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IN SENATE

January 19, 2017

Introduced by Sens. KRUEGER, ALCANTARA, BAILEY, COMRIE, DILAN, GIANARIS, HAMILTON, HOYLMAN, MONTGOMERY, PARKER, PERALTA, RIVERA, SEPULVEDA, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Finance in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to the description of marihuana, and the growing of and use of marihuana by persons twenty-one years of age or older; to amend the civil practice law and rules, in relation to removing certain references to marihuana relating to forfeiture actions; to amend the vehicle and traffic law, in relation to making technical changes regarding the definition of marihuana; to amend the penal law, in relation to the qualification of certain offenses involving marihuana and to exempt certain persons from prosecution for the use, consumption, display, production or distribution of marihuana; to amend the alcoholic beverage control law, in relation to providing for the licensure of persons authorized to produce, process and sell marihuana; to amend the state finance law, in relation to establishing the New York state marihuana revenue fund, the New York state drug treatment education fund and the New York state community grants reinvestment fund; to amend the tax law, in relation to providing for the levying of an excise tax on certain sales of marihuana; to amend the criminal procedure law, the civil practice law and rules, the general business law, the state finance law, the executive law, the penal law and the vehicle and traffic law, in relation to making conforming changes; to amend the alcoholic beverage control law, in relation to alcohol or substance use disorder training awareness programs; to amend the state finance law, in relation to a revolving loan fund; to amend the family court act, in relation to making conforming changes; to repeal sections 221.05, 221.10, 221.15, 221.20,

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

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221.25, 221.30, 221.35 and 221.40 of the penal law relating to the criminal possession and sale of marihuana; to repeal paragraph (f) of subdivision 2 of section 850 of the general business law relating to drug related paraphernalia; to repeal section 150.75 of the criminal procedure law relating to appearance tickets for certain marihuana offenses; and making an appropriation therefor

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

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

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

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

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

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

33 It is the intent of this act that no child shall be the subject of a
34 child neglect or abuse investigation or proceeding based solely on a
35 parent's alleged use of marihuana. A newborn child's positive toxicology
36 result for marihuana, is not sufficient on its own to support a finding
37 of child neglect or abuse. Enactment of this act shall provide suffi-
38 cient basis for New York state to favorably resolve open investigations
39 and to amend and seal individuals' family court records and records of
40 indicated child abuse or neglect reports currently in the statewide
41 central register of child abuse and maltreatment based solely on the use
42 of marihuana or where the reporter of suspected abuse or neglect was a
43 law enforcement agency or staff person and the report was based solely
44 upon the presence of a child during a marihuana-related arrest.

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

13 § 3302. Definitions of terms of general use in this article. Except
14 where different meanings are expressly specified in subsequent
15 provisions of this article, the following terms have the following mean-
16 ings:

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

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

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

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

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

40 ~~[6.]~~ 5. "Commissioner" means commissioner of health of the state of
41 New York.

42 ~~[7.]~~ 6. "Deliver" or "delivery" means the actual, constructive or
43 attempted transfer from one person to another of a controlled substance,
44 whether or not there is an agency relationship.

45 ~~[8.]~~ 7. "Department" means the department of health of the state of
46 New York.

47 ~~[9.]~~ 8. "Dispense" means to deliver a controlled substance to an ulti-
48 mate user or research subject by lawful means, including by means of the
49 internet, and includes the packaging, labeling, or compounding necessary
50 to prepare the substance for such delivery.

51 ~~[10.]~~ 9. "Distribute" means to deliver a controlled substance, includ-
52 ing by means of the internet, other than by administering or dispensing.

53 ~~[11.]~~ 10. "Distributor" means a person who distributes a controlled
54 substance.

1 ~~[12.]~~ 11. "Diversion" means manufacture, possession, delivery or use
2 of a controlled substance by a person or in a manner not specifically
3 authorized by law.

4 ~~[13.]~~ 12. "Drug" means

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

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

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

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

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

19 ~~[16.]~~ 15. "Federal registration number" means such number assigned by
20 the Federal agency to any person authorized to manufacture, distribute,
21 sell, dispense or administer controlled substances.

22 ~~[17.]~~ 16. "Habitual user" means any person who is, or by reason of
23 repeated use of any controlled substance for non-legitimate or unlawful
24 use is in danger of becoming, dependent upon such substance.

25 ~~[18.]~~ 17. "Institutional dispenser" means a hospital, veterinary
26 hospital, clinic, dispensary, maternity home, nursing home, mental
27 hospital or similar facility approved and certified by the department as
28 authorized to obtain controlled substances by distribution and to
29 dispense and administer such substances pursuant to the order of a prac-
30 titioner.

31 ~~[19.]~~ 18. "License" means a written authorization issued by the
32 department or the New York state department of education permitting
33 persons to engage in a specified activity with respect to controlled
34 substances.

35 ~~[20.]~~ 19. "Manufacture" means the production, preparation, propa-
36 gation, compounding, cultivation, conversion or processing of a
37 controlled substance, either directly or indirectly or by extraction
38 from substances of natural origin, or independently by means of chemical
39 synthesis, or by a combination of extraction and chemical synthesis, and
40 includes any packaging or repackaging of the substance or labeling or
41 relabeling of its container, except that this term does not include the
42 preparation, compounding, packaging or labeling of a controlled
43 substance:

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

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

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

52 ~~[21. "Marihuana" means all parts of the plant of the genus Cannabis,
53 whether growing or not, the seeds thereof, the resin extracted from any
54 part of the plant, and every compound, manufacture, salt, derivative,
55 mixture, or preparation of the plant, its seeds or resin. It does not
56 include the mature stalks of the plant, fiber produced from the stalks,~~

~~oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.~~

~~22.]~~ 20. "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

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

(c) opium poppy and poppy straw.

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

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

~~25.]~~ 23. "Person" means individual, institution, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

~~26.]~~ 24. "Pharmacist" means any person licensed by the state department of education to practice pharmacy.

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

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

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

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

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

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

~~32.]~~ 30. "Sell" means to sell, exchange, give or dispose of to another, or offer or agree to do the same.

~~33.]~~ 31. "Ultimate user" means a person who lawfully obtains and possesses a controlled substance for his own use or the use by a member of his household or for an animal owned by him or in his custody. It shall also mean and include a person designated, by a practitioner on a

1 prescription, to obtain such substance on behalf of the patient for whom
2 such substance is intended.

3 [~~34-~~] 32. "Internet" means collectively computer and telecommuni-
4 cations facilities which comprise the worldwide network of networks that
5 employ a set of industry standards and protocols, or any predecessor or
6 successor protocol to such protocol, to exchange information of all
7 kinds. "Internet," as used in this article, also includes other
8 networks, whether private or public, used to transmit information by
9 electronic means.

10 [~~35-~~] 33. "By means of the internet" means any sale, delivery,
11 distribution, or dispensing of a controlled substance that uses the
12 internet, is initiated by use of the internet or causes the internet to
13 be used.

14 [~~36-~~] 34. "Online dispenser" means a practitioner, pharmacy, or person
15 in the United States that sells, delivers or dispenses, or offers to
16 sell, deliver, or dispense, a controlled substance by means of the
17 internet.

18 [~~37-~~] 35. "Electronic prescription" means a prescription issued with
19 an electronic signature and transmitted by electronic means in accord-
20 ance with regulations of the commissioner and the commissioner of educa-
21 tion and consistent with federal requirements. A prescription generated
22 on an electronic system that is printed out or transmitted via facsimile
23 is not considered an electronic prescription and must be manually
24 signed.

25 [~~38-~~] 36. "Electronic" means of or relating to technology having elec-
26 trical, digital, magnetic, wireless, optical, electromagnetic or similar
27 capabilities. "Electronic" shall not include facsimile.

28 [~~39-~~] 37. "Electronic record" means a paperless record that is
29 created, generated, transmitted, communicated, received or stored by
30 means of electronic equipment and includes the preservation, retrieval,
31 use and disposition in accordance with regulations of the commissioner
32 and the commissioner of education and in compliance with federal law and
33 regulations.

34 [~~40-~~] 38. "Electronic signature" means an electronic sound, symbol, or
35 process, attached to or logically associated with an electronic record
36 and executed or adopted by a person with the intent to sign the record,
37 in accordance with regulations of the commissioner and the commissioner
38 of education.

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

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

47 [~~43-~~] 41. "Outsourcing facility" means a facility that:

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

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

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

54 Notwithstanding any other provision of law to the contrary, when an
55 outsourcing facility distributes or dispenses any drug to any person
56 pursuant to a prescription, such outsourcing facility shall be deemed to

1 be providing pharmacy services and shall be subject to all laws, rules
2 and regulations governing pharmacies and pharmacy services.

3 § 4. Paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25,
4 26, 27, 28, 29, 30, 31 and 32 of subdivision (d) of schedule I of
5 section 3306 of the public health law, paragraphs 13, 14, 15, 16, 17,
6 18, 19, 20, 21, 22, 23 and 24 as added by chapter 664 of the laws of
7 1985, paragraphs 25, 26, 27, 28, 29 and 30 as added by chapter 589 of
8 the laws of 1996 and paragraphs 31 and 32 as added by chapter 457 of the
9 laws of 2006, are amended to read as follows:

10 (13) [~~Marjuana~~

11 [~~14~~] Mescaline.

12 [~~15~~] (14) Parahexyl. Some trade or other names: 3-Hexyl-1-hydroxy-
13 7,8,9,10-tetra hydro-6,6,9-trimethyl-6H-dibenfo{b,d} pyran.

14 [~~16~~] (15) Peyote. Meaning all parts of the plant presently classi-
15 fied botanically as Lophophora williamsii Lemaire, whether growing or
16 not, the seeds thereof, any extract from any part of such plant, and
17 every compound, manufacture, salts, derivative, mixture, or preparation
18 of such plant, its seeds or extracts.

19 [~~17~~] (16) N-ethyl-3-piperidyl benzilate.

20 [~~18~~] (17) N-methyl-3-piperidyl benzilate.

21 [~~19~~] (18) Psilocybin.

22 [~~20~~] (19) Psilocyn.

23 [~~21~~] (20) Tetrahydrocannabinols. Synthetic tetrahydrocannabinols not
24 derived from the cannabis plant that are equivalents of the substances
25 contained in the plant, or in the resinous extractives of cannabis, sp.
26 and/or synthetic substances, derivatives, and their isomers with similar
27 chemical structure and pharmacological activity such as the following:

28 [~~△~~] delta 1 cis or trans tetrahydrocannabinol, and their optical
29 isomers

30 [~~△~~] delta 6 cis or trans tetrahydrocannabinol, and their optical
31 isomers

32 [~~△~~] delta 3, 4 cis or trans tetrahydrocannabinol, and its optical
33 isomers (since nomenclature of these substances is not internationally
34 standardized, compounds of these structures, regardless of numerical
35 designation of atomic positions covered).

36 [~~22~~] (21) Ethylamine analog of phencyclidine. Some trade or other
37 names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethyla-
38 mine, N-(1-phenylcyclohexyl) ethylamine cyclohexamine, PCE.

39 [~~23~~] (22) Pyrrolidine analog of phencyclidine. Some trade or other
40 names 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy, PHP.

41 [~~24~~] (23) Thiophene analog of phencyclidine. Some trade or other
42 names: 1-{1-(2-thienyl)-cyclohexyl}-piperidine, 2-thienylanalog of
43 phencyclidine, TPCP, TCP.

44 [~~25~~] (24) 3,4-methylenedioxyamphetamine (MDMA).

45 [~~26~~] (25) 3,4-methylenedioxy-N-ethylamphetamine (also known as
46 N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA,
47 MDE, MDEA.

48 [~~27~~] (26) N-hydroxy-3,4-methylenedioxyamphetamine (also known as
49 N-hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and
50 N-hydroxy MDA.

51 [~~28~~] (27) 1-{1-(2-thienyl) cyclohexyl} pyrrolidine. Some other
52 names: TCPY.

53 [~~29~~] (28) Alpha-ethyltryptamine. Some trade or other names:
54 etryptamine; Monase; Alpha-ethyl-1H-indole-3-ethanamine;

55 3-(2-aminobutyl) indole; Alpha-ET or AET.

1 ~~(30)~~ (29) 2,5-dimethoxy-4-ethylamphetamine. Some trade or other
2 names: DOET.

3 ~~(31)~~ (30) 4-Bromo-2,5-dimethoxyphenethylamine. Some trade or other
4 names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl
5 DOB; 2C-B, Nexus.

6 ~~(32)~~ (31) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7), its
7 optical isomers, salts and salts of isomers.

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

10 § 3382. Growing of the plant known as Cannabis by unlicensed persons.
11 A person who, without being licensed so to do under this article, grows
12 the plant of the genus Cannabis or knowingly allows it to grow on his
13 land without destroying the same, shall be guilty of a class A misdemea-
14 nor, unless the person grows in accordance with sections 221.05 and
15 221.05-a of the penal law.

16 § 6. Paragraph (d) of subdivision 3, subdivision 3-a and paragraphs
17 (a) and (b) of subdivision 11 of section 1311 of the civil practice law
18 and rules, paragraph (d) of subdivision three and subdivision 3-a as
19 added by chapter 655 of the laws of 1990 and paragraphs (a) and (b) of
20 subdivision 11 as amended by section 47 of part A-1 of chapter 56 of the
21 laws of 2010, are amended to read as follows:

22 (d) In a forfeiture action commenced by a claiming authority against a
23 defendant, the following rebuttable presumption shall apply: all curren-
24 cy or negotiable instruments payable to the bearer shall be presumed to
25 be the proceeds of a pre-conviction forfeiture crime when such currency
26 or negotiable instruments are (i) found in close proximity to a
27 controlled substance unlawfully possessed by the defendant in an amount
28 sufficient to constitute a violation of section 220.18 or 220.21 of the
29 penal law, or (ii) found in close proximity to any quantity of a
30 controlled substance [~~or marijuana~~] unlawfully possessed by such defend-
31 ant in a room, other than a public place, under circumstances evincing
32 an intent to unlawfully mix, compound, distribute, package or otherwise
33 prepare for sale such controlled substance [~~or marijuana~~].

34 3-a. Conviction of a person in a criminal action upon an accusatory
35 instrument which includes one or more of the felonies specified in
36 subdivision four-b of section thirteen hundred ten of this article, of
37 any felony other than such felonies, shall not preclude a defendant, in
38 any subsequent proceeding under this article where that conviction is at
39 issue, from adducing evidence that the conduct underlying the conviction
40 would not establish the elements of any of the felonies specified in
41 such subdivision other than the one to which the criminal defendant pled
42 guilty. If the defendant does adduce such evidence, the burden shall be
43 upon the claiming authority to prove, by clear and convincing evidence,
44 that the conduct underlying the criminal conviction would establish the
45 elements of the felony specified in such subdivision. Nothing contained
46 in this subdivision shall affect the validity of a settlement of any
47 forfeiture action negotiated between the claiming authority and a crimi-
48 nal defendant contemporaneously with the taking of a plea of guilty in a
49 criminal action to any felony defined in article two hundred twenty [~~or~~
50 ~~section 221.30 or 221.55~~] of the penal law, or to a felony conspiracy to
51 commit the same.

52 (a) Any stipulation or settlement agreement between the parties to a
53 forfeiture action shall be filed with the clerk of the court in which
54 the forfeiture action is pending. No stipulation or settlement agreement
55 shall be accepted for filing unless it is accompanied by an affidavit
56 from the claiming authority that written notice of the stipulation or

1 settlement agreement, including the terms of such, has been given to the
2 office of victim services, the state division of criminal justice
3 services[~~, and in the case of a forfeiture based on a felony defined in~~
4 ~~article two hundred twenty or section 221.30 or 221.55 of the penal law,~~
5 ~~to the state division of substance abuse services~~].

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

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

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

19 § 8. Section 114-a of the vehicle and traffic law, as added by chapter
20 163 of the laws of 1973, is amended to read as follows:

21 § 114-a. Drug. The term "drug" when used in this chapter, means and
22 includes any substance listed in section thirty-three hundred six of the
23 public health law and marihuana and concentrated cannabis as defined in
24 section 220.00 of the penal law.

25 § 9. Subdivisions 5, 6 and 9 of section 220.00 of the penal law,
26 subdivision 5 as amended by chapter 537 of the laws of 1998, subdivision
27 6 as amended by chapter 1051 of the laws of 1973 and subdivision 9 as
28 amended by chapter 664 of the laws of 1985, are amended and two new
29 subdivisions 21 and 22 are added to read as follows:

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

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

48 9. "Hallucinogen" means any controlled substance listed in [~~schedule~~
49 ~~I(d)~~] paragraphs (5), [~~(18), (19), (20), (21) and (22)~~] (17), (18),
50 (19), (20) and (21) of subdivision (d) of schedule I of section thirty-
51 three hundred six of the public health law.

52 21. "Concentrated cannabis" means:

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

55 (b) a material, preparation, mixture, compound or other substance
56 which contains more than three percent by weight of delta-9 tetrahydro-

1 cannabinol, or its isomer, delta-8 dibenzopyran numbering system, or
2 delta-1 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpene
3 numbering system.

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

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

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

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

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

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

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

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

30 § 220.50 Criminally using drug paraphernalia in the second degree.

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

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

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

48 3. Scales and balances used or designed for the purpose of weighing or
49 measuring controlled substances, under circumstances evincing an intent
50 to use, or under circumstances evincing knowledge that some person
51 intends to use, the same for purpose of unlawfully manufacturing, pack-
52 aging or dispensing of any narcotic drug or stimulant, other than mari-
53 huana or concentrated cannabis.

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

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

3 § 15. The penal law is amended by adding two new sections 221.05 and
4 221.05-a to read as follows:

5 § 221.05 Personal use of marihuana.

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

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

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

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

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

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

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

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

30 3. Marihuana products involved in any way with conduct deemed lawful
31 by this section are not contraband nor subject to seizure or forfeiture
32 of assets under article four hundred eighty of this chapter, section
33 thirteen hundred eleven of the civil practice law and rules, or other
34 applicable law, and no conduct deemed lawful by this section shall
35 constitute the basis for approach, search, seizure, arrest, and/or
36 detention.

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

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

42 (2) the possession of or the suspicion of possession of marihuana
43 products;

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

47 (4) the presence of cash or currency cannot be used as evidence in any
48 cases involving unlicensed sale of marihuana.

49 (b) The possession of not more than two pounds of marihuana or not
50 more than four and one-half ounces of concentrated cannabis cannot be
51 used as evidence in any cases involving unlicensed sale of marihuana.

52 5. Subdivision four of this section shall not apply when a law
53 enforcement officer is investigating whether a person is operating or in
54 physical control of a vehicle or watercraft while intoxicated, under the
55 influence of, or impaired by alcohol or a drug or any combination there-

1 of in violation of section eleven hundred ninety-two of the vehicle and
2 traffic law.

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

7 § 221.05-a Personal cultivation of marihuana.

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

11 (a) a person shall plant, cultivate, harvest, dry, or process plants
12 in accordance with local ordinances, if any, adopted in accordance with
13 subdivision two of this section;

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

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

22 2. (a) A town, city or village may enact and enforce reasonable regu-
23 lations to reasonably regulate the actions and conduct in paragraph (c)
24 of subdivision one of section 221.05 of this article, provided that a
25 violation of such a regulation is only subject to an infraction and
26 fine.

27 (b) Notwithstanding paragraph (a) of this subdivision, no town, city
28 or village may completely prohibit persons engaging in the actions and
29 conduct under paragraph (c) of subdivision one of section 221.05 of this
30 article.

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

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

37 § 221.45 [~~Criminal~~] Unlicensed sale of marihuana in the third degree.

38 A person is guilty of [~~criminal~~] unlicensed sale of marihuana in the
39 third degree when he knowingly and unlawfully sells [~~one or more prepa-~~
40 ~~rations, compounds, mixtures or substances containing marihuana and the~~
41 ~~preparations, compounds, mixtures or substances are of an aggregate~~
42 ~~weight of more than twenty-five grams] with remuneration not more than
43 two pounds of marihuana or not more than four and one-half ounces of
44 concentrated cannabis, not including the weight of any other ingredient
45 combined with marihuana to prepare topical or oral administrations,
46 food, drink, or other product.~~

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

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

51 2. A violation publishable by a fine of not more than two hundred
52 fifty dollars for a second offense;

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

1 § 17. Section 221.50 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 § 221.50 [~~Criminal~~] Unlicensed sale of marihuana in the second degree.

5 A person twenty-one years of age and older is guilty of [~~criminal~~]
6 unlicensed sale of marihuana in the second degree when he knowingly and
7 unlawfully sells one or more preparations, compounds, mixtures or
8 substances containing marihuana and the preparations, compounds,
9 mixtures or substances are of an aggregate weight of more than four
10 ounces, or knowingly and unlawfully sells one or more preparations,
11 compounds, mixtures [~~or substances containing marihuana~~] to a person
12 less than [~~eighteen~~] twenty-one years of age.

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

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

18 § 221.55 [~~Criminal~~] Unlicensed sale of marihuana in the first degree.

19 A person is guilty of [~~criminal~~] unlicensed sale of marihuana in the
20 first degree when he knowingly and unlawfully sells to a person less
21 than twenty-one years of age one or more preparations, compounds,
22 mixtures or substances containing marihuana and the preparations,
23 compounds, mixtures or substances are of an aggregate weight of more
24 than sixteen ounces.

25 [~~Criminal~~] Unlicensed sale of marihuana in the first degree is a class
26 [~~C~~] E felony.

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

29 § 221.60 Licensing of marihuana production and distribution.

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

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

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

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

46 § 2. Policy of state and purpose of chapter. It is hereby declared as
47 the policy of the state that it is necessary to regulate and control the
48 manufacture, sale and distribution within the state of alcoholic bever-
49 ages and marihuana products for the purpose of fostering and promoting
50 temperance in their consumption and respect for and obedience to law;
51 for the primary purpose of promoting the health, welfare and safety of
52 the people of the state, promoting temperance in the consumption of
53 alcoholic beverages and marihuana products; and, to the extent possible,
54 supporting economic growth, job development, and the state's alcoholic
55 beverage production industries, marihuana production industries and its
56 tourism and recreation industry; and which promotes the conservation and

1 enhancement of state agricultural lands; provided that such activities
2 do not conflict with the primary regulatory objectives of this chapter.
3 It is hereby declared that such policies will best be carried out by
4 empowering the liquor authority of the state to determine whether public
5 convenience and advantage will be promoted by the issuance of licenses
6 to traffic in alcoholic beverages and marihuana products, the increase
7 or decrease in the number thereof and the location of premises licensed
8 thereby, subject only to the right of judicial review provided for in
9 this chapter. It is the purpose of this chapter to carry out these poli-
10 cies in the public interest.

11 § 22. Subdivisions 20-a, 20-b, 20-c, 20-d and 20-e of section 3 of the
12 alcoholic beverage control law are renumbered subdivisions 20-j, 20-k,
13 20-l, 20-m and 20-n and ten new subdivisions 7-e, 20-a, 20-b, 20-c,
14 20-d, 20-e, 20-f, 20-g, 20-h and 20-i are added to read as follows:

15 7-e. "Concentrated cannabis" means: (a) the separated resin, whether
16 crude or purified, obtained from a plant of the genus Cannabis; or
17 (b) a material, preparation, mixture, compound or other substance
18 which contains more than three percent by weight of delta-9 tetrahydro-
19 cannabinol, or its isomer, delta-8 dibenzopyran numbering system, or
20 delta-1 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpene
21 numbering system.

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

34 20-b. "Marihuana consumer" means a person twenty-one years of age or
35 older who purchases marihuana or marihuana products for personal use by
36 persons twenty-one years of age or older, but not for resale to others.

37 20-c. "Marihuana processor" means a person licensed by the bureau to
38 purchase marihuana and concentrated cannabis from marihuana producers,
39 to process marihuana, concentrated cannabis, and marihuana infused
40 products, package and label marihuana, concentrated cannabis and mari-
41 huana infused products for sale in retail outlets, and sell marihuana,
42 concentrated cannabis and marihuana infused products at wholesale to
43 marihuana retailers.

44 20-d. "Marihuana producer" means a person licensed by the bureau to
45 produce, process, and sell marihuana and concentrated cannabis at whole-
46 sale to marihuana processors, marihuana retailers, or other marihuana
47 producers, but not to consumers.

48 20-e. "Marihuana products" means marihuana, concentrated cannabis, and
49 marihuana-infused products.

50 20-f. "Marihuana-infused products" means products that contain mari-
51 huana, or concentrated cannabis and are intended for human use or
52 consumption, such as, but not limited to, edible products, ointments,
53 and tinctures.

54 20-g. "Marihuana retailer" means a person licensed by the bureau to
55 purchase marihuana, concentrated cannabis, and marihuana-infused
56 products from marihuana producers and marihuana processors and sell

1 marihuana, marihuana infused products, and concentrated cannabis in a
2 retail outlet.

3 20-h. "Marihuana retailer for on-premises consumption" means a person
4 licensed by the bureau to purchase marihuana, concentrated cannabis, and
5 marihuana infused products from marihuana producers, marihuana retail-
6 ers, and marihuana processors and sell marihuana products for a customer
7 to consume while the customer is within a facility.

8 20-i. "Unreasonably impracticable" means that the measures necessary
9 to comply with the regulations require such a high investment of risk,
10 money, time or other resource or asset that the operation of a marihuana
11 establishment is not worthy of being carried out by a reasonably prudent
12 businessperson.

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

18 § 65-b. Offense for one under age of twenty-one years to purchase or
19 attempt to purchase an alcoholic beverage or marihuana products through
20 fraudulent means. 1. As used in this section: (a) "A device capable of
21 deciphering any electronically readable format" or "device" shall mean
22 any commercial device or combination of devices used at a point of sale
23 or entry that is capable of reading the information encoded on the
24 magnetic strip or bar code of a driver's license or non-driver identifi-
25 cation card issued by the commissioner of motor vehicles;

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

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

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

43 (b) No licensee, or agent or employee of such licensee shall accept as
44 written evidence of age by any such person for the purchase of any alco-
45 holic beverage or marihuana products, any documentation other than: (i)
46 a valid driver's license or non-driver identification card issued by the
47 commissioner of motor vehicles, the federal government, any United
48 States territory, commonwealth or possession, the District of Columbia,
49 a state government within the United States or a provincial government
50 of the dominion of Canada, or (ii) a valid passport issued by the United
51 States government or any other country, or (iii) an identification card
52 issued by the armed forces of the United States. Upon the presentation
53 of such driver's license or non-driver identification card issued by a
54 governmental entity, such licensee or agent or employee thereof may
55 perform a transaction scan as a precondition to the sale of any alcohol-
56 ic beverage. Nothing in this section shall prohibit a licensee or agent

1 or employee from performing such a transaction scan on any of the other
2 documents listed in this subdivision if such documents include a bar
3 code or magnetic strip that [~~that~~] may be scanned by a device capable of
4 deciphering any electronically readable format.

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

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

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

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

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

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

49 (i) The contents of an evaluation pursuant to paragraph (c) of this
50 subdivision shall be used for the sole purpose of [~~determining if such~~
51 ~~person suffers from the disease of alcoholism or alcohol abuse~~] deter-
52 mining if such person meets the criteria for an alcohol use disorder or
53 cannabis use disorder.

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~~] use disorder 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~~] treatment of an alcohol or other
15 substance use disorder.

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

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

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

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

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

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

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

53 7. (a) In any proceeding pursuant to subdivision one of section
54 sixty-five of this article, it shall be an affirmative defense that such
55 person had produced a driver's license or non-driver identification card
56 apparently issued by a governmental entity, successfully completed the

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

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

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

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

41 § 65-c. Unlawful possession of an alcoholic beverage or marihuana
42 product with the intent to consume by persons under the age of twenty-
43 one years. 1. Except as hereinafter provided, no person under the age of
44 twenty-one years shall possess any alcoholic beverage or marihuana prod-
45 uct, as defined in this chapter, with the intent to consume such bever-
46 age or marihuana product.

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

50 (a) to a person who is a student in a curriculum licensed or regis-
51 tered by the state education department and the student is required to
52 taste or imbibe alcoholic beverages or marihuana products in on-campus
53 or off-campus courses which are a part of the required curriculum,
54 provided such alcoholic beverages or marihuana products are used only
55 for instructional purposes during class conducted pursuant to such
56 curriculum; or

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

3 3. Any person who unlawfully possesses an alcoholic beverage or mari-
4 huana product with intent to consume may be summoned before and examined
5 by a court having jurisdiction of that charge; provided, however, that
6 nothing contained herein shall authorize, or be construed to authorize,
7 a peace officer as defined in subdivision thirty-three of section 1.20
8 of the criminal procedure law or a police officer as defined in subdivi-
9 sion thirty-four of section 1.20 of such law to arrest a person who
10 unlawfully possesses an alcoholic beverage or marihuana product with
11 intent to consume. If a determination is made sustaining such charge the
12 court may impose a fine not exceeding fifty dollars and/or completion of
13 an alcohol or drug awareness program established pursuant to section
14 19.25 of the mental hygiene law and/or an appropriate amount of communi-
15 ty service not to exceed thirty hours.

16 4. No such determination shall operate as a disqualification of any
17 such person subsequently to hold public office, public employment, or as
18 a forfeiture of any right or privilege or to receive any license granted
19 by public authority; and no such person shall be denominated a criminal
20 by reason of such determination, nor shall such determination be deemed
21 a conviction.

22 5. Whenever a peace officer as defined in subdivision thirty-three of
23 section 1.20 of the criminal procedure law or police officer as defined
24 in subdivision thirty-four of section 1.20 of the criminal procedure law
25 shall observe a person under twenty-one years of age openly in
26 possession of an alcoholic beverage or marihuana product as defined in
27 this chapter, with the intent to consume such beverage or product in
28 violation of this section, said officer may seize the beverage or prod-
29 uct, and shall deliver it to the custody of his or her department.

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

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

47 § 65-e. Restrictions on personal consumption of marihuana. 1. Nothing
48 in sections 221.05 and 221.05-a of the penal law shall be construed to
49 permit any person to:

50 (a) smoke marihuana in public;

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

54 (c) possess, smoke or ingest marihuana products in or upon the grounds
55 of any school property used for school purposes which is owned by or

1 leased to any elementary or secondary school or school board while chil-
2 dren are present; or

3 (d) smoke or ingest marihuana products while driving, operating a
4 motor vehicle, boat, vessel, aircraft, or other vehicle used for trans-
5 portation.

6 2. For purposes of this section:

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

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

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

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

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

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

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

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

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

52 Question 3. Year-round hotel alcoholic beverage license. Shall the
53 operator of a year-round hotel with a full-service restaurant be allowed
54 to obtain a license which permits the year-round hotel to sell alcoholic
55 beverages for a customer to drink while the customer is within the
56 hotel. In addition, unopened containers of beer (such as six-packs and

1 kegs) may be sold "to go" for the customer to open and drink at another
2 location (such as, for example, at his home)?

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

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

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

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

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

34 Question 9. On-premises marihuana retailer licenses. Shall a person be
35 allowed to obtain a license to operate a facility where the service of
36 food is only incidental and permits the facility operator to sell mari-
37 huana products for a customer to consume while the customer is within
38 the facility?

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

41 3. The town clerk shall, within five days from the filing of such
42 petition in his office, prepare and file in the office of the board of
43 elections, as defined by the election law, of the county, a certified
44 copy of such petition. Such questions may be submitted only at the time
45 of a general election. At least ten days before such general election,
46 the board of elections shall cause to be printed and posted in at least
47 four public places in such town, a notice of the fact that all of the
48 local option questions will be voted on at such general election; and
49 the said notice shall also be published at least five days before the
50 vote is to be taken once in a newspaper published in the county in which
51 such town is situated, which shall be a newspaper published in the town,
52 if there be one. Whenever such questions are to be submitted under the
53 provisions of this article the board of elections shall cause the proper
54 ballot labels to be printed and placed on all voting machines used in
55 the town in which such questions are to be submitted, in the form
56 prescribed by the election law in respect of other propositions or ques-

1 tions, upon the face of which shall be printed in full the said ques-
 2 tions. Any elector qualified to vote for state officers shall be enti-
 3 tled to vote upon such local option questions. As soon as the election
 4 shall be held, a return of the votes cast and counted shall be made as
 5 provided by law and the returns canvassed by the inspectors of election.
 6 If a majority of the votes cast shall be in the negative on all or any
 7 of the questions, no person shall, after such election, sell alcoholic
 8 beverages or marihuana products in such town contrary to such vote or to
 9 the provisions of this chapter; provided, however, that the result of
 10 such vote shall not shorten the term for which any license may have been
 11 lawfully issued under this chapter or affect the rights of the licensee
 12 thereunder; and no person shall after such vote apply for or receive a
 13 license to sell alcoholic beverages or marihuana products at retail in
 14 such town contrary to such vote, until, by referendum as hereinafter
 15 provided for, such sale shall again become lawful.

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

18 3. If a majority of the votes cast shall be in the negative on any or
 19 all of the questions, no person shall, after such election, sell alco-
 20 holic beverages or marihuana products in such city contrary to such vote
 21 or to the provisions of this chapter; provided, however, that the result
 22 of such vote shall not shorten the term for which any license may have
 23 been lawfully issued under this chapter or affect the rights of the
 24 licensee thereunder; and no person shall after such vote apply for or
 25 receive a license to sell alcoholic beverages or marihuana products at
 26 retail in such city contrary to such vote, until, by referendum as here-
 27 inafter provided for, such sale shall again become lawful.

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

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

35 § 30. Article 11 and sections 160, 161, 162, 163 and 164 of the alco-
 36 holic beverage control law, article 11 and sections 160, 161, 162 and
 37 163 as renumbered by chapter 725 of the laws of 1954, are renumbered
 38 article 12 and sections 200, 201, 202, 203, and 204.

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

41 ARTICLE 11

42 PROVISIONS RELATING TO MARIHUANA

43 Section 165. Definitions.

44 166. Bureau of marihuana policy.

45 167. Administration of the bureau of marihuana policy.

46 168. Authority to promulgate rules and regulations.

47 169. Licenses issued.

48 170. Licensing limits.

49 171. Actions taken pursuant to a valid license are lawful.

50 172. General prohibitions and restrictions.

51 173. Certain officials not to be interested in the manufacture
 52 or sale of marihuana.

53 174. Provisions governing initial rulemaking.

54 175. Provisions governing marihuana producers.

55 176. Provisions governing processors.

56 177. Provisions governing marihuana retailers.

- 1 178. Provisions governing marihuana on-site consumption
- 2 licenses.
- 3 179. Advertising and forms for the issuance of licenses.
- 4 180. Packaging of marihuana products.
- 5 181. Labeling of marihuana products.
- 6 182. Seed to sale tracking.
- 7 183. Renewals of licenses and permits.
- 8 184. Information to be provided by applicants.
- 9 185. Notification to towns, cities or villages.
- 10 186. Licenses, publication, general provisions.
- 11 187. Revocation of licenses for cause.
- 12 188. Procedure for revocation or cancellation.
- 13 189. Decisions of the bureau of marihuana policy and review by
- 14 the courts.
- 15 190. Minority and women-owned businesses and incubator program.
- 16 191. Disposition of moneys received for license fees.
- 17 192. Persons forbidden to traffic in marihuana.
- 18 193. Surrender of license; notice to police officials.
- 19 194. Protections for the use of marihuana.
- 20 195. Discrimination protections for the use of marihuana or
- 21 medical marihuana.
- 22 196. Employment protections.
- 23 197. Protections for persons under state supervision.
- 24 198. Professional and medical record keeping.

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

- 27 1. "Applicant" means an owner applying for a license pursuant to this
- 28 article.
- 29 2. "Bureau" means the bureau of marihuana policy within the authority.
- 30 3. "Commercial marihuana activity" means the production, processing,
- 31 possession, storing, laboratory testing, packaging, labeling, transpor-
- 32 tation, delivery, or sale of marihuana and marihuana products as
- 33 provided for in this article.
- 34 4. "Customer" means a natural person twenty-one years of age or older.
- 35 5. "Delivery" means a licensee that delivers retail marihuana and
- 36 marihuana products to customers. Retailer licensees and microbusiness
- 37 licensees are permitted to deliver retail marihuana and marihuana
- 38 products to customers without obtaining an additional distributor
- 39 license.
- 40 6. "Distribution" means the procurement, sale, and transport of mari-
- 41 huana and marihuana products between entities licensed pursuant to this
- 42 article.
- 43 7. "Distributor" means a licensee for the distribution of marihuana
- 44 and marihuana products between entities licensed pursuant to this arti-
- 45 cle. Producer licensees, processor licensees, and microbusiness licen-
- 46 sees are permitted to distribute marihuana and marihuana products
- 47 between entities licensed pursuant to this article without obtaining an
- 48 additional distributor license.
- 49 8. "Labeling" means any label or other written, printed, or graphic
- 50 matter upon a marihuana product, or upon its container or wrapper, or
- 51 that accompanies any marihuana product.
- 52 9. "License" means a state license issued under this article. Each
- 53 license issued pursuant to this article corresponds to a single place of
- 54 business.
- 55 10. "Licensee" means any person or entity holding a license under this
- 56 article.

1 11. "Marihuana" means all parts of the plant of the genus cannabis,
2 whether growing or not; the seeds thereof; the resin extracted from any
3 part of the plant; and every compound, manufacture, salt, derivative,
4 mixture, or preparation of the plant, its seeds or resin. It does not
5 include the mature stalks of the plant, fiber produced from the stalks,
6 oil or cake made from the seeds of the plant, any other compound, manu-
7 facture, salt, derivative, mixture, or preparation of the mature stalks
8 (except the resin extracted therefrom), fiber, oil, or cake, or the
9 sterilized seed of the plant which is incapable of germination. It does
10 not include all parts of the plant Cannabis Sativa I., whether growing
11 or not, having no more than three-tenths of one percent tetrahydrocanna-
12 binol (THC).

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

15 13. "Marihuana-infused products" means products that contain marihua-
16 na, or concentrated cannabis and are intended for human use or consump-
17 tion, such as, but not limited to, edible products, ointments, and tinc-
18 tures.

19 14. "Microbusiness" means a licensee that may act as a marihuana
20 producer for the cultivation of marihuana on an area less than ten thou-
21 sand square feet, a marihuana processor, and a marihuana retailer under
22 this article, provided such licensee complies with all requirements
23 imposed by this article on licensed producers, processors, and retailers
24 to the extent the licensee engages in such activities. A "microbusiness"
25 may distribute marihuana and marihuana products to other licensed mari-
26 huana businesses and may deliver marihuana and marihuana products to
27 customers.

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

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

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

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

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

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

49 21. "Retailer" means a licensee that sells marihuana or marihuana
50 products directly to customers. A "retailer" may deliver marihuana and
51 marihuana products to customers.

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

54 § 166. Bureau of marihuana policy. There is hereby established in the
55 authority a bureau of marihuana policy. The bureau shall consist of
56 three members. The members of the bureau shall be appointed by the

1 governor by and with the advice and consent of the senate. Not more than
2 two members of the bureau shall belong to the same political party. The
3 chairman of the bureau of marihuana policy heretofore appointed and
4 designated by the governor and the remaining members of such board here-
5 tofore appointed by the governor shall continue to serve as chairman and
6 members of the bureau until the expiration of the respective terms for
7 which they were appointed. Upon the expiration of such respective terms
8 the successors of such chairman and members shall be appointed to serve
9 for a term of three years each and until their successors have been
10 appointed and qualified. The commissioners shall, when performing the
11 work of the bureau, be compensated at a rate of two hundred sixty
12 dollars per day, together with an allowance for actual and necessary
13 expenses incurred in the discharge of their duties.

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

19 2. The bureau shall have the exclusive authority to create, issue,
20 renew, discipline, suspend, or revoke licenses for commercial marihuana
21 activities in accordance with the state administrative procedure act.

22 (a) The bureau shall consult with the department of agriculture and
23 markets regarding rules, regulations, and licenses for the cultivation
24 of marihuana.

25 (b) The bureau shall notify the public of all licensing rules and
26 regulations promulgated pursuant to the Marihuana Regulation and Taxa-
27 tion Act, which shall include instructional materials. In addition, the
28 bureau shall hold public forums in all regions of the state, as deter-
29 mined by the department of economic development, to help the public
30 understand and navigate the licensing process.

31 (c) The bureau shall begin issuing licenses not later than eighteen
32 months following the effective date of the Marihuana Regulation and
33 Taxation Act.

34 (i) The bureau shall begin accepting applications no more than fifteen
35 months following the effective date of the Marihuana Regulation and
36 Taxation Act.

37 (ii) Pursuant to section one hundred eighty-five of this article, the
38 bureau shall notify any town, city or village of any applications for
39 license.

40 (iii) The bureau shall issue an annual license to the applicant
41 between forty-five and ninety days after receipt of an application
42 unless the bureau finds the applicant is not in compliance with regu-
43 lations enacted pursuant to section one hundred seventy-four of this
44 article or the department is notified by the relevant town, city or
45 village that the applicant is not in compliance with such regulations.

46 (d) The bureau shall have the authority to collect fees in connection
47 with activities they regulate concerning marihuana pursuant to section
48 one hundred ninety-one of this article.

49 3. (a) Not later than ten months following the enactment of this arti-
50 cle, each town, city or village may enact an ordinance or regulation
51 specifying the entity within the town, city or village that is responsi-
52 ble for processing applications submitted for a license to operate a
53 marihuana establishment within the boundaries of the town, city or
54 village and for the issuance of such licenses should the issuance by the
55 town, city or village become necessary because of a failure by the
56 bureau to adopt regulations pursuant to section one hundred seventy-four

1 of this article or because of a failure by the bureau to process and
2 issue licenses as required by subdivision two of this section.

3 (b) A town, city or village may enact ordinances or regulations, not
4 in conflict with this section or with regulations or legislation enacted
5 pursuant to this section, governing the time, place, manner and number
6 of marihuana establishment operations; establishing procedures for the
7 issuance, suspension, and revocation of a license issued by the munici-
8 pality in accordance with paragraphs (c) and (d) of this subdivision,
9 such procedures to be subject to all requirements of the state adminis-
10 trative procedure act or any successor provision, establishing a sched-
11 ule of annual operating, licensing, and application fees for marihuana
12 establishments, provided, the application fee shall only be due if an
13 application is submitted to a town, city or village in accordance with
14 paragraph (d) of this subdivision and a licensing fee shall only be due
15 if a license is issued by a municipality in accordance with paragraph
16 (c) or (d) of this subdivision; and establishing civil penalties for
17 violation of an ordinance or regulation governing the time, place, and
18 manner of a marihuana establishment that may operate in such a town,
19 city or village. A town, city or village may prohibit the operation of
20 marihuana production facilities, marihuana processing facilities, mari-
21 huana retail stores, marihuana microbusinesses, or marihuana testing
22 facilities through the enactment of an ordinance.

23 (c) If the bureau does not issue a license to an applicant within
24 ninety days of receipt of the application filed in accordance with
25 subdivision two and does not notify the applicant of the specific reason
26 for its denial, in writing and within such time period, or if the bureau
27 has adopted regulations pursuant to section one hundred seventy-four of
28 this article but has not issued any licenses within eighteen months of
29 the effective date of this article, for any town, city or village enact-
30 ing an ordinance providing for local processing of applications, the
31 applicant may resubmit its application directly to the town, city or
32 village pursuant to paragraph (a) of this subdivision, and the town,
33 city or village may issue an annual license to the applicant. A town,
34 city or village issuing a license to an applicant shall do so within
35 ninety days of receipt of the resubmitted application unless the town,
36 city or village finds and notifies the applicant that the applicant is
37 not in compliance with the ordinances and regulations made pursuant to
38 paragraph (b) of this subdivision in effect at the time the application
39 is resubmitted and the town, city or village shall notify the bureau if
40 an annual license has been issued to the applicant. If an application is
41 submitted to a town, city or village under this paragraph, the bureau
42 shall forward to the town, city or village the application fee paid by
43 the applicant to the bureau upon request by the town, city or village. A
44 license issued by a town, city or village in accordance with this para-
45 graph shall have the same force and effect as a license issued by the
46 bureau in accordance with subdivision two of this section and the holder
47 of such license shall not be subject to regulation or enforcement by the
48 bureau during the term of that license. A subsequent or renewed license
49 may be issued under this paragraph on an annual basis only upon resub-
50 mission to the town, city or village of a new application submitted to
51 the bureau pursuant to subdivision two of this section. Nothing in this
52 paragraph shall limit such relief as may be available to an aggrieved
53 party under section four hundred one of the state administrative proce-
54 dure act or any successor provision.

55 (d) If the bureau does not adopt regulations required by section one
56 hundred seventy-four of this article, an applicant may submit an appli-

1 cation directly to a town, city or village fifteen months following the
2 effective date of this article and the town, city or village may issue
3 an annual license to the applicant. A town, city or village issuing a
4 license to an applicant shall do so within ninety days of receipt of the
5 application unless it finds and notifies the applicant that the appli-
6 cant is not in compliance with ordinances and regulations made pursuant
7 to paragraph (b) of this subdivision in effect at the time of applica-
8 tion and shall notify the bureau if an annual license has been issued to
9 the applicant. A license issued by a town, city or village in accordance
10 with this paragraph shall have the same force and effect as a license
11 issued by the bureau in accordance with subdivision two of this section
12 and the licensee shall not be subject to regulation or enforcement by
13 the bureau during the term of that license. A subsequent or renewed
14 license may be issued under this paragraph on an annual basis if the
15 bureau has not adopted regulations required by section one hundred
16 seventy-four of this article at least ninety days prior to the date upon
17 which such subsequent or renewed license would be effective or if the
18 department has adopted regulations pursuant to section one hundred
19 seventy-four of this article but has not, at least ninety days after the
20 adoption of such regulations, issued licenses pursuant to subdivision
21 two of this section.

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

25 § 168. Authority to promulgate rules and regulations. The bureau shall
26 promulgate and implement all rules and regulations as it deems necessary
27 to carry out the requirements, purpose and intent of this article.

28 § 169. Licenses issued. The following kinds of licenses shall be
29 issued by the bureau for the manufacture, production, processing, test-
30 ing, retail sale and delivery of marihuana:

- 31 1. marihuana nursery license;
- 32 2. marihuana producer license;
- 33 3. marihuana processor license;
- 34 4. marihuana distributor license;
- 35 5. marihuana retailer license;
- 36 6. marihuana microbusiness license;
- 37 7. marihuana on-site consumption license;
- 38 8. marihuana delivery license;
- 39 9. marihuana testing license; and
- 40 10. any other type of licenses allowed by the bureau.

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

46 2. An owner of a marihuana retail store shall not hold a license in
47 another license category of section one hundred sixty-nine of this arti-
48 cle, shall not own or have ownership interest in an entity licensed
49 pursuant to title five-A of article thirty-three of the public health
50 law, and shall hold not more than three retail licenses.

51 3. An owner of a marihuana microbusiness shall not hold a license in
52 another license category of section one hundred sixty-nine of this arti-
53 cle, shall not own or have ownership interest in a facility licensed
54 pursuant to title five-A of article thirty-three of the public health
55 law, and shall hold not more than one microbusiness license.

1 4. An owner of a marihuana testing facility shall not hold a license
2 in another license category of section one hundred sixty-nine of this
3 article and shall not own or have ownership interest in a facility
4 licensed pursuant to title five-A of article thirty-three of the public
5 health law.

6 5. Only a marihuana retail licensee may be issued an on-site consump-
7 tion license.

8 6. Only a marihuana retail licensee, marihuana microbusiness licensee,
9 or marihuana delivery licensee may be permitted to deliver marihuana
10 directly to customers.

11 7. Only a marihuana producer licensee, marihuana processor licensee,
12 marihuana microbusiness licensee, or marihuana distributor licensee may
13 distribute marihuana and marihuana products to other licensed marihuana
14 businesses.

15 8. No marihuana delivery owner may hold more than one marihuana deliv-
16 ery license.

17 9. No marihuana distributor owner may hold more than one marihuana
18 distributor license.

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

22 11. No marihuana producer owner may hold more than one marihuana
23 producer and one marihuana processor license.

24 12. No marihuana processor owner may hold more than three marihuana
25 processor licenses.

26 13. An owner of a marihuana nursery may hold a marihuana producer or
27 marihuana processor license but shall not hold another license category
28 of section one hundred sixty-nine of this article, shall not own or have
29 ownership interest in a facility licensed pursuant to title five-A of
30 article thirty-three of the public health law, and shall hold not more
31 than one nursery license. Licensing limits imposed by subdivisions elev-
32 en and twelve of this section shall apply.

33 § 171. Actions taken pursuant to a valid license are lawful. No
34 contracts related to the operation of licenses under this chapter shall
35 be deemed unenforceable on the basis that the actions permitted pursuant
36 to the license are prohibited by federal law. The following actions are
37 not unlawful as provided under this chapter, shall not be an offense
38 under any state or local law, and shall not result in any civil fine,
39 seizure, or forfeiture of assets against any person acting in accordance
40 with this chapter:

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

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

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

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

55 § 172. General prohibitions and restrictions. 1. No marihuana products
56 may be imported into or exported from New York state.

1 2. No person may be issued a license under section one hundred sixty-
2 nine of this article if they have been convicted of an offense related
3 to the functions, or duties of owning and operating a business within
4 three years of the application date, except that if the bureau deter-
5 mines that the owner or licensee is otherwise suitable to be issued a
6 license, and granting the license would not compromise public safety,
7 the bureau shall conduct a thorough review of the nature of the crime,
8 conviction, circumstances, and evidence of rehabilitation of the owner,
9 and shall evaluate the suitability of the owner or licensee to be issued
10 a license based on the evidence found through the review. In determining
11 which offenses are substantially related to the functions or duties of
12 owning and operating a business, the bureau shall include, but not be
13 limited to, the following:

14 (a) A felony conviction involving fraud, money laundering, forgery and
15 other unlawful conduct related to owning and operating a business.

16 (b) A felony conviction for hiring, employing, or using a minor in
17 transporting, carrying, selling, giving away, preparing for sale, or
18 peddling, any controlled substance to a minor; or selling, offering to
19 sell, furnishing, offering to furnish, administering, or giving any
20 controlled substance to a minor.

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

24 § 173. Certain officials not to be interested in the manufacture or
25 sale of marihuana. 1. Except as otherwise provided in section one
26 hundred twenty-eight-a of this chapter, it shall be unlawful for any
27 police commissioner, police inspector, captain, sergeant, roundsman,
28 patrolman or other police official or subordinate of any police depart-
29 ment in the state, to be either directly or indirectly interested in the
30 manufacture or sale of marihuana or to offer for sale, or recommend to
31 any licensee any marihuana. A person may not be denied any license
32 granted under the provisions of sections fifty-four, fifty-five, fifty-
33 nine, sixty-three, sixty-four, seventy-nine, eighty-one, or article
34 seven of this chapter solely on the grounds of being the spouse of a
35 public servant described in this subdivision. The solicitation or recom-
36 mendation made to any licensee, to purchase any marihuana by any police
37 official or subordinate as described in this subdivision, shall be
38 presumptive evidence of the interest of such official or subordinate in
39 the manufacture or sale of marihuana.

40 2. No elective village officer shall be subject to the limitations set
41 forth in subdivision one of this section unless such elective village
42 officer shall be assigned duties directly relating to the operation or
43 management of the police department.

44 § 174. Provisions governing initial rulemaking. 1. Within two hundred
45 forty days after the effective date of this article, the bureau shall
46 perform such acts, prescribe such forms and make such rules, regulations
47 and orders as it may deem necessary or proper to fully effectuate the
48 provisions of this article.

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

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

54 (b) the qualifications for licensure;

1 (c) the books and records to be created and maintained by licensees,
2 the reports to be made thereon to the bureau, and inspection of the
3 books and records;

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

8 (e) security requirements for marihuana retailers and premises where
9 marihuana products are produced or processed, and safety protocols for
10 licensees and their employees.

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

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

15 (b) prevent the revenue from the sale of marihuana from going to
16 organized criminal enterprises and cartels;

17 (c) prevent the diversion of marihuana from this state to other
18 states;

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

22 (e) prevent violence and the use of firearms in the cultivation and
23 distribution of marihuana;

24 (f) prevent impaired driving and the exacerbation of other adverse
25 public health consequences associated with the use of marihuana;

26 (g) prevent the growing of marihuana on public lands and the attendant
27 public safety and environmental dangers posed by marihuana production on
28 public lands; and

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

30 4. Rules and regulations promulgated by the bureau pursuant to subdi-
31 vision three of this section shall not prohibit the operation of mari-
32 huana establishments either expressly or through regulations that make
33 their operation unreasonably impracticable.

34 5. The bureau, in consultation with the department of agriculture and
35 markets and the department of environmental conservation, shall promul-
36 gate necessary rules and regulations governing the safe production of
37 marihuana, including restrictions on the use of pesticides, insecticides
38 and herbicides.

39 § 175. Provisions governing marihuana producers. 1. No producer shall
40 sell, or agree to sell or deliver in the state any marihuana products,
41 as the case may be, except in sealed containers containing quantities in
42 accordance with size standards pursuant to rules adopted by the bureau.
43 Such containers shall have affixed thereto such labels as may be
44 required by the rules of the bureau, together with all necessary New
45 York state excise tax stamps, as required by law.

46 2. No producer shall deliver any marihuana products, except in vehi-
47 cles owned and operated by such producer, or hired and operated by such
48 producer from a trucking or transportation company registered with the
49 bureau, and shall only make deliveries at the licensed premises of the
50 purchaser.

51 3. Each producer shall keep and maintain upon the licensed premises,
52 adequate books and records of all transactions involving the producer
53 and sale of his or its products, which shall include all information
54 required by rules promulgated by the bureau. Each sale shall be recorded
55 separately on a numbered invoice, which shall have printed thereon the
56 number, the name of the licensee, the address of the licensed premises,

1 and the current license number. Such producer shall deliver to the
2 purchaser a true duplicate invoice stating the name and address of the
3 purchaser, the quantity purchased, description and the price of the
4 product, and a true, accurate and complete statement of the terms and
5 conditions on which such sale is made. Such books, records and invoices
6 shall be kept for a period of two years and shall be available for
7 inspection by any authorized representative of the bureau.

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

12 § 176. Provisions governing processors. 1. No processor shall be
13 engaged in any other business on the premises to be licensed; except
14 that nothing contained in this chapter shall prevent a marihuana produc-
15 er and a marihuana processor from operating on the same premises and
16 from a person holding both licenses.

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

23 3. No processor shall deliver any products, except in vehicles owned
24 and operated by such processor, or hired and operated by such processor
25 from a trucking or transportation company registered with the bureau,
26 and shall only make deliveries at the licensed premises of the purchas-
27 er.

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

45 § 177. Provisions governing marihuana retailers. 1. No retail license
46 shall be granted for any premises, unless the applicant shall be the
47 owner thereof, or shall be in possession of said premises under a lease,
48 management agreement or other agreement giving the applicant control
49 over the premises, in writing, for a term not less than the license
50 period.

51 2. No premises shall be licensed to sell marihuana products, unless
52 said premises shall be located in a store, the principal entrance to
53 which shall be from the street level and located on a public thorough-
54 fare in premises which may be occupied, operated or conducted for busi-
55 ness, trade or industry or on an arcade or sub-surface thoroughfare
56 leading to a railroad terminal. There may be not more than one addi-

1 tional entrance which shall be from the street level and located on and
2 giving access to and from a public or private parking lot or parking
3 area having space for not less than five automobiles.

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

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

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

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

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

23 8. No retail licensee shall deliver any marihuana products except in
24 vehicles owned and operated by such licensee, or hired and operated by
25 such licensee from a trucking or transportation company registered with
26 the bureau, and shall only make such deliveries at the premises of the
27 purchaser.

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

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

34 11. Each marihuana retail licensee shall keep and maintain upon the
35 licensed premises, adequate books and records of all transactions
36 involving the business transacted by such licensee, which shall show the
37 amount of marihuana products, purchased by such licensee together with
38 the names, license numbers and places of business of the persons from
39 whom the same were purchased, and the amount involved in such purchases,
40 as well as the amount of marihuana products, sold by such licensee, and
41 the amount involved in each sale. Such books and records shall be avail-
42 able for inspection by any authorized representative of the bureau.

43 12. All premises licensed under this section shall be subject to
44 inspection by any peace officer described in subdivision four of section
45 2.10 of the criminal procedure law acting pursuant to his or her special
46 duties, or police officer or any duly authorized representative of the
47 bureau, during the hours when the said premises are open for the trans-
48 action of business.

49 § 178. Provisions governing marihuana on-site consumption licenses. 1.
50 No marihuana retailer or microbusiness shall be granted a marihuana
51 on-site consumption license for a premises located in whole or in part
52 inside the boundaries of any city, village or town, unless the local
53 legislative body of such city, village or town, by resolution, expressly
54 authorizes the licensing of such facilities in such city, village or
55 town. The local legislative body may direct an appropriate officer,
56 board or body of such city, village or town as the local licensing

1 authority to authorize individual marihuana facility license applica-
2 tions. In cities of one million or more residents, should the local
3 legislative body authorize such license, no marihuana retailer license
4 for consumption on-site shall be granted unless the community board
5 established pursuant to section twenty-eight hundred of the New York
6 city charter with jurisdiction over the area in which the premises will
7 be located shall also authorize such license.

8 2. No marihuana retailer or microbusiness shall be granted a marihuana
9 on-site consumption license for any premises, unless the applicant shall
10 be the owner thereof, or shall be in possession of said premises under a
11 lease, in writing, for a term not less than the license period except,
12 however, that such license may thereafter be renewed without the
13 requirement of a lease as herein provided. This subdivision shall not
14 apply to premises leased from government agencies, as defined under
15 subdivision twelve-c of section three of this chapter; provided, howev-
16 er, that the appropriate administrator of such government agency
17 provides some form of written documentation regarding the terms of occu-
18 pancy under which the applicant is leasing said premises from the
19 government agency for presentation to the bureau at the time of the
20 license application. Such documentation shall include the terms of occu-
21 pancy between the applicant and the government agency, including, but
22 not limited to, any short-term leasing agreements or written occupancy
23 agreements.

24 3. No marihuana retailer or microbusiness shall be granted a marihuana
25 on-site consumption license for any premises where a license would not
26 be allowed to sell at retail for consumption of alcohol on the premises
27 based on its proximity to a building occupied exclusively as a school,
28 church, synagogue or other place of worship pursuant to the provisions
29 of section one hundred five of this chapter.

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

34 (a) The number, classes and character of licenses in proximity to the
35 location and in the particular town, city or village or subdivision
36 thereof.

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

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

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

43 (e) Any other factors specified by law or regulation that are relevant
44 to determine the public convenience and advantage and public interest of
45 the community.

46 5. If the bureau shall disapprove an application for a license or
47 permit, it shall state and file in its offices the reasons therefor and
48 shall notify the applicant thereof. Such applicant may thereupon apply
49 to the bureau for a review of such action in a manner to be prescribed
50 by the rules of the bureau. A hearing upon notice to the applicant shall
51 thereupon be held by the bureau or by one of its members at its office
52 most conveniently situated to the office of its duly authorized repre-
53 sentative in a manner to be prescribed in its rules; and on such hearing
54 proof may be taken by oral testimony or by affidavit relative thereto.
55 After such hearing, if the bureau confirms such disapproval, it shall
56 endorse such application accordingly and shall send notice to the appli-

1 cant of its action in such form as the bureau may prescribe. If the
2 bureau does not confirm the disapproval action it may grant such appli-
3 cation and issue such license.

4 6. No marihuana on-site consumption licensee, except persons or corpo-
5 rations operating a hotel, as defined in subdivision fourteen of section
6 three of this chapter, for exclusive use in the furnishing of room
7 service in the manner prescribed by rule or regulation of the bureau,
8 shall keep upon the licensed premises any marihuana products, except
9 those purchased from a licensed producer, and in containers approved by
10 the bureau. Such containers shall have affixed thereto such labels as
11 may be required by the rules of the bureau, together with all necessary
12 excise stamps as required by law. No marihuana retail licensee for
13 on-site consumption shall reuse, refill, tamper with, adulterate, dilute
14 or fortify the contents of any container of marihuana products as
15 received from the manufacturer or wholesaler.

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

20 8. Except where a permit to do so is obtained pursuant to section
21 405.10 of the penal law, no marihuana on-site consumption licensee shall
22 suffer, permit, or promote an event on its premises wherein any person
23 shall use, explode, or cause to explode, any fireworks or other pyro-
24 technics in a building as defined in paragraph e of subdivision one of
25 section 405.10 of the penal law, that is covered by such license or
26 possess such fireworks or pyrotechnics for such purpose. In addition to
27 any other penalty provided by law, a violation of this subdivision shall
28 constitute an adequate ground for instituting a proceeding to suspend,
29 cancel, or revoke the license of the violator in accordance with the
30 applicable procedures specified in section one hundred nineteen of this
31 chapter; provided however, if more than one licensee is participating in
32 a single event, upon approval by the bureau, only one licensee must
33 obtain such permit.

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

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

55 11. Each marihuana on-site consumption licensee shall keep and main-
56 tain upon the licensed premises, adequate records of all transactions

1 involving the business transacted by such licensee which shall show the
2 amount of marihuana products, in an applicable metric measurement,
3 purchased by such licensee together with the names, license numbers and
4 places of business of the persons from whom the same were purchased, the
5 amount involved in such purchases, as well as the sales of marihuana
6 products made by such licensee. The bureau is hereby authorized to
7 promulgate rules and regulations permitting an on-site licensee operat-
8 ing two or more premises separately licensed to sell marihuana products
9 for on-site consumption to inaugurate or retain in this state methods or
10 practices of centralized accounting, bookkeeping, control records,
11 reporting, billing, invoicing or payment respecting purchases, sales or
12 deliveries of marihuana products, or methods and practices of central-
13 ized receipt or storage of marihuana products within this state without
14 segregation or earmarking for any such separately licensed premises,
15 wherever such methods and practices assure the availability, at such
16 licensee's central or main office in this state, of data reasonably
17 needed for the enforcement of this chapter. Such records shall be avail-
18 able for inspection by any authorized representative of the bureau.

19 12. All retail licensed premises shall be subject to inspection by any
20 peace officer, acting pursuant to his or her special duties, or police
21 officer and by the duly authorized representatives of the bureau, during
22 the hours when the said premises are open for the transaction of busi-
23 ness.

24 13. A marihuana on-site consumption licensee shall not provide mari-
25 huana products to any person under the age of twenty-one.

26 § 179. Advertising and forms for the issuance of licenses. 1. The
27 bureau is hereby authorized to promulgate rules and regulations govern-
28 ing the advertising of marihuana producers, marihuana processors, mari-
29 huana retailers, and any marihuana related products or services.

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

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

33 (b) promotes overconsumption;

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

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

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

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

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

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

41 3. The bureau shall promulgate explicit rules prohibiting all market-
42 ing strategies and implementation including, but not limited to, brand-
43 ing, packaging, labeling, location of marihuana retailers and marihuana
44 microbusinesses, and advertisements that are designed to:

45 (a) appeal to persons less than twenty-one years of age; or

46 (b) disseminate false or misleading information to customers.

47 4. The bureau shall promulgate explicit rules requiring that:

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

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

54 § 180. Packaging of marihuana products. 1. The bureau is hereby
55 authorized to promulgate rules and regulations governing the packaging
56 of marihuana products, sold or possessed for sale in New York state.

1 2. Such regulations shall include requiring that:

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

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

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

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

11 § 181. Labeling of marihuana products. 1. The bureau is hereby author-
12 ized to promulgate rules and regulations governing the labeling and
13 offering of marihuana products for sale within this state.

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

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

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

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

30 (a) manufacture date and source;

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

33 (c) identification of the source and date of cultivation, the type of
34 marihuana or marihuana product and the date of manufacturing and packag-
35 ing;

36 (d) list of pharmacologically active ingredients, including, but not
37 limited to, tetrahydrocannabinol (THC), cannabidiol (CBD), and other
38 cannabinoid content, the THC and other cannabinoid amount in milligrams
39 per serving, servings per package, and the THC and other cannabinoid
40 amount in milligrams for the package total, and the potency of the mari-
41 huana or marihuana product by reference to the amount of tetrahydrocan-
42 nabinol and cannabidiol in each serving;

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

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

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

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

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

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

55 7. Such rules and regulations shall establish methods and procedures
56 for determining serving sizes for marihuana-infused products, active

1 cannabis concentration per serving size, and number of servings per
2 container. Such regulations shall also require a nutritional fact panel
3 that incorporates data regarding serving sizes and potency thereof.

4 8. Such rules and regulations shall require information containing the
5 license number of the marihuana producer and processor facilities where
6 the marihuana was grown and processed.

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

12 § 182. Seed to sale tracking. 1. No later than fifteen months follow-
13 ing the effective date of the Marihuana Regulation and Taxation Act, the
14 bureau shall establish a seed to sale tracking program for reporting the
15 movement of marihuana and marihuana products throughout the distribution
16 chain that utilizes a unique identifier and secure packaging and is
17 capable of providing information that captures, at a minimum, all of the
18 following:

19 (a) the licensee receiving the product;

20 (b) the transaction date; and

21 (c) the producer from which the product originates, including the
22 associated unique identifier.

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

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

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

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

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

31 (f) a categorization of the product; and

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

35 3. The database shall be designed to flag irregularities for the
36 bureau to investigate.

37 § 183. Renewals of licenses and permits. 1. Each license and permit,
38 issued pursuant to this article may be renewed upon application therefor
39 by the licensee or permittee and the payment of the annual fee for such
40 license or permit as prescribed by this article. In the case of applica-
41 tions for renewals, the bureau may dispense with the requirements of
42 such statements as it deems unnecessary in view of those contained in
43 the application made for the original license or permit, but in any
44 event the submission of photographs of the licensed premises shall be
45 dispensed with, provided the applicant for such renewal shall file a
46 statement with such bureau to the effect that there has been no alter-
47 ation of such premises since the original license was issued. The
48 bureau may make such rules as may be necessary not inconsistent with
49 this chapter regarding applications for renewals of licenses and permits
50 and the time for making the same. Each applicant must submit to the
51 bureau documentation of the racial, ethnic, and gender diversity of the
52 applicant's employees and owners prior to a license or permit being
53 renewed.

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

1 § 184. Information to be provided by applicants. 1. The following
2 shall be the information required on an application for a license or
3 permit:

4 (a) A statement of identity as follows:

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

9 (ii) If the applicant is a corporation or a limited liability corpo-
10 ration, the corporate name of the applicant, its place of incorporation,
11 its main business address (and if such main business address is not
12 within the state, the address of its main place of business within the
13 state), other names by which it has been known or has conducted business
14 at any time, its telephone number, its federal employer identification
15 number, and the names, ages, citizenship, and permanent home addresses
16 of its directors, officers and its shareholders (except that if there be
17 more than ten shareholders then those shareholders holding ten percent
18 or more of any class of its shares).

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

25 (b) A statement identifying the street and number of the premises to
26 be licensed, if the premises has a street and number, and otherwise such
27 description as will reasonably indicate the town, city or village there-
28 of; photographs, drawings or other items related to the appearance of
29 the interior or exterior of such premises, and a floor plan of the inte-
30 rior, shall be required. The applicant shall also state the nature of
31 his or her interest in the premises; and the name of any other person
32 interested as a partner, joint venturer, investor or lender with the
33 applicant either in the premises or in the business to be licensed.

34 (c) A description of any other marihuana license or permit under this
35 article, within the past ten years, the applicant (including any offi-
36 cers, directors, shareholders or partners listed in the statement of
37 identity under paragraph (a) of this subdivision or the spouse of any
38 such person) or the applicant's spouse held or applied for.

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

41 (i) gender diversity;

42 (ii) racial and ethnic diversity that reflects the demographics within
43 the town, city or village in which the applicant's proposed business
44 will be located; and

45 (iii) that persons with prior criminal convictions are not barred from
46 employment.

47 (e) For an applicant with more than twenty-five employees, a statement
48 that the applicant has entered into a labor peace agreement with a bona-
49 fade labor organization that is actively engaged in representing or
50 attempting to represent the applicant's employees. The maintenance of
51 such a labor peace agreement shall be an ongoing material condition of
52 certification.

53 (f) A statement that the location and layout of the premises to be
54 licensed does not violate any requirement of this chapter relating to
55 location and layout of licensed premises, with a copy of the certificate
56 of occupancy for the premises.

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

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

19 (i) The fingerprints of the applicants. Fingerprints submitted by the
20 applicants shall be transmitted to the division of criminal justice
21 services and may be submitted to the federal bureau of investigation for
22 state and national criminal history record checks.

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

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

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

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

47 6. The bureau may in its discretion waive the submission of any cate-
48 gory of information described in this section for any category of
49 license or permit, provided that it shall not be, except for paragraphs
50 (a) and (d) of subdivision one of this section, permitted to waive the
51 requirement for submission of any such category of information solely
52 for an individual applicant or applicants.

53 § 185. Notification to towns, cities or villages. 1. Not less than
54 thirty days before filing any of the following applications, an appli-
55 cant shall notify the town, city or village in which the premises is
56 located of such applicant's intent to file such an application for a:

- 1 (a) marihuana producer license;
- 2 (b) marihuana processor license;
- 3 (c) marihuana microbusiness license;
- 4 (d) marihuana retailer license;
- 5 (e) marihuana retailer license for on-site consumption;
- 6 (f) marihuana delivery license;
- 7 (g) marihuana testing license; and/or
- 8 (h) any other type of licenses allowed by the bureau.

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

12 (a) notification need only be given to the clerk of a village when the
13 premises is located within the boundaries of the town, city or village;
14 and

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

19 3. For purposes of this section, "substantial corporate change" shall
20 mean:

21 (a) for a corporation, a change of eighty percent or more of the offi-
22 cers and/or directors, or a transfer of eighty percent or more of stock
23 of such corporation, or an existing stockholder obtaining eighty percent
24 or more of the stock of such corporation;

25 (b) for a limited liability company, a change of eighty percent or
26 more of the managing members of the company, or a transfer of eighty
27 percent or more of ownership interest in said company, or an existing
28 member obtaining a cumulative of eighty percent or more of the ownership
29 interest in said company; and

30 (c) for a partnership, a change of eighty percent or more of the part-
31 ners, or a transfer of eighty percent or more of ownership interest in
32 said partnership, or an existing partner obtaining a cumulative of
33 eighty percent or more of the ownership interest in said company.

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

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

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

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

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

48 (b) the full name of the applicant;

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

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

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

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

56 (i) a new establishment;

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

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

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

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

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

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

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

1 discretion and in accordance with such rules and regulations and the
2 payment of such fees, not exceeding five dollars, as it may prescribe.

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

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

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

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

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

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

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

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

45 § 189. Decisions of the bureau of marihuana policy and review by the
46 courts. Provisions of sections one hundred twenty, one hundred twenty-
47 one and one hundred twenty-four of this chapter shall apply to marihuana
48 licenses issued under this article.

49 § 190. Minority and women-owned businesses and incubator program. The
50 bureau shall:

51 1. Implement a social equity plan and actively promote racial, ethnic,
52 and gender diversity when issuing licenses for marihuana related activ-
53 ities, including by prioritizing consideration of applications by appli-
54 cants who qualify as a minority and women-owned business. Such quali-
55 fications shall be determined by the bureau.

1 2. The bureau shall create a social equity plan to promote diversity
2 in ownership and employment in the marihuana industry and ensure inclu-
3 sion of: (a) minority-owned businesses; (b) women-owned businesses; and
4 (c) minority and women-owned businesses, as defined in subdivision five
5 of this section.

6 3. The social equity plan shall consider additional criteria in its
7 licensing determinations. Under the social equity plan, extra weight
8 shall be given to applications that demonstrate that an applicant:

9 (a) is a member of a community group that has been disproportionately
10 impacted by the enforcement of marihuana prohibition;

11 (b) has an income lower than eighty percent of the median income of
12 the county in which the applicant resides; and

13 (c) was convicted of a marihuana-related offense prior to the effec-
14 tive date of this bill.

15 4. The bureau shall also create an incubator program to provide direct
16 support to social equity applicants after they have been granted
17 licenses. The program shall provide direct support in the form of coun-
18 seling services, education, small business coaching, and compliance
19 assistance.

20 5. For the purposes of this section, the following definitions shall
21 apply:

22 (a) "minority-owned business" shall mean a business enterprise,
23 including a sole proprietorship, partnership, limited liability company
24 or corporation that is:

25 (i) at least fifty-one percent owned by one or more minority group
26 members;

27 (ii) an enterprise in which such minority ownership is real, substan-
28 tial and continuing;

29 (iii) an enterprise in which such minority ownership has and exercises
30 the authority to control independently the day-to-day business decisions
31 of the enterprise;

32 (iv) an enterprise authorized to do business in this state and inde-
33 pendently owned and operated;

34 (v) an enterprise that is a small business.

35 (b) "minority group member" shall mean a United States citizen or
36 permanent resident alien who is and can demonstrate membership in one of
37 the following groups:

38 (i) black persons having origins in any of the black african racial
39 groups;

40 (ii) hispanic persons of mexican, puerto rican, dominican, cuban,
41 central or south american of either indian or hispanic origin, regard-
42 less of race;

43 (iii) native american or alaskan native persons having origins in any
44 of the original peoples of north america;

45 (iv) asian and pacific islander persons having origins in any of the
46 far east countries, south east asia, the indian subcontinent or the
47 pacific islands.

48 (c) "women-owned business" shall mean a business enterprise, including
49 a sole proprietorship, partnership, limited liability company or corpo-
50 ration that is:

51 (i) at least fifty-one percent owned by one or more United States
52 citizens or permanent resident aliens who are women;

53 (ii) an enterprise in which the ownership interest of such women is
54 real, substantial and continuing;

1 (iii) an enterprise in which such women ownership has and exercises
2 the authority to control independently the day-to-day business decisions
3 of the enterprise;

4 (iv) an enterprise authorized to do business in this state and inde-
5 pendently owned and operated;

6 (v) an enterprise that is a small business pursuant to subdivision
7 twenty of this section.

8 (d) a firm owned by a minority group member who is also a woman may be
9 defined as a minority-owned business, a women-owned business, or both.

10 6. The bureau shall actively promote applicants that foster racial,
11 ethnic, and gender diversity in their workforce.

12 7. Licenses issued to minority and women-owned businesses or under the
13 social equity plan shall not be transferable except to qualified minori-
14 ty and women-owned businesses or social equity applicants.

15 8. The bureau shall collect demographic data on owners and employees
16 in the marihuana industry and shall annually publish such data.

17 § 191. Disposition of moneys received for license fees. The bureau
18 shall establish a scale of application, licensing, and renewal fees,
19 based upon the cost of enforcing this article and the size of the mari-
20 huana business being licensed, as follows:

21 1. Each licensing authority shall charge each licensee a licensure and
22 renewal fee, as applicable. The licensure and renewal fee shall be
23 calculated to cover the costs of administering this article. The licen-
24 sure fee may vary depending upon the varying costs associated with
25 administering the various regulatory requirements of this article as
26 they relate to the nature and scope of the different licensure activ-
27 ities, but shall not exceed the reasonable regulatory costs to the
28 licensing authority.

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

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

34 4. The bureau shall deposit all fees collected in the New York state
35 marihuana revenue fund established pursuant to section ninety-nine-ff of
36 the state finance law.

37 § 192. Persons forbidden to traffic in marihuana. 1. The following
38 persons are forbidden to traffic in marihuana:

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

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

42 (c) A co-partnership or a corporation, unless each member of the part-
43 nership, or each of the principal officers and directors of the corpo-
44 ration, is a citizen of the United States or an alien lawfully admitted
45 for permanent residence in the United States, not less than twenty-one
46 years of age.

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

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

53 (e) A corporation or co-partnership, if any officer and director or
54 any partner, while not licensed under the provisions of this chapter,
55 has been convicted of a violation of this chapter, or has had a license

1 issued under this chapter revoked for cause, until the expiration of two
2 years from the date of such conviction or revocation.

3 2. An applicant shall not be denied a license under this article based
4 solely on a conviction for a violation of article two hundred twenty or
5 section 240.36 of the penal law, prior to the date article two hundred
6 twenty-one of the penal law took effect, or a conviction for a violation
7 of article two hundred twenty-one of the penal law after the effective
8 date of this article.

9 § 193. Surrender of license; notice to police officials. Within three
10 days after a license shall have been revoked pursuant to this article,
11 notice thereof shall be given to the licensee by mailing such notice
12 addressed to him at the premises licensed. Notice shall also be mailed
13 to the owner of the premises licensed. The holder of such license shall
14 thereupon surrender same to the bureau. The mailing thereof by the
15 licensee to the bureau by registered mail or insured parcel post shall
16 be deemed sufficient compliance with this section. The bureau, imme-
17 diately upon giving notice of revocation, shall serve a written notice
18 thereof upon the commissioner of police, chief of police or chief police
19 officer of the city or village in which the premises for which the
20 revoked license was issued is situated, or upon the sheriff of the coun-
21 ty or a constable of the town in case the license was issued for prem-
22 ises situated in a town and not within any city or village. Such notice
23 shall include a statement of the number of such license, the name and
24 place of residence of the holder thereof, the location of the licensed
25 premises, and the date when such license was revoked. In case such
26 license be not forthwith surrendered, the bureau shall issue a written
27 demand for the surrender of such license and deliver said demand to the
28 sheriff of the county in which the licensed premises are located, or to
29 any representative of the bureau, and said sheriff or representative
30 shall immediately take possession of such license and return the same to
31 the bureau.

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

46 § 195. Discrimination protections for the use of marihuana or medical
47 marihuana. 1. No school or landlord may refuse to enroll or lease to and
48 may not otherwise penalize a person solely for conduct allowed under
49 sections 221.05 and 221.05-a of the penal law or title five-A of article
50 thirty-three of the public health law, except as exempted:

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

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

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

4 2. For the purposes of medical care, including organ transplants, a
5 registered qualifying patient's authorized use of medical marihuana must
6 be considered the equivalent of the use of any other medication under
7 the direction of a practitioner and does not constitute the use of an
8 illicit substance or otherwise disqualify a registered qualifying
9 patient from medical care.

10 3. No person may be denied custody of or visitation or parenting time
11 with a minor, and there is no presumption of neglect or child endanger-
12 ment for conduct allowed under sections 221.05 and 221.05-a of the penal
13 law, unless the person's behavior creates an unreasonable danger to the
14 safety of the minor as established by clear and convincing evidence. For
15 the purposes of this section, an "unreasonable danger" determination
16 cannot be based solely on whether, when, and how often a person uses
17 marihuana without separate evidence of harm.

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

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

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

27 2. For the purposes of this section, an employer may consider an
28 employee's ability to perform the employee's job responsibilities to be
29 impaired when the employee manifests specific articulable symptoms while
30 working that decrease or lessen the employee's performance of the duties
31 or tasks of the employee's job position.

32 3. Nothing in this section shall restrict an employer's ability to
33 prohibit or take adverse employment action for the possession or use of
34 intoxicating substances during work hours, or require an employer to
35 commit any act that would cause the employer to be in violation of
36 federal law, or that would result in the loss of a federal contract or
37 federal funding.

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

42 § 197. Protections for persons under state supervision. A person
43 currently under parole, probation or other state supervision, or
44 released on bail awaiting trial may not be punished or otherwise penal-
45 ized for conduct allowed under sections 221.05 and 221.05-a of the penal
46 law.

47 § 198. Professional and medical record keeping. Any professional
48 providing services in connection with a licensed or potentially licensed
49 business under this chapter, or in connection with other conduct permit-
50 ted under this chapter, and any medical professional providing medical
51 care to a patient, may agree with their client or patient to maintain no
52 record, or any reduced level of record keeping that professional and
53 client or patient may agree. In case of such agreement, the profes-
54 sional's only obligation shall be to keep such records as agreed, and to
55 keep a record of the agreement. Such reduced record keeping is conduct

1 permitted under this chapter, and shall attract the protections of
2 section one hundred ninety-four of this article.

3 § 32. The state finance law is amended by adding three new sections
4 99-ff, 99-gg and 99-hh to read as follows:

5 § 99-ff. New York state marihuana revenue fund. 1. There is hereby
6 established in the joint custody of the state comptroller and the
7 commissioner of taxation and finance a special fund to be known as the
8 "New York state marihuana revenue fund".

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

16 3. The moneys in such fund shall be expended for the following
17 purposes:

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

22 (b) Reasonable costs incurred by the bureau of marihuana policy for
23 implementing, administering, and enforcing the marihuana regulation and
24 taxation act to the extent those costs are not reimbursed pursuant to
25 sections one hundred eighty-nine and one hundred ninety of article elev-
26 en of the alcoholic beverage control law. This paragraph shall remain
27 operative through the two thousand twenty-three -- two thousand twenty-
28 four fiscal year.

29 (c) Beginning with the two thousand twenty -- two thousand twenty-one
30 fiscal year and continuing through the two thousand twenty-two -- two
31 thousand twenty-three fiscal year, the commissioner of taxation and
32 finance shall annually disburse one million dollars to the marihuana
33 microbusiness and marihuana license revolving loan fund established
34 pursuant to section ninety-nine-ii of the state finance law.

35 (d) Beginning with the two thousand twenty -- two thousand twenty-one
36 fiscal year and continuing through the two thousand twenty-nine -- two
37 thousand thirty fiscal year, the commissioner of taxation and finance
38 shall annually disburse the following sums for the purposes of data
39 collection and reporting:

40 (1) Seven hundred fifty thousand dollars to the bureau of marihuana
41 policy to track and report data related to the licensing of marihuana
42 businesses, including the geographic location, structure, and function
43 of licensed marihuana businesses, and demographic data, including race,
44 ethnicity, and gender, of license holders. The bureau of marihuana poli-
45 cy shall publish reports on its findings annually and shall make the
46 reports available to the public.

47 (2) Seven hundred fifty thousand dollars to the department of criminal
48 justice services to track and report data related to any infractions,
49 violations, or criminal convictions that occur under any of the remain-
50 ing marihuana statutes. The department of criminal justice services
51 shall publish reports on its findings annually and shall make the
52 reports available to the public.

53 (3) One million dollars to the state university of New York to
54 research and evaluate the implementation and effect of the marihuana
55 regulation and taxation act. No more than four percent of these monies
56 may be used for expenses related to administrative costs of conducting

1 such research, and to, if appropriate, make recommendations to the
2 legislature and governor regarding possible amendments to the marihuana
3 regulation and taxation act. The recipients of these funds shall publish
4 reports on their findings at a minimum of every two years and shall make
5 the reports available to the public. The research funded pursuant to
6 this subdivision shall include but not necessarily be limited to:

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

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

12 (C) public safety issues related to marihuana use, including studying
13 the effectiveness of the packaging and labeling requirements and adver-
14 tising and marketing restrictions contained in the act at preventing
15 underage access to and use of marihuana and marihuana products, and
16 studying the health-related effects among users of varying potency
17 levels of marihuana and marihuana products;

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

20 (E) marihuana market prices, illicit market prices, tax structures and
21 rates, including an evaluation of how to best tax marihuana based on
22 potency, and the structure and function of licensed marihuana busi-
23 nesses;

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

28 (G) the economic impacts in the private and public sectors, including
29 but not necessarily limited to, job creation, workplace safety, reven-
30 ues, taxes generated for state and local budgets, and criminal justice
31 impacts, including, but not necessarily limited to, impacts on law
32 enforcement and public resources, short and long term consequences of
33 involvement in the criminal justice system, and state and local govern-
34 ment agency administrative costs and revenue;

35 (H) whether the regulatory agencies tasked with implementing and
36 enforcing the marihuana regulation and taxation act are doing so
37 consistent with the purposes of the act, and whether different agencies
38 might do so more effectively; and

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

41 4. After the dispersal of moneys pursuant to subdivision three of this
42 section, the remaining moneys in the fund deposited during the prior
43 fiscal year shall be disbursed into the state lottery fund and two addi-
44 tional sub-funds created within the marihuana revenue fund known as the
45 drug treatment and public education fund and the community grants rein-
46 vestment fund, as follows:

47 (a) twenty-five percent shall be deposited in the state lottery fund
48 established by section ninety-two-c of this article; provided that such
49 moneys shall be distributed to the department of education in accordance
50 with subdivisions two and four of section ninety-two-c of this article
51 and shall not be utilized for the purposes of subdivision three of such
52 section. Monies allocated by this article may enhance, but shall not
53 supplant, existing dedicated funds to the department of education;

54 (b) twenty-five percent shall be deposited in the drug treatment and
55 public education fund established by section ninety-nine-gg of this
56 article; and

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

3 5. On or before the first day of February each year, the commissioner
4 of taxation and finance shall provide a written report to the temporary
5 president of the senate, speaker of the assembly, chair of the senate
6 finance committee, chair of the assembly ways and means committee, the
7 state comptroller and the public. Such report shall detail how the
8 moneys of the fund were utilized during the preceding calendar year, and
9 shall include:

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

12 (ii) recipients of awards from the fund;

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

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

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

19 6. Moneys shall be payable directly from the marihuana revenue fund to
20 the department.

21 § 99-gg. New York state drug treatment public education fund. 1.
22 There is hereby established in the joint custody of the state comp-
23 troller and the commissioner of taxation and finance a special fund to
24 be known as the "New York state drug treatment public education fund".

25 2. Such fund shall consist of revenues received pursuant to the
26 provisions of section ninety-nine-ff of this article and all other
27 moneys appropriated thereto from any other fund or source pursuant to
28 law. Nothing contained in this section shall prevent the state from
29 receiving grants, gifts or bequests for the purposes of the fund as
30 defined in this section and depositing them into the fund according to
31 law.

32 3. The moneys in such fund shall be expended to the commissioner of
33 the office of alcoholism and substance abuse and disbursed in consulta-
34 tion with the commissioner of health for the following purposes:

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

39 (b) To develop and implement a statewide public health campaign
40 focused on the health effects of marihuana and legal use, including an
41 ongoing education and prevention campaign that educates the general
42 public, including parents, consumers and retailers, on the legal use of
43 marihuana, the importance of preventing youth access, the importance of
44 safe storage and preventing secondhand marihuana smoke exposure, infor-
45 mation for pregnant or breastfeeding women, and the overconsumption of
46 edibles;

47 (c) To provide substance use disorder treatment programs for youth and
48 adults, with an emphasis on programs that are culturally and gender
49 competent, trauma-informed, evidence-based and provide a continuum of
50 care that includes screening and assessment (substance use disorder as
51 well as mental health), early intervention, active treatment, family
52 involvement, case management, overdose prevention, prevention of commu-
53 nicable diseases related to substance use, relapse management for
54 substance use and other co-occurring behavioral health disorders, voca-
55 tional services, literacy services, parenting classes, family therapy

1 and counseling services, medication-assisted treatments, psychiatric
2 medication and psychotherapy; and

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

5 4. On or before the first day of February each year, the commissioner
6 of the office of alcoholism and substance abuse services shall provide a
7 written report to the temporary president of the senate, speaker of the
8 assembly, chair of the senate finance committee, chair of the assembly
9 ways and means committee, chair of the senate committee on alcoholism
10 and drug abuse, chair of the assembly alcoholism and drug abuse commit-
11 tee, the state comptroller and the public. Such report shall detail how
12 the moneys of the fund were utilized during the preceding calendar year,
13 and shall include:

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

16 (b) recipients of awards from the fund;

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

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

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

23 5. Moneys shall be payable from the fund on the audit and warrant of
24 the comptroller on vouchers approved and certified by the commissioner
25 of education.

26 § 99-hh. New York state community grants reinvestment fund. 1. There
27 is hereby established in the joint custody of the state comptroller and
28 the commissioner of taxation and finance a special fund to be known as
29 the "New York state community grants reinvestment fund".

30 2. Such fund shall consist of all revenues received pursuant to the
31 provisions of section ninety-nine-ff of this article and all other
32 moneys appropriated thereto from any other fund or source pursuant to
33 law. Nothing contained in this section shall prevent the state from
34 receiving grants, gifts or bequests for the purposes of the fund as
35 defined in this section and depositing them into the fund according to
36 law.

37 3. The fund shall be governed and administered by an executive steer-
38 ing committee of thirteen members established by the office of children
39 and family services and including additional representatives from the
40 labor department, and the health department appointed by the governor
41 and a representative of the education department appointed by the board
42 of regents. In addition, the majority and minority leaders of the senate
43 and assembly shall each appoint one member to the steering committee,
44 the comptroller shall appoint three additional members, and the attorney
45 general shall appoint two additional members from relevant local govern-
46 ment entities and community-based organizations. Every effort should be
47 made to ensure a balanced and diverse committee, which shall have exper-
48 tise in job placement, homelessness and housing, behavioral health and
49 substance use disorder treatment, and effective rehabilitative treatment
50 for adults and juveniles, and shall include representatives of organiza-
51 tions serving communities impacted by past federal and state drug poli-
52 cies.

53 4. The moneys in such fund shall be expended by the executive steering
54 committee to qualified community-based nonprofit organizations for the
55 purpose of reinvesting in communities disproportionately affected by
56 past federal and state drug policies. The grants from this program shall

1 be used to support job placement, job skills services, adult education,
 2 mental health treatment, substance use disorder treatment, system navi-
 3 gation services, legal services to address barriers to reentry, and
 4 linkages to medical care, women's health services and other community-
 5 based supportive services.

6 5. On or before the first day of February each year, the commissioner
 7 of the office of children and family services shall provide a written
 8 report to the temporary president of the senate, speaker of the assem-
 9 bly, chair of the senate finance committee, chair of the assembly ways
 10 and means committee, chair of the senate committee on children and fami-
 11 lies, chair of the assembly children and families committee, chair of
 12 the senate committee on labor, chair of the assembly labor committee,
 13 chair of the senate committee on health, chair of the assembly health
 14 committee, chair of the senate committee on education, chair of the
 15 assembly education committee, the state comptroller and the public. Such
 16 report shall detail how the monies of the fund were utilized during the
 17 preceding calendar year, and shall include:

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

20 (b) recipients of awards from the fund;

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

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

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

27 6. Moneys shall be payable from the fund on the audit and warrant of
 28 the comptroller on vouchers approved and certified by the commissioner
 29 of education.

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

ARTICLE 18-A

PROVISIONS RELATING TO MARIHUANA

Section 446. Definitions.

447. Taxes imposed.

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

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

448. Surety bond.

449. Collection of tax.

§ 446. Definitions. As used in this article:

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

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

55 3. "Marihuana" means all parts of the plant of the genus Cannabis,
 56 whether growing or not; the seeds thereof; the resin extracted from any

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

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

14 5. "Marihuana flowers" shall mean the dried flowers of the marihuana
15 plant.

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

18 7. "Marihuana processor" means a person licensed by the bureau of
19 marihuana policy to purchase marihuana and concentrated cannabis from
20 marihuana producers, to process marihuana, concentrated cannabis, and
21 marihuana-infused products, package and label marihuana, concentrated
22 cannabis and marihuana-infused products for sale in retail outlets, and
23 sell marihuana, concentrated cannabis and marihuana infused products at
24 wholesale to marihuana retailers.

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

29 9. "Marihuana products" means marihuana, concentrated cannabis, and
30 marihuana-infused products.

31 10. "Marihuana-infused products" means products that contain marihuana
32 or concentrated cannabis and are intended for human use or consumption,
33 such as, but not limited to, edible products, ointments, and tinctures.

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

36 12. "Marihuana retailer" means a person licensed by the bureau of
37 marihuana policy to purchase marihuana, concentrated cannabis, and mari-
38 huana-infused products from marihuana producers and marihuana processors
39 and sell marihuana, marihuana-infused products, and concentrated canna-
40 bis in a retail outlet.

41 13. "Marihuana retailer for on-premises consumption" means a person
42 licensed by the bureau of marihuana policy to purchase marihuana,
43 concentrated cannabis, and marihuana infused products from marihuana
44 producers, marihuana retailers and marihuana processors and sell mari-
45 huana products for a customer to consume while the customer is within
46 the facility.

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

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

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

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

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

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

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

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

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

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

30 (a) maximizing net revenue;

31 (b) minimizing the illegal marihuana industry; and

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

34 § 447-a. Local taxes on marihuana by a city or town. Any city or town
35 in this state, acting through its local legislative body, is hereby
36 authorized and empowered to adopt and amend local laws imposing in any
37 such city or town a sales tax on marihuana retailers at a rate of no
38 more than two percent of the sale price of marihuana products sold to a
39 marihuana consumer. Any taxes imposed pursuant to the authority of this
40 section shall be administered and collected by the department in the
41 same manner as the taxes imposed under section four hundred forty-nine
42 of this article. The commissioner is hereby empowered to make such
43 provisions as it deems necessary for the joint administration and
44 collection of the state and local taxes imposed and authorized by this
45 article.

46 § 447-b. Ordinary and necessary expenses deductible from net income.
47 Notwithstanding any federal tax law to the contrary, in computing net
48 income for businesses exempted from criminal penalties under articles
49 two hundred twenty and two hundred twenty-one of the penal law and arti-
50 cle eleven of the alcoholic beverage control law, there shall be allowed
51 as a deduction from state taxes all the ordinary and necessary expenses
52 paid or incurred during the taxable year in carrying on any trade or
53 business, including but not limited to, reasonable allowance for sala-
54 ries or other compensation for personal services actually rendered.

55 § 448. Surety bond. Marihuana retailer applicants are required to
56 submit a surety bond with the department equal to two months of the

1 cultivation facility's anticipated retail marihuana excise tax. The
2 surety bond must be issued by a company authorized to do business in the
3 state. Proof of surety bond is required for approval of applicant's
4 retail license.

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

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

12 (i) prior to the filing of an accusatory instrument in a local crimi-
13 nal court against such person, the prosecutor elects not to prosecute
14 such person. In such event, the prosecutor shall serve a certification
15 of such disposition upon the division of criminal justice services and
16 upon the appropriate police department or law enforcement agency which,
17 upon receipt thereof, shall comply with the provisions of paragraphs
18 (a), (b), (c) and (d) of subdivision one of this section in the same
19 manner as is required thereunder with respect to an order of a court
20 entered pursuant to said subdivision one~~[-]; or~~

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

31 (k) (i) The accusatory instrument alleged a violation of article two
32 hundred twenty or section 240.36 of the penal law, prior to the taking
33 effect of article two hundred twenty-one of the penal law, or by the
34 conviction of such person of a violation of [~~article two hundred twen-~~
35 ~~ty-one~~] section 221.45 of the penal law on or after the effective date
36 of the chapter of the laws of two thousand eighteen that amended this
37 subdivision or a violation of section 221.05, 221.10, 221.15, 221.20,
38 221.25, 221.30, 221.35, or 221.40 of the penal law prior to the effec-
39 tive date of the chapter of the laws of two thousand eighteen that
40 amended this subdivision; and (ii) the sole controlled substance
41 involved is [~~marijuana; (iii) the conviction was only for a violation or~~
42 ~~violations; and (iv) at least three years have passed since the offense~~
43 ~~occurred~~] marihuana. No defendant shall be required or permitted to
44 waive eligibility for sealing pursuant to this paragraph as part of a
45 plea of guilty, sentence or any agreement related to a conviction for a
46 violation of section 221.45 of the penal law. Any such waiver shall be
47 deemed void and wholly unenforceable.

48 § 35. Subdivision 4 of section 160.50 of the criminal procedure law,
49 as amended by chapter 905 of the laws of 1977 and renumbered by chapter
50 142 of the laws of 1991, is amended to read as follows:

51 4. A person in whose favor a criminal action or proceeding was termi-
52 nated, as defined in [~~paragraph~~] paragraphs (a) through (h), ~~(k) or (l)~~
53 of subdivision [~~two~~] three of this section, prior to the effective date
54 of [~~this section, may upon motion apply to the court in which such~~
55 ~~termination occurred, upon not less than twenty days notice to the~~
56 ~~district attorney, for an order granting to such person the relief set~~

~~1 forth in subdivision one of this section, and such order shall be grant-~~
~~2 ed unless the district attorney demonstrates to the satisfaction of the~~
~~3 court that the interests of justice require otherwise. A person in whose~~
~~4 favor a criminal action or proceeding was terminated, as defined in~~
~~5 paragraph (i) or (j) of subdivision two of this section, prior to the~~
~~6 effective date of this section, may apply to the appropriate prosecutor~~
~~7 or police agency for a certification as described in said paragraph (i)~~
~~8 or (j) granting to such person the relief set forth therein, and such~~
~~9 certification shall be granted by such prosecutor or police agency.]~~ 10 the
11 chapter of the laws of two thousand eighteen that amended this subdivi-
12 sion, and whose records have not been sealed pursuant to subdivision one
13 of this section, may apply to have the records of such criminal action
14 or proceeding sealed at the clerk's office for the court in which the
15 criminal action or proceeding was terminated. Application may be made by
16 the person or his or her attorney. Upon a determination by the clerk
17 that the action or proceeding was terminated in the person's favor as
18 defined in subdivision three of this section, the clerk of the court
19 shall immediately notify the commissioner of the division of criminal
20 justice services and the heads of all appropriate police departments and
21 other law enforcement agencies that the action has been terminated in
22 favor of the accused and that the record of such action or proceedings
23 shall be sealed. Upon receipt of notification of such termination and
24 sealing, all records relating to the criminal action shall be sealed, as
25 required under paragraph (c) of subdivision one of this section, and all
26 photographs, photographic plates or proofs, palmprints and fingerprints
27 shall be destroyed or returned as specified in paragraphs (a) and (b) of
28 subdivision one of this section. This paragraph shall not apply to cases
29 in which the court declined to seal for reasons stated on the record,
30 pursuant to subdivision one of this section. When an applicant under
31 this subdivision presents to the court clerk fingerprint records from
32 New York state division of criminal justice services or a court disposi-
33 tion which indicate that a criminal action or proceeding against the
34 applicant was dismissed but the supporting court records cannot be
35 located, have been destroyed, or do not indicate whether the dismissal
36 was a "termination in favor of" the accused as that term is defined in
37 subdivision three of this section, the clerk of the court wherein such
38 criminal action or proceeding was terminated shall proceed as if the
matter had been so terminated.

39 § 36. Subdivisions 1 and 2 of section 170.56 of the criminal procedure
40 law, subdivision 1 as amended by chapter 360 of the laws of 1977 and
41 subdivision 2 as added by chapter 1042 of the laws of 1971, are amended
42 to read as follows:

43 1. Upon or after arraignment in a local criminal court upon an infor-
44 mation, a prosecutor's information or a misdemeanor complaint, where the
45 sole remaining count or counts charge a violation or violations of
46 section [~~221.05, 221.10, 221.15, 221.35 or 221.40~~] 221.45 of the penal
47 law, or upon summons for a nuisance offense under section sixty-five-c
48 of the alcoholic beverage control law and before the entry of a plea of
49 guilty thereto or commencement of a trial thereof, the court, upon
50 motion of a defendant, may order that all proceedings be suspended and
51 the action adjourned in contemplation of dismissal, or upon a finding
52 that adjournment would not be necessary or appropriate and the setting
53 forth in the record of the reasons for such findings, may dismiss in
54 furtherance of justice the accusatory instrument; provided, however,
55 that the court may not order such adjournment in contemplation of
56 dismissal or dismiss the accusatory instrument if: (a) the defendant has

1 previously been granted such adjournment in contemplation of dismissal,
2 or (b) the defendant has previously been granted a dismissal under this
3 section, or (c) the defendant has previously been convicted of any
4 offense involving controlled substances, or (d) the defendant has previ-
5 ously been convicted of a crime and the district attorney does not
6 consent or (e) the defendant has previously been adjudicated a youthful
7 offender on the basis of any act or acts involving controlled substances
8 and the district attorney does not consent. Notwithstanding the limita-
9 tions set forth in this subdivision, the court may order that all
10 proceedings be suspended and the action adjourned in contemplation of
11 dismissal based upon a finding of exceptional circumstances. For
12 purposes of this subdivision, exceptional circumstances exist when,
13 regardless of the ultimate disposition of the case, the entry of a plea
14 of guilty is likely to result in severe collateral consequences, includ-
15 ing, but not limited to, those that could leave a noncitizen inadmissi-
16 ble or removable from the United States.

17 2. Upon ordering the action adjourned in contemplation of dismissal,
18 the court must set and specify such conditions for the adjournment as
19 may be appropriate, and such conditions may include placing the defend-
20 ant under the supervision of any public or private agency. At any time
21 prior to dismissal the court may modify the conditions or extend or
22 reduce the term of the adjournment, except that the total period of
23 adjournment shall not exceed [~~twelve~~] six months. Upon violation of any
24 condition fixed by the court, the court may revoke its order and restore
25 the case to the calendar and the prosecution thereupon must proceed. If
26 the case is not so restored to the calendar during the period fixed by
27 the court, the accusatory instrument is, at the expiration of such peri-
28 od, deemed to have been dismissed in the furtherance of justice.

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

31 § 210.46 Adjournment in contemplation of dismissal in marijuana cases
32 in a superior court.

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

41 § 38. Paragraph (h) and subparagraph (ii) of paragraph (i) of subdivi-
42 sion 1 of section 440.10 of the criminal procedure law, paragraph (h) as
43 amended by chapter 332 of the laws of 2010 and subparagraph (ii) of
44 paragraph (i) as amended by chapter 368 of the laws of 2015, are amended
45 and a new paragraph (j) is added to read as follows:

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

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

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

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

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

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

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

16 § 40. The criminal procedure law is amended by adding a new section
17 440.46-a to read as follows:

18 § 440.46-a Motion for resentence; persons convicted of certain marihuana
19 offenses.

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

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

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

39 (b) The movant's disciplinary record and record of rehabilitation
40 while incarcerated.

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

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

1 reinstatement of charges dismissed pursuant to a negotiated plea agree-
2 ment.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (c) Criminal possession of a controlled substance in the seventh
2 degree as defined in section 220.03 of the penal law, criminal
3 possession of a controlled substance in the fifth degree as defined in
4 section 220.06 of the penal law, criminal possession of a controlled
5 substance in the fourth degree as defined in section 220.09 of the penal
6 law, criminal possession of a controlled substance in the third degree
7 as defined in section 220.16 of the penal law, criminal possession of a
8 controlled substance in the second degree as defined in section 220.18
9 of the penal law, criminal possession of a controlled substance in the
10 first degree as defined in section 220.21 of the penal law, criminal
11 sale of a controlled substance in the fifth degree as defined in section
12 220.31 of the penal law, criminal sale of a controlled substance in the
13 fourth degree as defined in section 220.34 of the penal law, criminal
14 sale of a controlled substance in the third degree as defined in section
15 220.39 of the penal law, criminal sale of a controlled substance in the
16 second degree as defined in section 220.41 of the penal law, criminal
17 sale of a controlled substance in the first degree as defined in section
18 220.43 of the penal law, criminally possessing a hypodermic instrument
19 as defined in section 220.45 of the penal law, criminal sale of a
20 prescription for a controlled substance or a controlled substance by a
21 practitioner or pharmacist as defined in section 220.65 of the penal
22 law, criminal possession of methamphetamine manufacturing material in
23 the second degree as defined in section 220.70 of the penal law, crimi-
24 nal possession of methamphetamine manufacturing material in the first
25 degree as defined in section 220.71 of the penal law, criminal
26 possession of precursors of methamphetamine as defined in section 220.72
27 of the penal law, unlawful manufacture of methamphetamine in the third
28 degree as defined in section 220.73 of the penal law, unlawful manufac-
29 ture of methamphetamine in the second degree as defined in section
30 220.74 of the penal law, unlawful manufacture of methamphetamine in the
31 first degree as defined in section 220.75 of the penal law, unlawful
32 disposal of methamphetamine laboratory material as defined in section
33 220.76 of the penal law, operating as a major trafficker as defined in
34 section 220.77 of the penal law, [~~criminal possession of marihuana in
35 the first degree as defined in section 221.30 of the penal law, criminal
36 sale of marihuana in the first degree as defined in section 221.55 of
37 the penal law,~~] promoting gambling in the second degree as defined in
38 section 225.05 of the penal law, promoting gambling in the first degree
39 as defined in section 225.10 of the penal law, possession of gambling
40 records in the second degree as defined in section 225.15 of the penal
41 law, possession of gambling records in the first degree as defined in
42 section 225.20 of the penal law, and possession of a gambling device as
43 defined in section 225.30 of the penal law;

44 § 42. Paragraphs (b) and (c) of subdivision 4-b and subdivisions 6 and
45 9 of section 1310 of the civil practice law and rules, paragraphs (b)
46 and (c) of subdivision 4-b as added by chapter 655 of the laws of 1990
47 and subdivisions 6 and 9 as added by chapter 669 of the laws of 1984,
48 are amended to read as follows:

49 (b) on three or more occasions, engaging in conduct constituting a
50 violation of any of the felonies defined in section 220.09, 220.16,
51 220.18, 220.21, 220.31, 220.34, 220.39, 220.41[~~7~~] ~~or~~ 220.43 [~~or 221.55~~]
52 of the penal law, which violations do not constitute a single criminal
53 offense as defined in subdivision one of section 40.10 of the criminal
54 procedure law, or a single criminal transaction, as defined in paragraph
55 (a) of subdivision two of section 40.10 of the criminal procedure law,
56 and at least one of which resulted in a conviction of such offense, or

1 where the accusatory instrument charges one or more of such felonies,
2 conviction upon a plea of guilty to a felony for which such plea is
3 otherwise authorized by law; or

4 (c) a conviction of a person for a violation of section 220.09,
5 220.16, 220.34 or 220.39 of the penal law, [~~or a conviction of a crimi-~~
6 ~~nal defendant for a violation of section 221.30 of the penal law,~~] or

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

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

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

29 § 43. 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~~] unlicensed sale of [~~marijuana~~]
20 marihuana in the first degree pursuant to [~~sections~~] section 221.45[~~-~~
21 ~~221.50 and 221.55~~]; riot in the first degree, aggravated harassment in
22 the first degree, criminal nuisance in the first degree and falsely
23 reporting an incident in the second or first degree pursuant to article
24 two hundred forty; and crimes against public safety pursuant to article
25 two hundred sixty-five of the penal law.

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

28 § 45. 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 § 46. 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 § 47. 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 § 48. 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 § 49. 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 § 50. The opening paragraph of paragraph (a) of subdivision 2 of
51 section 1194 of the vehicle and traffic law, as amended by chapter 196
52 of the laws of 1996, is amended to read as follows:

53 When authorized. Any person who operates a motor vehicle in this state
54 shall be deemed to have given consent to a chemical test of one or more
55 of the following: breath, blood, urine, or saliva, for the purpose of
56 determining the alcoholic and/or drug content, other than marihuana

1 content including but not limited to tetrahydrocannabinol content, of
2 the blood provided that such test is administered by or at the direction
3 of a police officer with respect to a chemical test of breath, urine or
4 saliva or, with respect to a chemical test of blood, at the direction of
5 a police officer:

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

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

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

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

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

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

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

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

34 § 53. Subdivision 10 of section 18 of the alcoholic beverage control
35 law, as amended by chapter 118 of the laws of 2012, is amended to read
36 as follows:

37 10. To develop and establish minimum criteria for alcohol or substance
38 use disorder training awareness programs which may be given and adminis-
39 tered by schools; other entities including trade associations whose
40 members are engaged in or involved in the retail sale of alcoholic
41 beverages; national and regional franchisors who have granted at least
42 five franchises in the state which are licensed to sell beer at retail
43 for off-premises consumption; licensees authorized to sell alcoholic
44 beverages at retail for off-premises consumption operating five or more
45 licensed premises; and persons interested, whether as an individual
46 proprietor or partner or officer or member of a limited liability compa-
47 ny, in five or more licensees authorized to sell alcoholic beverages at
48 retail for off-premises consumption. The authority shall provide for the
49 issuance of certificates of approval to all certified alcohol or
50 substance use disorder training awareness programs. Certificates of
51 approval may be revoked by the authority for failure to adhere to the
52 authority's rules and regulations. Such rules and regulations shall
53 afford those who have been issued a certificate of approval an opportu-
54 nity for a hearing prior to any determination of whether such certif-
55 icate should be revoked.

1 No licensee shall be required to apply for any such certificate or
2 renewal certificate and the licensee may voluntarily surrender such a
3 certificate or renewal certificate at any time. A fee in the amount of
4 nine hundred dollars shall be paid to the authority with each applica-
5 tion for a certificate of approval or renewal certificate. The authority
6 shall promptly refund such fee to an applicant whose application was
7 denied. Each certificate of approval and renewal thereof shall be issued
8 for a period of three years. To effectuate the provisions of this subdivi-
9 sion, the authority is empowered to require in connection with an
10 application the submission of such information as the authority may
11 direct; to prescribe forms of applications and of all reports which it
12 deems necessary to be made by any applicant or certificate holder; to
13 conduct investigations; to require the maintenance of such books and
14 records as the authority may direct; to revoke, cancel, or suspend for
15 cause any certificate provided for in this subdivision. Each entity
16 authorized to give and administer an alcohol or substance use disorder
17 training awareness program shall issue certificates of completion to all
18 licensees and employees who successfully complete such an approved alco-
19 hol or substance use disorder training awareness program. Such entity
20 shall regularly transmit to the authority the names, addresses and dates
21 of attendance of all the licensees and employees of licensees who
22 successfully complete an approved alcohol or substance use disorder
23 training awareness program. Such transmittal shall be in a form and
24 manner prescribed by the authority. The authority shall adopt rules and
25 regulations to effectuate the provisions of this subdivision, including
26 the minimum requirements for the curriculum of each such training
27 program and the regular ongoing training of employees holding certif-
28 icates of completion or renewal certificates. Such rules and regulations
29 shall include the minimum requirements for a separate curriculum for
30 licensees and their employees authorized to sell alcoholic beverages at
31 retail for off-premises consumption, minimum requirements for a separate
32 curriculum for licensees and their employees authorized to sell alcohol-
33 ic beverages at retail for on-premises consumption, and the form of a
34 certificate of completion or renewal thereof to be issued in respect to
35 each such type of program. A certificate of completion or renewal there-
36 of issued by an entity authorized to give and administer an alcohol or
37 substance use disorder training awareness program pursuant to this
38 subdivision to licensees and their employees authorized to sell alcohol-
39 ic beverages at retail for off-premises consumption shall not be invali-
40 dated by a change of employment to another such licensee. A certificate
41 of completion or renewal thereof issued by an entity authorized to give
42 and administer an alcohol or substance use disorder training awareness
43 program pursuant to this subdivision to licensees and their employees
44 authorized to sell alcoholic beverages at retail for on-premises
45 consumption shall not be invalidated by a change of employment to anoth-
46 er such licensee. Attendance at any course established pursuant to this
47 section shall be in person, through distance learning methods, or
48 through an internet based online program.

49 § 54. Section 18 of the alcoholic beverage control law, as added by
50 chapter 83 of the laws of 1995, is amended by adding a new subdivision
51 10 to read as follows:

52 10. To develop and establish minimum criteria for alcohol or substance
53 use disorder training awareness programs which may be given and adminis-
54 tered by schools; other entities including trade associations whose
55 members are engaged in or involved in the retail sale of alcoholic
56 beverages; national and regional franchisors who have granted at least

1 five franchises in the state which are licensed to sell beer at retail
2 for off-premises consumption; licensees authorized to sell alcoholic
3 beverages at retail for off-premises consumption operating five or more
4 licensed premises; and persons interested, whether as an individual
5 proprietor or partner or officer or member of a limited liability compa-
6 ny, in five or more licensees authorized to sell alcoholic beverages at
7 retail for off-premises consumption. The authority shall provide for the
8 issuance of certificates of approval to all certified alcohol or
9 substance use disorder training awareness programs. Certificates of
10 approval may be revoked by the authority for failure to adhere to the
11 authority's rules and regulations. Such rules and regulations shall
12 afford those who have been issued a certificate of approval an opportu-
13 nity for a hearing prior to any determination of whether such certif-
14 icate should be revoked.

15 No licensee shall be required to apply for any such certificate or
16 renewal certificate and the licensee may voluntarily surrender such a
17 certificate or renewal certificate at any time. A fee in the amount of
18 nine hundred dollars shall be paid to the authority with each applica-
19 tion for a certificate of approval or renewal certificate. The authority
20 shall promptly refund such fee to an applicant whose application was
21 denied. Each certificate of approval and renewal thereof shall be issued
22 for a period of three years. To effectuate the provisions of this subdivi-
23 vision, the authority is empowered to require in connection with an
24 application the submission of such information as the authority may
25 direct; to prescribe forms of applications and of all reports which it
26 deems necessary to be made by any applicant or certificate holder; to
27 conduct investigations; to require the maintenance of such books and
28 records as the authority may direct; to revoke, cancel, or suspend for
29 cause any certificate provided for in this subdivision. Each entity
30 authorized to give and administer an alcohol or substance use disorder
31 training awareness program shall issue certificates of completion to all
32 licensees and employees who successfully complete such an approved alco-
33 hol or substance use disorder training awareness program. Such entity
34 shall regularly transmit to the authority the names, addresses and dates
35 of attendance of all the licensees and employees of licensees who
36 successfully complete an approved alcohol or substance use disorder
37 training awareness program. Such transmittal shall be in a form and
38 manner prescribed by the authority. The authority shall adopt rules and
39 regulations to effectuate the provisions of this subdivision, including
40 the minimum requirements for the curriculum of each such training
41 program and the regular ongoing training of employees holding certif-
42 icates of completion or renewal certificates. Such rules and regulations
43 shall include the minimum requirements for a separate curriculum for
44 licensees and their employees authorized to sell alcoholic beverages at
45 retail for off-premises consumption, minimum requirements for a separate
46 curriculum for licensees and their employees authorized to sell alcohol-
47 ic beverages at retail for on-premises consumption, and the form of a
48 certificate of completion or renewal thereof to be issued in respect to
49 each such type of program. A certificate of completion or renewal there-
50 of issued by an entity authorized to give and administer an alcohol or
51 substance use disorder training awareness program pursuant to this
52 subdivision to licensees and their employees authorized to sell alcohol-
53 ic beverages at retail for off-premises consumption shall not be invali-
54 dated by a change of employment to another such licensee. A certificate
55 of completion or renewal thereof issued by an entity authorized to give
56 and administer an alcohol or substance use disorder training awareness

1 program pursuant to this subdivision to licensees and their employees
2 authorized to sell alcoholic beverages at retail for on-premises
3 consumption shall not be invalidated by a change of employment to another
4 such licensee. Attendance at any course established pursuant to this
5 section shall be in person, through distance learning methods, or
6 through an internet based online program.

7 § 55. Section 150.75 of the criminal procedure law is REPEALED.

8 § 56. Subdivision (a) of section 712 of the family court act, as
9 amended by section 7 of part G of chapter 58 of the laws of 2010, is
10 amended to read as follows:

11 (a) "Person in need of supervision". A person less than eighteen years
12 of age who does not attend school in accordance with the provisions of
13 part one of article sixty-five of the education law or who is incorrigi-
14 ble, ungovernable or habitually disobedient and beyond the lawful
15 control of a parent or other person legally responsible for such child's
16 care, or other lawful authority, or who violates the provisions of
17 section [~~221.05-0x~~] 230.00 of the penal law, or who appears to be a
18 sexually exploited child as defined in paragraph (a), (c) or (d) of
19 subdivision one of section four hundred forty-seven-a of the social
20 services law, but only if the child consents to the filing of a petition
21 under this article.

22 § 57. The state finance law is amended by adding a new section 99-ii
23 to read as follows:

24 § 99-ii. Marihuana microbusiness and marihuana license revolving loan
25 fund. 1. There is hereby established in the joint custody of the comp-
26 troller and the commissioner of taxation and finance a fund to be known
27 as the marihuana microbusiness and marihuana license revolving loan
28 fund.

29 2. The fund shall consist of all monies appropriated for its purpose,
30 all monies transferred to such fund pursuant to law and all monies
31 required by the provisions of this section or any other law to be paid
32 into or credited to this fund, including all monies received by the fund
33 or donated to it. Monies in the fund shall be kept separate and shall
34 not be commingled with any other monies otherwise appropriated or
35 received except as hereby provided.

36 3. Monies of the fund, when allocated, shall be available to the
37 bureau of marihuana policy for the purpose of providing low interest
38 loans to individuals and businesses interested in establishing a mari-
39 huana microbusiness or otherwise obtaining a license available from the
40 bureau of marihuana policy and participating in the marihuana industry.

41 4. The bureau of marihuana policy shall establish through rules and
42 regulations guidelines necessary to administer the fund. Guidelines
43 shall include, but not be limited to: qualifications and conditions for
44 assistance; terms of loan or installment payments and finance charges on
45 installment payments at rates of interest which, notwithstanding any
46 other provision of law, are of the lowest rate possible to maintain the
47 fund; prioritize loans to promote racial, ethnic, and gender diversity
48 in licenses for marihuana related activities; and any other terms and
49 conditions the bureau may require as necessary to properly effectuate
50 the provisions of this section.

51 5. The bureau of marihuana policy shall make public by September first
52 of each year a report including, but not limited to: the current guide-
53 lines of the fund; a complete financial statement including, but not
54 limited to, monies allocated, collected, transferred or otherwise paid
55 or credited to the fund; a projected schedule of disbursements, receipts

1 and needs of the fund for the next fiscal year; and the names and busi-
2 ness addresses of each current loan recipient.

3 6. No monies shall be payable from this fund, except on the audit and
4 warrant of the comptroller on vouchers certified and submitted by the
5 bureau of marihuana policy.

6 § 58. Appropriation. The sum of five million dollars (\$5,000,000) is
7 hereby appropriated to the New York State Liquor Authority out of any
8 moneys in the state treasury in the general fund to the credit of the
9 state purposes account, not otherwise appropriated, and made immediately
10 available, for the purpose of carrying out the provisions of this act.
11 Such moneys shall be payable on the audit and warrant of the comptroller
12 on vouchers certified or approved by the superintendent or the chairman
13 of the New York State Liquor Authority in the manner prescribed by law.

14 § 59. Severability. If any provision or term of this act is for any
15 reason declared unconstitutional or invalid or ineffective by any court
16 of competent jurisdiction, such decision shall not affect the validity
17 of the effectiveness of the remaining portions of this act or any part
18 thereof.

19 § 60. This act shall take effect immediately; provided, however, that
20 the amendments to section 17 of the alcoholic beverage control law made
21 by section fifty-one of this act shall not affect the expiration and
22 reversion of such section and shall expire and be deemed repealed there-
23 with, when upon such date the provisions of section fifty-two of this
24 act shall take effect; provided further, however, that the amendments to
25 section 18 of the alcoholic beverage control law made by section fifty-
26 three of this act shall not affect the expiration and reversion of such
27 section and shall expire and be deemed repealed therewith, when upon
28 such date the provisions of section fifty-four of this act shall take
29 effect.