

# STATE OF NEW YORK

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3506--A

2017-2018 Regular Sessions

## IN ASSEMBLY

January 27, 2017

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

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 marihuana control fund and the marihuana revenue fund; to amend the tax law, in relation to providing for the levying of an excise tax on certain sales of marihuana; to amend the criminal procedure law, the civil practice law and rules, the general business law, the state finance law, the executive law, the penal law and the vehicle and traffic law, in relation to making conforming changes; to repeal sections 221.05, 221.10, 221.15, 221.20, 221.25, 221.30, 221.35 and 221.40 of the penal law relating to the criminal possession and sale of marihuana; to repeal paragraph (f) of subdivision 2 of section 850 of the general business law relating to drug related paraphernalia; and making an appropriation therefor

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

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

LBD05327-05-7

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

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

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

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

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

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

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

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

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

55 3. "Agent" means an authorized person who acts on behalf of or at the  
56 direction of a manufacturer, distributor, or dispenser. No person may be

1 authorized to so act if under title VIII of the education law such  
2 person would not be permitted to engage in such conduct. It does not  
3 include a common or contract carrier, public warehouseman, or employee  
4 of the carrier or warehouseman when acting in the usual and lawful  
5 course of the carrier's or warehouseman's business.

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

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

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

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

16 ~~[6.]~~ 5. "Commissioner" means commissioner of health of the state of  
17 New York.

18 ~~[7.]~~ 6. "Deliver" or "delivery" means the actual, constructive or  
19 attempted transfer from one person to another of a controlled substance,  
20 whether or not there is an agency relationship.

21 ~~[8.]~~ 7. "Department" means the department of health of the state of  
22 New York.

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

27 ~~[10.]~~ 9. "Distribute" means to deliver a controlled substance, includ-  
28 ing by means of the internet, other than by administering or dispensing.

29 ~~[11.]~~ 10. "Distributor" means a person who distributes a controlled  
30 substance.

31 ~~[12.]~~ 11. "Diversion" means manufacture, possession, delivery or use  
32 of a controlled substance by a person or in a manner not specifically  
33 authorized by law.

34 ~~[13.]~~ 12. "Drug" means

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

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

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

43 ~~[14.]~~ 13. "Federal agency" means the Drug Enforcement Administration,  
44 United States Department of Justice, or its successor agency.

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

49 ~~[16.]~~ 15. "Federal registration number" means such number assigned by  
50 the Federal agency to any person authorized to manufacture, distribute,  
51 sell, dispense or administer controlled substances.

52 ~~[17.]~~ 16. "Habitual user" means any person who is, or by reason of  
53 repeated use of any controlled substance for non-legitimate or unlawful  
54 use is in danger of becoming, dependent upon such substance.

55 ~~[18.]~~ 17. "Institutional dispenser" means a hospital, veterinary  
56 hospital, clinic, dispensary, maternity home, nursing home, mental

1 hospital or similar facility approved and certified by the department as  
2 authorized to obtain controlled substances by distribution and to  
3 dispense and administer such substances pursuant to the order of a prac-  
4 titioner.

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

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

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

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

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

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

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

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

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

45 (c) opium poppy and poppy straw.

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

54 ~~[24.]~~ 22. "Opium poppy" means the plant of the species *Papaver*  
55 *somniferum* L., except its seeds.

1     ~~[25.]~~ 23. "Person" means individual, institution, corporation, govern-  
2     ment or governmental subdivision or agency, business trust, estate,  
3     trust, partnership or association, or any other legal entity.

4     ~~[26.]~~ 24. "Pharmacist" means any person licensed by the state depart-  
5     ment of education to practice pharmacy.

6     ~~[27.]~~ 25. "Pharmacy" means any place registered as such by the New  
7     York state board of pharmacy and registered with the Federal agency  
8     pursuant to the federal controlled substances act.

9     ~~[28.]~~ 26. "Poppy straw" means all parts, except the seeds, of the  
10    opium poppy, after mowing.

11    ~~[29.]~~ 27. "Practitioner" means:

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

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

23    ~~[31.]~~ 29. "Prescription" shall mean an official New York state  
24    prescription, an electronic prescription, an oral prescription~~[7.]~~ or an  
25    out-of-state prescription~~[7.]~~ or any one.

26    ~~[32.]~~ 30. "Sell" means to sell, exchange, give or dispose of to anothe-  
27    er, or offer or agree to do the same.

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

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

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

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

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

1     ~~[38-]~~ 36. "Electronic" means of or relating to technology having elec-  
2     trical, digital, magnetic, wireless, optical, electromagnetic or similar  
3     capabilities. "Electronic" shall not include facsimile.

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

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

15    ~~[41-]~~ 39. "Registry" or "prescription monitoring program registry"  
16    means the prescription monitoring program registry established pursuant  
17    to section thirty-three hundred forty-three-a of this article.

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

23    ~~[43-]~~ 41. "Outsourcing facility" means a facility that:

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

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

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

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

35    § 4. Paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25,  
36    26, 27, 28, 29, 30, 31 and 32 of subdivision (d) of schedule I of  
37    section 3306 of the public health law, paragraphs 13, 14, 15, 16, 17,  
38    18, 19, 20, 21, 22, 23 and 24 as added by chapter 664 of the laws of  
39    1985, paragraphs 25, 26, 27, 28, 29 and 30 as added by chapter 589 of  
40    the laws of 1996 and paragraphs 31 and 32 as added by chapter 457 of the  
41    laws of 2006, are amended to read as follows:

42    (13) ~~[Marihuana-]~~

43    ~~(14)]~~ Mescaline.

44    ~~(15)]~~ (14) Parahexyl. Some trade or other names: 3-Hexyl-1-hydroxy-  
45    7,8,9,10-tetra hydro-6,6,9-trimethyl-6H-dibenfo{b,d} pyran.

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

51    ~~(17)]~~ (16) N-ethyl-3-piperidyl benzilate.

52    ~~(18)]~~ (17) N-methyl-3-piperidyl benzilate.

53    ~~(19)]~~ (18) Psilocybin.

54    ~~(20)]~~ (19) Psilocyn.

55    ~~(21)]~~ (20) Tetrahydrocannabinols. Synthetic tetrahydrocannabinols not  
56    derived from the cannabis plant that are equivalents of the substances



1 contained in the plant, or in the resinous extractives of cannabis, sp.  
2 and/or synthetic substances, derivatives, and their isomers with similar  
3 chemical structure and pharmacological activity such as the following:  
4 delta 1 cis or trans tetrahydrocannabinol, and their optical isomers  
5 delta 6 cis or trans tetrahydrocannabinol, and their optical isomers  
6 delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers  
7 (since nomenclature of these substances is not internationally standard-  
8 ized, compounds of these structures, regardless of numerical designation  
9 of atomic positions covered).

10 ~~[(22)]~~ (21) Ethylamine analog of phencyclidine. Some trade or other  
11 names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethyla-  
12 mine, N-(1-phenylcyclohexyl) ethylamine cyclohexamine, PCE.

13 ~~[(23)]~~ (22) Pyrrolidine analog of phencyclidine. Some trade or other  
14 names 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy, PHP.

15 ~~[(24)]~~ (23) Thiophene analog of phencyclidine. Some trade or other  
16 names: 1-{1-(2-thienyl)-cyclohexyl}-piperidine, 2-thienylanalog of  
17 phencyclidine, TPCP, TCP.

18 ~~[(25)]~~ (24) 3,4-methylenedioxymethamphetamine (MDMA).

19 ~~[(26)]~~ (25) 3,4-methylenedioxy-N-ethylamphetamine (also known as  
20 N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA,  
21 MDE, MDEA.

22 ~~[(27)]~~ (26) N-hydroxy-3,4-methylenedioxyamphetamine (also known as  
23 N-hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and  
24 N-hydroxy MDA.

25 ~~[(28)]~~ (27) 1-{1-(2-thienyl) cyclohexyl} pyrrolidine. Some other  
26 names: TCPY.

27 ~~[(29)]~~ (28) Alpha-ethyltryptamine. Some trade or other names:  
28 etryptamine; Monase; Alpha-ethyl-1H-indole-3-ethanamine;  
29 3-(2-aminobutyl) indole; Alpha-ET or AET.

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

32 ~~[(31)]~~ (30) 4-Bromo-2,5-dimethoxyphenethylamine. Some trade or other  
33 names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl  
34 DOB; 2C-B, Nexus.

35 ~~[(32)]~~ (31) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7), its  
36 optical isomers, salts and salts of isomers.

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

39 § 3382. Growing of the plant known as Cannabis by unlicensed persons.  
40 A person who, without being licensed so to do under this article, grows  
41 the plant of the genus Cannabis or knowingly allows it to grow on his  
42 land without destroying the same, shall be guilty of a class A  
43 misdemeanor, unless the person grows in accordance with sections 221.05  
44 and 221.05-a of the penal law.

45 § 6. Paragraph (d) of subdivision 3 of section 1311 of the civil  
46 practice law and rules, as added by chapter 655 of the laws of 1990, is  
47 amended to read as follows:

48 (d) In a forfeiture action commenced by a claiming authority against a  
49 defendant, the following rebuttable presumption shall apply: all  
50 currency or negotiable instruments payable to the bearer shall be  
51 presumed to be the proceeds of a pre-conviction forfeiture crime when  
52 such currency or negotiable instruments are (i) found in close proximity  
53 to a controlled substance unlawfully possessed by the defendant in an  
54 amount sufficient to constitute a violation of section 220.18 or 220.21  
55 of the penal law, or (ii) found in close proximity to any quantity of a  
56 controlled substance ~~[or—marihuana]~~ unlawfully possessed by such

defendant in a room, other than a public place, under circumstances evincing an intent to unlawfully mix, compound, distribute, package or otherwise prepare for sale such controlled substance [~~or marihuana~~].

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

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

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

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

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

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

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

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

21. "Concentrated cannabis" means:

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

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

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

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



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

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

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

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

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

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

§ 220.50 Criminally using drug paraphernalia in the second degree.

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

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

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

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

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

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

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

§ 221.05 Personal use of marihuana.

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

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

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

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

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

11 (e) possessing, using, displaying, purchasing, obtaining, manufactur-  
12 ing, transporting or giving away to persons twenty-one years of age and  
13 older marihuana paraphernalia; and

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

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

22 3. Marihuana products involved in any way with conduct deemed lawful  
23 by this section are not contraband nor subject to seizure or forfeiture  
24 of assets under article four hundred eighty of this chapter, section  
25 thirteen hundred eleven of the civil practice law and rules, or other  
26 applicable law, and no conduct deemed lawful by this section shall  
27 constitute the basis for approach, search, seizure, arrest, and/or  
28 detention.

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

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

34 (2) the possession of or the suspicion of possession of marihuana  
35 products;

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

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

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

44 5. Subdivision four of this section shall not apply when a law  
45 enforcement officer is investigating whether a person is operating or in  
46 physical control of a vehicle or watercraft while intoxicated, under the  
47 influence of, or impaired by alcohol or a drug or any combination there-  
48 of in violation of section eleven hundred ninety-two of the vehicle and  
49 traffic law.

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

54 § 221.05-a Personal cultivation of marihuana.

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

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

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

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

15 2. (a) A local jurisdiction may enact and enforce reasonable regu-  
16 lations to reasonably regulate the actions and conduct in paragraph (c)  
17 of subdivision one of section 221.05 of this article, provided that a  
18 violation of such a regulation is only subject to an infraction and  
19 fine.

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

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

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

30 § 221.45 [~~Criminal~~] Unlicensed sale of marihuana in the third degree.

31 A person is guilty of [~~criminal~~] unlicensed sale of marihuana in the  
32 third degree when he knowingly and unlawfully sells [~~one or more prepa-~~  
33 ~~rations, compounds, mixtures or substances containing marihuana and the~~  
34 ~~preparations, compounds, mixtures or substances are of an aggregate~~  
35 ~~weight of more than twenty-five grams~~] not more than sixteen ounces of  
36 marihuana or not more than four and one-half ounces of concentrated  
37 cannabis, not including the weight of any other ingredient combined with  
38 marihuana to prepare topical or oral administrations, food, drink, or  
39 other product.

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

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

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

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

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

51 § 221.50 [~~Criminal~~] Unlicensed sale of marihuana in the second degree.

52 A person twenty-one years of age and older is guilty of [~~criminal~~]  
53 unlicensed sale of marihuana in the second degree when he knowingly and  
54 unlawfully sells one or more preparations, compounds, mixtures or  
55 substances containing marihuana and the preparations, compounds,  
56 mixtures or substances are of an aggregate weight of more than four

1 ounces, or knowingly and unlawfully sells one or more preparations,  
2 compounds, mixtures [~~or substances containing marihuana~~] to a person  
3 less than [~~eighteen~~] twenty-one years of age.

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

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

9 § 221.55 [~~Criminal~~] Unlicensed sale of marihuana in the first degree.

10 A person is guilty of [~~criminal~~] unlicensed sale of marihuana in the  
11 first degree when he knowingly and unlawfully sells to a person less  
12 than twenty-one years of age one or more preparations, compounds,  
13 mixtures or substances containing marihuana and the preparations,  
14 compounds, mixtures or substances are of an aggregate weight of more  
15 than sixteen ounces.

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

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

20 § 221.60 Licensing of marihuana production and distribution.

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

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

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

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

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

1 ter. It is the purpose of this chapter to carry out these policies in  
2 the public interest.

3 § 22. Subdivisions 20-a, 20-b, 20-c, 20-d and 20-e of section 3 of the  
4 alcoholic beverage control law are renumbered subdivisions 20-j, 20-k,  
5 20-l, 20-m and 20-n and ten new subdivisions 7-e, 20-a, 20-b, 20-c,  
6 20-d, 20-e, 20-f, 20-g, 20-h and 20-i are added to read as follows:

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

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

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

26 20-b. "Marihuana consumer" means a person twenty-one years of age or  
27 older who purchases marihuana or marihuana products for personal use by  
28 persons twenty-one years of age or older, but not for resale to others.

29 20-c. "Marihuana processor" means a person licensed by the bureau to  
30 purchase marihuana and concentrated cannabis from marihuana producers,  
31 to process marihuana, concentrated cannabis, and marihuana infused  
32 products, package and label marihuana, concentrated cannabis and mari-  
33 huana infused products for sale in retail outlets, and sell marihuana,  
34 concentrated cannabis and marihuana infused products at wholesale to  
35 marihuana retailers.

36 20-d. "Marihuana producer" means a person licensed by the bureau to  
37 produce, process, and sell marihuana and concentrated cannabis at whole-  
38 sale to marihuana processors, marihuana retailers, or other marihuana  
39 producers, but not to consumers.

40 20-e. "Marihuana products" means marihuana, concentrated cannabis, and  
41 marihuana-infused products.

42 20-f. "Marihuana-infused products" means products that contain mari-  
43 huana, marihuana extracts, or concentrated cannabis and are intended for  
44 human use or consumption, such as, but not limited to, edible products,  
45 ointments, and tinctures.

46 20-g. "Marihuana retailer" means a person licensed by the bureau to  
47 purchase marihuana, concentrated cannabis, and marihuana-infused  
48 products from marihuana producers and marihuana processors and sell  
49 marihuana, marihuana infused products, and concentrated cannabis in a  
50 retail outlet.

51 20-h. "Marihuana retailer for on-premises consumption" means a person  
52 licensed by the bureau to purchase marihuana, concentrated cannabis, and  
53 marihuana infused products from marihuana producers, marihuana retail-  
54 ers, and marihuana processors and sell marihuana products for a customer  
55 to consume while the customer is within a facility.



1 20-i. "Unreasonably impracticable" means that the measures necessary  
2 to comply with the regulations require such a high investment of risk,  
3 money, time or other resource or asset that the operation of a marihuana  
4 establishment is not worthy of being carried out by a reasonably prudent  
5 businessperson.

6 § 23. Section 65-b of the alcoholic beverage control law, as amended  
7 by chapter 519 of the laws of 1999, paragraphs (b) and (c) of subdivi-  
8 sion 3 as amended by chapter 257 of the laws of 2013 and the opening  
9 paragraph of subdivision 6 as amended by chapter 503 of the laws of  
10 2000, is amended to read as follows:

11 § 65-b. Offense for one under age of twenty-one years to purchase or  
12 attempt to purchase an alcoholic beverage or marihuana products through  
13 fraudulent means. 1. As used in this section: (a) "A device capable of  
14 deciphering any electronically readable format" or "device" shall mean  
15 any commercial device or combination of devices used at a point of sale  
16 or entry that is capable of reading the information encoded on the  
17 magnetic strip or bar code of a driver's license or non-driver identifi-  
18 cation card issued by the commissioner of motor vehicles;

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

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

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

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

54 (c) In instances where the information deciphered by the transaction  
55 scan fails to match the information printed on the driver's license or  
56 non-driver identification card presented by the card holder, or if the



1 transaction scan indicates that the information is false or fraudulent,  
2 the attempted purchase of the alcoholic beverage or marihuana products  
3 shall be denied.

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

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

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

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

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

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

46 (ii) The agency designated by the court to perform such evaluation  
47 shall conduct the evaluation and return the results to the court within  
48 thirty days, subject to any state or federal confidentiality law, rule  
49 or regulation governing the confidentiality of alcohol and substance  
50 abuse treatment records.

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

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

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

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

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

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

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

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

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

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

43 7. (a) In any proceeding pursuant to subdivision one of section  
44 sixty-five of this article, it shall be an affirmative defense that such  
45 person had produced a driver's license or non-driver identification card  
46 apparently issued by a governmental entity, successfully completed the  
47 transaction scan, and that the alcoholic beverage or marihuana products  
48 had been sold, delivered or given to such person in reasonable reliance  
49 upon such identification and transaction scan. In evaluating the appli-  
50 cability of such affirmative defense, the liquor authority shall take  
51 into consideration any written policy adopted and implemented by the  
52 seller to carry out the provisions of this chapter. Use of a transaction  
53 scan shall not excuse any licensee under this chapter, or agent or  
54 employee of such licensee, from the exercise of reasonable diligence  
55 otherwise required by this section. Notwithstanding the above

1 provisions, any such affirmative defense shall not be applicable in any  
2 other civil or criminal proceeding, or in any other forum.

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

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

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

32 § 65-c. Unlawful possession of an alcoholic beverage or marihuana  
33 product with the intent to consume by persons under the age of twenty-  
34 one years. 1. Except as hereinafter provided, no person under the age of  
35 twenty-one years shall possess any alcoholic beverage or marihuana prod-  
36 uct, as defined in this chapter, with the intent to consume such bever-  
37 age or marihuana product.

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

41 (a) to a person who is a student in a curriculum licensed or regis-  
42 tered by the state education department and the student is required to  
43 taste or imbibe alcoholic beverages or marihuana products in on-campus  
44 or off-campus courses which are a part of the required curriculum,  
45 provided such alcoholic beverages or marihuana products are used only  
46 for instructional purposes during class conducted pursuant to such  
47 curriculum; or

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

50 3. Any person who unlawfully possesses an alcoholic beverage or mari-  
51 huana product with intent to consume may be summoned before and examined  
52 by a court having jurisdiction of that charge; provided, however, that  
53 nothing contained herein shall authorize, or be construed to authorize,  
54 a peace officer as defined in subdivision thirty-three of section 1.20  
55 of the criminal procedure law or a police officer as defined in subdivi-  
56 sion thirty-four of section 1.20 of such law to arrest a person who

1 unlawfully possesses an alcoholic beverage or marihuana product with  
2 intent to consume. If a determination is made sustaining such charge the  
3 court may impose a fine not exceeding fifty dollars and/or completion of  
4 an alcohol or drug awareness program established pursuant to section  
5 19.25 of the mental hygiene law and/or an appropriate amount of communi-  
6 ty service not to exceed thirty hours.

7 4. No such determination shall operate as a disqualification of any  
8 such person subsequently to hold public office, public employment, or as  
9 a forfeiture of any right or privilege or to receive any license granted  
10 by public authority; and no such person shall be denominated a criminal  
11 by reason of such determination, nor shall such determination be deemed  
12 a conviction.

13 5. Whenever a peace officer as defined in subdivision thirty-three of  
14 section 1.20 of the criminal procedure law or police officer as defined  
15 in subdivision thirty-four of section 1.20 of the criminal procedure law  
16 shall observe a person under twenty-one years of age openly in  
17 possession of an alcoholic beverage or marihuana product as defined in  
18 this chapter, with the intent to consume such beverage or product in  
19 violation of this section, said officer may seize the beverage or prod-  
20 uct, and shall deliver it to the custody of his or her department.

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

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

38 § 65-e. Restrictions on personal consumption of marihuana. 1. Nothing  
39 in sections 221.05 and 221.05-a of the penal law shall be construed to  
40 permit any person to:

41 (a) smoke marihuana in public;

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

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

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

52 2. For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

31 3. The town clerk shall, within five days from the filing of such  
32 petition in his office, prepare and file in the office of the board of  
33 elections, as defined by the election law, of the county, a certified  
34 copy of such petition. Such questions may be submitted only at the time  
35 of a general election. At least ten days before such general election,  
36 the board of elections shall cause to be printed and posted in at least  
37 four public places in such town, a notice of the fact that all of the  
38 local option questions will be voted on at such general election; and  
39 the said notice shall also be published at least five days before the  
40 vote is to be taken once in a newspaper published in the county in which  
41 such town is situated, which shall be a newspaper published in the town,  
42 if there be one. Whenever such questions are to be submitted under the  
43 provisions of this article the board of elections shall cause the proper  
44 ballot labels to be printed and placed on all voting machines used in  
45 the town in which such questions are to be submitted, in the form  
46 prescribed by the election law in respect of other propositions or ques-  
47 tions, upon the face of which shall be printed in full the said ques-  
48 tions. Any elector qualified to vote for state officers shall be enti-  
49 tled to vote upon such local option questions. As soon as the election  
50 shall be held, a return of the votes cast and counted shall be made as  
51 provided by law and the returns canvassed by the inspectors of election.  
52 If a majority of the votes cast shall be in the negative on all or any  
53 of the questions, no person shall, after such election, sell alcoholic  
54 beverages or marihuana products in such town contrary to such vote or to  
55 the provisions of this chapter; provided, however, that the result of  
56 such vote shall not shorten the term for which any license may have been



1 lawfully issued under this chapter or affect the rights of the licensee  
2 thereunder; and no person shall after such vote apply for or receive a  
3 license to sell alcoholic beverages or marihuana products at retail in  
4 such town contrary to such vote, until, by referendum as hereinafter  
5 provided for, such sale shall again become lawful.

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

8 3. If a majority of the votes cast shall be in the negative on any or  
9 all of the questions, no person shall, after such election, sell alco-  
10 holic beverages or marihuana products in such city contrary to such vote  
11 or to the provisions of this chapter; provided, however, that the result  
12 of such vote shall not shorten the term for which any license may have  
13 been lawfully issued under this chapter or affect the rights of the  
14 licensee thereunder; and no person shall after such vote apply for or  
15 receive a license to sell alcoholic beverages or marihuana products at  
16 retail in such city contrary to such vote, until, by referendum as here-  
17 inafter provided for, such sale shall again become lawful.

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

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

25 § 30. Article 11 and sections 160, 161, 162, 163 and 164 of the alco-  
26 holic beverage control law, article 11 and sections 160, 161, 162 and  
27 163 as renumbered by chapter 725 of the laws of 1954, are renumbered  
28 article 12 and sections 200, 201, 202, 203, 204.

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

#### 31 ARTICLE 11

#### 32 PROVISIONS RELATING TO MARIHUANA

#### 33 Section 165. Definitions.

34 166. Bureau of marihuana policy.

35 167. Administration of the bureau of marihuana policy.

36 168. Licenses issued.

37 169. Licensing limits.

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

39 171. General prohibitions and restrictions.

40 172. Certain officials not to be interested in the manufacture  
41 or sale of marihuana.

42 173. Provisions governing initial rulemaking.

43 174. Provisions governing marihuana producers.

44 175. Provisions governing processors.

45 176. Provisions governing marihuana retailers.

46 177. Provisions governing marihuana on-site consumption  
47 licenses.

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

49 179. Packaging of marihuana products.

50 180. Labeling of marihuana products.

51 181. Seed to sale tracking.

52 182. Renewals of licenses and permits.

53 183. Information to be provided by applicants.

54 184. Notification to municipalities.

55 185. Licenses, publication, general provisions.

56 186. Revocation of licenses for cause.

1 187. Procedure for revocation or cancellation.

2 188. Decisions of the bureau of marihuana policy and review by  
3 the courts.

4 189. Minority and women business enterprises.

5 190. Disposition of moneys received for license fees.

6 191. Persons forbidden to traffic in marihuana.

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

8 193. Authority to promulgate rules and regulations.

9 194. Protections for the use of marihuana.

10 195. Discrimination protections for the use of marihuana or  
11 medical marihuana.

12 196. Employment protections.

13 197. Protections for persons under state supervision.

14 198. Professional and medical record keeping.

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

17 1. "Applicant" means an owner applying for a license pursuant to this  
18 article.

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

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

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

25 5. "Delivery" means a licensee that delivers retail marihuana and  
26 marihuana products to customers. Retailer licensees and microbusiness  
27 licensees are permitted to deliver retail marihuana and marihuana  
28 products to customers without obtaining an additional distributor  
29 license.

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

33 7. "Distributor" means a licensee for the distribution of marihuana  
34 and marihuana products between entities licensed pursuant to this arti-  
35 cle. Producer licensees, processor licensees, and microbusiness licen-  
36 sees are permitted to distribute marihuana and marihuana products  
37 between entities licensed pursuant to this article without obtaining an  
38 additional distributor license.

39 8. "Labeling" means any label or other written, printed, or graphic  
40 matter upon a marihuana product, or upon its container or wrapper, or  
41 that accompanies any marihuana product.

42 9. "License" means a state license issued under this article. Each  
43 license issued pursuant to this article corresponds to a single place of  
44 business.

45 10. "Licensee" means any person or entity holding a license under this  
46 article.

47 11. "Marihuana" means all parts of the plant of the genus cannabis,  
48 whether growing or not; the seeds thereof; the resin extracted from any  
49 part of the plant; and every compound, manufacture, salt, derivative,  
50 mixture, or preparation of the plant, its seeds or resin. It does not  
51 include the mature stalks of the plant, fiber produced from the stalks,  
52 oil or cake made from the seeds of the plant, any other compound, manu-  
53 facture, salt, derivative, mixture, or preparation of the mature stalks  
54 (except the resin extracted therefrom), fiber, oil, or cake, or the  
55 sterilized seed of the plant which is incapable of germination. It does  
56 not include all parts of the plant Cannabis Sativa L., whether growing

1 or not, having no more than three-tenths of one percent tetrahydrocanna-  
2 binol (THC).

3 12. "Marihuana products" means marihuana, concentrated cannabis, and  
4 marihuana-infused products.

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

9 14. "Microbusiness" means a licensee that may act as a marihuana  
10 producer for the cultivation of marihuana on an area less than ten thou-  
11 sand square feet, a marihuana processor, and a marihuana retailer under  
12 this article, provided such licensee complies with all requirements  
13 imposed by this article on licensed producers, processors, and retailers  
14 to the extent the licensee engages in such activities. A "microbusiness"  
15 may distribute marihuana and marihuana products to other licensed mari-  
16 huana businesses and may deliver marihuana and marihuana products to  
17 customers.

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

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

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

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

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

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

39 21. "Retailer" means a licensee that sells marihuana or marihuana  
40 products directly to customers. A "retailer" may deliver marihuana and  
41 marihuana products to customers.

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

44 § 166. Bureau of marihuana policy. There is hereby established in the  
45 authority a bureau of marihuana policy. The members of the bureau shall  
46 be appointed by the governor by and with the advice and consent of the  
47 senate. Not more than two members of the bureau shall belong to the same  
48 political party. The chairman of the bureau of marihuana policy hereto-  
49 fore appointed and designated by the governor and the remaining members  
50 of such board heretofore appointed by the governor shall continue to  
51 serve as chairman and members of the bureau until the expiration of the  
52 respective terms for which they were appointed. Upon the expiration of  
53 such respective terms the successors of such chairman and members shall  
54 be appointed to serve for a term of three years each and until their  
55 successors have been appointed and qualified. The commissioners, other  
56 than the chairman shall, when performing the work of the bureau, be

1 compensated at a rate of two hundred sixty dollars per day, together  
2 with an allowance for actual and necessary expenses incurred in the  
3 discharge of their duties.

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

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

13 (a) The bureau shall consult with the department of agriculture and  
14 markets regarding rules, regulations, and licenses for the cultivation  
15 of marihuana.

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

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

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

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

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

32 3. (a) Not later than ten months following the enactment of this arti-  
33 cle, each municipality may enact an ordinance or regulation specifying  
34 the entity within the municipality that is responsible for processing  
35 applications submitted for a license to operate a marihuana establish-  
36 ment within the boundaries of the municipality and for the issuance of  
37 such licenses should the issuance by the municipality become necessary  
38 because of a failure by the bureau to adopt regulations pursuant to  
39 section one hundred seventy-three of this article or because of a fail-  
40 ure by the bureau to process and issue licenses as required by the  
41 subdivision two of this section.

42 (b) A municipality may enact ordinances or regulations, not in  
43 conflict with this section or with regulations or legislation enacted  
44 pursuant to this section, governing the time, place, manner and number  
45 of marihuana establishment operations; establishing procedures for the  
46 issuance, suspension, and revocation of a license issued by the munici-  
47 pality in accordance with paragraphs (c) and (d) of this subdivision,  
48 such procedures to be subject to all requirements of state administra-  
49 tive procedure act, codified as N.Y. A.P.A. Law § 100, et seq. or any  
50 successor provision, establishing a schedule of annual operating,  
51 licensing, and application fees for marihuana establishments, provided,  
52 the application fee shall only be due if an application is submitted to  
53 a municipality in accordance with paragraph (d) of this subdivision and  
54 a licensing fee shall only be due if a license is issued by a munici-  
55 pality in accordance with paragraph (c) or (d) of this subdivision; and  
56 establishing civil penalties for violation of an ordinance or regulation

1 governing the time, place, and manner of a marihuana establishment that  
2 may operate in such a municipality. A municipality may prohibit the  
3 operation of marihuana production facilities, marihuana processing  
4 facilities, marihuana retail stores, marihuana microbusinesses, or mari-  
5 huana testing facilities through the enactment of an ordinance.

6 (c) If the bureau does not issue a license to an applicant within  
7 ninety days of receipt of the application filed in accordance with  
8 subdivision two and does not notify the applicant of the specific reason  
9 for its denial, in writing and within such time period, or if the bureau  
10 has adopted regulations pursuant to section one hundred seventy-three of  
11 this article but has not issued any licenses within eighteen months of  
12 the effective date of this article, for any locality enacting an ordi-  
13 nance providing for local processing of applications, the applicant may  
14 resubmit its application directly to the municipality pursuant to para-  
15 graph (a) of this subdivision, and the municipality may issue an annual  
16 license to the applicant. A municipality issuing a license to an appli-  
17 cant shall do so within ninety days of receipt of the resubmitted appli-  
18 cation unless the municipality finds and notifies the applicant that the  
19 applicant is not in compliance with the ordinances and regulations made  
20 pursuant to paragraph (b) of this subdivision in effect at the time the  
21 application is resubmitted and the municipality shall notify the bureau  
22 if an annual license has been issued to the applicant. If an application  
23 is submitted to a municipality under this paragraph, the bureau shall  
24 forward to the municipality the application fee paid by the applicant to  
25 the bureau upon request by the municipality. A license issued by a muni-  
26 cipality in accordance with this paragraph shall have the same force and  
27 effect as a license issued by the bureau in accordance with subdivision  
28 two of this section and the holder of such license shall not be subject  
29 to regulation or enforcement by the bureau during the term of that  
30 license. A subsequent or renewed license may be issued under this para-  
31 graph on an annual basis only upon resubmission to the municipality of a  
32 new application submitted to the bureau pursuant to subdivision two of  
33 this section. Nothing in this paragraph shall limit such relief as may  
34 be available to an aggrieved party under section four hundred one of the  
35 state administrative procedure act or any successor provision.

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



1 ninety days after the adoption of such regulations, issued licenses  
2 pursuant to subdivision two of this section.

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

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

9 1. marihuana nursery license;

10 2. marihuana producer license;

11 3. marihuana processor license;

12 4. marihuana distributor license;

13 5. marihuana retailer license;

14 6. marihuana microbusiness license;

15 7. marihuana on-site consumption license;

16 8. marihuana delivery license;

17 9. marihuana testing license; and

18 10. any other type of licenses allowed by the bureau.

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

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

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

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

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

41 6. Only a marihuana retail licensee, marihuana microbusiness licensee,  
42 or marihuana delivery licensee may be permitted to deliver marihuana  
43 directly to customers.

44 7. Only a marihuana producer licensee, marihuana processor licensee,  
45 or marihuana distributor licensee may distribute marihuana and marihuana  
46 products to other licensed marihuana businesses.

47 8. No marihuana delivery owner may hold more than one marihuana deliv-  
48 ery license.

49 9. No marihuana distributor owner may hold more than one marihuana  
50 distributor license.

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

54 11. No marihuana producer owner may hold more than one marihuana  
55 producer and one marihuana processor license.



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

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

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

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

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

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

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

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

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

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

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, if the bureau issues its written approval for the employment by a licensee, in a specified capacity, of a person previously convicted of a felony or any of the offenses above enumerated in paragraph (a) of this subdivision, such person, may, unless he or she is subsequently convicted of a felony or any of such offenses, thereafter be employed in

1 the same capacity by any other licensee without the further written  
2 approval of the bureau unless the prior approval given by the bureau is  
3 terminated.

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

7 § 172. Certain officials not to be interested in the manufacture or  
8 sale of marihuana. 1. Except as otherwise provided in section one  
9 hundred twenty-eight-a of this chapter, it shall be unlawful for any  
10 police commissioner, police inspector, captain, sergeant, roundsman,  
11 patrolman or other police official or subordinate of any police depart-  
12 ment in the state, to be either directly or indirectly interested in the  
13 manufacture or sale of marihuana or to offer for sale, or recommend to  
14 any licensee any marihuana. A person may not be denied any license  
15 granted under the provisions of sections fifty-four, fifty-five, fifty-  
16 nine, sixty-three, sixty-four, seventy-nine, eighty-one, or article  
17 seven of this chapter solely on the grounds of being the spouse of a  
18 public servant described in this subdivision. The solicitation or recom-  
19 mendation made to any licensee, to purchase any marihuana by any police  
20 official or subordinate as described in this subdivision, shall be  
21 presumptive evidence of the interest of such official or subordinate in  
22 the manufacture or sale of marihuana.

23 2. No elective village officer shall be subject to the limitations set  
24 forth in subdivision one of this section unless such elective village  
25 officer shall be assigned duties directly relating to the operation or  
26 management of the police department.

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

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

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

37 (b) the qualifications for licensure;

38 (c) the books and records to be created and maintained by licensees,  
39 the reports to be made thereon to the bureau, and inspection of the  
40 books and records;

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

45 (e) security requirements for marihuana retailers and premises where  
46 marihuana products are produced or processed, and safety protocols for  
47 licensees and their employees.

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

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

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

54 (c) prevent the diversion of marihuana from this state to other  
55 states;

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

4 (e) prevent violence and the use of firearms in the cultivation and  
5 distribution of marihuana;

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

8 (g) prevent the growing of marihuana on public lands and the attendant  
9 public safety and environmental dangers posed by marihuana production on  
10 public lands; and

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

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

16 5. The bureau, in consultation with the department of agriculture and  
17 markets and the department of environmental conservation, shall promul-  
18 gate necessary rules and regulations governing the safe production of  
19 marihuana, including restrictions on the use of pesticides, insecticides  
20 and herbicides.

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

28 2. No producer shall deliver any marihuana products, except in vehi-  
29 cles owned and operated by such producer, or hired and operated by such  
30 producer from a trucking or transportation company registered with the  
31 bureau, and shall only make deliveries at the licensed premises of the  
32 purchaser.

33 3. Each producer shall keep and maintain upon the licensed premises,  
34 adequate books and records of all transactions involving the producer  
35 and sale of his or its products, which shall include all information  
36 required by rules promulgated by the bureau. Each sale shall be recorded  
37 separately on a numbered invoice, which shall have printed thereon the  
38 number, the name of the licensee, the address of the licensed premises,  
39 and the current license number. Such producer shall deliver to the  
40 purchaser a true duplicate invoice stating the name and address of the  
41 purchaser, the quantity purchased, description and the price of the  
42 product, and a true, accurate and complete statement of the terms and  
43 conditions on which such sale is made. Such books, records and invoices  
44 shall be kept for a period of two years and shall be available for  
45 inspection by any authorized representative of the bureau.

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

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

55 2. No processor shall sell, or agree to sell or deliver in the state  
56 any marihuana products, except in a sealed package containing quantities

1 in accordance with size standards pursuant to rules adopted by the  
2 bureau. Such containers shall have affixed thereto such labels as may be  
3 required by the rules of the bureau, together with all necessary New  
4 York state excise tax stamps, as required by law.

5 3. No processor shall deliver any products, except in vehicles owned  
6 and operated by such processor, or hired and operated by such processor  
7 from a trucking or transportation company registered with the bureau,  
8 and shall only make deliveries at the licensed premises of the purchas-  
9 er.

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

27 § 176. Provisions governing marihuana retailers. 1. No retail license  
28 shall be granted for any premises, unless the applicant shall be the  
29 owner thereof, or shall be in possession of said premises under a lease,  
30 management agreement or other agreement giving the applicant control  
31 over the premises, in writing, for a term not less than the license  
32 period.

33 2. No premises shall be licensed to sell marihuana products, unless  
34 said premises shall be located in a store, the principal entrance to  
35 which shall be from the street level and located on a public thorough-  
36 fare in premises which may be occupied, operated or conducted for busi-  
37 ness, trade or industry or on an arcade or sub-surface thoroughfare  
38 leading to a railroad terminal. There may be not more than one addi-  
39 tional entrance which shall be from the street level and located on and  
40 giving access to and from a public or private parking lot or parking  
41 area having space for not less than five automobiles.

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

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

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

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

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

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

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

13 10. No retail licensee shall sell or deliver any marihuana products to  
14 any person with knowledge of, or with reasonable cause to believe, that  
15 the person to whom such marihuana products are being sold, has acquired  
16 the same for the purpose of peddling them from place to place, or of  
17 selling or giving them away in violation of the provisions of this chap-  
18 ter or in violation of the rules and regulations of the bureau.

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

23 12. Each marihuana retail licensee shall keep and maintain upon the  
24 licensed premises, adequate books and records of all transactions  
25 involving the business transacted by such licensee, which shall show the  
26 amount of marihuana products, purchased by such licensee together with  
27 the names, license numbers and places of business of the persons from  
28 whom the same were purchased, and the amount involved in such purchases,  
29 as well as the amount of marihuana products, sold by such licensee, and  
30 the amount involved in each sale. Such books and records shall be avail-  
31 able for inspection by any authorized representative of the bureau.

32 13. All premises licensed under this section shall be subject to  
33 inspection by any peace officer described in subdivision four of section  
34 2.10 of the criminal procedure law acting pursuant to his or her special  
35 duties, or police officer or any duly authorized representative of the  
36 bureau, during the hours when the said premises are open for the trans-  
37 action of business.

38 § 177. Provisions governing marihuana on-site consumption licenses. 1.  
39 No marihuana retailer or microbusiness shall be granted a marihuana  
40 on-site consumption license for a premises located in whole or in part  
41 inside the boundaries of any city, village or town, unless the local  
42 legislative body of such city, village or town, by resolution, expressly  
43 authorizes the licensing of such facilities in such city, village or  
44 town. The local legislative body may direct an appropriate officer,  
45 board or body of such city, village or town as the local licensing  
46 authority to authorize individual marihuana facility license applica-  
47 tions. In cities of one million or more residents, should the local  
48 legislative body authorize such license, no marihuana retailer license  
49 for consumption on-site shall be granted unless the community board  
50 established pursuant to section twenty-eight hundred of the New York  
51 city charter with jurisdiction over the area in which the premises will  
52 be located shall also authorize such license.

53 2. No marihuana retailer or microbusiness shall be granted a marihuana  
54 on-site consumption license for any premises, unless the applicant shall  
55 be the owner thereof, or shall be in possession of said premises under a  
56 lease, in writing, for a term not less than the license period except,



1 however, that such license may thereafter be renewed without the  
2 requirement of a lease as herein provided. This subdivision shall not  
3 apply to premises leased from government agencies, as defined under  
4 subdivision twelve-c of section three of this chapter; provided, howev-  
5 er, that the appropriate administrator of such government agency  
6 provides some form of written documentation regarding the terms of occu-  
7 pancy under which the applicant is leasing said premises from the  
8 government agency for presentation to the bureau at the time of the  
9 license application. Such documentation shall include the terms of occu-  
10 pancy between the applicant and the government agency, including, but  
11 not limited to, any short-term leasing agreements or written occupancy  
12 agreements.

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

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

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

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

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

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

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

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

36 5. If the bureau shall disapprove an application for a license or  
37 permit, it shall state and file in its offices the reasons therefor and  
38 shall notify the applicant thereof. Such applicant may thereupon apply  
39 to the bureau for a review of such action in a manner to be prescribed  
40 by the rules of the bureau. A hearing upon notice to the applicant shall  
41 thereupon be held by the bureau or by one of its members at its office  
42 most conveniently situated to the office of its duly authorized repre-  
43 sentative in a manner to be prescribed in its rules; and on such hearing  
44 proof may be taken by oral testimony or by affidavit relative thereto.  
45 After such hearing, if the bureau confirms such disapproval, it shall  
46 endorse such application accordingly and shall send notice to the appli-  
47 cant of its action in such form as the bureau may prescribe. If the  
48 bureau does not confirm the disapproval action it may grant such appli-  
49 cation and issue such license.

50 6. No marihuana on-site consumption licensee, except persons or corpo-  
51 rations operating a hotel, as defined in subdivision fourteen of section  
52 three of this chapter, for exclusive use in the furnishing of room  
53 service in the manner prescribed by rule or regulation of the bureau,  
54 shall keep upon the licensed premises any marihuana products, except  
55 those purchased from a licensed producer, and in containers approved by  
56 the bureau. Such containers shall have affixed thereto such labels as



1 may be required by the rules of the bureau, together with all necessary  
2 excise stamps as required by law. No marihuana retail licensee for  
3 on-site consumption shall reuse, refill, tamper with, adulterate, dilute  
4 or fortify the contents of any container of marihuana products as  
5 received from the manufacturer or wholesaler.

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

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

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

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

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

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

55 10. No restaurant and no premises licensed to sell marihuana products  
56 for on-site consumption under paragraph (a) of subdivision six of

section sixty-four-a of this chapter shall be permitted to have any opening or means of entrance or passageway for persons or things between the licensed premises and any other room or place in the building containing the licensed premises, or any adjoining or abutting premises, unless ingress and egress is restricted by an employee, agent of the licensee, or other approved method of controlling access to the facility, or unless such premises are a bona fide restaurant with such access for patrons and guests from any part of such building or adjoining or abutting premises as shall serve public convenience in a reasonable and suitable manner; or unless such licensed premises are in a building owned or operated by any county, town, city, village or public authority or agency, in a park or other similar place of public accommodation. All glass in any window or door on said licensed premises shall be clear and shall not be opaque, colored, stained or frosted.

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

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

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

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

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

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

(a) is false, deceptive, or misleading;

(b) promotes overconsumption;

(c) depicts consumption by children or other minors;

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

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

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

4. The bureau shall promulgate explicit rules requiring that:

- (a) all advertisements and marketing accurately and legibly identify the licensee responsible for its content; and
- (b) any broadcast, cable, radio, print and digital communications advertisements only be placed where the audience is reasonably expected to be twenty-one years of age or older, as determined by reliable, up-to-date audience composition data.

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

2. Such regulations shall include requiring that:

- (a) packaging meets requirements similar to the federal "poison prevention packaging act of 1970," 15 U.S.C. Sec 1471 et seq.;
- (b) all marihuana-infused products shall have a separate packaging for each serving;
- (c) prior to delivery or sale at a retailer, marihuana and marihuana products shall be labeled and placed in a resealable, child-resistant package; and
- (d) packages and labels shall not be made to be attractive to children.

§ 180. Labeling of marihuana products. 1. The bureau is hereby authorized to promulgate rules and regulations governing the labeling and offering of marihuana products for sale within this state.

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

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

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

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

- (a) manufacture date and source;
- (b) for packages containing only dried flower, the net weight of marihuana in the package;

1 (c) identification of the source and date of cultivation, the type of  
2 marihuana or marihuana product and the date of manufacturing and packag-  
3 ing;

4 (d) list of pharmacologically active ingredients, including, but not  
5 limited to, tetrahydrocannabinol (THC), cannibidiol (CBP), and other  
6 cannabinoid content, the THC and other cannabinoid amount in milligrams  
7 per serving, servings per package, and the THC and other cannabinoid  
8 amount in milligrams for the package total, and the potency of the mari-  
9 huana or marihuana product by reference to the amount of tetrahydrocan-  
10 nibinol and canibidiol in each serving;

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

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

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

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

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

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

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

28 8. Such rules and regulations shall require information containing the  
29 license number of the marihuana producer and processor facilities where  
30 the marihuana was grown and processed.

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

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

43 (a) the licensee receiving the product;

44 (b) the transaction date; and

45 (c) the producer from which the product originates, including the  
46 associated unique identifier.

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

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

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

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

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

55 (f) a categorization of the product; and

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

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

6 § 182. Renewals of licenses and permits. 1. Each license and permit,  
7 issued pursuant to this article may be renewed upon application therefor  
8 by the licensee or permittee and the payment of the annual fee for such  
9 license or permit as prescribed by this article. In the case of applica-  
10 tions for renewals, the bureau may dispense with the requirements of  
11 such statements as it deems unnecessary in view of those contained in  
12 the application made for the original license or permit, but in any  
13 event the submission of photographs of the licensed premises shall be  
14 dispensed with, provided the applicant for such renewal shall file a  
15 statement with such bureau to the effect that there has been no alter-  
16 ation of such premises since the original license was issued. The  
17 bureau may make such rules as may be necessary not inconsistent with  
18 this chapter regarding applications for renewals of licenses and permits  
19 and the time for making the same. Each applicant must submit to the  
20 bureau documentation of the racial, ethnic, and gender diversity of the  
21 applicant's employees and owners prior to a license or permit being  
22 renewed.

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

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

29 (a) A statement of identity as follows:

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

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

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

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



1 a partner, joint venturer, investor or lender with the applicant either  
2 in the premises or in the business to be licensed.

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

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

10 (i) gender diversity;

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

14 (iii) that persons with prior criminal convictions are not barred from  
15 employment.

16 (e) A statement that the location and layout of the premises to be  
17 licensed does not violate any requirement of this chapter relating to  
18 location and layout of licensed premises, with a copy of the certificate  
19 of occupancy for the premises.

20 (f) A statement that the applicant has control of the premises to be  
21 licensed by ownership of a fee interest or via a leasehold, management  
22 agreement, or other agreement giving the applicant control over the  
23 premises, with a term at least as long as the license for which the  
24 application is being made, or by a binding contract to acquire the same  
25 and a statement of identity under paragraph (a) of this subdivision for  
26 the lessor of any leasehold, manager of any management agreement, or  
27 other agreement giving the applicant control over the premises, with a  
28 copy of the lease, contract, management agreement, or other agreement  
29 giving the applicant control over the food and beverage at the premises,  
30 or deed evidencing fee ownership of the premises.

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

38 (h) The fingerprints of the applicants. Fingerprints submitted by the  
39 applicants shall be transmitted to the division of criminal justice  
40 services and may be submitted to the federal bureau of investigation for  
41 state and national criminal history record checks.

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

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

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

1     5. In giving any notice, or taking any action in reference to a licen-  
2 see of a licensed premises, the bureau may rely upon the information  
3 furnished in such application and in any supplemental statement  
4 connected therewith, and such information may be presumed to be correct,  
5 and shall be binding upon a licensee or licensed premises as if correct.  
6 All information required to be furnished in such application or supple-  
7 mental statements shall be deemed material in any prosecution for perju-  
8 ry, any proceeding to revoke, cancel or suspend any license, and in the  
9 bureau's determination to approve or deny the license.

10    6. The bureau may in its discretion waive the submission of any cate-  
11 gory of information described in this section for any category of  
12 license or permit, provided that it shall not be permitted to waive the  
13 requirement for submission of any such category of information solely  
14 for an individual applicant or applicants.

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

- 19     (a) marihuana producer license;
- 20     (b) marihuana processor license;
- 21     (c) marihuana microbusiness license;
- 22     (d) marihuana retailer license;
- 23     (e) marihuana retailer license for on-site consumption;
- 24     (f) marihuana delivery license;
- 25     (g) marihuana testing license; and/or
- 26     (h) any other type of licenses allowed by the bureau.

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

- 30     (a) notification need only be given to the clerk of a village when the  
31 premises is located within the boundaries of the village; and
- 32     (b) in the city of New York, the community board established pursuant  
33 to section twenty-eight hundred of the New York city charter with juris-  
34 isdiction over the area in which the premises is located shall be consid-  
35 ered the appropriate public body to which notification shall be given.

36    3. For purposes of this section, "substantial corporate change" shall  
37 mean:

- 38     (a) for a corporation, a change of eighty percent or more of the offi-  
39 cers and/or directors, or a transfer of eighty percent or more of stock  
40 of such corporation, or an existing stockholder obtaining eighty percent  
41 or more of the stock of such corporation; and
- 42     (b) for a limited liability company, a change of eighty percent or  
43 more of the managing members of the company, or a transfer of eighty  
44 percent or more of ownership interest in said company, or an existing  
45 member obtaining a cumulative of eighty percent or more of the ownership  
46 interest in said company.

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

49    5. A municipality may express an opinion for or against the granting  
50 of such application. Any such opinion shall be deemed part of the record  
51 upon which the bureau makes its determination to grant or deny the  
52 application.

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

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

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

6     (b) the full name of the applicant;

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

9     (d) the mailing address of the establishment, if different than the  
10 street address;

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

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

14     (i) a new establishment;

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

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

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

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

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

23     (i) the type of license.

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

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

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

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

47     5. There shall be printed and furnished by the bureau to each licensee  
48 a statement of the causes for which licenses may be revoked. Such state-  
49 ment shall be prepared by the bureau and delivered to the licensee with  
50 his or her license or as soon thereafter as may be practicable. Any  
51 amendments thereto shall also be sent by the bureau to all licensees as  
52 soon as may be practicable after such amendments. Failure to send such  
53 statements or changes therein, or failure to receive the same, or any  
54 misstatement or error contained in such statements or amendments shall,  
55 however, not be an excuse or justification for any violation of law, or  
56 prevent, or remit, or decrease any penalty or forfeiture therefor.

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

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

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

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

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

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

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

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

2. The bureau may on its own initiative or on complaint of any person institute proceedings to revoke, cancel or suspend any retail license and may impose a civil penalty against the licensee after a hearing at which the licensee shall be given an opportunity to be heard. Such hear-

1 ing shall be held in such manner and upon such notice as may be  
2 prescribed by the rules of the bureau.

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

7 4. (a) The provisions of this subdivision shall apply in all cases of  
8 licensee or permittee failure after receiving appropriate notice, to  
9 comply with a summons, subpoena or warrant relating to a paternity or  
10 child support proceeding and arrears in payment of child support or  
11 combined child and spousal support referred to the bureau by a court  
12 pursuant to the requirements of section two hundred forty-four-c of the  
13 domestic relations law or pursuant to section four hundred fifty-eight-b  
14 or five hundred forty-eight-b of the family court act.

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

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

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



1 (e) Notwithstanding any inconsistent provision of this article or of  
2 any other provision of law to the contrary, such license or permit shall  
3 be suspended in accordance with the provisions of paragraph (c) of this  
4 subdivision unless the court terminates its order to commence suspension  
5 proceedings. Such suspension shall not be lifted unless the court issues  
6 an order to the bureau terminating its order to commence suspension  
7 proceedings.

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

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

15 (h) Notwithstanding any inconsistent provision of this article or of  
16 any other provision of law to the contrary, the provisions of this  
17 subdivision shall apply to the exclusion of any other requirements of  
18 this article and to the exclusion of any other requirement of law to the  
19 contrary.

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

33 § 188. Decisions of the bureau of marihuana policy and review by the  
34 courts. Provisions of sections one hundred twenty, one hundred twenty-  
35 one and one hundred twenty-four of this chapter shall apply to marihuana  
36 licenses issued under this article.

37 § 189. Minority and women-owned business enterprises. The bureau  
38 shall:

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

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

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

51 4. actively promote and encourage applicants that promote and ensure  
52 racial, ethnic, and gender diversity in their workforce when licensing  
53 marihuana growers, processors, and retailers.

54 § 190. Disposition of moneys received for license fees. The bureau  
55 shall establish a scale of application, licensing, and renewal fees,

1 based upon the cost of enforcing this article and the size of the mari-  
2 huana business being licensed, as follows:

3 1. Each licensing authority shall charge each licensee a licensure and  
4 renewal fee, as applicable. The licensure and renewal fee shall be  
5 calculated to cover the costs of administering this article. The licen-  
6 sure fee may vary depending upon the varying costs associated with  
7 administering the various regulatory requirements of this article as  
8 they relate to the nature and scope of the different licensure activ-  
9 ities, but shall not exceed the reasonable regulatory costs to the  
10 licensing authority.

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

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

16 4. The bureau shall deposit all fees collected in the marihuana  
17 control fund established pursuant to section eighty-two of the state  
18 finance law.

19 § 191. Persons forbidden to traffic in marihuana. 1. The following  
20 persons are forbidden to traffic in marihuana:

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

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

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

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

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

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

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

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

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

38 § 194. Protections for the use of marihuana. Individuals and licensed  
39 entities shall not be subject to arrest, prosecution, or penalty in any  
40 manner, or denied any right or privilege, including but not limited to  
41 civil liability or disciplinary action by a business or occupational or  
42 professional licensing board or bureau, solely for conduct permitted  
43 under this article. For the avoidance of doubt, the appellate division  
44 of the supreme court of the state of New York, and any disciplinary or  
45 character and fitness committees established by them are occupational  
46 and professional licensing boards within the meaning of this section.  
47 State or local law enforcement agencies shall not cooperate with or  
48 provide assistance to the government of the United States or any agency  
49 thereof in enforcing the Controlled Substance Act, 21, U.S.C. § 8012 et  
50 seq., solely for actions consistent with this chapter, except as pursu-  
51 ant to a valid court order.

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

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

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

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

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

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

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

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

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

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

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

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

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

51 § 198. Professional and medical record keeping. Any professional  
52 providing services in connection with a licensed or potentially licensed  
53 business under this chapter, or in connection with other conduct permit-  
54 ted under this chapter, and any medical professional providing medical  
55 care to a patient, may agree with their client or patient to maintain no  
56 record, or any reduced level of record keeping that professional and

1 client or patient may agree. In case of such agreement, the profes-  
2 sional's only obligation shall be to keep such records as agreed, and to  
3 keep a record of the agreement. Such reduced record keeping is conduct  
4 permitted under this chapter, and shall attract the protections of  
5 section one hundred ninety-four of this article.

6 § 32. The state finance law is amended by adding two new sections 82  
7 and 82-a to read as follows:

8 § 82. Marihuana control fund. 1. There is hereby established in the  
9 joint custody of the commissioner of taxation and finance and the state  
10 comptroller a special fund to be known as the "marihuana control fund".

11 2. The marihuana control fund shall consist of the revenues required  
12 to be deposited pursuant to the provisions of section one hundred ninety  
13 of the alcoholic beverage control law, and all other moneys credited or  
14 transferred thereto from any other fund or source pursuant to law.

15 3. Moneys in the fund used solely for the purpose of administering the  
16 regulatory requirements of article eleven of the alcoholic beverage  
17 control law. Moneys in the fund shall not be co-mingled with any other  
18 state funds.

19 4. Moneys shall be paid out of the fund on the audit and warrant of  
20 the comptroller on vouchers certified or approved by the chairman of the  
21 bureau of marihuana policy.

22 § 82-a. Marihuana revenue fund. 1. There is hereby established in the  
23 joint custody of the commissioner of taxation and finance ant the state  
24 comptroller a special fund to be known as the "marihuana revenue fund".

25 2. The marihuana revenue fund shall consist of the revenues required  
26 to be deposited pursuant to the provisions of section four hundred fifty  
27 of the tax law and all other moneys credited or transferred thereto from  
28 any other fund or source pursuant to law, less any payment of refunds  
29 due to tax payers.

30 3. Moneys in th fund used solely for the purpose of administering the  
31 regulatory requirements of article eleven of the alcoholic beverage  
32 control law. Moneys in the fund shall not be co-mingled with any other  
33 state funds.

34 4. Moneys shall be paid out of the fund on the audit and warrant of  
35 the comptroller on vouchers certified or approved by the commissioner of  
36 taxation and finance.

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

39 ARTICLE 18-A

40 PROVISIONS RELATING TO MARIHUANA

41 Section 446. Definitions.

42 447. Taxes imposed.

43 447-a. Local taxes on marihuana by a city or town.

44 447-b. Ordinary and necessary expenses deductible from net  
45 income.

46 448. Surety bond.

47 449. Collection of tax.

48 450. Revenue allocation.

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

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



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

3. "Marihuana" means all parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. It does not include all parts of the plant Cannabis sativa L., whether growing or not, having no more than three-tenths of one percent tetrahydrocannabinol (THC).

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

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

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

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

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

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

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

11. "Immature marihuana plant" means a marihuana plant with no observable flowers or buds.

12. "Marihuana retailer" means a person licensed by the bureau of marihuana policy to purchase marihuana, concentrated cannabis, and marihuana-infused products from marihuana producers and marihuana processors and sell marihuana, marihuana-infused products, and concentrated cannabis in a retail outlet.

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

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

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

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

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

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

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

25    (e) The department shall establish procedures for the collection al  
26 all taxes levied.

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

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

35    3. The department shall regularly review the rates of the tax under  
36 subdivision one of this section and make recommendations to the legisla-  
37 ture regarding appropriate adjustments to the rates that will further  
38 the purposes of:

39    (a) maximizing net revenue;

40    (b) minimizing the illegal marihuana industry; and

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

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

55    § 447-b. Ordinary and necessary expenses deductible from net income.  
56 Notwithstanding any federal tax law to the contrary, in computing net

1 income for businesses exempted from criminal penalties under articles  
2 two hundred twenty and two hundred twenty-one of the penal law and arti-  
3 cle eleven of the alcoholic beverage control law, there shall be allowed  
4 as a deduction from state taxes all the ordinary and necessary expenses  
5 paid or incurred during the taxable year in carrying on any trade or  
6 business, including but not limited to, reasonable allowance for sala-  
7 ries or other compensation for personal services actually rendered.

8 § 448. Surety bond. Marihuana retailer applicants are required to  
9 submit a surety bond with the department equal to two months of the  
10 cultivation facility's anticipated retail marihuana excise tax. The  
11 surety bond must be issued by a company authorized to do business in the  
12 state. Proof of surety bond is required for approval of applicant's  
13 retail license.

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

16 § 450. Revenue allocation. 1. Before any funds are disbursed pursuant  
17 to subdivisions three, four, five, and six of this section the state  
18 comptroller shall disburse from the marihuana revenue fund to the appro-  
19 priate account, without regard to fiscal year, the following:

20 (a) reasonable costs incurred by the department for administering and  
21 collecting the taxes imposed by this article; provided, however, that  
22 such costs shall not exceed four percent of tax revenues received; and

23 (b) reasonable costs incurred by the bureau of marihuana policy for  
24 implementing, administering, and enforcing the Marihuana Regulation and  
25 Taxation Act to the extent those costs are not reimbursed pursuant to  
26 section one hundred ninety of the alcoholic beverage control law. The  
27 provisions of this paragraph shall remain operative through fiscal year  
28 two thousand twenty-two - two thousand twenty-three.

29 2. For the purposes of data collection and reporting, the commissioner  
30 shall next disburse the sum of seven hundred fifty thousand dollars  
31 annually beginning with fiscal year two thousand nineteen - two thousand  
32 twenty until fiscal year two thousand twenty-nine - two thousand thirty  
33 to:

34 (a) The bureau of marihuana policy to track and report data related to  
35 the licensing of marihuana businesses, including the geographic  
36 location, structure, and function of licensed marihuana businesses, and  
37 demographic data, including race, ethnicity, and gender, of license  
38 holders. The bureau of marihuana policy shall publish reports on its  
39 findings annually and shall make the reports available to the public.

40 (b) The department of criminal justice services to track and report  
41 data related to any infractions, violations, or criminal convictions  
42 that occur under any of the remaining marihuana statutes. The department  
43 of criminal justice services shall publish reports on its findings annu-  
44 ally and shall make the reports available to the public.

45 3. The commissioner shall next disburse the sum of one million dollars  
46 to the state university of New York annually beginning with fiscal year  
47 two thousand nineteen - two thousand twenty until fiscal year two thou-  
48 sand twenty-nine - two thousand thirty to research and evaluate the  
49 implementation and effect of the Marihuana Regulation and Taxation Act,  
50 and shall, if appropriate, make recommendations to the legislature and  
51 governor regarding possible amendments to the Marihuana Regulation and  
52 Taxation Act. The recipients of these funds shall publish reports on  
53 their findings at a minimum of every two years and shall make the  
54 reports available to the public. The research funded pursuant to this  
55 subdivision shall include but not necessarily be limited to:

1 (a) impacts on public health, including health costs associated with  
2 marihuana use, as well as whether marihuana use is associated with an  
3 increase or decrease in use of alcohol or other drugs;

4 (b) the impact of treatment for cannabis use disorder and the effec-  
5 tiveness of different treatment programs;

6 (c) public safety issues related to marihuana use, including studying  
7 the effectiveness of the packaging and labeling requirements and adver-  
8 tising and marketing restrictions contained in the Marihuana Regulation  
9 and Taxation Act at preventing underage access to and use of marihuana  
10 and marihuana products, and studying the health-related effects among  
11 users of varying potency levels of marihuana and marihuana products;

12 (d) marihuana use rates, maladaptive use rates for adults and youth,  
13 and diagnosis rates of marihuana-related substance use disorders;

14 (e) marihuana market prices, illicit market prices, tax structures and  
15 rates, including an evaluation of how to best tax marihuana based on  
16 potency, and the structure and function of licensed marihuana busi-  
17 nesses;

18 (f) whether additional protections are needed to prevent unlawful  
19 monopolies or anti-competitive behavior from occurring in the nonmedical  
20 marihuana industry and, if so, recommendations as to the most effective  
21 measures for preventing such behavior;

22 (g) the economic impacts in the private and public sectors, including  
23 but not necessarily limited to, job creation, workplace safety, reven-  
24 ues, taxes generated for state and local budgets, and criminal justice  
25 impacts, including, but not necessarily limited to, impacts on law  
26 enforcement and public resources, short and long term consequences of  
27 involvement in the criminal justice system, and state and local govern-  
28 ment agency administrative costs and revenue;

29 (h) whether the regulatory agencies tasked with implementing and  
30 enforcing the Marihuana Regulation and Taxation Act are doing so  
31 consistent with the purposes of the Marihuana Regulation and Taxation  
32 Act, and whether different agencies might do so more effectively; and

33 (i) environmental issues related to marihuana production and the crim-  
34 inal prohibition of marihuana production.

35 4. The commissioner shall next divide fifteen percent of the remaining  
36 revenue collected in the marihuana revenue fund equally between:

37 (a) the division of criminal justice services for re-entry support  
38 services for individuals released from prison after serving time for  
39 drug related offenses;

40 (b) the office of alcoholism and substance abuse services for drug  
41 abuse prevention and treatment programs; and

42 (c) the department of labor for apprenticeship and job training  
43 programs targeting, with preference given to programs targeting census  
44 tracts with a poverty rate of at least twenty percent or an unemployment  
45 rate of at least one and one quarter times the New York state unemploy-  
46 ment rate.

47 5. The commissioner shall, after disbursing funds pursuant to subdivi-  
48 sions one through four of this section, disburse funds deposited in the  
49 marihuana revenue fund during the prior fiscal year into sub-trust  
50 accounts, which are hereby created as follows:

51 (a) Twenty-five percent shall be provided to the education department  
52 which shall distribute these funds in accordance with subdivisions two  
53 and four of section ninety-two-c of the state finance law;

54 (b) Twenty-five percent shall be deposited in the drug treatment and  
55 public education fund, and disbursed by the comptroller for the follow-  
56 ing purposes:

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

5 (ii) To develop and implement a statewide public health campaign  
6 focused on the health effects of marihuana and legal use, including an  
7 ongoing education and prevention campaign that educates the general  
8 public, including parents, consumers and retailers, on the legal use of  
9 marihuana, the importance of preventing youth access, the importance of  
10 safe storage and preventing secondhand marihuana smoke exposure, infor-  
11 mation for pregnant or breastfeeding women, and the overconsumption of  
12 edibles;

13 (iii) To provide substance use disorder treatment programs for youth  
14 and adults, with an emphasis on programs that are culturally and gender  
15 competent, trauma-informed, evidence-based and provide a continuum of  
16 care that includes screening and assessment (substance use disorder as  
17 well as mental health), early intervention, active treatment, family  
18 involvement, case management, overdose prevention, prevention of commu-  
19 nicable diseases related to substance use, relapse management for  
20 substance use and other co-occurring behavioral health disorders, voca-  
21 tional services, literacy services, parenting classes, family therapy  
22 and counseling services, medication-assisted treatments, psychiatric  
23 medication and psychotherapy;

24 (iv) To evaluate the programs being funded to determine their effec-  
25 tiveness.

26 (c) Fifty percent shall be deposited in the community grants reinvest-  
27 ment fund by the commissioner, and disbursed by the comptroller for the  
28 establishment of a community grants reinvestment program that shall  
29 administer the monies to qualified community-based nonprofit organiza-  
30 tions for the purpose of reinvesting in communities disproportionately  
31 affected by past federal and state drug policies. The grants from this  
32 program shall be used to support job placement, mental health treatment,  
33 substance use disorder treatment, system navigation services, legal  
34 services to address barriers to reentry, and linkages to medical care and  
35 women's health services. The programs may include, but are not limited  
36 to, the following components:

37 (i) The community grants reinvestment program shall periodically eval-  
38 uate the programs it is funding to determine the effectiveness of the  
39 programs.

40 (ii) The community grants reinvestment program shall be governed and  
41 administered by an executive steering committee of thirteen members that  
42 includes representatives of the office of children and family services,  
43 the department of labor and the department of health appointed by the  
44 governor and a representative of the department of education appointed  
45 by the board of regents. In addition, the majority and minority leaders  
46 of the senate and assembly shall each appoint one member to the steering  
47 committee, the comptroller shall appoint three additional members, and  
48 the attorney general shall appoint two additional members from relevant  
49 local government entities and community-based organizations. Every  
50 effort should be made to ensure a balanced and diverse committee, which  
51 shall have expertise in job placement, homelessness and housing, behav-  
52 ioral health and substance abuse treatment, and effective rehabilitative  
53 treatment for adults and juveniles, and shall include representatives of  
54 organizations serving communities impacted by past federal and state  
55 drug policies.



1 (iii) The committee shall make recommendations regarding the design,  
2 efficacy, and viability of proposals.

3 (iv) The committee shall prioritize proposals that provide any of the  
4 following:

5 (A) Community-based job skills services.

6 (B) Community-based job placement services.

7 (C) Adult education services.

8 (D) Other community-based supportive services.

9 6. The Community Grants Reinvestment Program shall not make any grants  
10 to municipal governments which have banned the cultivation, including  
11 personal cultivation of marihuana under section 221.05-a of the penal  
12 law, or retail sale of marihuana or marihuana products pursuant to arti-  
13 cle eleven of the alcoholic beverage control law.

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

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

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

38 (k) (i) The accusatory instrument alleged a violation of article two  
39 hundred twenty or section 240.36 of the penal law, prior to the taking  
40 effect of article two hundred twenty-one of the penal law, or by the  
41 conviction of such person of a violation of [~~article two hundred twen-~~  
42 ~~ty-one~~] section 221.45 of the penal law on or after the effective date  
43 of the chapter of the laws of 2017 that amended this subdivision or a  
44 violation of sections 221.05, 221.10, 221.15, 221.20, 221.25, 221.30,  
45 221.35, or 221.40 of the penal law prior to the effective date of the  
46 chapter of the laws of 2017 that amended this subdivision; and (ii) the  
47 sole controlled substance involved is [~~marijuana, (iii) the conviction~~  
48 ~~was only for a violation or violations; and (iv) at least three years~~  
49 ~~have passed since the offense occurred~~] marihuana. No defendant shall  
50 be required or permitted to waive eligibility for sealing pursuant to  
51 this paragraph as part of a plea of guilty, sentence or any agreement  
52 related to a conviction for a violation of section 221.45 of the penal  
53 law. Any such waiver shall be deemed void and wholly unenforceable.

54 § 35. Subdivision 4 of section 160.50 of the criminal procedure law,  
55 as amended by chapter 905 of the laws of 1977 and renumbered by chapter  
56 142 of the laws of 1991, is amended to read as follows:

4. A person in whose favor a criminal action or proceeding was terminated, as defined in ~~[paragraph]~~ paragraphs (a) through (h), ~~(k) or (l)~~ of subdivision ~~[two]~~ three of this section, prior to the effective date of ~~[this section, may upon motion apply to the court in which such termination occurred, upon not less than twenty days notice to the district attorney, for an order granting to such person the relief set forth in subdivision one of this section, and such order shall be granted unless the district attorney demonstrates to the satisfaction of the court that the interests of justice require otherwise. A person in whose favor a criminal action or proceeding was terminated, as defined in paragraph (i) or (j) of subdivision two of this section, prior to the effective date of this section, may apply to the appropriate prosecutor or police agency for a certification as described in said paragraph (i) or (j) granting to such person the relief set forth therein, and such certification shall be granted by such prosecutor or police agency.]~~ the chapter of the laws of two thousand seventeen that amended this subdivision, and whose records have not been sealed pursuant to subdivision one of this section, may apply to have the records of such criminal action or proceeding sealed at the clerk's office for the court in which the criminal action or proceeding was terminated. Application may be made by the person or his or her attorney. Upon a determination by the clerk that the action or proceeding was terminated in the person's favor as defined in subdivision three of this section, the clerk of the court shall immediately notify the commissioner of the division of criminal justice services and the heads of all appropriate police departments and other law enforcement agencies that the action has been terminated in favor of the accused and that the record of such action or proceedings shall be sealed. Upon receipt of notification of such termination and sealing, all records relating to the criminal action shall be sealed, as required under paragraph (c) of subdivision one of this section, and all photographs, photographic plates or proofs, palmprints and fingerprints shall be destroyed or returned as specified in paragraphs (a) and (b) of subdivision one of this section. This paragraph shall not apply to cases in which the court declined to seal for reasons stated on the record, pursuant to subdivision one of this section. When an applicant under this subdivision presents to the court clerk fingerprint records from New York state division of criminal justice services or a court disposition which indicate that a criminal action or proceeding against the applicant was dismissed but the supporting court records cannot be located, have been destroyed, or do not indicate whether the dismissal was a "termination in favor of" the accused as that term is defined in subdivision three of this section, the clerk of the court wherein such criminal action or proceeding was terminated shall proceed as if the matter had been so terminated.

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

1. Upon or after arraignment in a local criminal court upon an information, a prosecutor's information or a misdemeanor complaint, where the sole remaining count or counts charge a violation or violations of section ~~[221.05, 221.10, 221.15, 221.35 or 221.40]~~ 221.45 of the penal law, ~~or upon summons for a nuisance offense under section sixty-five-c of the alcoholic beverage control law~~ and before the entry of a plea of guilty thereto or commencement of a trial thereof, the court, upon motion of a defendant, may order that all proceedings be suspended and

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

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

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

37 § 210.46 Adjournment in contemplation of dismissal in marihuana cases  
38 in a superior court.

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

47 § 38. Paragraphs (h) and (i) of subdivision 1 of section 440.10 of the  
48 criminal procedure law, paragraph (h) as amended by chapter 332 of the  
49 laws of 2010 and paragraph (i) as amended by chapter 368 of the laws of  
50 2015, are amended and a new paragraph (j) is added to read as follows:

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

53 (i) The judgment is a conviction where the arresting charge was under  
54 section 240.37 (loitering for the purpose of engaging in a prostitution  
55 offense, provided that the defendant was not alleged to be loitering for  
56 the purpose of patronizing a person for prostitution or promoting pros-

titution) or 230.00 (prostitution) or 230.03 (prostitution in a school zone) of the penal law, and the defendant's participation in the offense was a result of having been a victim of sex trafficking under section 230.34 of the penal law, labor trafficking under section 135.35 of the penal law, aggravated labor trafficking under section 135.37 of the penal law, compelling prostitution under section 230.33 of the penal law, or trafficking in persons under the Trafficking Victims Protection Act (United States Code, title 22, chapter 78); provided that

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

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

(j) The judgment occurred prior to the effective date of this paragraph and is a conviction for:

(i) an offense as defined by section 221.05 or 221.10 of the penal law (criminal possession of marihuana in the fifth degree), as in effect prior to the effective date of this paragraph, provided that the accusatory instrument that underlies the judgment does not include an allegation that the defendant possessed more than twenty-five grams of marihuana; or

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

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

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

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

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

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

2. Upon receiving a motion under subdivision one of this section the court shall presume the movant satisfies the criteria in subdivision one of this section unless the party opposing the motion proves by clear and convincing evidence that the movant does not satisfy the criteria. If

1 the movant satisfies the criteria in subdivision one of this section,  
2 the court shall grant the motion to vacate the sentence or to resentence  
3 because it is legally invalid. In exercising its discretion, the court  
4 may consider, but shall not be limited to, the following:

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

8 (b) The movant's disciplinary record and record of rehabilitation  
9 while incarcerated.

10 3. A person who is serving a sentence and resentenced pursuant to  
11 subdivision two of this section shall be given credit for any time  
12 already served and shall be subject to supervision for one year follow-  
13 ing completion of his or her time in custody or shall be subject to  
14 whatever supervision time he or she would have otherwise been subject to  
15 after release, whichever is shorter, unless the court, in its  
16 discretion, as part of its resentencing order, releases the person from  
17 supervision. Such person is subject to parole supervision under section  
18 60.04 of the penal law or post-release supervision under section 70.45  
19 of the penal law by the designated agency and the jurisdiction of the  
20 court in the county in which the offender is released or resides, or in  
21 which an alleged violation of supervision has occurred, for the purpose  
22 of hearing petitions to revoke supervision and impose a term of custody.

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

27 5. A person who has completed his or her sentence for a conviction  
28 under the former article two hundred twenty-one of the penal law, wheth-  
29 er by trial or open or negotiated plea, who would not have been guilty  
30 of an offense or who would have been guilty of a lesser offense on and  
31 after the effective date of this section had this section been in effect  
32 at the time of his or her conviction, may file an application before the  
33 trial court that entered the judgment of conviction in his or her case  
34 to have the conviction, in accordance with article two hundred twenty-  
35 one of the penal law:

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

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

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

41 6. The court shall presume the petitioner satisfies the criteria in  
42 subdivision five unless the party opposing the application proves by  
43 clear and convincing evidence that the petitioner does not satisfy the  
44 criteria in subdivision five. Once the applicant satisfies the criteria  
45 in subdivision five, the court shall redesignate (or "reclassify") the  
46 conviction as a misdemeanor, redesignate (reclassify) the conviction as  
47 a violation and seal the conviction, or dismiss and seal the conviction  
48 as legally invalid under this section had this section been in effect at  
49 the time of his or her conviction.

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

52 8. Any felony conviction that is vacated and resentenced under subdi-  
53 vision two or designated as a misdemeanor or violation under subdivision  
54 six of this section shall be considered a misdemeanor or violation for  
55 all purposes. Any misdemeanor conviction that is vacated and resentenced  
56 under subdivision two of this section or designated as a violation under



1 subdivision six of this section shall be considered a violation for all  
2 purposes.

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

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

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

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

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

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

24 (c) Criminal possession of a controlled substance in the seventh  
25 degree as defined in section 220.03 of the penal law, criminal  
26 possession of a controlled substance in the fifth degree as defined in  
27 section 220.06 of the penal law, criminal possession of a controlled  
28 substance in the fourth degree as defined in section 220.09 of the penal  
29 law, criminal possession of a controlled substance in the third degree  
30 as defined in section 220.16 of the penal law, criminal possession of a  
31 controlled substance in the second degree as defined in section 220.18  
32 of the penal law, criminal possession of a controlled substance in the  
33 first degree as defined in section 220.21 of the penal law, criminal  
34 sale of a controlled substance in the fifth degree as defined in section  
35 220.31 of the penal law, criminal sale of a controlled substance in the  
36 fourth degree as defined in section 220.34 of the penal law, criminal  
37 sale of a controlled substance in the third degree as defined in section  
38 220.39 of the penal law, criminal sale of a controlled substance in the  
39 second degree as defined in section 220.41 of the penal law, criminal  
40 sale of a controlled substance in the first degree as defined in section  
41 220.43 of the penal law, criminally possessing a hypodermic instrument  
42 as defined in section 220.45 of the penal law, criminal sale of a  
43 prescription for a controlled substance or a controlled substance by a  
44 practitioner or pharmacist as defined in section 220.65 of the penal  
45 law, criminal possession of methamphetamine manufacturing material in  
46 the second degree as defined in section 220.70 of the penal law, crimi-  
47 nal possession of methamphetamine manufacturing material in the first  
48 degree as defined in section 220.71 of the penal law, criminal  
49 possession of precursors of methamphetamine as defined in section 220.72  
50 of the penal law, unlawful manufacture of methamphetamine in the third  
51 degree as defined in section 220.73 of the penal law, unlawful manufac-  
52 ture of methamphetamine in the second degree as defined in section  
53 220.74 of the penal law, unlawful manufacture of methamphetamine in the  
54 first degree as defined in section 220.75 of the penal law, unlawful  
55 disposal of methamphetamine laboratory material as defined in section  
56 220.76 of the penal law, operating as a major trafficker as defined in

1 section 220.77 of the penal law, [~~criminal possession of marihuana in~~  
2 ~~the first degree as defined in section 221.30 of the penal law, criminal~~  
3 ~~sale of marihuana in the first degree as defined in section 221.55 of~~  
4 ~~the penal law,~~] promoting gambling in the second degree as defined in  
5 section 225.05 of the penal law, promoting gambling in the first degree  
6 as defined in section 225.10 of the penal law, possession of gambling  
7 records in the second degree as defined in section 225.15 of the penal  
8 law, possession of gambling records in the first degree as defined in  
9 section 225.20 of the penal law, and possession of a gambling device as  
10 defined in section 225.30 of the penal law;

11 § 42. Paragraphs (b) and (c) of subdivision 4-b and subdivisions 6 and  
12 9 of section 1310 of the civil practice law and rules, paragraphs (b)  
13 and (c) of subdivision 4-b as added by chapter 655 of the laws of 1990  
14 and subdivisions 6 and 9 as added by chapter 669 of the laws of 1984,  
15 are amended to read as follows:

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

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

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

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

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

1 3-a. Conviction of a person in a criminal action upon an accusatory  
2 instrument which includes one or more of the felonies specified in  
3 subdivision four-b of section thirteen hundred ten of this article, of  
4 any felony other than such felonies, shall not preclude a defendant, in  
5 any subsequent proceeding under this article where that conviction is at  
6 issue, from adducing evidence that the conduct underlying the conviction  
7 would not establish the elements of any of the felonies specified in  
8 such subdivision other than the one to which the criminal defendant pled  
9 guilty. If the defendant does adduce such evidence, the burden shall be  
10 upon the claiming authority to prove, by clear and convincing evidence,  
11 that the conduct underlying the criminal conviction would establish the  
12 elements of the felony specified in such subdivision. Nothing contained  
13 in this subdivision shall affect the validity of a settlement of any  
14 forfeiture action negotiated between the claiming authority and a criminal  
15 defendant contemporaneously with the taking of a plea of guilty in a  
16 criminal action to any felony defined in article two hundred twenty ~~or~~  
17 ~~section 221.30 or 221.55~~ of the penal law, or to a felony conspiracy to  
18 commit the same.

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

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

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

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

1 evidence of successful rehabilitation to remove the disability has been  
2 issued.

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

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

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

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

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

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

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

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

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

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

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

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

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



1 or any offenses committed outside this state which would constitute  
2 violations of the aforesaid sections of the penal law.

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

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

16 § 53. This act shall take effect immediately.