

# STATE OF NEW YORK

3040

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## IN SENATE

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Introduced by Sens. KRUEGER, BAILEY, DILAN, HOYLMAN, MONTGOMERY, PARKER, PERALTA, PERKINS, RIVERA, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

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 eighteen years of age or older; 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 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 221.10, 221.25, 221.30, 221.50 and 221.55 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; and making an appropriation therefor

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 decades of arresting marihuana users has failed to prevent marihuana use  
5 or prevent minors from accessing marihuana. Existing marihuana laws have  
6 created a violent, illegal drug market that consumes millions of dollars  
7 in criminal justice resources each year. Existing marihuana laws have

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

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1 also disproportionately impacted African-American and Latino communi-  
2 ties. Regulating, controlling, and taxing marihuana like alcohol will  
3 save criminal justice resources, reduce violent crime, reduce racial  
4 disparities, and generate revenue.

5 Additionally, industrial hemp is produced in at least 30 nations and  
6 used to create thousands of products including paper, textiles, food  
7 oils, automotive parts, and personal care products. Hundreds of millions  
8 of dollars of industrial hemp products are sold in the United States  
9 each year.

10 The intent of this act is to regulate, control, and tax marihuana in a  
11 manner similar to alcohol, generate millions of dollars in new revenue,  
12 prevent access to marihuana by those under the age of eighteen years,  
13 reduce the illegal drug market and reduce violent crime, reduce the  
14 racially disparate impact of existing marihuana laws, allow industrial  
15 hemp to be farmed in New York state, and create new industries and  
16 increase employment.

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

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

29 § 3. Section 3302 of the public health law, as added by chapter 878 of  
30 the laws of 1972, subdivisions 1, 14, 16, 17 and 27 as amended and  
31 subdivisions 4, 5, 6, 7, 8, 11, 12, 13, 15, 18, 19, 20, 21, 22, 23, 24,  
32 25, 26, 28, 29 and 30 as renumbered by chapter 537 of the laws of 1998,  
33 subdivisions 9 and 10 as amended and subdivisions 34, 35, 36, 37, 38, 39  
34 and 40 as added by chapter 178 of the laws of 2010, paragraph (a) of  
35 subdivision 20, the opening paragraph of subdivision 22 and subdivision  
36 29 as amended by chapter 163 of the laws of 1973, subdivision 31 as  
37 amended by section 4 of part A of chapter 58 of the laws of 2004, subdi-  
38 vision 41 as added by section 6 of part A of chapter 447 of the laws of  
39 2012, and subdivisions 42 and 43 as added by section 13 of part D of  
40 chapter 60 of the laws of 2014, is amended to read as follows:

41 § 3302. Definitions of terms of general use in this article. Except  
42 where different meanings are expressly specified in subsequent  
43 provisions of this article, the following terms have the following mean-  
44 ings:

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

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

51 3. "Agent" means an authorized person who acts on behalf of or at the  
52 direction of a manufacturer, distributor, or dispenser. No person may be  
53 authorized to so act if under title VIII of the education law such  
54 person would not be permitted to engage in such conduct. It does not  
55 include a common or contract carrier, public warehouseman, or employee

1 of the carrier or warehouseman when acting in the usual and lawful  
2 course of the carrier's or warehouseman's business.

3 4. [~~"Concentrated Cannabis" means~~

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

6 ~~(b) a material, preparation, mixture, compound or other substance~~  
7 ~~which contains more than two and one-half percent by weight of delta-9~~  
8 ~~tetrahydrocannabinol, or its isomer, delta-8 dibenzopyran numbering~~  
9 ~~system, or delta-1 tetrahydrocannabinol or its isomer, delta-1 (6) mono-~~  
10 ~~terpene numbering system.~~

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

13 [~~6.~~] 5. "Commissioner" means commissioner of health of the state of  
14 New York.

15 [~~7.~~] 6. "Deliver" or "delivery" means the actual, constructive or  
16 attempted transfer from one person to another of a controlled substance,  
17 whether or not there is an agency relationship.

18 [~~8.~~] 7. "Department" means the department of health of the state of  
19 New York.

20 [~~9.~~] 8. "Dispense" means to deliver a controlled substance to an ulti-  
21 mate user or research subject by lawful means, including by means of the  
22 internet, and includes the packaging, labeling, or compounding necessary  
23 to prepare the substance for such delivery.

24 [~~10.~~] 9. "Distribute" means to deliver a controlled substance, includ-  
25 ing by means of the internet, other than by administering or dispensing.

26 [~~11.~~] 10. "Distributor" means a person who distributes a controlled  
27 substance.

28 [~~12.~~] 11. "Diversion" means manufacture, possession, delivery or use  
29 of a controlled substance by a person or in a manner not specifically  
30 authorized by law.

31 [~~13.~~] 12. "Drug" means

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

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

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

40 [~~14.~~] 13. "Federal agency" means the Drug Enforcement Administration,  
41 United States Department of Justice, or its successor agency.

42 [~~15.~~] 14. "Federal controlled substances act" means the Comprehensive  
43 Drug Abuse Prevention and Control Act of 1970, Public Law 91-513, and  
44 any act or acts amendatory or supplemental thereto or regulations  
45 promulgated thereunder.

46 [~~16.~~] 15. "Federal registration number" means such number assigned by  
47 the Federal agency to any person authorized to manufacture, distribute,  
48 sell, dispense or administer controlled substances.

49 [~~17.~~] 16. "Habitual user" means any person who is, or by reason of  
50 repeated use of any controlled substance for non-legitimate or unlawful  
51 use is in danger of becoming, dependent upon such substance.

52 [~~18.~~] 17. "Institutional dispenser" means a hospital, veterinary  
53 hospital, clinic, dispensary, maternity home, nursing home, mental  
54 hospital or similar facility approved and certified by the department as  
55 authorized to obtain controlled substances by distribution and to

1 dispense and administer such substances pursuant to the order of a prac-  
2 titioner.

3 ~~[19.]~~ 18. "License" means a written authorization issued by the  
4 department or the New York state department of education permitting  
5 persons to engage in a specified activity with respect to controlled  
6 substances.

7 ~~[20.]~~ 19. "Manufacture" means the production, preparation, propa-  
8 gation, compounding, cultivation, conversion or processing of a  
9 controlled substance, either directly or indirectly or by extraction  
10 from substances of natural origin, or independently by means of chemical  
11 synthesis, or by a combination of extraction and chemical synthesis, and  
12 includes any packaging or repackaging of the substance or labeling or  
13 relabeling of its container, except that this term does not include the  
14 preparation, compounding, packaging or labeling of a controlled  
15 substance:

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

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

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

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

33 ~~22.]~~ 20. "Narcotic drug" means any of the following, whether produced  
34 directly or indirectly by extraction from substances of vegetable  
35 origin, or independently by means of chemical synthesis, or by a combi-  
36 nation of extraction and chemical synthesis:

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

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

43 (c) opium poppy and poppy straw.

44 ~~[23.]~~ 21. "Opiate" means any substance having an addiction-forming or  
45 addiction-sustaining liability similar to morphine or being capable of  
46 conversion into a drug having addiction-forming or addiction-sustaining  
47 liability. It does not include, unless specifically designated as  
48 controlled under section ~~[3306]~~ thirty-three hundred six of this ~~[arti-~~  
49 ~~cle]~~ title, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and  
50 its salts (dextromethorphan). It does include its racemic and levorota-  
51 tory forms.

52 ~~[24.]~~ 22. "Opium poppy" means the plant of the species *Papaver*  
53 *somniferum* L., except its seeds.

54 ~~[25.]~~ 23. "Person" means individual, institution, corporation, govern-  
55 ment or governmental subdivision or agency, business trust, estate,  
56 trust, partnership or association, or any other legal entity.

1     ~~[26.]~~ 24. "Pharmacist" means any person licensed by the state depart-  
2     ment of education to practice pharmacy.

3     ~~[27.]~~ 25. "Pharmacy" means any place registered as such by the New  
4     York state board of pharmacy and registered with the Federal agency  
5     pursuant to the federal controlled substances act.

6     ~~[28.]~~ 26. "Poppy straw" means all parts, except the seeds, of the  
7     opium poppy, after mowing.

8     ~~[29.]~~ 27. "Practitioner" means:

9     A physician, dentist, podiatrist, veterinarian, scientific investi-  
10    gator, or other person licensed, or otherwise permitted to dispense,  
11    administer or conduct research with respect to a controlled substance in  
12    the course of a licensed professional practice or research licensed  
13    pursuant to this article. Such person shall be deemed a "practitioner"  
14    only as to such substances, or conduct relating to such substances, as  
15    is permitted by his license, permit or otherwise permitted by law.

16    ~~[30.]~~ 28. "Prescribe" means a direction or authorization, by  
17    prescription, permitting an ultimate user lawfully to obtain controlled  
18    substances from any person authorized by law to dispense such  
19    substances.

20    ~~[31.]~~ 29. "Prescription" shall mean an official New York state  
21    prescription, an electronic prescription, an oral prescription~~[,]~~ or an  
22    out-of-state prescription~~[, or any one]~~.

23    ~~[32.]~~ 30. "Sell" means to sell, exchange, give or dispose of to anothe-  
24    er, or offer or agree to do the same.

25    ~~[33.]~~ 31. "Ultimate user" means a person who lawfully obtains and  
26    possesses a controlled substance for his own use or the use by a member  
27    of his household or for an animal owned by him or in his custody. It  
28    shall also mean and include a person designated, by a practitioner on a  
29    prescription, to obtain such substance on behalf of the patient for whom  
30    such substance is intended.

31    ~~[34.]~~ 32. "Internet" means collectively computer and telecommuni-  
32    cations facilities which comprise the worldwide network of networks that  
33    employ a set of industry standards and protocols, or any predecessor or  
34    successor protocol to such protocol, to exchange information of all  
35    kinds. "Internet," as used in this article, also includes other  
36    networks, whether private or public, used to transmit information by  
37    electronic means.

38    ~~[35.]~~ 33. "By means of the internet" means any sale, delivery,  
39    distribution, or dispensing of a controlled substance that uses the  
40    internet, is initiated by use of the internet or causes the internet to  
41    be used.

42    ~~[36.]~~ 34. "Online dispenser" means a practitioner, pharmacy, or person  
43    in the United States that sells, delivers or dispenses, or offers to  
44    sell, deliver, or dispense, a controlled substance by means of the  
45    internet.

46    ~~[37.]~~ 35. "Electronic prescription" means a prescription issued with  
47    an electronic signature and transmitted by electronic means in accord-  
48    ance with regulations of the commissioner and the commissioner of educa-  
49    tion and consistent with federal requirements. A prescription generated  
50    on an electronic system that is printed out or transmitted via facsimile  
51    is not considered an electronic prescription and must be manually  
52    signed.

53    ~~[38.]~~ 36. "Electronic" means of or relating to technology having elec-  
54    trical, digital, magnetic, wireless, optical, electromagnetic or similar  
55    capabilities. "Electronic" shall not include facsimile.

1     ~~[39-]~~ 37. "Electronic record" means a paperless record that is  
2 created, generated, transmitted, communicated, received or stored by  
3 means of electronic equipment and includes the preservation, retrieval,  
4 use and disposition in accordance with regulations of the commissioner  
5 and the commissioner of education and in compliance with federal law and  
6 regulations.

7     ~~[40-]~~ 38. "Electronic signature" means an electronic sound, symbol, or  
8 process, attached to or logically associated with an electronic record  
9 and executed or adopted by a person with the intent to sign the record,  
10 in accordance with regulations of the commissioner and the commissioner  
11 of education.

12     ~~[41-]~~ 39. "Registry" or "prescription monitoring program registry"  
13 means the prescription monitoring program registry established pursuant  
14 to section thirty-three hundred forty-three-a of this article.

15     ~~[42-]~~ 40. "Compounding" means the combining, admixing, mixing, dilut-  
16 ing, pooling, reconstituting, or otherwise altering of a drug or bulk  
17 drug substance to create a drug with respect to an outsourcing facility  
18 under section 503B of the federal Food, Drug and Cosmetic Act and  
19 further defined in this section.

20     ~~[43-]~~ 41. "Outsourcing facility" means a facility that:

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

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

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

27     Notwithstanding any other provision of law to the contrary, when an  
28 outsourcing facility distributes or dispenses any drug to any person  
29 pursuant to a prescription, such outsourcing facility shall be deemed to  
30 be providing pharmacy services and shall be subject to all laws, rules  
31 and regulations governing pharmacies and pharmacy services.

32     § 4. Paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25,  
33 26, 27, 28, 29, 30, 31 and 32 of subdivision (d) of schedule I of  
34 section 3306 of the public health law, paragraphs 13, 14, 15, 16, 17,  
35 18, 19, 20, 21, 22, 23 and 24 as added by chapter 664 of the laws of  
36 1985, paragraphs 25, 26, 27, 28, 29 and 30 as added by chapter 589 of  
37 the laws of 1996 and paragraphs 31 and 32 as added by chapter 457 of the  
38 laws of 2006, are amended to read as follows:

39     (13) ~~[Marihuana-]~~

40     ~~(14)~~ Mescaline.

41     ~~(15)~~ (14) Parahexyl. Some trade or other names: 3-Hexyl-1-hydroxy-  
42 7,8,9,10-tetra hydro-6,6,9-trimethyl-6H-dibenfo{b,d} pyran.

43     ~~(16)~~ (15) Peyote. Meaning all parts of the plant presently classi-  
44 fied botanically as *Lophophora williamsii* Lemaire, whether growing or  
45 not, the seeds thereof, any extract from any part of such plant, and  
46 every compound, manufacture, salts, derivative, mixture, or preparation  
47 of such plant, its seeds or extracts.

48     ~~(17)~~ (16) N-ethyl-3-piperidyl benzilate.

49     ~~(18)~~ (17) N-methyl-3-piperidyl benzilate.

50     ~~(19)~~ (18) Psilocybin.

51     ~~(20)~~ (19) Psilocyn.

52     ~~(21)~~ (20) Tetrahydrocannabinols. Synthetic tetrahydrocannabinols not  
53 derived from the cannabis plant that are equivalents of the substances  
54 contained in the plant, or in the resinous extractives of cannabis, sp.  
55 and/or synthetic substances, derivatives, and their isomers with similar  
56 chemical structure and pharmacological activity such as the following:

1     ~~(1)~~ cis or trans tetrahydrocannabinol, and their optical isomers  
2     ~~(6)~~ cis or trans tetrahydrocannabinol, and their optical isomers  
3     ~~(3, 4)~~ cis or trans tetrahydrocannabinol, and its optical isomers  
4 (since nomenclature of these substances is not internationally standard-  
5 ized, compounds of these structures, regardless of numerical designation  
6 of atomic positions covered).

7     ~~(22)~~ (21) Ethylamine analog of phencyclidine. Some trade or other  
8 names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethyla-  
9 mine, N-(1-phenylcyclohexyl) ethylamine cyclohexamine, PCE.

10    ~~(23)~~ (22) Pyrrolidine analog of phencyclidine. Some trade or other  
11 names 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy, PHP.

12    ~~(24)~~ (23) Thiophene analog of phencyclidine. Some trade or other  
13 names: 1-{1-(2-thienyl)-cyclohexyl}-piperidine, 2-thienylanalog of  
14 phencyclidine, TPCP, TCP.

15    ~~(25)~~ (24) 3,4-methylenedioxyamphetamine (MDMA).

16    ~~(26)~~ (25) 3,4-methylenedioxy-N-ethylamphetamine (also known as  
17 N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA,  
18 MDE, MDEA.

19    ~~(27)~~ (26) N-hydroxy-3,4-methylenedioxyamphetamine (also known as  
20 N-hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and  
21 N-hydroxy MDA.

22    ~~(28)~~ (27) 1-{1-(2-thienyl) cyclohexyl} pyrrolidine. Some other  
23 names: TCPY.

24    ~~(29)~~ (28) Alpha-ethyltryptamine. Some trade or other names:  
25 etryptamine; Monase; Alpha-ethyl-1H-indole-3-ethanamine;  
26 3-(2-aminobutyl) indole; Alpha-ET or AET.

27    ~~(30)~~ (29) 2,5-dimethoxy-4-ethylamphetamine. Some trade or other  
28 names: DOET.

29    ~~(31)~~ (30) 4-Bromo-2,5-dimethoxyphenethylamine. Some trade or other  
30 names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl  
31 DOB; 2C-B, Nexus.

32    ~~(32)~~ (31) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7), its  
33 optical isomers, salts and salts of isomers.

34    § 5. Section 3382 of the public health law, as added by chapter 878 of  
35 the laws of 1972, is amended to read as follows:

36    § 3382. Growing of the plant known as Cannabis by unlicensed persons.  
37 A person who, without being licensed so to do under this article, grows  
38 the plant of the genus Cannabis or knowingly allows it to grow on his  
39 land without destroying the same, shall be guilty of a class A  
40 misdemeanor. The provisions of this section shall not apply to a person  
41 eighteen years of age or older who possesses, grows, or transports no  
42 more than six marihuana plants, with three or fewer being mature,  
43 flowering plants, provided that the plants are grown in an enclosed,  
44 locked space, not openly or publicly, and that the marihuana is not  
45 sold.

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

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

52    § 7. Section 114-a of the vehicle and traffic law, as added by chapter  
53 163 of the laws of 1973, is amended to read as follows:

54    § 114-a. Drug. The term "drug" when used in this chapter, means and  
55 includes any substance listed in section thirty-three hundred six of the

1 public health law and marihuana and concentrated cannabis as defined in  
2 section 220.00 of the penal law.

3 § 8. Subdivisions 5, 6 and 9 of section 220.00 of the penal law,  
4 subdivision 5 as amended by chapter 537 of the laws of 1998, subdivision  
5 6 as amended by chapter 1051 of the laws of 1973 and subdivision 9 as  
6 amended by chapter 664 of the laws of 1985, are amended and a new subdi-  
7 vision 21 is added to read as follows:

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

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

26 9. "Hallucinogen" means any controlled substance listed in schedule  
27 I(d) (5), [~~(18), (19), (20), (21) and (22)~~] (17), (18), (19), (20) and  
28 (21).

29 21. "Concentrated cannabis" means:

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

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

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

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

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

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

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



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

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

6 § 220.50 Criminally using drug paraphernalia in the second degree.

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

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

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

24 3. Scales and balances used or designed for the purpose of weighing or  
25 measuring controlled substances, under circumstances evincing an intent  
26 to use, or under circumstances evincing knowledge that some person  
27 intends to use, the same for purpose of unlawfully manufacturing, pack-  
28 aging or dispensing of any narcotic drug or stimulant, other than mari-  
29 huana or concentrated cannabis.

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

32 § 13. Section 221.05 of the penal law, as added by chapter 360 of the  
33 laws of 1977, is amended to read as follows:

34 § 221.05 Unlawful possession of marihuana.

35 A person is guilty of unlawful possession of marihuana when he know-  
36 ingly and unlawfully possesses [~~marihuana~~]:

37 1. marihuana and is less than eighteen years of age; or

38 2. marihuana in a public place, as defined in section 240.00 of this  
39 part, and such marihuana is burning.

40 Unlawful possession of marihuana is a violation punishable only by a  
41 fine of not more than one hundred dollars. However, where the defendant  
42 has previously been convicted of an offense defined in this article or  
43 article [~~220~~] two hundred twenty of this [~~chapter~~] title, committed  
44 within the three years immediately preceding such violation, it shall be  
45 punishable (a) only by a fine of not more than two hundred dollars, if  
46 the defendant was previously convicted of one such offense committed  
47 during such period, and (b) by a fine of not more than two hundred fifty  
48 dollars or a term of imprisonment not in excess of fifteen days or both,  
49 if the defendant was previously convicted of two such offenses committed  
50 during such period.

51 § 14. Section 221.15 of the penal law, as amended by chapter 265 of  
52 the laws of 1979, the opening paragraph as amended by chapter 75 of the  
53 laws of 1995, is amended to read as follows:

54 § 221.15 Criminal possession of marihuana in the [~~fourth~~] second degree.

55 A person is guilty of criminal possession of marihuana in the [~~fourth~~]  
56 second degree when he knowingly and unlawfully possesses [~~one or more~~

1 ~~preparations, compounds, mixtures or substances containing marihuana and~~  
2 ~~the preparations, compounds, mixtures or substances are of an aggregate~~  
3 ~~weight of] more than two ounces of marihuana, more than sixteen ounces~~  
4 ~~for any mixtures or substances containing marihuana in solid form, or~~  
5 ~~more than seventy-two ounces for any mixtures or substances containing~~  
6 ~~marihuana in liquid form, or more than one-fourth of one ounce of~~  
7 ~~concentrated cannabis.~~

8 Criminal possession of marihuana in the [~~fourth~~] second degree is a  
9 class [~~A~~] B misdemeanor.

10 § 15. Section 221.20 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 § 221.20 Criminal possession of marihuana in the [~~third~~] first degree.

14 A person is guilty of criminal possession of marihuana in the [~~third~~]  
15 first degree when he knowingly and unlawfully possesses [~~one or more~~  
16 ~~preparations, compounds, mixtures or substances containing marihuana and~~  
17 ~~the preparations, compounds, mixtures or substances are of an aggregate~~  
18 ~~weight of] more than eight ounces of marihuana, more than sixty-four~~  
19 ~~ounces for any mixtures or substances containing marihuana in solid~~  
20 ~~form, or more than two gallons for any mixtures or substances containing~~  
21 ~~marihuana in liquid form, or more than one ounce of concentrated canna-~~  
22 ~~big.~~

23 Criminal possession of marihuana in the [~~third~~] first degree is a  
24 class [~~E-felony~~] A misdemeanor.

25 § 16. Sections 221.10, 221.25 and 221.30 of the penal law are  
26 REPEALED.

27 § 17. The penal law is amended by adding a new section 221.25 to read  
28 as follows:

29 § 221.25 Home cultivation of marihuana exception.

30 The provisions of this article shall not apply to a person eighteen  
31 years of age or older who possesses, grows, or transports no more than  
32 six marihuana plants, with three or fewer being mature, flowering  
33 plants, provided that the plants are grown in an enclosed, locked space,  
34 not openly or publicly, and that the marihuana is not sold.

35 § 18. Section 221.35 of the penal law, as amended by chapter 265 of  
36 the laws of 1979, the opening paragraph as amended by chapter 75 of the  
37 laws of 1995, is amended to read as follows:

38 § 221.35 Criminal sale of marihuana in the [~~fifth~~] third degree.

39 A person less than eighteen years of age is guilty of criminal sale of  
40 marihuana in the [~~fifth~~] third degree when he knowingly and unlawfully  
41 sells, without consideration, one or more preparations, compounds,  
42 mixtures or substances containing marihuana and the preparations,  
43 compounds, mixtures or substances are of an aggregate weight of two  
44 grams or less; or one cigarette containing marihuana.

45 Criminal sale of marihuana in the [~~fifth~~] third degree is a class B  
46 misdemeanor.

47 § 19. Section 221.40 of the penal law, as added by chapter 360 of the  
48 laws of 1977, is amended to read as follows:

49 § 221.40 Criminal sale of marihuana in the [~~fourth~~] second degree.

50 A person is guilty of criminal sale of marihuana in the [~~fourth~~]  
51 second degree when he knowingly and unlawfully sells marihuana for  
52 consideration except as provided in section 221.35 of this article.

53 Criminal sale of marihuana in the [~~fourth~~] second degree is a class A  
54 misdemeanor.

1 § 20. Section 221.45 of the penal law, as amended by chapter 265 of  
2 the laws of 1979, the opening paragraph as amended by chapter 75 of the  
3 laws of 1995, is amended to read as follows:

4 § 221.45 Criminal sale of marihuana in the [~~third~~] first degree.

5 A person is guilty of criminal sale of marihuana in the [~~third~~] first  
6 degree when he knowingly and unlawfully sells [~~one or more preparations,~~  
7 ~~compounds, mixtures or substances containing marihuana and the prepara-~~  
8 ~~tions, compounds, mixtures or substances are of an aggregate weight of~~  
9 ~~more than twenty-five grams~~] two ounces of marihuana, more than sixteen  
10 ounces for any mixtures or substances containing marihuana in solid  
11 form, or more than seventy-two ounces for any mixtures or substances  
12 containing marihuana in liquid form, or more than one-fourth of one  
13 ounce of concentrated cannabis.

14 Criminal sale of marihuana in the [~~third~~] first degree is a class E  
15 felony.

16 § 21. Sections 221.50 and 221.55 of the penal law are REPEALED.

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

19 § 221.60 Licensing of marihuana production and distribution.

20 The provisions of this article and of article two hundred twenty of  
21 this title shall not apply to any person exempted from criminal penal-  
22 ties pursuant to the provisions of this chapter or possessing, manufac-  
23 turing, transporting, distributing, selling or transferring marihuana or  
24 concentrated cannabis, or engaged in any other action that is in compli-  
25 ance with article eleven of the alcoholic beverage control law.

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

29 8. "Smoking" means the burning of a lighted cigar, cigarette, pipe or  
30 any other matter or substance which contains tobacco or marihuana.

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

33 § 2. Policy of state and purpose of chapter. It is hereby declared as  
34 the policy of the state that it is necessary to regulate and control the  
35 manufacture, sale and distribution within the state of alcoholic bever-  
36 ages and marihuana products for the purpose of fostering and promoting  
37 temperance in their consumption and respect for and obedience to law;  
38 for the primary purpose of promoting the health, welfare and safety of  
39 the people of the state, promoting temperance in the consumption of  
40 alcoholic beverages and marihuana products; and, to the extent possible,  
41 supporting economic growth, job development, and the state's alcoholic  
42 beverage production industries and its tourism and recreation industry;  
43 and which promotes the conservation and enhancement of state agricul-  
44 tural lands; provided that such activities do not conflict with the  
45 primary regulatory objectives of this chapter. It is hereby declared  
46 that such policies will best be carried out by empowering the liquor  
47 authority of the state to determine whether public convenience and  
48 advantage will be promoted by the issuance of licenses to traffic in  
49 alcoholic beverages and marihuana products, the increase or decrease in  
50 the number thereof and the location of premises licensed thereby,  
51 subject only to the right of judicial review provided for in this chap-  
52 ter. It is the purpose of this chapter to carry out these policies in  
53 the public interest.

54 § 25. Subdivisions 20-a, 20-b, 20-c, 20-d and 20-e of section 3 of the  
55 alcoholic beverage control law are renumbered subdivisions 20-j, 20-k,

1 20-1, 20-m and 20-n and ten new subdivisions 7-e, 20-a, 20-b, 20-c,  
2 20-d, 20-e, 20-f, 20-g, 20-h and 20-i are added to read as follows:

3 7-e. "Concentrated cannabis" means: (a) the separated resin, whether  
4 crude or purified, obtained from a plant of the genus Cannabis; or  
5 (b) a material, preparation, mixture, compound or other substance  
6 which contains more than three percent by weight of delta-9 tetrahydro-  
7 cannabinol, or its isomer, delta-8 dibenzopyran numbering system, or  
8 delta-1 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpene  
9 numbering system.

10 20-a. "Marihuana" means all parts of the plant of the genus Cannabis,  
11 whether growing or not; the seeds thereof; the resin extracted from any  
12 part of the plant; and every compound, manufacture, salt, derivative,  
13 mixture, or preparation of the plant, its seeds or resin. It does not  
14 include the mature stalks of the plant, fiber produced from the stalks,  
15 oil or cake made from the seeds of the plant, any other compound, manu-  
16 facture, salt, derivative, mixture, or preparation of the mature stalks  
17 (except the resin extracted therefrom), fiber, oil, or cake, or the  
18 sterilized seed of the plant which is incapable of germination. It does  
19 not include all parts of the plant Cannabis sativa L., whether growing  
20 or not, having no more than three-tenths of one percent tetrahydrocanna-  
21 binol (THC).

22 20-b. "Marihuana consumer" means a person twenty-one years of age or  
23 older who purchases marihuana or marihuana products for personal use by  
24 persons twenty-one years of age or older, but not for resale to others.

25 20-c. "Marihuana processor" means a person licensed by the authority  
26 to purchase marihuana and concentrated cannabis from marihuana produc-  
27 ers, to process marihuana, concentrated cannabis, and marihuana infused  
28 products, package and label marihuana, concentrated cannabis and mari-  
29 huana infused products for sale in retail outlets, and sell marihuana,  
30 concentrated cannabis and marihuana infused products at wholesale to  
31 marihuana retailers.

32 20-d. "Marihuana producer" means a person licensed by the authority to  
33 produce, process, and sell marihuana and concentrated cannabis at whole-  
34 sale to marihuana processors, marihuana retailers, or other marihuana  
35 producers, but not to consumers.

36 20-e. "Marihuana products" means marihuana, concentrated cannabis, and  
37 marihuana-infused products.

38 20-f. "Marihuana-infused products" means products that contain mari-  
39 huana, marihuana extracts, or concentrated cannabis and are intended for  
40 human use or consumption, such as, but not limited to, edible products,  
41 ointments, and tinctures.

42 20-g. "Marihuana retailer" means a person licensed by the authority to  
43 purchase marihuana, concentrated cannabis, and marihuana-infused  
44 products from marihuana producers and marihuana processors and sell  
45 marihuana, marihuana infused products, and concentrated cannabis in a  
46 retail outlet.

47 20-h. "Marihuana retailer for on-premises consumption" means a person  
48 licensed by the authority to purchase marihuana, concentrated cannabis,  
49 and marihuana infused products from marihuana producers, marihuana  
50 retailers, and marihuana processors and sell marihuana products for a  
51 customer to consume while the customer is within a facility.

52 20-i. "Unreasonably impracticable" means that the measures necessary  
53 to comply with the regulations require such a high investment of risk,  
54 money, time or other resource or asset that the operation of a marihuana  
55 establishment is not worthy of being carried out by a reasonably prudent  
56 businessperson.

1 § 26. Subdivision 12 of section 17 of the alcoholic beverage control  
2 law, as amended by chapter 549 of the laws of 2001, and the closing  
3 paragraph as amended by chapter 435 of the laws of 2010, is amended to  
4 read as follows:

5 12. To develop and establish minimum criteria for alcohol and marihua-  
6 na abuse training awareness programs which may be given and administered  
7 by schools; other entities including trade associations whose members  
8 are engaged in or involved in the retail sale of alcoholic beverages or  
9 marihuana products; national and regional franchisors who have granted  
10 at least five franchises in the state which are licensed to sell beer at  
11 retail for off-premises consumption; licensees authorized to sell alco-  
12 holic beverages at retail for off-premises consumption operating five or  
13 more licensed premises; and persons interested, whether as an individual  
14 proprietor or partner or officer or member of a limited liability compa-  
15 ny, in five or more licensees authorized to sell alcoholic beverages at  
16 retail for off-premises consumption. The authority shall provide for the  
17 issuance of certificates of approval to all certified alcohol and mari-  
18 huana abuse training awareness programs. Certificates of approval may be  
19 revoked by the authority for failure to adhere to the authority's rules  
20 and regulations. Such rules and regulations shall afford those who have  
21 been issued a certificate of approval an opportunity for a hearing prior  
22 to any determination of whether such certificate should be revoked.

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

1 of program. A certificate of completion or renewal thereof issued by an  
2 entity authorized to give and administer an alcohol training or marihua-  
3 na abuse awareness program pursuant to this subdivision to licensees and  
4 their employees authorized to sell alcoholic beverages at retail for  
5 off-premises consumption shall not be invalidated by a change of employ-  
6 ment to another such licensee. A certificate of completion or renewal  
7 thereof issued by an entity authorized to give and administer an alcohol  
8 training or marijuana abuse awareness program pursuant to this subdivi-  
9 sion to licensees and their employees authorized to sell alcoholic  
10 beverages at retail for on-premises consumption shall not be invalidated  
11 by a change of employment to another such licensee. Attendance at any  
12 course established pursuant to this section shall be in person, through  
13 distance learning methods, or through an internet based online program.

14 § 27. Section 65-b of the alcoholic beverage control law, as amended  
15 by chapter 519 of the laws of 1999, paragraphs (b) and (c) of subdivi-  
16 sion 3 as amended by chapter 257 of the laws of 2013 and the opening  
17 paragraph of subdivision 6 as amended by chapter 503 of the laws of  
18 2000, is amended to read as follows:

19 § 65-b. Offense for one under age of twenty-one years to purchase or  
20 attempt to purchase an alcoholic beverage or marijuana products through  
21 fraudulent means. 1. As used in this section: (a) "A device capable of  
22 deciphering any electronically readable format" or "device" shall mean  
23 any commercial device or combination of devices used at a point of sale  
24 or entry that is capable of reading the information encoded on the  
25 magnetic strip or bar code of a driver's license or non-driver identifi-  
26 cation card issued by the commissioner of motor vehicles;

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

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

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

44 (b) No licensee, or agent or employee of such licensee shall accept as  
45 written evidence of age by any such person for the purchase of any alco-  
46 holic beverage or marijuana products, any documentation other than: (i)  
47 a valid driver's license or non-driver identification card issued by the  
48 commissioner of motor vehicles, the federal government, any United  
49 States territory, commonwealth or possession, the District of Columbia,  
50 a state government within the United States or a provincial government  
51 of the dominion of Canada, or (ii) a valid passport issued by the United  
52 States government or any other country, or (iii) an identification card  
53 issued by the armed forces of the United States. Upon the presentation  
54 of such driver's license or non-driver identification card issued by a  
55 governmental entity, such licensee or agent or employee thereof may  
56 perform a transaction scan as a precondition to the sale of any alcohol-

1 ic beverage. Nothing in this section shall prohibit a licensee or agent  
2 or employee from performing such a transaction scan on any of the other  
3 documents listed in this subdivision if such documents include a bar  
4 code or magnetic strip that [~~that~~] may be scanned by a device capable of  
5 deciphering any electronically readable format.

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

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

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

21 (b) For a second violation, the court shall order payment of a fine of  
22 not less than fifty dollars nor more than three hundred fifty dollars  
23 and/or an appropriate amount of community service not to exceed sixty  
24 hours. The court also shall order completion of an alcohol or marihuana  
25 awareness program as referenced in paragraph (a) of this subdivision if  
26 such program has not previously been completed by the offender, unless  
27 the court determines that attendance at such program is not feasible due  
28 to the lack of availability of such program within a reasonably close  
29 proximity to the locality in which the offender resides or matriculates,  
30 as appropriate.

31 (c) For third and subsequent violations, the court shall order payment  
32 of a fine of not less than fifty dollars nor more than seven hundred  
33 fifty dollars and/or an appropriate amount of community service not to  
34 exceed ninety hours. The court also shall order that such person submit  
35 to an evaluation by an appropriate agency certified or licensed by the  
36 office of alcoholism and substance abuse services to determine whether  
37 the person suffers from the disease of alcoholism or alcohol or marihua-  
38 na abuse, unless the court determines that under the circumstances  
39 presented such an evaluation is not necessary, in which case the court  
40 shall state on the record the basis for such determination. Payment for  
41 such evaluation shall be made by such person. If, based on such evalu-  
42 ation, a need for treatment is indicated, such person may choose to  
43 participate in a treatment plan developed by an agency certified or  
44 licensed by the office of alcoholism and substance abuse services. If  
45 such person elects to participate in recommended treatment, the court  
46 shall order that payment of such fine and community service be suspended  
47 pending the completion of such treatment.

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

50 (i) The contents of an evaluation pursuant to paragraph (c) of this  
51 subdivision shall be used for the sole purpose of determining if such  
52 person suffers from the disease of alcoholism or alcohol or marihuana  
53 abuse.

54 (ii) The agency designated by the court to perform such evaluation  
55 shall conduct the evaluation and return the results to the court within  
56 thirty days, subject to any state or federal confidentiality law, rule

1 or regulation governing the confidentiality of alcohol and substance  
2 abuse treatment records.

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

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

12 (v) A minor evaluated under this subdivision shall have, and shall be  
13 informed by the court of, the right to obtain a second opinion regarding  
14 his or her need for alcoholism or substance abuse treatment.

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

23 5. No determination of guilt pursuant to this section shall operate as  
24 a disqualification of any such person subsequently to hold public  
25 office, public employment, or as a forfeiture of any right or privilege  
26 or to receive any license granted by public authority; and no such  
27 person shall be denominated a criminal by reason of such determination.

28 6. In addition to the penalties otherwise provided in subdivision  
29 three of this section, if a determination is made sustaining a charge of  
30 illegally purchasing or attempting to illegally purchase an alcoholic  
31 beverage or marihuana products, the court may suspend such person's  
32 license to drive a motor vehicle and the privilege of an unlicensed  
33 person of obtaining such license, in accordance with the following and  
34 for the following periods, if it is found that a driver's license was  
35 used for the purpose of such illegal purchase or attempt to illegally  
36 purchase; provided, however, that where a person is sentenced pursuant  
37 to paragraph (b) or (c) of subdivision three of this section, the court  
38 shall impose such license suspension if it is found that a driver's  
39 license was used for the purpose of such illegal purchase or attempt to  
40 illegally purchase:

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

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

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

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

51 7. (a) In any proceeding pursuant to subdivision one of section  
52 sixty-five of this article, it shall be an affirmative defense that such  
53 person had produced a driver's license or non-driver identification card  
54 apparently issued by a governmental entity, successfully completed the  
55 transaction scan, and that the alcoholic beverage or marihuana products  
56 had been sold, delivered or given to such person in reasonable reliance



1 upon such identification and transaction scan. In evaluating the appli-  
2 cability of such affirmative defense, the liquor authority shall take  
3 into consideration any written policy adopted and implemented by the  
4 seller to carry out the provisions of this chapter. Use of a transaction  
5 scan shall not excuse any licensee under this chapter, or agent or  
6 employee of such licensee, from the exercise of reasonable diligence  
7 otherwise required by this section. Notwithstanding the above  
8 provisions, any such affirmative defense shall not be applicable in any  
9 other civil or criminal proceeding, or in any other forum.

10 (b) A licensee or agent or employee of a licensee may electronically  
11 or mechanically record and maintain only the information from a trans-  
12 action scan necessary to effectuate the purposes of this section. Such  
13 information shall be limited to the following: (i) name, (ii) date of  
14 birth, (iii) driver's license or non-driver identification number, and  
15 (iv) expiration date. The liquor authority and the state commissioner of  
16 motor vehicles shall jointly promulgate any regulation necessary to  
17 govern the recording and maintenance of these records by a licensee  
18 under this chapter. The liquor authority and the commissioner of health  
19 shall jointly promulgate any regulations necessary to ensure quality  
20 control in the use of transaction scan devices.

21 8. A licensee or agent or employee of such licensee shall only use the  
22 information recorded and maintained through the use of such devices for  
23 the purposes contained in paragraph (a) of subdivision seven of this  
24 section, and shall only use such devices for the purposes contained in  
25 subdivision two of this section. No licensee or agent or employee of a  
26 licensee shall resell or disseminate the information recorded during  
27 such scan to any third person. Such prohibited resale or dissemination  
28 includes, but is not limited to, any advertising, marketing or promo-  
29 tional activities. Notwithstanding the restrictions imposed by this  
30 subdivision, such records may be released pursuant to a court ordered  
31 subpoena or pursuant to any other statute that specifically authorizes  
32 the release of such information. Each violation of this subdivision  
33 shall be punishable by a civil penalty of not more than one thousand  
34 dollars.

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

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

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

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

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

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

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

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

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

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

43 Question 7. Baseball park, racetrack, athletic field or stadium  
44 license. Shall a person be allowed to obtain a license which permits  
45 the sale of beer for a patron's consumption while the patron is within a  
46 baseball park, racetrack, or other athletic field or stadium where  
47 admission fees are charged?

48 Question 8. Marihuana retailer license. Shall a person be allowed to  
49 obtain a license to operate a retail marihuana store, to sell unopened  
50 marihuana products to a customer to be taken from the store for the  
51 customer to open and consume at another location (such as, for example,  
52 at his home)?

53 Question 9. On-premises marihuana retailer license. Shall a person be  
54 allowed to obtain a license to operate a facility where the service of  
55 food is only incidental and permits the facility operator to sell mari-

1 huana products for a customer to consume while the customer is within  
2 the facility?

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

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

36 § 30. Subdivision 3 of section 142 of the alcoholic beverage control  
37 law is amended to read as follows:

38 3. If a majority of the votes cast shall be in the negative on any or  
39 all of the questions, no person shall, after such election, sell alco-  
40 holic beverages or marihuana products in such city contrary to such vote  
41 or to the provisions of this chapter; provided, however, that the result  
42 of such vote shall not shorten the term for which any license may have  
43 been lawfully issued under this chapter or affect the rights of the  
44 licensee thereunder; and no person shall after such vote apply for or  
45 receive a license to sell alcoholic beverages or marihuana products at  
46 retail in such city contrary to such vote, until, by referendum as here-  
47 inafter provided for, such sale shall again become lawful.

48 § 31. Subdivision 2 of section 147 of the alcoholic beverage control  
49 law is amended to read as follows:

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

55 § 32. Article 11 and sections 160, 161, 162, 163 and 164 of the alco-  
56 holic beverage control law, article 11 and sections 160, 161, 162 and

1 163 as renumbered by chapter 725 of the laws of 1954, are renumbered  
2 article 12 and sections 200, 201, 202, 203 and 204.

3 § 33. The alcoholic beverage control law is amended by adding a new  
4 article 11 to read as follows:

5 ARTICLE 11

6 PROVISIONS RELATING TO MARIHUANA

7 Section 165. Licenses issued.

8 166. Producers and processors not to be interested in retailers.

9 167. Actions taken pursuant to a valid license are lawful.

10 168. General prohibitions and restrictions.

11 169. Certain officials not to be interested in manufacture or  
12 sale of marihuana.

13 170. Provisions governing initial rulemaking.

14 171. Provisions governing marihuana producers.

15 172. Provisions governing processors.

16 173. Provisions governing marihuana retailers.

17 174. Provisions governing marihuana retailers for consumption on  
18 premises.

19 175. Advertising and forms of the issuance of licenses.

20 176. Packaging of marihuana products.

21 177. Labeling of marihuana products.

22 178. Renewals of licenses and permits.

23 179. Information to be requested in applications for licenses or  
24 permits.

25 180. Notification to municipalities.

26 181. Licenses, publication, general provisions.

27 182. Revocation of licenses for cause.

28 183. Procedure for revocation or cancellation.

29 184. Decisions of liquor authority and review by the courts.

30 185. Minority and women business enterprises.

31 186. Disposition of moneys received for license fees.

32 187. Persons forbidden to traffic in marihuana.

33 188. Surrender of license; notice to police officials.

34 189. Authority to promulgate rules and regulations.

35 190. Protections for the use of marihuana.

36 191. Civil protections for the use of marihuana.

37 192. Professional and medical record keeping.

38 § 165. Licenses issued. The following kinds of licenses shall be  
39 issued by the authority for the manufacture and sale of marihuana:

40 1. marihuana producer license;

41 2. marihuana processor license;

42 3. marihuana retailer license;

43 4. marihuana retailer license for consumption on the premises; and

44 5. any other type of licenses allowed by the authority.

45 § 166. Producers and processors not to be interested in retailers.  
46 Neither a licensed producer nor a licensed processor shall have a direct  
47 or indirect financial interest in a licensed marihuana retailer or a  
48 marihuana retailer license for consumption on the premises.

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

1 1. Actions of a licensee, its employees, and its agents, as permitted  
2 by this chapter and consistent with rules and regulations of the author-  
3 ity, pursuant to a valid license issued by the authority.

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

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

12 4. The purchase, possession, or consumption of marihuana, as permitted  
13 by this chapter and consistent with rules and regulations of the author-  
14 ity, obtained from a validly licensed retailer.

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

20 2. (a) No person holding any license pursuant to this article to grow  
21 or process marihuana may employ any person who has been convicted of a  
22 class B violent felony offense, a class C violent felony offense, a  
23 class D violent felony offense, or a class E violent felony offense as  
24 defined by section 70.02 of the penal law, unless, subsequent to such  
25 conviction, the person has received: (i) an executive pardon therefor  
26 removing any civil disabilities incurred thereby; (ii) a certificate of  
27 relief from disabilities or a certificate of good conduct pursuant to  
28 article twenty-three of the correction law; (iii) other relief from  
29 disabilities provided by law; or (iv) the written approval of the liquor  
30 authority permitting such employment as provided in paragraph (b) of  
31 this subdivision.

32 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-  
33 sion, if the liquor authority issues its written approval for the  
34 employment by a licensee, in a specified capacity, of a person previous-  
35 ly convicted of a felony or any of the offenses above enumerated in  
36 paragraph (a) of this subdivision, such person, may, unless he or she is  
37 subsequently convicted of a felony or any of such offenses, thereafter  
38 be employed in the same capacity by any other licensee without the  
39 further written approval of the authority unless the prior approval  
40 given by the authority is terminated.

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

44 § 169. Certain officials not to be interested in manufacture or sale  
45 of marihuana. 1. Except as otherwise provided in section one hundred  
46 twenty-eight-a of this chapter, it shall be unlawful for any police  
47 commissioner, police inspector, captain, sergeant, roundsman, patrolman  
48 or other police official or subordinate of any police department in the  
49 state, to be either directly or indirectly interested in the manufacture  
50 or sale of marihuana or to offer for sale, or recommend to any licensee  
51 any marihuana. A person may not be denied any license granted under the  
52 provisions of sections fifty-four, fifty-five, fifty-nine, sixty-three,  
53 sixty-four, seventy-nine, eighty-one, or article seven of this chapter  
54 solely on the grounds of being the spouse of a public servant described  
55 in this subdivision. The solicitation or recommendation made to any  
56 licensee, to purchase any marihuana by any police official or subordi-

1 nate as hereinabove described, shall be presumptive evidence of the  
2 interest of such official or subordinate in the manufacture or sale of  
3 marihuana.

4 2. No elective village officer shall be subject to the limitations set  
5 forth in subdivision one of this section unless such elective village  
6 officer shall be assigned duties directly relating to the operation or  
7 management of the police department.

8 § 170. Provisions governing initial rulemaking. 1. Within two hundred  
9 forty days after the effective date of this article, the authority shall  
10 perform such acts, prescribe such forms and make such rules, regulations  
11 and orders as it may deem necessary or proper to fully effectuate the  
12 provisions of this article.

13 2. The authority shall promulgate necessary rules and regulations  
14 governing the licensing of marihuana producers, marihuana processors,  
15 marihuana retailers and marihuana retailers for consumption on the prem-  
16 ises, including:

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

19 (b) the qualifications for licensure;

20 (c) the books and records to be created and maintained by licensees,  
21 the reports to be made thereon to the authority, and inspection of the  
22 books and records;

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

27 (e) security requirements for marihuana retailers and premises where  
28 marihuana products are produced or processed, and safety protocols for  
29 licensees and their employees.

30 3. The liquor authority shall promulgate rules and regulations that  
31 are calculated to:

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

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

36 (c) prevent the diversion of marihuana from this state to other  
37 states;

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

41 (e) prevent violence and the use of firearms in the cultivation and  
42 distribution of marihuana;

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

45 (g) prevent the growing of marihuana on public lands and the attendant  
46 public safety and environmental dangers posed by marihuana production on  
47 public lands; and

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

49 4. Rules and regulations promulgated by the liquor authority pursuant  
50 to subdivision three of this section shall not prohibit the operation of  
51 marihuana establishments either expressly or through regulations that  
52 make their operation unreasonably impracticable.

53 5. The liquor authority, in consultation with the department of agri-  
54 culture and markets and the department of environmental conservation,  
55 shall promulgate necessary rules and regulations governing the safe

1 production of marihuana, including restrictions on the use of pesti-  
2 cides.

3 § 171. Provisions governing marihuana producers. 1. No producer shall  
4 sell, or agree to sell or deliver in the state any marihuana products,  
5 as the case may be, except in sealed containers containing quantities in  
6 accordance with size standards pursuant to rules adopted by the liquor  
7 authority. Such containers shall have affixed thereto such labels as may  
8 be required by the rules of the liquor authority, together with all  
9 necessary New York state excise tax stamps, as required by law.

10 2. No producer shall transport marihuana products in any vehicle owned  
11 and operated or hired and operated by such producer, unless there shall  
12 be attached to or inscribed upon both sides of such vehicle a sign,  
13 showing the name and address of the licensee, together with the follow-  
14 ing inscription: "New York State Marihuana Producer License Number ...,"  
15 in uniform letters not less than three and one-half inches in height. In  
16 lieu of such sign a producer may have in the cab of such vehicle a  
17 photostatic copy of its current license issued by the authority, and  
18 such copy duly authenticated by the authority.

19 3. No producer shall deliver any marihuana products, except in vehi-  
20 cles owned and operated by such producer, or hired and operated by such  
21 producer from a trucking or transportation company registered with the  
22 liquor authority, and shall only make deliveries at the licensed prem-  
23 ises of the purchaser.

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

37 5. No producer shall furnish or cause to be furnished to any licensee,  
38 any exterior or interior sign, printed, painted, electric or otherwise,  
39 except as authorized by the liquor authority. The liquor authority may  
40 make such rules as it deems necessary to carry out the purpose and  
41 intent of this subdivision.

42 § 172. Provisions governing processors. 1. No processor shall be  
43 engaged in any other business on the premises to be licensed; except  
44 that nothing contained in this chapter shall prevent a marihuana produc-  
45 er and a marihuana processor from operating on the same premises and  
46 from a person holding both licenses.

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

53 3. Each processor shall have painted on the front window of the  
54 licensed premises, or if there be no window, on a sign affixed to the  
55 front of the building containing said licensed premises, the name of the  
56 licensee together with the inscription, "New York State Marihuana

1 Processor or Marihuana Processor License Number ....."; as  
2 the case may be, in uniform letters not less than three and one-half  
3 inches in height.

4 4. No processor shall transport marihuana products in any vehicle  
5 owned and operated or hired and operated by such processor, unless there  
6 shall be attached to or inscribed upon both sides of such vehicle a  
7 sign, showing the name and address of the licensee, together with the  
8 following inscription: "New York State Marihuana Processor or Marihuana  
9 Processor License Number ....., " as the case may be, in  
10 uniform letters not less than three and one-half inches in height. In  
11 lieu of such sign, a processor may have in the cab of such vehicle a  
12 photostatic copy of its current license issued by the authority, and  
13 such copy duly authenticated by the authority.

14 5. No processor shall deliver any products, except in vehicles owned  
15 and operated by such processor, or hired and operated by such processor  
16 from a trucking or transportation company registered with the liquor  
17 authority, and shall only make deliveries at the licensed premises of  
18 the purchaser.

19 6. Each processor shall keep and maintain upon the licensed premises,  
20 adequate books and records of all transactions involving the business  
21 transacted by such processor, which shall show the amount of marihuana  
22 products, purchased by such processor together with the names, license  
23 numbers and places of business of the persons from whom the same was  
24 purchased and the amount involved in such purchases, as well as the  
25 amount of marihuana products sold by such processor together with the  
26 names, addresses, and license numbers of such purchasers. Each sale  
27 shall be recorded separately on a numbered invoice, which shall have  
28 printed thereon the number, the name of the licensee, the address of the  
29 licensed premises, and the current license number. Such processor shall  
30 deliver to the purchaser a true duplicate invoice stating the name and  
31 address of the purchaser, quantity purchased, description and the price  
32 of the product, and a true, accurate and complete statement of the terms  
33 and conditions on which such sale is made. Such books, records and  
34 invoices shall be kept for a period of two years and shall be available  
35 for inspection by any authorized representative of the liquor authority.

36 7. No processor shall furnish or cause to be furnished to any licen-  
37 see, any exterior or interior sign, printed, painted, electric or other-  
38 wise, unless authorized by the liquor authority.

39 § 173. Provisions governing marihuana retailers. 1. No retail license  
40 shall be granted for any premises, unless the applicant shall be the  
41 owner thereof, or shall be in possession of said premises under a lease,  
42 management agreement or other agreement giving the applicant control  
43 over the premises, in writing, for a term not less than the license  
44 period.

45 2. No premises shall be licensed to sell marihuana products, unless  
46 said premises shall be located in a store, the principal entrance to  
47 which shall be from the street level and located on a public thorough-  
48 fare in premises which may be occupied, operated or conducted for busi-  
49 ness, trade or industry or on an arcade or sub-surface thoroughfare  
50 leading to a railroad terminal. There may be not more than one addi-  
51 tional entrance which shall be from the street level and located on and  
52 giving access to and from a public or private parking lot or parking  
53 area having space for not less than five automobiles.

54 3. No marihuana retail license shall be granted for any premises which  
55 a license would not be allowed to sell at retail for consumption of  
56 alcohol off the premises based on its proximity to a building occupied



1 exclusively as a school, church, synagogue or other place of worship  
2 pursuant to the provisions of section one hundred five of this chapter.

3 4. No marihuana retail licensee shall offer for sale any marihuana  
4 products in any other container, except in the original sealed package,  
5 as received from the producer or processor. Such containers shall have  
6 affixed thereto such labels as may be required by the rules of the  
7 liquor authority, together with all New York state excise tax stamps, as  
8 required by law. Such containers shall not be opened nor its contents  
9 consumed on the premises where sold.

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

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

14 7. Each person licensed as a marihuana retailer shall have painted on  
15 the front window of the licensed premises, the name of the licensee  
16 together with the inscription, "New York State Retail Marihuana Store  
17 License Number . . . . .," as the case may be, in uniform letters not  
18 less than three and one-half inches in height.

19 8. No sign of any kind printed, painted or electric, advertising any  
20 brand shall be permitted on the exterior or interior of such premises,  
21 except by permission of the liquor authority.

22 9. No retail licensee shall transport marihuana products in any vehi-  
23 cle owned and operated or hired and operated by such retail licensee,  
24 except products transported to the home of a purchaser not to be resold  
25 by the purchaser, unless there shall be attached to or inscribed upon  
26 both sides of such vehicle a sign, showing the name and address of the  
27 licensee together with the following inscription, "New York State Retail  
28 Marihuana Store License Number. . . . .," as the case may be,  
29 in uniform letters not less than three and one-half inches in height,  
30 except deliveries may be made in passenger type vehicles owned by the  
31 licensee and operated by the licensee or his or her agent, or hired by  
32 the licensee and operated by the licensee or his or her agent, provided  
33 the person making the delivery shall have upon his or her person while  
34 so delivering a photostatic copy of the current license issued by the  
35 authority. In lieu of such sign, a retail licensee may have in the cab  
36 of such vehicle a photostatic copy of its current license issued by the  
37 authority, and such copy duly authenticated by the authority.

38 10. No retail licensee shall deliver any marihuana products except in  
39 vehicles owned and operated by such licensee, or hired and operated by  
40 such licensee from a trucking or transportation company registered with  
41 the liquor authority, and shall only make such deliveries at the prem-  
42 ises of the purchaser.

43 11. No retail licensee shall keep or permit to be kept upon the  
44 licensed premises, any marihuana products in any unsealed container.

45 12. No retail licensee shall sell or deliver any marihuana products to  
46 any person with knowledge of, or with reasonable cause to believe, that  
47 the person to whom such marihuana products, has acquired the same for  
48 the purpose of peddling them from place to place, or of selling or  
49 giving them away in violation of the provisions of this chapter or in  
50 violation of the rules and regulations of the liquor authority.

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

55 14. Each marihuana retail licensee shall keep and maintain upon the  
56 licensed premises, adequate books and records of all transactions

1 involving the business transacted by such licensee, which shall show the  
2 amount of marihuana products, purchased by such licensee together with  
3 the names, license numbers and places of business of the persons from  
4 whom the same were purchased, and the amount involved in such purchases,  
5 as well as the amount of marihuana products, sold by such licensee, and  
6 the amount involved in each sale. Such books and records shall be avail-  
7 able for inspection by any authorized representative of the liquor  
8 authority.

9 15. No marihuana retail licensee shall be interested, directly or  
10 indirectly, in any premises where marihuana products are produced or  
11 processed or any other premises where marihuana products are sold at  
12 retail, by stock ownership, interlocking directors, mortgage or lien on  
13 any personal or real property or by any other means.

14 16. No marihuana retail licensee shall make or cause to be made any  
15 loan to any person engaged in the production, processing or sale of  
16 marihuana products.

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

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

38 2. No marihuana retailer license for on-premises consumption shall be  
39 granted for any premises, unless the applicant shall be the owner there-  
40 of, or shall be in possession of said premises under a lease, in writ-  
41 ing, for a term not less than the license period except, however, that  
42 such license may thereafter be renewed without the requirement of a  
43 lease as herein provided. This subdivision shall not apply to premises  
44 leased from government agencies, as defined under subdivision twelve-c  
45 of section three of this chapter; provided, however, that the appropri-  
46 ate administrator of such government agency provides some form of writ-  
47 ten documentation regarding the terms of occupancy under which the  
48 applicant is leasing said premises from the government agency for pres-  
49 entation to the state liquor authority at the time of the license appli-  
50 cation. Such documentation shall include the terms of occupancy between  
51 the applicant and the government agency, including, but not limited to,  
52 any short-term leasing agreements or written occupancy agreements.

53 3. No marihuana retailer license for on-premises consumption shall be  
54 granted for any premises where a license would not be allowed to sell at  
55 retail for consumption of alcohol on the premises based on its proximity  
56 to a building occupied exclusively as a school, church, synagogue or

1 other place of worship pursuant to the provisions of section one hundred  
2 five of this chapter.

3 4. The authority may consider any or all of the following in determin-  
4 ing whether public convenience and advantage and the public interest  
5 will be promoted by the granting of licenses and permits for retail  
6 license for on-premises consumption at a particular unlicensed location:

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

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

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

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

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

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

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

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

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

52 8. No marihuana products shall be sold, offered for sale or given away  
53 upon any premises licensed to sell marihuana products for on-premises  
54 consumption, during the following hours: (a) Sunday, from four ante  
55 meridiem to twelve noon; or (b) on any other day between four ante meri-  
56 diem and eight ante meridiem. If approved by the authority or rule

1 having been adopted in a county, further restrictions of hours of sale  
2 for marihuana products shall be enforceable, such restricted hours shall  
3 be the hours, during which the sale of marihuana products for on-premises  
4 consumption shall not be permitted within such county. Nor shall any  
5 person be permitted to consume any marihuana products upon any such  
6 premises later than one-half hour after the start of the prohibited  
7 hours of sale provided for in this section.

8 9. No person licensed to sell marihuana products for on-premises  
9 consumption shall suffer or permit any gambling on the licensed prem-  
10 ises, or suffer or permit such premises to become disorderly. The use of  
11 the licensed premises, or any part thereof, for the sale of lottery  
12 tickets, playing of bingo or games of chance, or as a simulcast facility  
13 or simulcast theater pursuant to the racing, pari-mutuel wagering and  
14 breeding law, when duly authorized and lawfully conducted thereon, shall  
15 not constitute gambling within the meaning of this subdivision.

16 (a) No marihuana retail licensee for on-premises consumption shall  
17 suffer or permit any person to appear on licensed premises in such  
18 manner or attire as to expose to view any portion of the pubic area,  
19 anus, vulva or genitals, or any simulation thereof, nor shall suffer or  
20 permit any female to appear on licensed premises in such manner or  
21 attire as to expose to view any portion of the breast below the top of  
22 the areola, or any simulation thereof.

23 (b) No retail licensee for on-premises consumption shall suffer,  
24 permit or promote an event on its premises wherein the contestants  
25 deliver, or are not forbidden by the applicable rules thereof from  
26 delivering kicks, punches or blows of any kind to the body of an oppo-  
27 nent or opponents, whether or not the event consists of a professional  
28 match or exhibition, and whether or not the event or any such act, or  
29 both, is done for compensation; provided, however, that this prohibition  
30 shall not be applied to any professional match or exhibition which  
31 consists of boxing, sparring, wrestling, or martial arts and which is  
32 excepted from the definition of the term "combative sport" contained in  
33 subdivision one of section five-a of chapter nine hundred twelve of the  
34 laws of nineteen hundred twenty.

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

40 10. Except where a permit to do so is obtained pursuant to section  
41 405.10 of the penal law, no retail licensee for on-premises consumption  
42 shall suffer, permit, or promote an event on its premises wherein any  
43 person shall use, explode, or cause to explode, any fireworks or other  
44 pyrotechnics in a building as defined in paragraph e of subdivision one  
45 of section 405.10 of the penal law, that is covered by such license or  
46 possess such fireworks or pyrotechnics for such purpose. In addition to  
47 any other penalty provided by law, a violation of this subdivision shall  
48 constitute an adequate ground for instituting a proceeding to suspend,  
49 cancel, or revoke the license of the violator in accordance with the  
50 applicable procedures specified in section one hundred nineteen of this  
51 chapter; provided however, if more than one licensee is participating in  
52 a single event, upon approval by the authority, only one licensee must  
53 obtain such permit.

54 11. No restaurant and no premises licensed to sell marihuana products  
55 for on-premises consumption under paragraph (a) of subdivision six of  
56 section sixty-four-a of this chapter shall be permitted to have any

1 opening or means of entrance or passageway for persons or things between  
2 the licensed premises and any other room or place in the building  
3 containing the licensed premises, or any adjoining or abutting premises,  
4 unless ingress and egress is restricted by an employee, agent of the  
5 licensee, or other approved method of controlling access to the facili-  
6 ty, or unless such premises are a bona fide restaurant with such access  
7 for patrons and guests from any part of such building or adjoining or  
8 abutting premises as shall serve public convenience in a reasonable and  
9 suitable manner; or unless such licensed premises are in a building  
10 owned or operated by any county, town, city, village or public authority  
11 or agency, in a park or other similar place of public accommodation. All  
12 glass in any window or door on said licensed premises shall be clear and  
13 shall not be opaque, colored, stained or frosted.

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

19 13. Each retail licensee for on-premises consumption shall keep and  
20 maintain upon the licensed premises, adequate records of all trans-  
21 actions involving the business transacted by such licensee which shall  
22 show the amount of marihuana products, in an applicable metric measure-  
23 ment, purchased by such licensee together with the names, license  
24 numbers and places of business of the persons from whom the same were  
25 purchased, the amount involved in such purchases, as well as the sales  
26 of marihuana products made by such licensee. The liquor authority is  
27 hereby authorized to promulgate rules and regulations permitting an  
28 on-premises licensee operating two or more premises separately licensed  
29 to sell marihuana products for on-premises consumption to inaugurate or  
30 retain in this state methods or practices of centralized accounting,  
31 bookkeeping, control records, reporting, billing, invoicing or payment  
32 respecting purchases, sales or deliveries of marihuana products, or  
33 methods and practices of centralized receipt or storage of marihuana  
34 products within this state without segregation or earmarking for any  
35 such separately licensed premises, wherever such methods and practices  
36 assure the availability, at such licensee's central or main office in  
37 this state, of data reasonably needed for the enforcement of this chap-  
38 ter. Such records shall be available for inspection by any authorized  
39 representative of the liquor authority.

40 14. No retail licensee for on-premises consumption shall be inter-  
41 ested, directly or indirectly, in any premises where marihuana products  
42 are manufactured or sold at wholesale, by stock ownership, interlocking  
43 directors, mortgage or lien on any personal or real property or by any  
44 other means.

45 15. No retail licensee for on-premises consumption shall make or cause  
46 to be made any loan to any person engaged in the manufacture or sale of  
47 marihuana products at wholesale.

48 16. All retail licensed premises shall be subject to inspection by any  
49 peace officer, acting pursuant to his or her special duties, or police  
50 officer and by the duly authorized representatives of the liquor author-  
51 ity, during the hours when the said premises are open for the trans-  
52 action of business.

53 17. A retail licensee for on-premises consumption shall not provide  
54 marihuana products to any person under the age of twenty-one or to any  
55 person who is visibly impaired.

1 § 175. Advertising and forms of the issuance of licenses. 1. The  
2 liquor authority is hereby authorized to promulgate rules and regu-  
3 lations governing the advertising of marihuana producers, marihuana  
4 processors, marihuana retailers, and any marihuana related products or  
5 services.

6 2. The liquor authority shall promulgate explicit rules prohibiting  
7 advertising that:

8 (a) is false, deceptive, or misleading;

9 (b) promotes overconsumption;

10 (c) depicts consumption by children or other minors;

11 (d) is designed in any way to appeal to children or other minors;

12 (e) is within two hundred feet of the perimeter of a school grounds,  
13 playground, child care center, public park, or library;

14 (f) is in public transit vehicles and stations;

15 (g) is in the form of an unsolicited internet pop-up; or

16 (h) is on publicly owned or operated property.

17 § 176. Packaging of marihuana products. 1. The liquor authority is  
18 hereby authorized to promulgate rules and regulations governing the  
19 packaging of marihuana products, sold or possessed for sale in New York  
20 state.

21 2. Such regulations shall include requiring packaging meeting require-  
22 ments similar to the federal "poison prevention packaging act of 1970,"  
23 15 U.S.C. Sec 1471 et seq.

24 3. Such regulations shall require that all marihuana infused products  
25 shall have separate packaging for each serving.

26 § 177. Labeling of marihuana products. 1. The liquor authority is  
27 hereby authorized to promulgate rules and regulations governing the  
28 labeling and offering of marihuana products for sale within this state.

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

33 3. The liquor authority may seek the assistance of the department of  
34 health when necessary before promulgating rules and regulations under  
35 this section.

36 4. Such regulations shall include requiring labels warning consumers  
37 of any potential impact on human health resulting from the consumption  
38 of marihuana products that shall be affixed to those products when sold,  
39 if such labels are deemed warranted by the authority after consultation  
40 with the department of health.

41 5. Such rules and regulations shall establish methods and procedures  
42 for determining serving sizes for marihuana-infused products, active  
43 cannabis concentration per serving size, and number of servings per  
44 container. Such regulations shall also require a nutritional fact panel  
45 that incorporates data regarding serving sizes and potency thereof.

46 6. Such rules and regulations shall require information containing the  
47 license number of the marihuana producer and processor facilities where  
48 the marihuana was grown and processed.

49 7. Such rules and regulations shall require a complete list of all  
50 nonorganic pesticides, fungicides, and herbicides used during the culti-  
51 vation of the marihuana.

52 8. Such rules and regulations shall require a cannabinoid potency  
53 profile expressed as a range of percentages that extends from the lowest  
54 percentage to highest percentage of concentration for each cannabinoid  
55 listed from every test conducted on that strain of retail marihuana  
56 cultivated by the same marihuana producer within the last three months.

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

6 § 178. Renewals of licenses and permits. 1. Each license and permit,  
7 issued pursuant to this chapter may be renewed upon application therefor  
8 by the licensee or permittee and the payment of the annual fee for such  
9 license or permit as prescribed by this chapter. In the case of applica-  
10 tions for renewals, the liquor authority may dispense with the require-  
11 ments of such statements as it deems unnecessary in view of those  
12 contained in the application made for the original license or permit,  
13 but in any event the submission of photographs of the licensed premises  
14 shall be dispensed with, provided the applicant for such renewal shall  
15 file a statement with such authority to the effect that there has been  
16 no alteration of such premises since the original license was issued.  
17 The liquor authority may make such rules as may be necessary not incon-  
18 sistent with this chapter regarding applications for renewals of  
19 licenses and permits and the time for making the same.

20 2. The authority shall provide an application for renewal of a license  
21 issued under this article not less than sixty days prior to the expira-  
22 tion of the current license.

23 § 179. Information to be requested in applications for licenses or  
24 permits. 1. The following shall be the information required on an appli-  
25 cation for a license or permit:

26 (a) A statement of identity as follows:

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

31 (ii) If the applicant is a corporation, the corporate name of the  
32 applicant, its place of incorporation, its main business address (and if  
33 such main business address is not within the state, the address of its  
34 main place of business within the state), other names by which it has  
35 been known or has conducted business at any time, its telephone number,  
36 its federal employer identification number, and the names, ages, citi-  
37 zenship, and permanent home addresses of its directors, officers and its  
38 shareholders (except that if there be more than ten shareholders then  
39 those shareholders holding ten percent or more of any class of its  
40 shares).

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

47 (b) A statement identifying the street and number of the premises to  
48 be licensed, if the premises has a street and number, and otherwise such  
49 description as will reasonably indicate the locality thereof; photo-  
50 graphs, drawings or other items related to the appearance of the interi-  
51 or or exterior of such premises, and a floor plan of the interior, shall  
52 be required. The applicant shall also state the nature of his or her  
53 interest in the premises; and the name of any other person interested as  
54 a partner, joint venturer, investor or lender with the applicant either  
55 in the premises or in the business to be licensed.

1 (c) A description of any other marihuana license or permit under this  
2 chapter, within the past ten years, the applicant (including any offi-  
3 cers, directors, shareholders or partners listed in the statement of  
4 identity under paragraph (a) of this subdivision or the spouse of any  
5 such person) or the applicant's spouse held or applied for.

6 (d) A statement that such applicant or the applicant's spouse has not  
7 been convicted of a crime addressed by the provisions of section one  
8 hundred eighty-seven of this article which would forbid the applicant  
9 (including any officers, directors, shareholders or partners listed in  
10 the statement of identity under paragraph (a) of this subdivision or the  
11 spouse of such person) or the applicant's spouse to traffic in marihua-  
12 na, a statement whether or not the applicant (including any officers,  
13 directors, shareholders or partners listed in the statement of identity  
14 under paragraph (a) of this subdivision or the spouse of any such  
15 person) or the applicant's spouse is an official described in subdivi-  
16 sion two of section one hundred sixty-eight of this article, and a  
17 description of any crime that the applicant (including any officers,  
18 directors, shareholders or partners listed under paragraph (a) of this  
19 subdivision or the spouse of any such person) or the applicant's spouse  
20 has been convicted of and whether such person has received a pardon,  
21 certificate of good conduct or certificate of relief from disabilities;  
22 provided, however, that no person shall be denied any license solely on  
23 the grounds that such person is the spouse of a person otherwise  
24 disqualified from holding a license under this chapter.

25 (e) A statement that the location and layout of the premises to be  
26 licensed does not violate any requirement of this chapter relating to  
27 location and layout of licensed premises, with a copy of the certificate  
28 of occupancy for the premises.

29 (f) A statement that the applicant has control of the premises to be  
30 licensed by ownership of a fee interest or via a leasehold, management  
31 agreement, or other agreement giving the applicant control over the  
32 premises, with a term at least as long as the license for which the  
33 application is being made, or by a binding contract to acquire the same  
34 and a statement of identity under paragraph (a) of this subdivision for  
35 the lessor of any leasehold, manager of any management agreement, or  
36 other agreement giving the applicant control over the premises, with a  
37 copy of the lease, contract, management agreement, or other agreement  
38 giving the applicant control over the food and beverage at the premises,  
39 or deed evidencing fee ownership of the premises.

40 (g) A financial statement adequate to show all persons who, directly  
41 or indirectly have an economic interest in the establishment or acquisi-  
42 tion of the business for which the license or permit application is  
43 being made, to identify the sources of funds to be applied in such  
44 establishment or acquisition, and to describe the terms and conditions  
45 governing such establishment with copies of such financial documents as  
46 the authority may reasonably require.

47 (h) The fingerprints of the applicants. Fingerprints submitted by the  
48 applicants shall be transmitted to the division of criminal justice  
49 services and may be submitted to the federal bureau of investigation for  
50 state and national criminal history record checks.

51 2. All license or permit applications shall be signed by the applicant  
52 (if an individual), by an officer (if a corporation), or by all partners  
53 (if a partnership). Each person signing such application shall verify it  
54 or affirm it as true under the penalties of perjury.



1 3. All license or permit applications shall be accompanied by a check,  
2 draft or other forms of payment as the authority may require or author-  
3 ize in the amount required by this article for such license or permit.

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

11 5. In giving any notice, or taking any action in reference to a licen-  
12 see of a licensed premises, the authority may rely upon the information  
13 furnished in such application and in any supplemental statement  
14 connected therewith, and such information may be presumed to be correct,  
15 and shall be binding upon a licensee or licensed premises as if correct.  
16 All information required to be furnished in such application or supple-  
17 mental statements shall be deemed material in any prosecution for perju-  
18 ry, any proceeding to revoke, cancel or suspend any license, and in the  
19 authority's determination to approve or deny the license.

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

25 § 180. Notification to municipalities. 1. Not less than thirty days  
26 before filing any of the following applications, an applicant shall  
27 notify the municipality in which the premises is located of such appli-  
28 cant's intent to file such an application:

- 29 (a) for a marihuana producer;  
30 (b) for a marihuana processor license;  
31 (c) for a marihuana retailer license; and/or  
32 (d) for a marihuana retailer license for on-premises consumption.

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

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

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

42 3. For purposes of this section, "substantial corporate change" shall  
43 mean:

44 (a) for a corporation, a change of eighty percent or more of the offi-  
45 cers and/or directors, or a transfer of eighty percent or more of stock  
46 of such corporation, or an existing stockholder obtaining eighty percent  
47 or more of the stock of such corporation; and

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

53 4. Such notification shall be made in such form as shall be prescribed  
54 by the rules of the liquor authority.

55 5. A municipality may express an opinion for or against the granting  
56 of such application. Any such opinion shall be deemed part of the record

1 upon which the liquor authority makes its determination to grant or deny  
2 the application.

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

6 7. The liquor authority shall require such notification to be on a  
7 standardized form that can be obtained on the internet or from the  
8 liquor authority and such notification to include:

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

11 (b) the full name of the applicant;

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

14 (d) the mailing address of the establishment, if different than the  
15 street address;

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

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

19 (i) a new establishment;

20 (ii) a transfer of an existing licensed business;

21 (iii) a renewal of an existing license; or

22 (iv) an alteration of an existing licensed premises;

23 (g) if the establishment is a transfer or previously licensed prem-  
24 ises, the name of the old establishment and such establishment's license  
25 serial number;

26 (h) in the case of a renewal or alteration application, the license  
27 serial number of the applicant; and

28 (i) the type of license.

29 § 181. Licenses, publication, general provisions. 1. The various types  
30 of licenses issued pursuant to this chapter shall be distinctive in  
31 color and design so as to be readily distinguishable from each other.

32 2. No license shall be transferable or assignable except that notwith-  
33 standing any other provision of law, the license of a sole proprietor  
34 converting to corporate form, where such proprietor becomes the sole  
35 stockholder and only officer and director of such new corporation, may  
36 be transferred to the subject corporation if all requirements of this  
37 chapter remain the same with respect to such license as transferred and,  
38 further, the licensee shall transmit to the authority, within ten days  
39 of the transfer of license allowable under this subdivision, on a form  
40 prescribed by the authority, notification of the transfer of such  
41 license.

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

45 4. Licenses issued under this article shall contain, in addition to  
46 any further information or material to be prescribed by the rules of the  
47 liquor authority, the following information: (a) name of person to whom  
48 license is issued; (b) kind of license and what kind of traffic in mari-  
49 huana is thereby permitted; (c) description by street and number, or  
50 otherwise, of licensed premises; and (d) a statement in substance that  
51 such license shall not be deemed a property or vested right, and that it  
52 may be revoked at any time pursuant to law.

53 5. There shall be printed and furnished by the liquor authority to  
54 each licensee a statement of the causes for which licenses may be  
55 revoked. Such statement shall be prepared by the liquor authority and  
56 delivered to the licensee with his or her license or as soon thereafter

1 as may be practicable. Any amendments thereto shall also be sent by the  
2 liquor authority to all licensees as soon as may be practicable after  
3 such amendments. Failure to send such statements or changes therein, or  
4 failure to receive the same, or any misstatement or error contained in  
5 such statements or amendments shall, however, not be an excuse or justi-  
6 fication for any violation of law, or prevent, or remit, or decrease any  
7 penalty or forfeiture therefor.

8 6. Before commencing or doing any business for the time for which a  
9 license has been issued said license shall be enclosed in a suitable  
10 wood or metal frame having a clear glass space and a substantial wood or  
11 metal back so that the whole of said license may be seen therein, and  
12 shall be posted up and at all times displayed in a conspicuous place in  
13 the room where such business is carried on, so that all persons visiting  
14 such place may readily see the same. It shall be unlawful for any person  
15 holding a license to post such license or to permit such license to be  
16 posted upon premises other than the premises licensed, or upon premises  
17 where traffic in marihuana is being carried on by any person other than  
18 the licensee, or knowingly to deface, destroy or alter any such license  
19 in any respect. Whenever a license shall be lost or destroyed without  
20 fault on the part of the licensee or his or her agents or employees, a  
21 duplicate license in lieu thereof may be issued by the liquor authority  
22 in its discretion and in accordance with such rules and regulations and  
23 the payment of such fees, not exceeding five dollars, as it may  
24 prescribe.

25 § 182. Revocation of licenses for cause. 1. Any license or permit  
26 issued pursuant to this article may be revoked, cancelled, suspended  
27 and/or subjected to the imposition of a civil penalty for cause, and  
28 must be revoked for the following causes:

29 (a) Conviction of the licensee, permittee or his or her agent or  
30 employee for selling any illegal marihuana on the premises licensed.

31 (b) For transferring, assigning or hypothecating a license or permit.

32 2. Notwithstanding the issuance of a license or permit by way of  
33 renewal, the liquor authority may revoke, cancel or suspend such license  
34 or permit and/or may impose a civil penalty against any holder of such  
35 license or permit, as prescribed by this section and section one hundred  
36 nineteen of this chapter, for causes or violations occurring during the  
37 license period immediately preceding the issuance of such license or  
38 permit, and may recover, as provided in section one hundred twelve of  
39 this chapter, the penal sum of the bond on file during said period.

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

46 4. The existence of a sustained and continuing pattern of noise,  
47 disturbance, misconduct, or disorder on or about the licensed premises,  
48 related to the operation of the premises or the conduct of its patrons,  
49 will be presumed upon the sixth incident reported to the authority by a  
50 law enforcement agency of noise or disturbance or misconduct or disorder  
51 on or about the licensed premises or related to the operation of the  
52 premises or the conduct of its patrons, in any sixty day period, absent  
53 clear and convincing evidence of either fraudulent intent on the part of  
54 any complainant or a factual error with respect to the content of any  
55 report concerning such complaint relied upon by the authority.

1     § 183. Procedure for revocation or cancellation. 1. Any license or  
2 permit issued by the liquor authority pursuant to this article may be  
3 revoked, cancelled or suspended and/or be subjected to the imposition of  
4 a monetary penalty in the manner prescribed by this section.

5     2. The liquor authority may on its own initiative or on complaint of  
6 any person institute proceedings to revoke, cancel or suspend any retail  
7 license and may impose a civil penalty against the licensee after a  
8 hearing at which the licensee shall be given an opportunity to be heard.  
9 Such hearing shall be held in such manner and upon such notice as may be  
10 prescribed by the rules of the liquor authority.

11     3. All other licenses or permits issued under this chapter may be  
12 revoked, cancelled, suspended and/or made subject to the imposition of a  
13 civil penalty by the liquor authority after a hearing to be held in the  
14 manner to be determined by the rules of the liquor authority.

15     4. (a) The provisions of this subdivision shall apply in all cases of  
16 licensee or permittee failure after receiving appropriate notice, to  
17 comply with a summons, subpoena or warrant relating to a paternity or  
18 child support proceeding and arrears in payment of child support or  
19 combined child and spousal support referred to the authority by a court  
20 pursuant to the requirements of section two hundred forty-four-c of the  
21 domestic relations law or pursuant to section four hundred fifty-eight-b  
22 or five hundred forty-eight-b of the family court act.

23     (b) Upon receipt of an order from the court based on arrears in  
24 payment of child support or combined child and spousal support pursuant  
25 to one of the foregoing provisions of law, the authority, if it finds  
26 such person to have been issued a license or permit, shall within thirty  
27 days of receipt of such order from the court, provide notice to the  
28 licensee or permittee of, and initiate, a hearing which shall be held at  
29 least twenty days and no more than thirty days after the sending of such  
30 notice to the licensee or permittee. The hearing shall be solely held  
31 for the purpose of determining whether there exists as of the date of  
32 the hearing proof that full payment of all arrears of support estab-  
33 lished by the order of the court to be due from the licensee or permit-  
34 tee have been paid. Proof of such payment shall be a certified check  
35 showing full payment of established arrears or a notice issued by the  
36 court or the support collection unit, where the order is payable to the  
37 support collection unit designated by the appropriate social services  
38 district. Such notice shall state that full payment of all arrears of  
39 support established by the order of the court to be due have been paid.  
40 The licensee or permittee shall be given full opportunity to present  
41 such proof of payment at the hearing in person or by counsel. The only  
42 issue to be determined by the authority as a result of the hearing is  
43 whether the arrears have been paid. No evidence with respect to the  
44 appropriateness of the court order or ability of the respondent party in  
45 arrears to comply with such order shall be received or considered by the  
46 authority.

47     (c) Notwithstanding any inconsistent provision of this article or of  
48 any other provision of law to the contrary, such license or permit shall  
49 be suspended if at the hearing, provided for by paragraph (b) of this  
50 subdivision, the licensee or permittee fails to present proof of payment  
51 as required by such subdivision. Such suspension shall not be lifted  
52 unless the court or the support collection unit, where the court order  
53 is payable to the support collection unit designated by the appropriate  
54 social services district, issues notice to the authority that full  
55 payment of all arrears of support established by the order of the court  
56 to be due have been paid.

1 (d) Upon receipt of an order from the court based on failure to comply  
2 with a summons, subpoena, or warrant relating to a paternity or child  
3 support proceeding, the authority, if it finds such person has been  
4 issued a license or permit, shall within thirty days of receipt of such  
5 order from the court, provide notice to the licensee or permittee that  
6 his or her license shall be suspended in sixty days unless the condi-  
7 tions in paragraph (e) of this subdivision are met.

8 (e) Notwithstanding any inconsistent provision of this article or of  
9 any other provision of law to the contrary, such license or permit shall  
10 be suspended in accordance with the provisions of paragraph (c) of this  
11 subdivision unless the court terminates its order to commence suspension  
12 proceedings. Such suspension shall not be lifted unless the court issues  
13 an order to the authority terminating its order to commence suspension  
14 proceedings.

15 (f) The authority shall inform the court of all actions taken here-  
16 under as required by law.

17 (g) This subdivision applies to support obligations paid pursuant to  
18 any order of child support or child and spousal support issued under  
19 provisions of section two hundred thirty-six or two hundred forty of the  
20 domestic relations law, or article four, five or five-A of the family  
21 court act.

22 (h) Notwithstanding any inconsistent provision of this article or of  
23 any other provision of law to the contrary, the provisions of this  
24 subdivision shall apply to the exclusion of any other requirements of  
25 this article and to the exclusion of any other requirement of law to the  
26 contrary.

27 5. Where a licensee is convicted of two or more qualifying offenses  
28 within a five year period, the authority, upon receipt of notification  
29 of such second or subsequent conviction pursuant to the provisions of  
30 subdivision two of section one hundred six-a of this chapter, shall, in  
31 addition to any other sanction or civil or criminal penalty imposed  
32 pursuant to this chapter, impose on such licensee a civil penalty not to  
33 exceed five hundred dollars. For purposes of this subdivision, a quali-  
34 fying offense shall mean: (a) the offense defined in subdivision one of  
35 section sixty-five of this chapter; or (b) the offense defined in para-  
36 graph (b) of subdivision one of section sixty-five-b of this chapter.  
37 For purposes of this subdivision, a conviction of a licensee or an  
38 employee or agent of such licensee shall constitute a conviction of such  
39 licensee.

40 § 184. Decisions of liquor authority and review by the courts.  
41 Provisions of sections one hundred twenty, one hundred twenty-one and  
42 one hundred twenty-four of this chapter shall apply to marihuana  
43 licenses issued under this article.

44 § 185. Minority and women business enterprises. The liquor authority  
45 shall:

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

48 2. encourage applicants who qualify as a minority and/or women busi-  
49 ness enterprise, as defined in section three hundred ten of the execu-  
50 tive law, to apply for licenses; and

51 3. in accordance with the Official Compilation of Codes, Rules and  
52 Regulations of the State of New York Title 5, Department of Economic  
53 Development, Chapter XIV, Division of Minority and Women's Business  
54 Development, Part 141, submit an annual master goal plan to promote the  
55 inclusion of: (a) minority-owned business enterprises; (b) women-owned

1 business enterprises; and (c) minority- and women-owned business enter-  
2 prises with justifications for such goals.

3 § 186. Disposition of moneys received for license fees. The moneys  
4 received for license fees for marihuana producer licenses, marihuana  
5 processor licenses, and marihuana retailer licenses provided for in this  
6 chapter shall be turned over by the liquor authority to the state comp-  
7 troller. It shall be placed by the state comptroller in the fund derived  
8 from the proceeds of the taxes on marihuana provided for in article  
9 eighteen-A of the tax law and become a part thereof and be subject to  
10 all of the provisions of law relating to such fund.

11 § 187. Persons forbidden to traffic in marihuana. The following  
12 persons are forbidden to traffic in marihuana:

13 1. Except as provided in subdivision one-a of this section, a person  
14 who has been convicted of a class B violent felony offense, a class C  
15 violent felony offense, a class D violent felony offense, or a class E  
16 violent felony offense as defined by section 70.02 of the penal law,  
17 unless subsequent to such conviction such person shall have received an  
18 executive pardon therefor removing this disability, a certificate of  
19 good conduct granted by the department of corrections and community  
20 supervision, 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.

25 1-a. Notwithstanding the provision of subdivision one of this section,  
26 a corporation holding a license to traffic in marihuana shall not, upon  
27 conviction of a felony or any of the misdemeanors or offenses described  
28 in subdivision one of this section, be automatically forbidden to traf-  
29 fic in marihuana, but the application for a license by such a corpo-  
30 ration shall be subject to denial, and the license of such a corporation  
31 shall be subject to revocation or suspension by the authority pursuant  
32 to section one hundred eighteen of this chapter, consistent with the  
33 provisions of article twenty-three-A of the correction law. For any  
34 felony conviction by a court other than a court of this state, the  
35 authority may request the department of corrections and community super-  
36 vision to investigate and review the facts and circumstances concerning  
37 such a conviction, and such department shall, if so requested, submit  
38 its findings to the authority as to whether the corporation has  
39 conducted itself in a manner such that discretionary review by the  
40 authority would not be inconsistent with the public interest. The  
41 department of corrections and community supervision may charge the  
42 licensee or applicant a fee equivalent to the expenses of an appropriate  
43 investigation under this subdivision. For any conviction rendered by a  
44 court of this state, the authority may request the corporation, if the  
45 corporation is eligible for a certificate of relief from disabilities,  
46 to seek such a certificate from the court which rendered the conviction  
47 and to submit such a certificate as part of the authority's discretion-  
48 ary review process.

49 2. A person under the age of twenty-one years.

50 3. A person who is not a citizen of the United States or an alien  
51 lawfully admitted for permanent residence in the United States.

52 4. A co-partnership or a corporation, unless each member of the part-  
53 nership, or each of the principal officers and directors of the corpo-  
54 ration, is a citizen of the United States or an alien lawfully admitted  
55 for permanent residence in the United States, not less than twenty-one  
56 years of age, and has not been convicted of any felony or any of the

1 misdemeanors, specified in section 230.20 or 230.40 of the penal law, or  
2 if so convicted has received, subsequent to such conviction, an execu-  
3 tive pardon therefor removing this disability a certificate of good  
4 conduct granted by the department of corrections and community super-  
5 vision, or a certificate of relief from disabilities granted by the  
6 department of corrections and community supervision or a court of this  
7 state pursuant to the provisions of article twenty-three of the  
8 correction law to remove the disability under this section because of  
9 such conviction; provided however that a corporation which otherwise  
10 conforms to the requirements of this section and chapter may be licensed  
11 if each of its principal officers and more than one-half of its direc-  
12 tors are citizens of the United States or aliens lawfully admitted for  
13 permanent residence in the United States; and provided further that a  
14 corporation organized under the not-for-profit corporation law or the  
15 education law which otherwise conforms to the requirements of this  
16 section and chapter may be licensed if each of its principal officers  
17 and more than one-half of its directors are not less than twenty-one  
18 years of age and none of its directors are less than eighteen years of  
19 age; and provided further that a corporation organized under the not-  
20 for-profit corporation law or the education law and located on the prem-  
21 ises of a college as defined by section two of the education law which  
22 otherwise conforms to the requirements of this section and chapter may  
23 be licensed if each of its principal officers and each of its directors  
24 are not less than eighteen years of age.

25 5. (a) A person who shall have had any license issued under this chap-  
26 ter revoked for cause, until the expiration of two years from the date  
27 of such revocation.

28 (b) A person not licensed under the provisions of this chapter, who  
29 has been convicted of a violation of this chapter, until the expiration  
30 of two years from the date of such conviction.

31 6. A corporation or co-partnership, if any officer and director or any  
32 partner, while not licensed under the provisions of this chapter, has  
33 been convicted of a violation of this chapter, or has had a license  
34 issued under this chapter revoked for cause, until the expiration of two  
35 years from the date of such conviction or revocation.

36 § 188. Surrender of license; notice to police officials. Within three  
37 days after a license shall have been revoked pursuant to this chapter,  
38 notice thereof shall be given to the licensee by mailing such notice  
39 addressed to him at the premises licensed. Notice shall also be mailed  
40 to the owner of the premises licensed. The holder of such license shall  
41 thereupon surrender same to the liquor authority. The mailing thereof by  
42 the licensee to the liquor authority by registered mail or insured  
43 parcel post shall be deemed sufficient compliance with this section. The  
44 liquor authority, immediately upon giving notice of revocation, shall  
45 serve a written notice thereof upon the commissioner of police, chief of  
46 police or chief police officer of the city, or village in which the  
47 premises for which the revoked license was issued is situated, or upon  
48 the sheriff of the county or a constable of the town in case the license  
49 was issued for premises situated in a town and not within any city or  
50 village. Such notice shall include a statement of the number of such  
51 license, the name and place of residence of the holder thereof, the  
52 location of the licensed premises, and the date when such license was  
53 revoked. In case such license be not forthwith surrendered, the liquor  
54 authority shall issue a written demand for the surrender of such license  
55 and deliver said demand to the sheriff of the county in which the  
56 licensed premises are located, or to any representative of the liquor

1 authority, and said sheriff or representative shall immediately take  
2 possession of such license and return the same to the liquor authority.

3 § 189. Authority to promulgate rules and regulations. The liquor  
4 authority shall promulgate and implement all rules and regulations as it  
5 deems necessary to carry out the purpose and intent of this article.

6 § 190. Protections for the use of marihuana. Individuals and licensed  
7 entities shall not be subject to arrest, prosecution, or penalty in any  
8 manner, or denied any right or privilege, including but not limited to  
9 civil liability or disciplinary action by a business or occupational or  
10 professional licensing board or bureau, solely for conduct permitted  
11 under this chapter. For the avoidance of doubt, the appellate division  
12 of the supreme court of the state of New York, and any disciplinary or  
13 character and fitness committees established by them are occupational  
14 and professional licensing boards within the meaning of this section.  
15 State or local law enforcement agencies shall not cooperate with or  
16 provide assistance to the government of the United States or any agency  
17 thereof in enforcing the Controlled Substance Act, 21, U.S.C. §8012 et  
18 seq., solely for actions consistent with this chapter, except as pursu-  
19 ant to a valid court order.

20 § 191. Civil protections for the use of marihuana. The presence,  
21 detected or established by any means of cannabinoids, cannabinoid meta-  
22 bolites or other chemicals found in marihuana in the body, fluids,  
23 tissues or other body parts of a person engaged in conduct permitted  
24 under this chapter by:

25 1. a student, employee, or tenant, shall not form the basis for  
26 refusal to enroll or employ or lease to or otherwise penalize that  
27 person, unless failing to do so would put the school, employer, or land-  
28 lord in violation of federal law or cause it to lose a federal contract  
29 or funding;

30 2. a patient, shall not constitute the use of an illicit substance  
31 resulting in denial of medical care, including organ transplant, and a  
32 patient's use of marihuana may only be considered with respect to  
33 evidence-based clinical criteria; and

34 3. a parent or legal guardian of a child or newborn infant, or a preg-  
35 nant woman, shall not form the sole or primary basis for any action or  
36 proceeding by a child welfare agency under title one of article six of  
37 the social services law, or a family court under article ten of the  
38 family court act.

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

50 § 34. The tax law is amended by adding a new article 18-A to read as  
51 follows:

52 ARTICLE 18-A

53 PROVISIONS RELATING TO MARIHUANA

54 Section 446. Definitions.

55 447. Taxes imposed.

56 448. Surety bond.



1           449. Collection of tax.

2           450. Fund.

3           450-a. Local taxes on marihuana by a city or town.

4           450-b. Ordinary and necessary expenses deductible from net  
5           income.

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

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

14        2. "Marihuana" means all parts of the plant of the genus Cannabis,  
15 whether growing or not; the seeds thereof; the resin extracted from any  
16 part of the plant; and every compound, manufacture, salt, derivative,  
17 mixture, or preparation of the plant, its seeds or resin. It does not  
18 include the mature stalks of the plant, fiber produced from the stalks,  
19 oil or cake made from the seeds of the plant, any other compound, manu-  
20 facture, salt, derivative, mixture, or preparation of the mature stalks  
21 (except the resin extracted therefrom), fiber, oil, or cake, or the  
22 sterilized seed of the plant which is incapable of germination. It does  
23 not include all parts of the plant Cannabis sativa L., whether growing  
24 or not, having no more than three-tenths of one percent tetrahydrocanna-  
25 binol (THC).

26        3. "Marihuana consumer" means a person twenty-one years of age or  
27 older who purchased marihuana or marihuana products for personal use by  
28 persons twenty-one years of age or older, but not for resale to others.

29        4. "Marihuana processor" means a person licensed by the state liquor  
30 authority to purchase marihuana and concentrated cannabis from marihuana  
31 producers, to process marihuana, concentrated cannabis, and marihuana  
32 infused products, package and label marihuana, concentrated cannabis and  
33 marihuana infused products for sale in retail outlets, and sell marihua-  
34 na, concentrated cannabis and marihuana infused products at wholesale to  
35 marihuana retailers.

36        5. "Marihuana producer" means a person licensed by the state liquor  
37 authority to produce, process, and sell marihuana and concentrated  
38 cannabis at wholesale to marihuana processors, marihuana retailers, or  
39 other marihuana producers, but not to consumers.

40        6. "Marihuana products" means marihuana, concentrated cannabis, and  
41 marihuana infused products.

42        7. "Marihuana-infused products" means products that contain marihuana,  
43 marihuana extracts, or concentrated cannabis and are intended for human  
44 use or consumption, such as, but not limited to, edible products, oint-  
45 ments, and tinctures.

46        8. "Immature marihuana plant" means a marihuana plant with no observa-  
47 ble flowers or buds.

48        9. "Marihuana retailer" means a person licensed by the state liquor  
49 authority to purchase marihuana, concentrated cannabis, and marihuana-  
50 infused products from marihuana producers and marihuana processors and  
51 sell marihuana, marihuana infused products, and concentrated cannabis in  
52 a retail outlet.

53        10. "Marihuana retailer for on-premises consumption" means a person  
54 licensed by the state liquor authority to purchase marihuana, concen-  
55 trated cannabis, and marihuana infused products from marihuana produc-  
56 ers, marihuana retailers and marihuana processors and sell marihuana

1 products for a customer to consume while the customer is within the  
2 facility.

3 § 447. Taxes imposed. 1. (a) An excise tax is hereby levied upon mari-  
4 huana sold or otherwise transferred from a marihuana processor to a  
5 retail marihuana store at a rate of:

6 (1) fifteen percent of the price at transfer; and

7 (2)(A) thirty-five dollars per ounce on all marihuana flowers;

8 (B) ten dollars per ounce on marihuana leaves; and

9 (C) five dollars per immature marihuana plant.

10 (b) Taxes on concentrated cannabis shall be calculated based on the  
11 weight of the product used to create the concentrate. In the event that  
12 a person holds both a marihuana producer license and a marihuana proces-  
13 sors license, the excise tax shall be levied at the time of sale to a  
14 marihuana retailer or marihuana retailer for on-premises consumption at  
15 the same rate based on content of marihuana or concentrated cannabis  
16 contained in the product sold.

17 2. For reporting periods beginning on or after July first, two thou-  
18 sand seventeen, the rates of tax under subdivision one of this section  
19 shall be adjusted for each biennium according to the cost-of-living  
20 adjustment for the calendar year. The department shall re-compute the  
21 rates for each biennium by adding to each rate in subdivision one of  
22 this section the product obtained by multiplying the rate by a factor  
23 that is equal to 0.25 multiplied by the percentage (if any) by which the  
24 monthly averaged U.S. City Average Consumer Price Index for the twelve  
25 consecutive months ending August thirty-first of the prior calendar year  
26 exceeds the monthly averaged U.S. City Average Consumer Price Index for  
27 the twelve consecutive months ending August thirty-first, two thousand  
28 fifteen.

29 3. The department shall regularly review the rates of the tax under  
30 subdivision one of this section and make recommendations to the legisla-  
31 ture regarding appropriate adjustments to the rates that will further  
32 the purposes of:

33 (a) maximizing net revenue;

34 (b) minimizing the illegal marihuana industry; and

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

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

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

45 § 450. Fund. Proceeds from the tax shall be given to the state comp-  
46 troller for placement in a fund that shall be known as a marihuana  
47 revenue fund. Fifteen percent of the revenue collected in the marihuana  
48 revenue fund shall be divided equally between (a) the division of crimi-  
49 nal justice services for re-entry support services for individuals  
50 released from prison after serving time for drug related offenses; (b)  
51 the office of alcoholism and substance abuse services for drug abuse  
52 prevention and treatment programs; and (c) the department of labor for  
53 apprenticeship and job training programs targeting, with preference  
54 given to programs targeting census tracts with a poverty rate of at  
55 least twenty percent or an unemployment rate of at least one and one  
56 quarter times the New York state unemployment rate. The remainder of the

1 revenue collected from this tax shall go into the general fund. For the  
2 first five years of the fund, ten percent of the annual proceeds  
3 collected in the marihuana revenue fund shall be provided to the state  
4 liquor authority for program administration costs.

5 § 450-a. Local taxes on marihuana by a city or town. Any city or town  
6 in this state, acting through its local legislative body, is hereby  
7 authorized and empowered to adopt and amend local laws imposing in any  
8 such city or town a sales tax on marihuana retailers at a rate of five  
9 percent of the sale price of marihuana products sold to a marihuana  
10 consumer. Any taxes imposed pursuant to the authority of this section  
11 shall be administered and collected by the tax commission in the same  
12 manner as the taxes imposed under section four hundred forty-nine of  
13 this article. The commissioner is hereby empowered to make such  
14 provisions as it deems necessary for the joint administration and  
15 collection of the state and local taxes imposed and authorized by this  
16 article.

17 § 450-b. Ordinary and necessary expenses deductible from net income.  
18 Notwithstanding any federal tax law to the contrary, in computing net  
19 income for businesses exempted from criminal penalties under articles  
20 two hundred twenty and two hundred twenty-one of the penal law and arti-  
21 cle eleven of the alcoholic beverage control law, there shall be allowed  
22 as a deduction from state taxes all the ordinary and necessary expenses  
23 paid or incurred during the taxable year in carrying on any trade or  
24 business, including, but not limited to, reasonable allowance for sala-  
25 ries or other compensation for personal services actually rendered.

26 § 35. Paragraphs (i), (j) and (k) of subdivision 3 of section 160.50  
27 of the criminal procedure law, paragraphs (i) and (j) as added by chap-  
28 ter 905 of the laws of 1977 and paragraph (k) as added by chapter 835 of  
29 the laws of 1977 and as relettered by chapter 192 of the laws of 1980,  
30 are amended to read as follows:

31 (i) prior to the filing of an accusatory instrument in a local crimi-  
32 nal court against such person, the prosecutor elects not to prosecute  
33 such person. In such event, the prosecutor shall serve a certification  
34 of such disposition upon the division of criminal justice services and  
35 upon the appropriate police department or law enforcement agency which,  
36 upon receipt thereof, shall comply with the provisions of paragraphs  
37 (a), (b), (c) and (d) of subdivision one of this section in the same  
38 manner as is required thereunder with respect to an order of a court  
39 entered pursuant to said subdivision one[~~r~~]; or

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

50 (k) (i) The accusatory instrument alleged a violation of article two  
51 hundred twenty or section 240.36 of the penal law, prior to the taking  
52 effect of article two hundred twenty-one of the penal law, or a  
53 violation of article two hundred twenty-one of the penal law; (ii) the  
54 sole controlled substance involved is [~~marijuana~~ marihuana; and (iii)  
55 the conviction was only for a violation or violations[~~r~~ and (iv) at  
56 ~~least three years have passed since the offense occurred~~].

1 § 36. Subdivision 1 of section 170.56 of the criminal procedure law,  
2 as amended by chapter 360 of the laws of 1977, is amended to read as  
3 follows:

4 1. Upon or after arraignment in a local criminal court upon an infor-  
5 mation, a prosecutor's information or a misdemeanor complaint, where the  
6 sole remaining count or counts charge a violation or violations of  
7 section 221.05, [~~221.10,~~] 221.15, 221.35 or 221.40 of the penal law and  
8 before the entry of a plea of guilty thereto or commencement of a trial  
9 thereof, the court, upon motion of a defendant, may order that all  
10 proceedings be suspended and the action adjourned in contemplation of  
11 dismissal, or upon a finding that adjournment would not be necessary or  
12 appropriate and the setting forth in the record of the reasons for such  
13 findings, may dismiss in furtherance of justice the accusatory instru-  
14 ment; provided, however, that the court may not order such adjournment  
15 in contemplation of dismissal or dismiss the accusatory instrument if:  
16 (a) the defendant has previously been granted such adjournment in  
17 contemplation of dismissal, or (b) the defendant has previously been  
18 granted a dismissal under this section, or (c) the defendant has previ-  
19 ously been convicted of any offense involving controlled substances, or  
20 (d) the defendant has previously been convicted of a crime and the  
21 district attorney does not consent or (e) the defendant has previously  
22 been adjudicated a youthful offender on the basis of any act or acts  
23 involving controlled substances and the district attorney does not  
24 consent. Notwithstanding the limitations set forth in this subdivision,  
25 the court may order that all proceedings be suspended and the action  
26 adjourned in contemplation of dismissal based upon a finding of excep-  
27 tional circumstances. For purposes of this subdivision, exceptional  
28 circumstances exist when, regardless of the ultimate disposition of the  
29 case, the entry of a plea of guilty is likely to result in severe colla-  
30 teral consequences, including, but not limited to, those that could  
31 leave a noncitizen inadmissible or removable from the United States.

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

34 § 210.46 Adjournment in contemplation of dismissal in marijuana cases  
35 in a superior court.

36 Upon or after arraignment in a superior court upon an indictment where  
37 the sole remaining count or counts charge a violation or violations of  
38 section 221.05, [~~221.10,~~] 221.15, 221.35 or 221.40 of the penal law and  
39 before the entry of a plea of guilty thereto or commencement of a trial  
40 thereof, the court, upon motion of a defendant, may order that all  
41 proceedings be suspended and the action adjourned in contemplation of  
42 dismissal or may dismiss the indictment in furtherance of justice, in  
43 accordance with the provisions of section 170.56 of this chapter.

44 § 38. Paragraphs (h) and (i) of subdivision 1 of section 440.10 of the  
45 criminal procedure law, paragraph (h) as amended by chapter 332 of the  
46 laws of 2010 and paragraph (i) as amended by chapter 368 of the laws of  
47 2015, are amended and a new paragraph (j) is added to read as follows:

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

50 (i) The judgment is a conviction where the arresting charge was under  
51 section 240.37 (loitering for the purpose of engaging in a prostitution  
52 offense, provided that the defendant was not alleged to be loitering for  
53 the purpose of patronizing a person for prostitution or promoting pros-  
54 titution) or 230.00 (prostitution) or 230.03 (prostitution in a school  
55 zone) of the penal law, and the defendant's participation in the offense  
56 was a result of having been a victim of sex trafficking under section

1 230.34 of the penal law, labor trafficking under section 135.35 of the  
2 penal law, aggravated labor trafficking under section 135.37 of the  
3 penal law, compelling prostitution under section 230.33 of the penal  
4 law, or trafficking in persons under the Trafficking Victims Protection  
5 Act (United States Code, title 22, chapter 78); provided that

6 (i) a motion under this paragraph shall be made with due diligence,  
7 after the defendant has ceased to be a victim of such trafficking or  
8 compelling prostitution crime or has sought services for victims of such  
9 trafficking or compelling prostitution crime, subject to reasonable  
10 concerns for the safety of the defendant, family members of the defend-  
11 ant, or other victims of such trafficking or compelling prostitution  
12 crime that may be jeopardized by the bringing of such motion, or for  
13 other reasons consistent with the purpose of this paragraph; and

14 (ii) official documentation of the defendant's status as a victim of  
15 trafficking, compelling prostitution or trafficking in persons at the  
16 time of the offense from a federal, state or local government agency  
17 shall create a presumption that the defendant's participation in the  
18 offense was a result of having been a victim of sex trafficking, compell-  
19 ing prostitution or trafficking in persons, but shall not be required  
20 for granting a motion under this paragraph[-]; or

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

23 (i) an offense as defined by section 221.10 of the penal law (criminal  
24 possession of marihuana in the fifth degree), as in effect prior to the  
25 effective date of this paragraph, provided that the accusatory instru-  
26 ment that underlies the judgment does not include an allegation that the  
27 defendant possessed more than twenty-five grams of marihuana; or

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

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

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

37 § 40. Section 440.46 of the criminal procedure law, as added by  
38 section 9 of part AAA of chapter 56 of the laws of 2009, subdivision 1  
39 as amended by section 79 of subpart B of part C of chapter 62 of the  
40 laws of 2011, is amended to read as follows:

41 § 440.46 Motion for resentencing; certain controlled substance offenders.

42 1. A person may, upon notice to the appropriate district attorney,  
43 apply for resentencing or redesignation to a determinate sentence,  
44 subject to the following criteria:

45 a. Any person in the custody of the department of corrections and  
46 community supervision convicted of a class B felony offense defined in  
47 article two hundred twenty of the penal law which was committed prior to  
48 January thirteenth, two thousand five, who is serving an indeterminate  
49 sentence with a maximum term of more than three years, may[~~, except as~~  
50 ~~provided in subdivision five of this section, upon notice to the appro-~~  
51 ~~priate district attorney,~~] apply to be resentenced to a determinate  
52 sentence in accordance with sections 60.04 and 70.70 of the penal law in  
53 the court which imposed the sentence.

54 [~~2-~~] (i) As part of any such application, the defendant may also move  
55 to be resentenced to a determinate sentence in accordance with section  
56 70.70 of the penal law for any one or more class C, D, or E felony

1 offenses defined in article two hundred twenty or two hundred twenty-one  
2 of the penal law, the sentence or sentences for which were imposed by  
3 the sentencing court at the same time or were included in the same order  
4 of commitment as such class B felony.

5 (ii) The provisions of this paragraph shall not apply to any person  
6 who is serving a sentence on a conviction for or has a predicate felony  
7 conviction for an exclusion offense. For purposes of this subdivision,  
8 an "exclusion offense" is: (a) a crime for which the person was previ-  
9 ously convicted within the preceding ten years, excluding any time  
10 during which the offender was incarcerated for any reason between the  
11 time of commission of the previous felony and the time of commission of  
12 the present felony, which was: (1) a violent felony offense as defined  
13 in section 70.02 of the penal law; or (2) any other offense for which a  
14 merit time allowance is not available pursuant to subparagraph (ii) of  
15 paragraph (d) of subdivision one of section eight hundred three of the  
16 correction law; or (b) a second violent felony offense pursuant to  
17 section 70.04 of the penal law or a persistent violent felony offense  
18 pursuant to section 70.08 of the penal law for which the person has  
19 previously been adjudicated.

20 b. A person currently serving a sentence for a conviction, whether by  
21 trial or by plea, of an offense defined in the former sections 221.25,  
22 221.30, 221.50, or 221.55 and sections 221.15, 221.20, 221.35, or 221.45  
23 of the penal law prior to the effective date of this paragraph may apply  
24 to be resentenced to a determinate sentence in accordance with sections  
25 221.15, 221.20, 221.35, 221.40, or 221.45 of the penal law, as amended,  
26 in the court which imposed the sentence.

27 c. A person who has completed his or her sentence for a conviction,  
28 whether by trial or by plea, of an offense in the former sections  
29 221.25, 221.30, 221.50, or 221.55 of the penal law prior to the effec-  
30 tive date of this paragraph may apply for re-designation of their  
31 conviction to a determinate conviction in accordance with sections  
32 221.15, 221.20, 221.35, 221.40, or 221.45 of the penal law, as amended,  
33 in the court which imposed the sentence.

34 ~~[3.]~~ 2. The provisions of section twenty-three of chapter seven  
35 hundred thirty-eight of the laws of two thousand four shall govern the  
36 proceedings on and determination of a motion brought pursuant to this  
37 section; provided, however that the court's consideration of the insti-  
38 tutional record of confinement of such person shall include but not be  
39 limited to such person's participation in or willingness to participate  
40 in treatment or other programming while incarcerated and such person's  
41 disciplinary history. The fact that a person may have been unable to  
42 participate in treatment or other programming while incarcerated despite  
43 such person's willingness to do so shall not be considered a negative  
44 factor in determining a motion pursuant to this section.

45 ~~[4.]~~ 3. Subdivision one of section seven hundred seventeen and subdi-  
46 vision four of section seven hundred twenty-two of the county law, and  
47 the related provisions of article eighteen-A of such law, shall apply to  
48 the preparation of and proceedings on motions pursuant to this section,  
49 including any appeals.

50 ~~[5. The provisions of this section shall not apply to any person who~~  
51 ~~is serving a sentence on a conviction for or has a predicate felony~~  
52 ~~conviction for an exclusion offense. For purposes of this subdivision,~~  
53 ~~an "exclusion offense" is:~~

54 ~~(a) a crime for which the person was previously convicted within the~~  
55 ~~preceding ten years, excluding any time during which the offender was~~  
56 ~~incarcerated for any reason between the time of commission of the previ-~~

~~ous felony and the time of commission of the present felony, which was:  
(i) a violent felony offense as defined in section 70.02 of the penal  
law; or (ii) any other offense for which a merit time allowance is not  
available pursuant to subparagraph (ii) of paragraph (d) of subdivision  
one of section eight hundred three of the correction law; or~~

~~(b) a second violent felony offense pursuant to section 70.04 of the  
penal law or a persistent violent felony offense pursuant to section  
70.08 of the penal law for which the person has previously been adjudi-  
cated.]~~

4. Under no circumstances may resentencing under this section result  
in the imposition of a term longer than the original sentence.

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

§ 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, crimi-  
nal 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 manufac-  
ture 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

1 law, possession of gambling records in the first degree as defined in  
2 section 225.20 of the penal law, and possession of a gambling device as  
3 defined in section 225.30 of the penal law;

4 § 42. Paragraphs (b) and (c) of subdivision 4-b and subdivisions 6 and  
5 9 of section 1310 of the civil practice law and rules, paragraphs (b)  
6 and (c) of subdivision 4-b as added by chapter 655 of the laws of 1990  
7 and subdivisions 6 and 9 as added by chapter 669 of the laws of 1984,  
8 are amended to read as follows:

9 (b) on three or more occasions, engaging in conduct constituting a  
10 violation of any of the felonies defined in section 220.09, 220.16,  
11 220.18, 220.21, 220.31, 220.34, 220.39, 220.41[, ] or 220.43 [~~or 221.55~~]  
12 of the penal law, which violations do not constitute a single criminal  
13 offense as defined in subdivision one of section 40.10 of the criminal  
14 procedure law, or a single criminal transaction, as defined in paragraph  
15 (a) of subdivision two of section 40.10 of the criminal procedure law,  
16 and at least one of which resulted in a conviction of such offense, or  
17 where the accusatory instrument charges one or more of such felonies,  
18 conviction upon a plea of guilty to a felony for which such plea is  
19 otherwise authorized by law; or

20 (c) a conviction of a person for a violation of section 220.09,  
21 220.16, 220.34 or 220.39 of the penal law, [~~or a conviction of a crimi-~~  
22 ~~nal defendant for a violation of section 221.30 of the penal law,~~] or  
23 where the accusatory instrument charges any such felony, conviction upon  
24 a plea of guilty to a felony for which the plea is otherwise authorized  
25 by law, together with evidence which: (i) provides substantial indicia  
26 that the defendant used the real property to engage in a continual,  
27 ongoing course of conduct involving the unlawful mixing, compounding,  
28 manufacturing, warehousing, or packaging of controlled substances [~~or~~  
29 ~~where the conviction is for a violation of section 221.30 of the penal~~  
30 ~~law, marijuana,~~] as part of an illegal trade or business for gain; and  
31 (ii) establishes, where the conviction is for possession of a controlled  
32 substance [~~or where the conviction is for a violation of section 221.30~~  
33 ~~of the penal law, marijuana,~~] that such possession was with the intent  
34 to sell it.

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

38 9. "Criminal defendant" means a person who has criminal liability for  
39 a crime defined in subdivisions five and six [hereof] of this section.  
40 For purposes of this article, a person has criminal liability when [~~(a)~~]  
41 he has been convicted of a post-conviction forfeiture crime[~~, or (b) the~~  
42 ~~claiming authority proves by clear and convincing evidence that such~~  
43 ~~person has committed an act in violation of article two hundred twenty~~  
44 ~~or section 221.30 or 221.55 of the penal law~~].

45 § 43. Subdivision 3-a and paragraphs (a) and (b) of subdivision 11 of  
46 section 1311 of the civil practice law and rules, subdivision 3-a as  
47 added by chapter 655 of the laws of 1990 and paragraphs (a) and (b) of  
48 subdivision 11 as amended by section 47 of part A-1 of chapter 56 of the  
49 laws of 2010, are amended to read as follows:

50 3-a. Conviction of a person in a criminal action upon an accusatory  
51 instrument which includes one or more of the felonies specified in  
52 subdivision four-b of section thirteen hundred ten of this article, of  
53 any felony other than such felonies, shall not preclude a defendant, in  
54 any subsequent proceeding under this article where that conviction is at  
55 issue, from adducing evidence that the conduct underlying the conviction  
56 would not establish the elements of any of the felonies specified in



1 such subdivision other than the one to which the criminal defendant pled  
2 guilty. If the defendant does adduce such evidence, the burden shall be  
3 upon the claiming authority to prove, by clear and convincing evidence,  
4 that the conduct underlying the criminal conviction would establish the  
5 elements of the felony specified in such subdivision. Nothing contained  
6 in this subdivision shall affect the validity of a settlement of any  
7 forfeiture action negotiated between the claiming authority and a crimi-  
8 nal defendant contemporaneously with the taking of a plea of guilty in a  
9 criminal action to any felony defined in article two hundred twenty [~~or~~  
10 ~~section 221.30 or 221.55~~] of the penal law, or to a felony conspiracy to  
11 commit the same.

12 (a) Any stipulation or settlement agreement between the parties to a  
13 forfeiture action shall be filed with the clerk of the court in which  
14 the forfeiture action is pending. No stipulation or settlement agreement  
15 shall be accepted for filing unless it is accompanied by an affidavit  
16 from the claiming authority that written notice of the stipulation or  
17 settlement agreement, including the terms of such, has been given to the  
18 office of victim services, the state division of criminal justice  
19 services[, ~~and in the case of a forfeiture based on a felony defined in~~  
20 ~~article two hundred twenty or section 221.30 or 221.55 of the penal law,~~  
21 ~~to the state division of substance abuse services~~].

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

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

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

51 Felonies involving: assault, aggravated assault and reckless endanger-  
52 ment pursuant to article one hundred twenty; vehicular manslaughter,  
53 manslaughter and murder pursuant to article one hundred twenty-five; sex  
54 offenses pursuant to article one hundred thirty; unlawful imprisonment,  
55 kidnapping or coercion pursuant to article one hundred thirty-five;  
56 criminal trespass and burglary pursuant to article one hundred forty;

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

26 § 45. Paragraph (f) of subdivision 2 of section 850 of the general  
27 business law is REPEALED.

28 § 46. Paragraph (h) of subdivision 2 of section 850 of the general  
29 business law, as amended by chapter 812 of the laws of 1980, is amended  
30 to read as follows:

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

34 § 47. Paragraph a of subdivision 4-a of section 165 of the state  
35 finance law, as added by chapter 95 of the laws of 2000, is amended to  
36 read as follows:

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

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

50 7. "Designated offender" means a person convicted of any felony  
51 defined in any chapter of the laws of the state or any misdemeanor  
52 defined in the penal law [~~except that where the person is convicted~~  
53 ~~under section 221.10 of the penal law, only a person convicted under~~  
54 ~~subdivision two of such section, or a person convicted under subdivision~~  
55 ~~one of such section who stands previously convicted of any crime as~~  
56 ~~defined in subdivision six of section 10.00 of the penal law~~].

1 § 49. Paragraphs (b) and (c) of subdivision 7 of section 480.00 of the  
2 penal law, paragraph (b) as amended by section 31 of part AAA of chapter  
3 56 of the laws of 2009 and paragraph (c) as added by chapter 655 of the  
4 laws of 1990, are amended to read as follows:

5 (b) three or more violations of any of the felonies defined in section  
6 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41,  
7 220.43[7] or 220.77[7, ~~or 221.55~~] of this chapter, which violations do  
8 not constitute a single criminal offense as defined in subdivision one  
9 of section 40.10 of the criminal procedure law, or a single criminal  
10 transaction, as defined in paragraph (a) of subdivision two of section  
11 40.10 of the criminal procedure law, and at least one of which resulted  
12 in a conviction of such offense, or where the accusatory instrument  
13 charges one or more of such felonies, conviction upon a plea of guilty  
14 to a felony for which such plea is otherwise authorized by law; or

15 (c) a conviction of a person for a violation of section 220.09,  
16 220.16, 220.34[7] or 220.39[7, ~~or 221.30~~] of this chapter, or where the  
17 accusatory instrument charges any such felony, conviction upon a plea of  
18 guilty to a felony for which the plea is otherwise authorized by law,  
19 together with evidence which: (i) provides substantial indicia that the  
20 defendant used the real property to engage in a continual, ongoing  
21 course of conduct involving the unlawful mixing, compounding, manufac-  
22 turing, warehousing, or packaging of controlled substances [~~or where the~~  
23 ~~conviction is for a violation of section 221.30 of this chapter, mari-~~  
24 ~~juana~~] as part of an illegal trade or business for gain; and (ii) estab-  
25 lishes, where the conviction is for possession of a controlled substance  
26 [~~or where the conviction is for a violation of section 221.30 of this~~  
27 ~~chapter, marijuana~~], that such possession was with the intent to sell  
28 it.

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

32 (c) The offenses referred to in subparagraph (i) of paragraph (b) of  
33 subdivision one and subparagraph (i) of paragraph (c) of subdivision two  
34 of this section that result in disqualification for a period of five  
35 years shall include a conviction under sections 100.10, 105.13, 115.05,  
36 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 121.12, 121.13,  
37 125.40, 125.45, 130.20, 130.25, 130.52, 130.55, 135.10, 135.55, 140.17,  
38 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09,  
39 220.16, 220.31, 220.34, 220.60, 220.65, [~~221.30, 221.50, 221.55,~~  
40 230.00, 230.05, 230.06, 230.11, 230.12, 230.13, 230.19, 230.20, 235.05,  
41 235.06, 235.07, 235.21, 240.06, 245.00, 260.10, subdivision two of  
42 section 260.20 and sections 260.25, 265.02, 265.03, 265.08, 265.09,  
43 265.10, 265.12, 265.35 of the penal law or an attempt to commit any of  
44 the aforesaid offenses under section 110.00 of the penal law, or any  
45 similar offenses committed under a former section of the penal law, or  
46 any offenses committed under a former section of the penal law which  
47 would constitute violations of the aforesaid sections of the penal law,  
48 or any offenses committed outside this state which would constitute  
49 violations of the aforesaid sections of the penal law.

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

1 on vouchers certified or approved by the superintendent or the chairman  
2 of the New York State Liquor Authority in the manner prescribed by law.  
3 § 52. Severability. If any provision or term of this act is for any  
4 reason declared unconstitutional or invalid or ineffective by any court  
5 of competent jurisdiction, such decision shall not affect the validity  
6 of the effectiveness of the remaining portions of this act or any part  
7 thereof.  
8 § 53. This act shall take effect immediately; provided, however that  
9 the amendments to subdivision 12 of section 17 of the alcoholic beverage  
10 control law made by section twenty-six of this act shall take effect on  
11 the same date as the reversion of such section as provided in section 4  
12 of chapter 118 of the laws of 2012, as amended.