according to
9 law.

10 3. The moneys in such fund shall be expended by the commissioner of
11 the office of alcoholism and substance abuse in consultation with the
12 commissioner of health for the following purposes:

13 (a) To develop and implement a youth-focused public health education
14 and prevention campaign, including school-based prevention, early inter-
15 vention, and health care services and programs to reduce the risk of
16 marihuana and other substance use and abuse by school-aged children;

17 (b) To develop and implement a statewide public health campaign
18 focused on the health effects of marihuana and legal use, including an
19 ongoing education and prevention campaign that educates the general
20 public, including parents, consumers and retailers, on the legal use of
21 marihuana, the importance of preventing youth access, the importance of
22 safe storage and preventing secondhand marihuana smoke exposure, infor-
23 mation for pregnant or breastfeeding women, and the overconsumption of
24 edibles;

25 (c) To provide substance use disorder treatment programs for youth and
26 adults, with an emphasis on programs that are culturally and gender
27 competent, trauma-informed, evidence-based and provide a continuum of
28 care that includes screening and assessment (substance use disorder as
29 well as mental health), early intervention, active treatment, family
30 involvement, case management, overdose prevention, prevention of commu-
31 nicable diseases related to substance use, relapse management for
32 substance use and other co-occurring behavioral health disorders, voca-
33 tional services, literacy services, parenting classes, family therapy
34 and counseling services, medication-assisted treatments, psychiatric
35 medication and psychotherapy; and

36 (d) To evaluate the programs being funded to determine their effec-
37 tiveness.

38 4. On or before the first day of February each year, the commissioner
39 of the office of alcoholism and substance abuse services shall provide a
40 written report to the temporary president of the senate, speaker of the
41 assembly, chair of the senate finance committee, chair of the assembly
42 ways and means committee, chair of the senate committee on alcoholism
43 and drug abuse, chair of the assembly alcoholism and drug abuse commit-
44 tee, the state comptroller and the public. Such report shall detail how
45 the moneys of the fund were utilized during the preceding calendar year,
46 and shall include:

47 (a) the amount of money dispersed from the fund and the award process
48 used for such disbursements;

49 (b) recipients of awards from the fund;

50 (c) the amount awarded to each recipient of an award from the fund;

51 (d) the purposes for which such awards were granted; and

52 (e) a summary financial plan for such monies which shall include esti-
53 mates of all receipts and all disbursements for the current and succeed-
54 ing fiscal years, along with the actual results from the prior fiscal
55 year.

1 5. Moneys shall be payable from the fund on the audit and warrant of
2 the comptroller on vouchers approved and certified by the commissioner
3 of education.

4 § 99-dd. New York state community grants reinvestment fund. 1. There
5 is hereby established in the joint custody of the state comptroller and
6 the commissioner of taxation and finance a special fund to be known as
7 the "New York state community grants reinvestment fund".

8 2. Such fund shall consist of all revenues received pursuant to the
9 provisions of section ninety-nine-bb of this article and all other
10 moneys appropriated thereto from any other fund or source pursuant to
11 law. Nothing contained in this section shall prevent the state from
12 receiving grants, gifts or bequests for the purposes of the fund as
13 defined in this section and depositing them into the fund according to
14 law.

15 3. The fund shall be governed and administered by an executive steer-
16 ing committee of thirteen members established by the office of children
17 and family services and including additional representatives from the
18 labor department, and the health department appointed by the governor
19 and a representative of the education department appointed by the board
20 of regents. In addition, the majority and minority leaders of the senate
21 and assembly shall each appoint one member to the steering committee,
22 the comptroller shall appoint three additional members, and the attorney
23 general shall appoint two additional members from relevant local govern-
24 ment entities and community-based organizations. Every effort should be
25 made to ensure a balanced and diverse committee, which shall have exper-
26 tise in job placement, homelessness and housing, behavioral health and
27 substance abuse treatment, and effective rehabilitative treatment for
28 adults and juveniles, and shall include representatives of organizations
29 serving communities impacted by past federal and state drug policies.

30 4. The moneys in such fund shall be expended by the executive steering
31 committee to qualified community-based nonprofit organizations for the
32 purpose of reinvesting in communities disproportionately affected by
33 past federal and state drug policies. The grants from this program shall
34 be used to support job placement, job skills services, adult education,
35 mental health treatment, substance use disorder treatment, system navi-
36 gation services, legal services to address barriers to reentry, and
37 linkages to medical care, women's health services and other community-
38 based supportive services.

39 5. The community grants reinvestment program shall not make any grants
40 in any municipalities which have banned the cultivation, including
41 personal cultivation of marihuana under section 221.05-a of the penal
42 law, or retail sale of marihuana or marihuana products pursuant to arti-
43 cle eleven of the alcoholic beverage control law.

44 6. On or before the first day of February each year, the commissioner
45 of the office of children and family services shall provide a written
46 report to the temporary president of the senate, speaker of the assem-
47 bly, chair of the senate finance committee, chair of the assembly ways
48 and means committee, chair of the senate committee on children and fami-
49 lies, chair of the assembly children and families committee, chair of
50 the senate committee on labor, chair of the assembly labor committee,
51 chair of the senate committee on health, chair of the assembly health
52 committee, chair of the senate committee on education, chair of the
53 assembly education committee, the state comptroller and the public. Such
54 report shall detail how the monies of the fund were utilized during the
55 preceding calendar year, and shall include:

1 (a) the amount of money dispersed from the fund and the award process
2 used for such disbursements;

3 (b) recipients of awards from the fund;

4 (c) the amount awarded to each recipient of an award from the fund;

5 (d) the purposes for which such awards were granted; and

6 (e) a summary financial plan for such monies which shall include esti-
7 mates of all receipts and all disbursements for the current and succeed-
8 ing fiscal years, along with the actual results from the prior fiscal
9 year.

10 7. Moneys shall be payable from the fund on the audit and warrant of
11 the comptroller on vouchers approved and certified by the commissioner
12 of education.

13 § 33. The tax law is amended by adding a new article 18-A to read as
14 follows:

15 ARTICLE 18-A

16 PROVISIONS RELATING TO MARIHUANA

17 Section 446. Definitions.

18 447. Taxes imposed.

19 447-a. Local taxes on marihuana by a city or town.

20 447-b. Ordinary and necessary expenses deductible from net
21 income.

22 448. Surety bond.

23 449. Collection of tax.

24 § 446. Definitions. As used in this article:

25 1. "Commercial market activity" includes the cultivation, possession,
26 manufacture, distribution, processing, storing, laboratory testing,
27 labeling, transportation, delivery or sale of marihuana and marihuana
28 products, as provided for in article eleven of the alcoholic beverage
29 control law, but shall not include medical marihuana activities provided
30 for in title five-A of article thirty-three of the public health law.

31 2. "Concentrated cannabis" means (a) the separated resin, whether
32 crude or purified, obtained from a plant of the genus Cannabis; or (b) a
33 material, preparation, mixture, compound or other substance which
34 contains more than three percent by weight of delta-9 tetrahydrocannabi-
35 nol, or its isomer, delta-8 dibenzopyran numbering system, or delta-1
36 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpene numbering
37 system.

38 3. "Marihuana" means all parts of the plant of the genus Cannabis,
39 whether growing or not; the seeds thereof; the resin extracted from any
40 part of the plant; and every compound, manufacture, salt, derivative,
41 mixture, or preparation of the plant, its seeds or resin. It does not
42 include the mature stalks of the plant, fiber produced from the stalks,
43 oil or cake made from the seeds of the plant, any other compound, manu-
44 facture, salt, derivative, mixture, or preparation of the mature stalks
45 (except the resin extracted therefrom), fiber, oil, or cake, or the
46 sterilized seed of the plant which is incapable of germination. It does
47 not include all parts of the plant Cannabis sativa L., whether growing
48 or not, having no more than three-tenths of one percent tetrahydrocanna-
49 binol (THC).

50 4. "Marihuana consumer" means a person twenty-one years of age or
51 older who purchased marihuana or marihuana products for personal use by
52 persons twenty-one years of age or older, but not for resale to others.

53 5. "Marihuana flowers" shall mean the dried flowers of the marihuana
54 plant.

55 6. "Marihuana leaves" shall mean all parts of the marihuana plant
56 other than marihuana flowers that are sold or consumed.

1 7. "Marihuana processor" means a person licensed by the bureau of
2 marihuana policy to purchase marihuana and concentrated cannabis from
3 marihuana producers, to process marihuana, concentrated cannabis, and
4 marihuana-infused products, package and label marihuana, concentrated
5 cannabis and marihuana-infused products for sale in retail outlets, and
6 sell marihuana, concentrated cannabis and marihuana infused products at
7 wholesale to marihuana retailers.

8 8. "Marihuana producer" means a person licensed by the bureau of mari-
9 huana policy to produce, process, and sell marihuana and concentrated
10 cannabis at wholesale to marihuana processors, marihuana retailers, or
11 other marihuana producers, but not to consumers.

12 9. "Marihuana products" means marihuana, concentrated cannabis, and
13 marihuana-infused products.

14 10. "Marihuana-infused products" means products that contain marihua-
15 na, marihuana extracts, or concentrated cannabis and are intended for
16 human use or consumption, such as, but not limited to, edible products,
17 ointments, and tinctures.

18 11. "Immature marihuana plant" means a marihuana plant with no observ-
19 able flowers or buds.

20 12. "Marihuana retailer" means a person licensed by the bureau of
21 marihuana policy to purchase marihuana, concentrated cannabis, and mari-
22 huana-infused products from marihuana producers and marihuana processors
23 and sell marihuana, marihuana-infused products, and concentrated canna-
24 bis in a retail outlet.

25 13. "Marihuana retailer for on-premises consumption" means a person
26 licensed by the bureau of marihuana policy to purchase marihuana,
27 concentrated cannabis, and marihuana infused products from marihuana
28 producers, marihuana retailers and marihuana processors and sell mari-
29 huana products for a customer to consume while the customer is within
30 the facility.

31 § 447. Taxes imposed. 1. (a) There is hereby levied and imposed a
32 cultivation tax upon all harvested marihuana that enters the commercial
33 market upon all persons required to be licensed to cultivate marihuana
34 pursuant to article eleven of the alcoholic beverage control law. The
35 tax shall be due after the marihuana is harvested.

36 (i) Marihuana flowers shall be taxed at a rate of sixty-two cents per
37 dry-weight gram.

38 (ii) Marihuana leaves shall be taxed at a rate of ten cents per dry-
39 weight gram.

40 (b) There is hereby levied and imposed a nursery tax upon all immature
41 plants that enter the commercial market upon all persons required to be
42 licensed to produce immature plants pursuant to article eleven of the
43 alcoholic beverage control law. Immature plants shall be taxed at a rate
44 of one dollar and thirty-five cents each.

45 (c) There is hereby levied and imposed a tax upon marihuana sold or
46 otherwise transferred by a marihuana producer to a marihuana processor
47 or marihuana retailer at a rate equivalent to the rate established under
48 article twenty-eight of this chapter.

49 (d) A marihuana excise tax is hereby levied and imposed upon customers
50 of nonmedical marihuana or nonmedical marihuana products sold in this
51 state at the rate fifteen percent of any sale by a retailer, microbusi-
52 ness, or other person required to be licensed pursuant to article eleven
53 of the alcoholic beverage control law to sell marihuana and marihuana
54 products directly to a customer.

55 (e) The department shall establish procedures for the collection of
56 all taxes levied.

1 (f) No tax established by this section shall be levied upon medical
2 marihuana intended for sale to a certified patient or designated care-
3 giver pursuant to title five-A of article thirty-three of the public
4 health law.

5 2. For reporting periods beginning later than one year following the
6 effective date of this article, the rates of tax under subdivision one
7 of this section shall be adjusted for each biennium according to the
8 cost-of-living adjustment for the calendar year.

9 3. The department shall regularly review the rates of the tax under
10 subdivision one of this section and make recommendations to the legisla-
11 ture regarding appropriate adjustments to the rates that will further
12 the purposes of:

13 (a) maximizing net revenue;

14 (b) minimizing the illegal marihuana industry; and

15 (c) discouraging the use of marihuana by minors under twenty-one years
16 of age.

17 § 447-a. Local taxes on marihuana by a city or town. Any city or town
18 in this state, acting through its local legislative body, is hereby
19 authorized and empowered to adopt and amend local laws imposing in any
20 such city or town a sales tax on marihuana retailers at a rate of no
21 more than two percent of the sale price of marihuana products sold to a
22 marihuana consumer. Any taxes imposed pursuant to the authority of this
23 section shall be administered and collected by the department in the
24 same manner as the taxes imposed under section four hundred forty-nine
25 of this article. The commissioner is hereby empowered to make such
26 provisions as it deems necessary for the joint administration and
27 collection of the state and local taxes imposed and authorized by this
28 article.

29 § 447-b. Ordinary and necessary expenses deductible from net income.
30 Notwithstanding any federal tax law to the contrary, in computing net
31 income for businesses exempted from criminal penalties under articles
32 two hundred twenty and two hundred twenty-one of the penal law and arti-
33 cle eleven of the alcoholic beverage control law, there shall be allowed
34 as a deduction from state taxes all the ordinary and necessary expenses
35 paid or incurred during the taxable year in carrying on any trade or
36 business, including but not limited to, reasonable allowance for sala-
37 ries or other compensation for personal services actually rendered.

38 § 448. Surety bond. Marihuana retailer applicants are required to
39 submit a surety bond with the department equal to two months of the
40 cultivation facility's anticipated retail marihuana excise tax. The
41 surety bond must be issued by a company authorized to do business in the
42 state. Proof of surety bond is required for approval of applicant's
43 retail license.

44 § 449. Collection of tax. This tax shall be collected by the commis-
45 sioner who shall establish a procedure for the collection of this tax.

46 § 34. Paragraphs (i), (j) and (k) of subdivision 3 of section 160.50
47 of the criminal procedure law, paragraphs (i) and (j) as added by chap-
48 ter 905 of the laws of 1977 and paragraph (k) as added by chapter 835 of
49 the laws of 1977 and as relettered by chapter 192 of the laws of 1980,
50 are amended to read as follows:

51 (i) prior to the filing of an accusatory instrument in a local crimi-
52 nal court against such person, the prosecutor elects not to prosecute
53 such person. In such event, the prosecutor shall serve a certification
54 of such disposition upon the division of criminal justice services and
55 upon the appropriate police department or law enforcement agency which,
56 upon receipt thereof, shall comply with the provisions of paragraphs

(a), (b), (c) and (d) of subdivision one of this section in the same manner as is required thereunder with respect to an order of a court entered pursuant to said subdivision one~~[-]; or~~

(j) following the arrest of such person, the arresting police agency, prior to the filing of an accusatory instrument in a local criminal court but subsequent to the forwarding of a copy of the fingerprints of such person to the division of criminal justice services, elects not to proceed further. In such event, the head of the arresting police agency shall serve a certification of such disposition upon the division of criminal justice services which, upon receipt thereof, shall comply with the provisions of paragraphs (a), (b), (c) and (d) of subdivision one of this section in the same manner as is required thereunder with respect to an order of a court entered pursuant to said subdivision one~~[-]; or~~

(k) (i) The accusatory instrument alleged a violation of article two hundred twenty or section 240.36 of the penal law, prior to the taking effect of article two hundred twenty-one of the penal law, or by the conviction of such person of a violation of ~~[article two hundred twenty-one]~~ section 221.45 of the penal law on or after the effective date of the chapter of the laws of 2017 that amended this subdivision or a violation of sections 221.05, 221.10, 221.15, 221.20, 221.25, 221.30, 221.35, or 221.40 of the penal law prior to the effective date of the chapter of the laws of 2017 that amended this subdivision; and (ii) the sole controlled substance involved is ~~[marijuana; (iii) the conviction was only for a violation or violations; and (iv) at least three years have passed since the offense occurred]~~ marihuana. No defendant shall be required or permitted to waive eligibility for sealing pursuant to this paragraph as part of a plea of guilty, sentence or any agreement related to a conviction for a violation of section 221.45 of the penal law. Any such waiver shall be deemed void and wholly unenforceable.

§ 35. Subdivision 4 of section 160.50 of the criminal procedure law, as amended by chapter 905 of the laws of 1977 and renumbered by chapter 142 of the laws of 1991, is amended to read as follows:

4. A person in whose favor a criminal action or proceeding was terminated, as defined in ~~[paragraph]~~ paragraphs (a) through (h), ~~(k) or (l)~~ of subdivision ~~[two]~~ three of this section, prior to the effective date of ~~[this section, may upon motion apply to the court in which such termination occurred, upon not less than twenty days notice to the district attorney, for an order granting to such person the relief set forth in subdivision one of this section, and such order shall be granted unless the district attorney demonstrates to the satisfaction of the court that the interests of justice require otherwise. A person in whose favor a criminal action or proceeding was terminated, as defined in paragraph (i) or (j) of subdivision two of this section, prior to the effective date of this section, may apply to the appropriate prosecutor or police agency for a certification as described in said paragraph (i) or (j) granting to such person the relief set forth therein, and such certification shall be granted by such prosecutor or police agency.]~~ the chapter of the laws of two thousand seventeen that amended this subdivision, and whose records have not been sealed pursuant to subdivision one of this section, may apply to have the records of such criminal action or proceeding sealed at the clerk's office for the court in which the criminal action or proceeding was terminated. Application may be made by the person or his or her attorney. Upon a determination by the clerk that the action or proceeding was terminated in the person's favor as defined in subdivision three of this section, the clerk of the court shall immediately notify the commissioner of the division of criminal

1 justice services and the heads of all appropriate police departments and
2 other law enforcement agencies that the action has been terminated in
3 favor of the accused and that the record of such action or proceedings
4 shall be sealed. Upon receipt of notification of such termination and
5 sealing, all records relating to the criminal action shall be sealed, as
6 required under paragraph (c) of subdivision one of this section, and all
7 photographs, photographic plates or proofs, palmprints and fingerprints
8 shall be destroyed or returned as specified in paragraphs (a) and (b) of
9 subdivision one of this section. This paragraph shall not apply to cases
10 in which the court declined to seal for reasons stated on the record,
11 pursuant to subdivision one of this section. When an applicant under
12 this subdivision presents to the court clerk fingerprint records from
13 New York state division of criminal justice services or a court disposi-
14 tion which indicate that a criminal action or proceeding against the
15 applicant was dismissed but the supporting court records cannot be
16 located, have been destroyed, or do not indicate whether the dismissal
17 was a "termination in favor of" the accused as that term is defined in
18 subdivision three of this section, the clerk of the court wherein such
19 criminal action or proceeding was terminated shall proceed as if the
20 matter had been so terminated.

21 § 36. Subdivisions 1 and 2 of section 170.56 of the criminal procedure
22 law, subdivision 1 as amended by chapter 360 of the laws of 1977 and
23 subdivision 2 as added by chapter 1042 of the laws of 1971, are amended
24 to read as follows:

25 1. Upon or after arraignment in a local criminal court upon an infor-
26 mation, a prosecutor's information or a misdemeanor complaint, where the
27 sole remaining count or counts charge a violation or violations of
28 section [~~221.05, 221.10, 221.15, 221.35 or 221.40~~] 221.45 of the penal
29 law, or upon summons for a nuisance offense under section sixty-five-c
30 of the alcoholic beverage control law and before the entry of a plea of
31 guilty thereto or commencement of a trial thereof, the court, upon
32 motion of a defendant, may order that all proceedings be suspended and
33 the action adjourned in contemplation of dismissal, or upon a finding
34 that adjournment would not be necessary or appropriate and the setting
35 forth in the record of the reasons for such findings, may dismiss in
36 furtherance of justice the accusatory instrument; provided, however,
37 that the court may not order such adjournment in contemplation of
38 dismissal or dismiss the accusatory instrument if: (a) the defendant has
39 previously been granted such adjournment in contemplation of dismissal,
40 or (b) the defendant has previously been granted a dismissal under this
41 section, or (c) the defendant has previously been convicted of any
42 offense involving controlled substances, or (d) the defendant has previ-
43 ously been convicted of a crime and the district attorney does not
44 consent or (e) the defendant has previously been adjudicated a youthful
45 offender on the basis of any act or acts involving controlled substances
46 and the district attorney does not consent. Notwithstanding the limita-
47 tions set forth in this subdivision, the court may order that all
48 proceedings be suspended and the action adjourned in contemplation of
49 dismissal based upon a finding of exceptional circumstances. For
50 purposes of this subdivision, exceptional circumstances exist when,
51 regardless of the ultimate disposition of the case, the entry of a plea
52 of guilty is likely to result in severe collateral consequences, includ-
53 ing, but not limited to, those that could leave a noncitizen inadmissi-
54 ble or removable from the United States.

55 2. Upon ordering the action adjourned in contemplation of dismissal,
56 the court must set and specify such conditions for the adjournment as

1 may be appropriate, and such conditions may include placing the defend-
2 ant under the supervision of any public or private agency. At any time
3 prior to dismissal the court may modify the conditions or extend or
4 reduce the term of the adjournment, except that the total period of
5 adjournment shall not exceed ~~[twelve]~~ six months. Upon violation of any
6 condition fixed by the court, the court may revoke its order and restore
7 the case to the calendar and the prosecution thereupon must proceed. If
8 the case is not so restored to the calendar during the period fixed by
9 the court, the accusatory instrument is, at the expiration of such peri-
10 od, deemed to have been dismissed in the furtherance of justice.

11 § 37. Section 210.46 of the criminal procedure law, as amended by
12 chapter 360 of the laws of 1977, is amended to read as follows:

13 § 210.46 Adjournment in contemplation of dismissal in marihuana cases
14 in a superior court.

15 Upon or after arraignment in a superior court upon an indictment where
16 the sole remaining count or counts charge a violation or violations of
17 section ~~[221.05, 221.10, 221.15, 221.35 or 221.40]~~ 221.45 of the penal
18 law and before the entry of a plea of guilty thereto or commencement of
19 a trial thereof, the court, upon motion of a defendant, may order that
20 all proceedings be suspended and the action adjourned in contemplation
21 of dismissal or may dismiss the indictment in furtherance of justice, in
22 accordance with the provisions of section 170.56 of this chapter.

23 § 38. Paragraphs (h) and (i) of subdivision 1 of section 440.10 of the
24 criminal procedure law, paragraph (h) as amended by chapter 332 of the
25 laws of 2010 and paragraph (i) as amended by chapter 368 of the laws of
26 2015, are amended and a new paragraph (j) is added to read as follows:

27 (h) The judgment was obtained in violation of a right of the defendant
28 under the constitution of this state or of the United States; ~~[or]~~

29 (i) The judgment is a conviction where the arresting charge was under
30 section 240.37 (loitering for the purpose of engaging in a prostitution
31 offense, provided that the defendant was not alleged to be loitering for
32 the purpose of patronizing a person for prostitution or promoting pros-
33 titution) or 230.00 (prostitution) or 230.03 (prostitution in a school
34 zone) of the penal law, and the defendant's participation in the offense
35 was a result of having been a victim of sex trafficking under section
36 230.34 of the penal law, labor trafficking under section 135.35 of the
37 penal law, aggravated labor trafficking under section 135.37 of the
38 penal law, compelling prostitution under section 230.33 of the penal
39 law, or trafficking in persons under the Trafficking Victims Protection
40 Act (United States Code, title 22, chapter 78); provided that

41 (i) a motion under this paragraph shall be made with due diligence,
42 after the defendant has ceased to be a victim of such trafficking or
43 compelling prostitution crime or has sought services for victims of such
44 trafficking or compelling prostitution crime, subject to reasonable
45 concerns for the safety of the defendant, family members of the defend-
46 ant, or other victims of such trafficking or compelling prostitution
47 crime that may be jeopardized by the bringing of such motion, or for
48 other reasons consistent with the purpose of this paragraph; and

49 (ii) official documentation of the defendant's status as a victim of
50 trafficking, compelling prostitution or trafficking in persons at the
51 time of the offense from a federal, state or local government agency
52 shall create a presumption that the defendant's participation in the
53 offense was a result of having been a victim of sex trafficking, compel-
54 ling prostitution or trafficking in persons, but shall not be required
55 for granting a motion under this paragraph~~[-]~~; or

1 (j) The judgment occurred prior to the effective date of this para-
2 graph and is a conviction for:

3 (i) an offense as defined by section 221.05 or 221.10 of the penal law
4 (criminal possession of marihuana in the fifth degree), as in effect
5 prior to the effective date of this paragraph, provided that the accusa-
6 tory instrument that underlies the judgment does not include an allega-
7 tion that the defendant possessed more than twenty-five grams of mari-
8 huana; or

9 (ii) an offense as defined by former section 221.35 of the penal law
10 (criminal sale of marihuana in the fifth degree).

11 § 39. Subdivision 6 of section 440.10 of the criminal procedure law,
12 as added by chapter 332 of the laws of 2010, is amended to read as
13 follows:

14 6. If the court grants a motion under paragraph (i) or paragraph (j)
15 of subdivision one of this section, it must vacate the judgment and
16 dismiss the accusatory instrument, and may take such additional action
17 as is appropriate in the circumstances.

18 § 40. The criminal procedure law is amended by adding a new section
19 440.46-a to read as follows:

20 § 440.46-a Motion for resentence; persons convicted of certain marihuana
21 offenses.

22 1. A person currently serving a sentence for a conviction, whether by
23 trial or by open or negotiated plea, who would not have been guilty of
24 an offense or who would have been guilty of a lesser offense on and
25 after the effective date of this section had this section been in effect
26 at the time of his or her conviction may petition for a recall or
27 dismissal of sentence before the trial court that entered the judgment
28 of conviction in his or her case to request resentencing or dismissal in
29 accordance with article twelve hundred twenty-one of the penal law.

30 2. Upon receiving a motion under subdivision one of this section the
31 court shall presume the movant satisfies the criteria in subdivision one
32 of this section unless the party opposing the motion proves by clear and
33 convincing evidence that the movant does not satisfy the criteria. If
34 the movant satisfies the criteria in subdivision one of this section,
35 the court shall grant the motion to vacate the sentence or to resentence
36 because it is legally invalid. In exercising its discretion, the court
37 may consider, but shall not be limited to, the following:

38 (a) The movant's criminal conviction history, including the type of
39 crimes committed, the extent of injury to victims, the length of prior
40 prison commitments, and the remoteness of the crimes.

41 (b) The movant's disciplinary record and record of rehabilitation
42 while incarcerated.

43 3. A person who is serving a sentence and resentenced pursuant to
44 subdivision two of this section shall be given credit for any time
45 already served and shall be subject to supervision for one year follow-
46 ing completion of his or her time in custody or shall be subject to
47 whatever supervision time he or she would have otherwise been subject to
48 after release, whichever is shorter, unless the court, in its
49 discretion, as part of its resentencing order, releases the person from
50 supervision. Such person is subject to parole supervision under section
51 60.04 of the penal law or post-release supervision under section 70.45
52 of the penal law by the designated agency and the jurisdiction of the
53 court in the county in which the offender is released or resides, or in
54 which an alleged violation of supervision has occurred, for the purpose
55 of hearing petitions to revoke supervision and impose a term of custody.

1 4. Under no circumstances may resentencing under this section result
2 in the imposition of a term longer than the original sentence, or the
3 reinstatement of charges dismissed pursuant to a negotiated plea agree-
4 ment.

5 5. A person who has completed his or her sentence for a conviction
6 under the former article two hundred twenty-one of the penal law, wheth-
7 er by trial or open or negotiated plea, who would not have been guilty
8 of an offense or who would have been guilty of a lesser offense on and
9 after the effective date of this section had this section been in effect
10 at the time of his or her conviction, may file an application before the
11 trial court that entered the judgment of conviction in his or her case
12 to have the conviction, in accordance with article two hundred twenty-
13 one of the penal law:

14 (a) Dismissed because the prior conviction is now legally invalid and
15 sealed in accordance with section 160.50 of this chapter;

16 (b) Redesignated (or "reclassified") as a violation and sealed in
17 accordance with section 160.50 of this chapter; or

18 (c) Redesignated (reclassified) as a misdemeanor.

19 6. The court shall presume the petitioner satisfies the criteria in
20 subdivision five unless the party opposing the application proves by
21 clear and convincing evidence that the petitioner does not satisfy the
22 criteria in subdivision five. Once the applicant satisfies the criteria
23 in subdivision five, the court shall redesignate (or "reclassify") the
24 conviction as a misdemeanor, redesignate (reclassify) the conviction as
25 a violation and seal the conviction, or dismiss and seal the conviction
26 as legally invalid under this section had this section been in effect at
27 the time of his or her conviction.

28 7. Unless requested by the applicant, no hearing is necessary to grant
29 or deny an application filed under subdivision five of this section.

30 8. Any felony conviction that is vacated and resentenced under subdi-
31 vision two or designated as a misdemeanor or violation under subdivision
32 six of this section shall be considered a misdemeanor or violation for
33 all purposes. Any misdemeanor conviction that is vacated and resentenced
34 under subdivision two of this section or designated as a violation under
35 subdivision six of this section shall be considered a violation for all
36 purposes.

37 9. If the court that originally sentenced the movant is not available,
38 the presiding judge shall designate another judge to rule on the peti-
39 tion or application.

40 10. Nothing in this section is intended to diminish or abrogate any
41 rights or remedies otherwise available to the petitioner or applicant.

42 11. Nothing in this and related sections is intended to diminish or
43 abrogate the finality of judgements in any case not falling within the
44 purview of this section.

45 12. The provisions of this section shall apply equally to juvenile
46 delinquency adjudications and dispositions under section five hundred
47 one-e of the executive law if the juvenile would not have been guilty of
48 an offense or would have been guilty of a lesser offense under this
49 section had this section been in effect at the time of his or her
50 conviction.

51 13. The office of court administration shall promulgate and make
52 available all necessary forms to enable the filing of the petitions and
53 applications provided in this section no later than sixty days following
54 the effective date of this section.

§ 41. Paragraph (c) of subdivision 8 of section 700.05 of the criminal procedure law, as amended by chapter 37 of the laws of 2014, is amended to read as follows:

(c) Criminal possession of a controlled substance in the seventh degree as defined in section 220.03 of the penal law, criminal possession of a controlled substance in the fifth degree as defined in section 220.06 of the penal law, criminal possession of a controlled substance in the fourth degree as defined in section 220.09 of the penal law, criminal possession of a controlled substance in the third degree as defined in section 220.16 of the penal law, criminal possession of a controlled substance in the second degree as defined in section 220.18 of the penal law, criminal possession of a controlled substance in the first degree as defined in section 220.21 of the penal law, criminal sale of a controlled substance in the fifth degree as defined in section 220.31 of the penal law, criminal sale of a controlled substance in the fourth degree as defined in section 220.34 of the penal law, criminal sale of a controlled substance in the third degree as defined in section 220.39 of the penal law, criminal sale of a controlled substance in the second degree as defined in section 220.41 of the penal law, criminal sale of a controlled substance in the first degree as defined in section 220.43 of the penal law, criminally possessing a hypodermic instrument as defined in section 220.45 of the penal law, criminal sale of a prescription for a controlled substance or a controlled substance by a practitioner or pharmacist as defined in section 220.65 of the penal law, criminal possession of methamphetamine manufacturing material in the second degree as defined in section 220.70 of the penal law, criminal possession of methamphetamine manufacturing material in the first degree as defined in section 220.71 of the penal law, criminal possession of precursors of methamphetamine as defined in section 220.72 of the penal law, unlawful manufacture of methamphetamine in the third degree as defined in section 220.73 of the penal law, unlawful manufacture of methamphetamine in the second degree as defined in section 220.74 of the penal law, unlawful manufacture of methamphetamine in the first degree as defined in section 220.75 of the penal law, unlawful disposal of methamphetamine laboratory material as defined in section 220.76 of the penal law, operating as a major trafficker as defined in section 220.77 of the penal law, ~~criminal possession of marihuana in the first degree as defined in section 221.30 of the penal law, criminal sale of marihuana in the first degree as defined in section 221.55 of the penal law,~~ promoting gambling in the second degree as defined in section 225.05 of the penal law, promoting gambling in the first degree as defined in section 225.10 of the penal law, possession of gambling records in the second degree as defined in section 225.15 of the penal law, possession of gambling records in the first degree as defined in section 225.20 of the penal law, and possession of a gambling device as defined in section 225.30 of the penal law;

§ 42. Paragraphs (b) and (c) of subdivision 4-b and subdivisions 6 and 9 of section 1310 of the civil practice law and rules, paragraphs (b) and (c) of subdivision 4-b as added by chapter 655 of the laws of 1990 and subdivisions 6 and 9 as added by chapter 669 of the laws of 1984, are amended to read as follows:

(b) on three or more occasions, engaging in conduct constituting a violation of any of the felonies defined in section 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41~~[,]~~ ~~or~~ 220.43 ~~[or 221.55]~~ of the penal law, which violations do not constitute a single criminal offense as defined in subdivision one of section 40.10 of the criminal

1 procedure law, or a single criminal transaction, as defined in paragraph
2 (a) of subdivision two of section 40.10 of the criminal procedure law,
3 and at least one of which resulted in a conviction of such offense, or
4 where the accusatory instrument charges one or more of such felonies,
5 conviction upon a plea of guilty to a felony for which such plea is
6 otherwise authorized by law; or

7 (c) a conviction of a person for a violation of section 220.09,
8 220.16, 220.34 or 220.39 of the penal law, ~~[or a conviction of a crimi-~~
9 ~~nal defendant for a violation of section 221.30 of the penal law,]~~ or
10 where the accusatory instrument charges any such felony, conviction upon
11 a plea of guilty to a felony for which the plea is otherwise authorized
12 by law, together with evidence which: (i) provides substantial indicia
13 that the defendant used the real property to engage in a continual,
14 ongoing course of conduct involving the unlawful mixing, compounding,
15 manufacturing, warehousing, or packaging of controlled substances ~~[or~~
16 ~~where the conviction is for a violation of section 221.30 of the penal~~
17 ~~law, marijuana,]~~ as part of an illegal trade or business for gain; and
18 (ii) establishes, where the conviction is for possession of a controlled
19 substance ~~[or where the conviction is for a violation of section 221.30~~
20 ~~of the penal law, marijuana]~~, that such possession was with the intent
21 to sell it.

22 ~~[6. "Pre conviction forfeiture crime" means only a felony defined in~~
23 ~~article two hundred twenty or section 221.30 or 221.55 of the penal~~
24 ~~law.]~~

25 9. "Criminal defendant" means a person who has criminal liability for
26 a crime defined in ~~[subdivisions]~~ subdivision five ~~[and six hereof]~~ of
27 this section. For purposes of this article, a person has criminal
28 liability when ~~[(a)]~~ he has been convicted of a post-conviction forfei-
29 ture crime~~[, or (b) the claiming authority proves by clear and convinc-~~
30 ~~ing evidence that such person has committed an act in violation of arti-~~
31 ~~cle two hundred twenty or section 221.30 or 221.55 of the penal law]~~.

32 § 43. Subdivision 13 of section 89-f of the general business law, as
33 added by chapter 336 of the laws of 1992, is amended to read as follows:

34 13. "Serious offense" shall mean any felony involving the offenses
35 enumerated in the closing paragraph of this subdivision; a criminal
36 solicitation of or a conspiracy to commit or an attempt to commit or a
37 criminal facilitation of a felony involving the offenses enumerated in
38 the closing paragraph of this subdivision, which criminal solicitation,
39 conspiracy, attempt or criminal facilitation itself constitutes a felony
40 or any offense in any other jurisdiction which if committed in this
41 state would constitute a felony; any offense in any other jurisdiction
42 which if committed in this state would constitute a felony provided that
43 for the purposes of this article, none of the following shall be consid-
44 ered criminal convictions or reported as such: (i) a conviction for
45 which an executive pardon has been issued pursuant to the executive law;
46 (ii) a conviction which has been vacated and replaced by a youthful
47 offender finding pursuant to article seven hundred twenty of the crimi-
48 nal procedure law, or the applicable provisions of law of any other
49 jurisdiction; or (iii) a conviction the records of which have been
50 sealed pursuant to the applicable provisions of the laws of this state
51 or of any other jurisdiction; and (iv) a conviction for which other
52 evidence of successful rehabilitation to remove the disability has been
53 issued.

54 Felonies involving: assault, aggravated assault and reckless endanger-
55 ment pursuant to article one hundred twenty; vehicular manslaughter,
56 manslaughter and murder pursuant to article one hundred twenty-five; sex

1 offenses pursuant to article one hundred thirty; unlawful imprisonment,
2 kidnapping or coercion pursuant to article one hundred thirty-five;
3 criminal trespass and burglary pursuant to article one hundred forty;
4 criminal mischief, criminal tampering and tampering with a consumer
5 product pursuant to article one hundred forty-five; arson pursuant to
6 article one hundred fifty; larceny and offenses involving theft pursuant
7 to article one hundred fifty-five; offenses involving computers pursuant
8 to article one hundred fifty-six; robbery pursuant to article one
9 hundred sixty; criminal possession of stolen property pursuant to arti-
10 cle one hundred sixty-five; forgery and related offenses pursuant to
11 article one hundred seventy; involving false written statements pursuant
12 to article one hundred seventy-five; commercial bribing and commercial
13 bribe receiving pursuant to article one hundred eighty; criminal imper-
14 sonation and scheme to defraud pursuant to article one hundred ninety;
15 bribery involving public servants and related offenses pursuant to arti-
16 cle two hundred; perjury and related offenses pursuant to article two
17 hundred ten; tampering with a witness, intimidating a victim or witness
18 and tampering with physical evidence pursuant to article two hundred
19 fifteen; criminal possession of a controlled substance pursuant to
20 sections 220.06, 220.09, 220.16, 220.18 and 220.21; criminal sale of a
21 controlled substance pursuant to sections 220.31, 220.34, 220.39,
22 220.41, 220.43 and 220.44; criminal sale of [~~marijuana~~] marihuana in the
23 first degree pursuant to [~~sections~~] section 221.45[, ~~221.50 and 221.55~~];
24 riot in the first degree, aggravated harassment in the first degree,
25 criminal nuisance in the first degree and falsely reporting an incident
26 in the second or first degree pursuant to article two hundred forty; and
27 crimes against public safety pursuant to article two hundred sixty-five
28 of the penal law.

29 § 44. Paragraph (f) of subdivision 2 of section 850 of the general
30 business law is REPEALED.

31 § 45. Paragraph (h) of subdivision 2 of section 850 of the general
32 business law, as amended by chapter 812 of the laws of 1980, is amended
33 to read as follows:

34 (h) Objects, used or designed for the purpose of ingesting, inhaling,
35 or otherwise introducing [~~marihuana,~~] cocaine, [~~hashish, or hashish oil~~]
36 into the human body.

37 § 46. Paragraph a of subdivision 4-a of section 165 of the state
38 finance law, as added by chapter 95 of the laws of 2000, is amended to
39 read as follows:

40 a. In order to advance specific economic goals, New York state
41 labelled wines, as defined in subdivision [~~twenty-a~~] twenty-j of section
42 three of the alcoholic beverage control law, shall have favored source
43 status for the purposes of procurement in accordance with the provisions
44 of this subdivision. Procurement of these New York state labelled wines
45 shall be exempt from the competitive procurement provisions of section
46 one hundred sixty-three of this article and other competitive procure-
47 ment statutes. Such exemption shall apply to New York state labelled
48 wines as defined in subdivision [~~twenty-a~~] twenty-j of section three of
49 the alcoholic beverage control law produced by a licensed winery as
50 defined in section seventy-six of the alcoholic beverage control law.

51 § 47. Subdivision 7 of section 995 of the executive law, as amended by
52 chapter 19 of the laws of 2012, is amended to read as follows:

53 7. "Designated offender" means a person convicted of any felony
54 defined in any chapter of the laws of the state or any misdemeanor
55 defined in the penal law [~~except that where the person is convicted~~
56 ~~under section 221.10 of the penal law, only a person convicted under~~

~~subdivision two of such section, or a person convicted under subdivision one of such section who stands previously convicted of any crime as defined in subdivision six of section 10.00 of the penal law~~].

§ 48. Paragraphs (b) and (c) of subdivision 7 of section 480.00 of the penal law, paragraph (b) as amended by section 31 of part AAA of chapter 56 of the laws of 2009 and paragraph (c) as added by chapter 655 of the laws of 1990, are amended to read as follows:

(b) three or more violations of any of the felonies defined in section 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41, 220.43[, or 220.77[, ~~or 221.55~~] of this chapter, which violations do not constitute a single criminal offense as defined in subdivision one of section 40.10 of the criminal procedure law, or a single criminal transaction, as defined in paragraph (a) of subdivision two of section 40.10 of the criminal procedure law, and at least one of which resulted in a conviction of such offense, or where the accusatory instrument charges one or more of such felonies, conviction upon a plea of guilty to a felony for which such plea is otherwise authorized by law; or

(c) a conviction of a person for a violation of section 220.09, 220.16, 220.34[, or 220.39[, ~~or 221.30~~] of this chapter, or where the accusatory instrument charges any such felony, conviction upon a plea of guilty to a felony for which the plea is otherwise authorized by law, together with evidence which: (i) provides substantial indicia that the defendant used the real property to engage in a continual, ongoing course of conduct involving the unlawful mixing, compounding, manufacturing, warehousing, or packaging of controlled substances [~~or where the conviction is for a violation of section 221.30 of this chapter, marijuana~~] as part of an illegal trade or business for gain; and (ii) establishes, where the conviction is for possession of a controlled substance [~~or where the conviction is for a violation of section 221.30 of this chapter, marijuana~~], that such possession was with the intent to sell it.

§ 49. Paragraph (c) of subdivision 4 of section 509-cc of the vehicle and traffic law, as amended by chapter 368 of the laws of 2015, is amended to read as follows:

(c) The offenses referred to in subparagraph (i) of paragraph (b) of subdivision one and subparagraph (i) of paragraph (c) of subdivision two of this section that result in disqualification for a period of five years shall include a conviction under sections 100.10, 105.13, 115.05, 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 121.12, 121.13, 125.40, 125.45, 130.20, 130.25, 130.52, 130.55, 135.10, 135.55, 140.17, 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09, 220.16, 220.31, 220.34, 220.60, 220.65, [~~221.30, 221.50, 221.55,~~] 230.00, 230.05, 230.06, 230.11, 230.12, 230.13, 230.19, 230.20, 235.05, 235.06, 235.07, 235.21, 240.06, 245.00, 260.10, subdivision two of section 260.20 and sections 260.25, 265.02, 265.03, 265.08, 265.09, 265.10, 265.12, 265.35 of the penal law or an attempt to commit any of the aforesaid offenses under section 110.00 of the penal law, or any similar offenses committed under a former section of the penal law, or any offenses committed under a former section of the penal law which would constitute violations of the aforesaid sections of the penal law, or any offenses committed outside this state which would constitute violations of the aforesaid sections of the penal law.

§ 50. The opening paragraph of paragraph (a) of subdivision 2 of section 1194 of the vehicle and traffic law, as amended by chapter 196 of the laws of 1996, is amended to read as follows:

1 When authorized. Any person who operates a motor vehicle in this state
2 shall be deemed to have given consent to a chemical test of one or more
3 of the following: breath, blood, urine, or saliva, for the purpose of
4 determining the alcoholic and/or drug content, other than marijuana
5 content including but not limited to tetrahydrocannabinol content, of
6 the blood provided that such test is administered by or at the direction
7 of a police officer with respect to a chemical test of breath, urine or
8 saliva or, with respect to a chemical test of blood, at the direction of
9 a police officer:

10 § 51. Section 17 of the alcoholic beverage control law is amended by
11 adding a new subdivision 12 to read as follows:

12 12. To develop and establish minimum criteria for alcohol or substance
13 abuse training awareness programs which may be given and administered by
14 schools; other entities including trade associations whose members are
15 engaged in or involved in the retail sale of alcoholic beverages;
16 national and regional franchisors who have granted at least five fran-
17 chises in the state which are licensed to sell beer at retail for off-
18 premises consumption; licensees authorized to sell alcoholic beverages
19 at retail for off-premises consumption operating five or more licensed
20 premises; and persons interested, whether as an individual proprietor or
21 partner or officer or member of a limited liability company, in five or
22 more licensees authorized to sell alcoholic beverages at retail for
23 off-premises consumption. The authority shall provide for the issuance
24 of certificates of approval to all certified alcohol or substance abuse
25 training awareness programs. Certificates of approval may be revoked by
26 the authority for failure to adhere to the authority's rules and regu-
27 lations. Such rules and regulations shall afford those who have been
28 issued a certificate of approval an opportunity for a hearing prior to
29 any determination of whether such certificate should be revoked.

30 No licensee shall be required to apply for any such certificate or
31 renewal certificate and the licensee may voluntarily surrender such a
32 certificate or renewal certificate at any time. A fee in the amount of
33 nine hundred dollars shall be paid to the authority with each applica-
34 tion for a certificate of approval or renewal certificate. The authori-
35 ty shall promptly refund such fee to an applicant whose application was
36 denied. Each certificate of approval and renewal thereof shall be issued
37 for a period of three years. To effectuate the provisions of this subdi-
38 vision, the authority is empowered to require in connection with an
39 application the submission of such information as the authority may
40 direct; to prescribe forms of applications and of all reports which it
41 deems necessary to be made by any applicant or certificate holder; to
42 conduct investigations; to require the maintenance of such books and
43 records as the authority may direct; and to revoke, cancel, or suspend
44 for cause any certificate provided for in this subdivision. Each entity
45 authorized to give and administer an alcohol or substance abuse training
46 awareness program shall issue certificates of completion to all licen-
47 sees and employees who successfully complete such an approved alcohol or
48 substance abuse training awareness program. Such entity shall regularly
49 transmit to the authority the names, addresses and dates of attendance
50 of all the licensees and employees of licensees who successfully
51 complete an approved alcohol or substance abuse training awareness
52 program. Such transmittal shall be in a form and manner prescribed by
53 the authority. The authority shall adopt rules and regulations to effec-
54 tuate the provisions of this subdivision, including the minimum require-
55 ments for the curriculum of each such training program and the regular
56 ongoing training of employees holding certificates of completion or

1 renewal certificates. Such rules and regulations shall include the
2 minimum requirements for a separate curriculum for licensees and their
3 employees authorized to sell alcoholic beverages at retail for off-prem-
4 ises consumption, minimum requirements for a separate curriculum for
5 licensees and their employees authorized to sell alcoholic beverages at
6 retail for on-premises consumption, and the form of a certificate of
7 completion or renewal thereof to be issued in respect to each such type
8 of program. A certificate of completion or renewal thereof issued by an
9 entity authorized to give and administer an alcohol or substance abuse
10 training awareness program pursuant to this subdivision to licensees and
11 their employees authorized to sell alcoholic beverages at retail for
12 off-premises consumption shall not be invalidated by a change of employ-
13 ment to another such licensee. A certificate of completion or renewal
14 thereof issued by an entity authorized to give and administer an alcohol
15 or substance abuse training awareness program pursuant to this subdivi-
16 sion to licensees and their employees authorized to sell alcoholic
17 beverages at retail for on-premises consumption shall not be invalidated
18 by a change of employment to another such licensee. Attendance at any
19 course established pursuant to this section shall be in person, through
20 distance learning methods, or through an internet based online program.

21 § 52. Subdivision 12 of section 17 of the alcoholic beverage control
22 law, as amended by chapter 549 of the laws of 2001, the closing para-
23 graph as amended by chapter 435 of the laws of 2010, is amended to read
24 as follows:

25 12. To develop and establish minimum criteria for alcohol or substance
26 abuse training awareness programs which may be given and administered by
27 schools; other entities including trade associations whose members are
28 engaged in or involved in the retail sale of alcoholic beverages;
29 national and regional franchisors who have granted at least five fran-
30 chises in the state which are licensed to sell beer at retail for off-
31 premises consumption; licensees authorized to sell alcoholic beverages
32 at retail for off-premises consumption operating five or more licensed
33 premises; and persons interested, whether as an individual proprietor or
34 partner or officer or member of a limited liability company, in five or
35 more licensees authorized to sell alcoholic beverages at retail for
36 off-premises consumption. The authority shall provide for the issuance
37 of certificates of approval to all certified alcohol or substance abuse
38 training awareness programs. Certificates of approval may be revoked by
39 the authority for failure to adhere to the authority's rules and regu-
40 lations. Such rules and regulations shall afford those who have been
41 issued a certificate of approval an opportunity for a hearing prior to
42 any determination of whether such certificate should be revoked.

43 No licensee shall be required to apply for any such certificate or
44 renewal certificate and the licensee may voluntarily surrender such a
45 certificate or renewal certificate at any time. A fee in the amount of
46 nine hundred dollars shall be paid to the authority with each applica-
47 tion for a certificate of approval or renewal certificate. The authority
48 shall promptly refund such fee to an applicant whose application was
49 denied. Each certificate of approval and renewal thereof shall be issued
50 for a period of three years. To effectuate the provisions of this subdivi-
51 sion, the authority is empowered to require in connection with an
52 application the submission of such information as the authority may
53 direct; to prescribe forms of applications and of all reports which it
54 deems necessary to be made by any applicant or certificate holder; to
55 conduct investigations; to require the maintenance of such books and
56 records as the authority may direct; to revoke, cancel, or suspend for

1 cause any certificate provided for in this subdivision. Each entity
2 authorized to give and administer an alcohol or substance abuse training
3 awareness program shall issue certificates of completion to all licen-
4 sees and employees who successfully complete such an approved alcohol or
5 substance abuse training awareness program. Such entity shall regularly
6 transmit to the authority the names, addresses and dates of attendance
7 of all the licensees and employees of licensees who successfully
8 complete an approved alcohol or substance abuse training awareness
9 program. Such transmittal shall be in a form and manner prescribed by
10 the authority. The authority shall adopt rules and regulations to effec-
11 tuate the provisions of this subdivision, including the minimum require-
12 ments for the curriculum of each such training program and the regular
13 ongoing training of employees holding certificates of completion or
14 renewal certificates. Such rules and regulations shall include the mini-
15 mum requirements for a separate curriculum for licensees and their
16 employees authorized to sell alcoholic beverages at retail for off-prem-
17 ises consumption, minimum requirements for a separate curriculum for
18 licensees and their employees authorized to sell alcoholic beverages at
19 retail for on-premises consumption, and the form of a certificate of
20 completion or renewal thereof to be issued in respect to each such type
21 of program. A certificate of completion or renewal thereof issued by an
22 entity authorized to give and administer an alcohol or substance abuse
23 training awareness program pursuant to this subdivision to licensees and
24 their employees authorized to sell alcoholic beverages at retail for
25 off-premises consumption shall not be invalidated by a change of employ-
26 ment to another such licensee. A certificate of completion or renewal
27 thereof issued by an entity authorized to give and administer an alcohol
28 or substance abuse training awareness program pursuant to this subdivi-
29 sion to licensees and their employees authorized to sell alcoholic
30 beverages at retail for on-premises consumption shall not be invalidated
31 by a change of employment to another such licensee. Attendance at any
32 course established pursuant to this section shall be in person, through
33 distance learning methods, or through an internet based online program.

34 § 53. Section 150.75 of the criminal procedure law is REPEALED.

35 § 54. Subdivision (a) of section 712 of the family court act, as
36 amended by section 7 of part G of chapter 58 of the laws of 2010, is
37 amended to read as follows:

38 (a) "Person in need of supervision". A person less than eighteen years
39 of age who does not attend school in accordance with the provisions of
40 part one of article sixty-five of the education law or who is incorrigi-
41 ble, ungovernable or habitually disobedient and beyond the lawful
42 control of a parent or other person legally responsible for such child's
43 care, or other lawful authority, or who violates the provisions of
44 section [~~221.05-ox~~] 230.00 of the penal law, or who appears to be a
45 sexually exploited child as defined in paragraph (a), (c) or (d) of
46 subdivision one of section four hundred forty-seven-a of the social
47 services law, but only if the child consents to the filing of a petition
48 under this article.

49 § 55. Appropriation. The sum of five million dollars (\$5,000,000) is
50 hereby appropriated to the New York State Liquor Authority out of any
51 moneys in the state treasury in the general fund to the credit of the
52 state purposes account, not otherwise appropriated, and made immediately
53 available, for the purpose of carrying out the provisions of this act.
54 Such moneys shall be payable on the audit and warrant of the comptroller
55 on vouchers certified or approved by the superintendent or the chairman
56 of the New York State Liquor Authority in the manner prescribed by law.

1 § 56. Severability. If any provision or term of this act is for any
2 reason declared unconstitutional or invalid or ineffective by any court
3 of competent jurisdiction, such decision shall not affect the validity
4 of the effectiveness of the remaining portions of this act or any part
5 thereof.

6 § 57. This act shall take effect immediately; provided, however, that
7 the amendments to section 17 of the alcoholic beverage control law made
8 by section fifty-one of this act shall not affect the expiration and
9 reversion of such section and shall expire and be deemed repealed there-
10 with, when upon such date the provisions of section fifty-two of this
11 act shall take effect.