

# STATE OF NEW YORK

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3506--B

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 -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

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

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

LBD05327-07-7

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

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

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

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

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

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

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

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

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

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

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

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

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

21 [6.] 5. "Commissioner" means commissioner of health of the state of  
22 New York.

23 [7.] 6. "Deliver" or "delivery" means the actual, constructive or  
24 attempted transfer from one person to another of a controlled substance,  
25 whether or not there is an agency relationship.

26 [8.] 7. "Department" means the department of health of the state of  
27 New York.

28 [9.] 8. "Dispense" means to deliver a controlled substance to an ulti-  
29 mate user or research subject by lawful means, including by means of the  
30 internet, and includes the packaging, labeling, or compounding necessary  
31 to prepare the substance for such delivery.

32 [10.] 9. "Distribute" means to deliver a controlled substance, includ-  
33 ing by means of the internet, other than by administering or dispensing.

34 [11.] 10. "Distributor" means a person who distributes a controlled  
35 substance.

36 [12.] 11. "Diversion" means manufacture, possession, delivery or use  
37 of a controlled substance by a person or in a manner not specifically  
38 authorized by law.

39 [13.] 12. "Drug" means

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

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

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

48 [14.] 13. "Federal agency" means the Drug Enforcement Administration,  
49 United States Department of Justice, or its successor agency.

50 [15.] 14. "Federal controlled substances act" means the Comprehensive  
51 Drug Abuse Prevention and Control Act of 1970, Public Law 91-513, and  
52 any act or acts amendatory or supplemental thereto or regulations  
53 promulgated thereunder.

54 [16.] 15. "Federal registration number" means such number assigned by  
55 the Federal agency to any person authorized to manufacture, distribute,  
56 sell, dispense or administer controlled substances.

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

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

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

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

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

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

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

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

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

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

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

50     (c) opium poppy and poppy straw.

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

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

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

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

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

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

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

15 [~~29-~~] 27. "Practitioner" means:  
16 A physician, dentist, podiatrist, veterinarian, scientific investi-  
17 gator, or other person licensed, or otherwise permitted to dispense,  
18 administer or conduct research with respect to a controlled substance in  
19 the course of a licensed professional practice or research licensed  
20 pursuant to this article. Such person shall be deemed a "practitioner"  
21 only as to such substances, or conduct relating to such substances, as  
22 is permitted by his license, permit or otherwise permitted by law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (13) [~~Marihuana.~~

46 ~~(14)]~~ Mescaline.

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

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

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

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

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

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

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

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

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

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

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

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

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

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



1 § 9. Subdivisions 5, 6 and 9 of section 220.00 of the penal law,  
2 subdivision 5 as amended by chapter 537 of the laws of 1998, subdivision  
3 6 as amended by chapter 1051 of the laws of 1973 and subdivision 9 as  
4 amended by chapter 664 of the laws of 1985, are amended and two new  
5 subdivisions 21 and 22 are added to read as follows:

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

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

24 9. "Hallucinogen" means any controlled substance listed in [~~schedule~~  
25 ~~I(d)~~] paragraphs (5), [(18), (19), (20), (21) and (22)] (17), (18),  
26 (19), (20) and (21) of subdivision (d) of schedule I of section thirty-  
27 three hundred six of the public health law.

28 21. "Concentrated cannabis" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 § 15. The penal law is amended by adding two new sections 221.05 and  
35 221.05-a to read as follows:

36 § 221.05 Personal use of marihuana.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 § 221.05-a Personal cultivation of marihuana.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 § 221.60 Licensing of marihuana production and distribution.

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

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

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

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

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

41 § 22. Subdivisions 20-a, 20-b, 20-c, 20-d and 20-e of section 3 of the  
42 alcoholic beverage control law are renumbered subdivisions 20-j, 20-k,  
43 20-l, 20-m and 20-n and ten new subdivisions 7-e, 20-a, 20-b, 20-c,  
44 20-d, 20-e, 20-f, 20-g, 20-h and 20-i are added to read as follows:

45 7-e. "Concentrated cannabis" means: (a) the separated resin, whether  
46 crude or purified, obtained from a plant of the genus Cannabis; or  
47 (b) a material, preparation, mixture, compound or other substance  
48 which contains more than three percent by weight of delta-9 tetrahydro-  
49 cannabinol, or its isomer, delta-8 dibenzopyran numbering system, or  
50 delta-1 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpene  
51 numbering system.

52 20-a. "Marihuana" means all parts of the plant of the genus Cannabis,  
53 whether growing or not; the seeds thereof; the resin extracted from any  
54 part of the plant; and every compound, manufacture, salt, derivative,  
55 mixture, or preparation of the plant, its seeds or resin. It does not  
56 include the mature stalks of the plant, fiber produced from the stalks,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 violation of this section, said officer may seize the beverage or prod-  
2 uct, and shall deliver it to the custody of his or her department.

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

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

20 § 65-e. Restrictions on personal consumption of marihuana. 1. Nothing  
21 in sections 221.05 and 221.05-a of the penal law shall be construed to  
22 permit any person to:

23 (a) smoke marihuana in public;

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

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

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

34 2. For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 ARTICLE 11

17 PROVISIONS RELATING TO MARIHUANA

18 Section 165. Definitions.

19 166. Bureau of marihuana policy.

20 167. Administration of the bureau of marihuana policy.

21 168. Licenses issued.

22 169. Licensing limits.

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

24 171. General prohibitions and restrictions.

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

27 173. Provisions governing initial rulemaking.

28 174. Provisions governing marihuana producers.

29 175. Provisions governing processors.

30 176. Provisions governing marihuana retailers.

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

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

34 179. Packaging of marihuana products.

35 180. Labeling of marihuana products.

36 181. Seed to sale tracking.

37 182. Renewals of licenses and permits.

38 183. Information to be provided by applicants.

39 184. Notification to municipalities.

40 185. Licenses, publication, general provisions.

41 186. Revocation of licenses for cause.

42 187. Procedure for revocation or cancellation.

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

45 189. Minority and women business enterprises.

46 190. Disposition of moneys received for license fees.

47 191. Persons forbidden to traffic in marihuana.

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

49 193. Authority to promulgate rules and regulations.

50 194. Protections for the use of marihuana.

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

53 196. Employment protections.

54 197. Protections for persons under state supervision.

55 198. Professional and medical record keeping.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (b) the qualifications for licensure;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 § 178. Advertising and forms of the issuance of licenses. 1. The  
35 bureau is hereby authorized to promulgate rules and regulations govern-  
36 ing the advertising of marihuana producers, marihuana processors, mari-  
37 huana retailers, and any marihuana related products or services.

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

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

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

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

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

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

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

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

10 2. Such regulations shall include requiring that:

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

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

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

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

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

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

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

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

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

39 (a) manufacture date and source;

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (a) the licensee receiving the product;

31 (b) the transaction date; and

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

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

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

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

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

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

42 (f) a categorization of the product; and

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

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

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

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

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

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

15 (a) A statement of identity as follows:

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

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

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

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

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

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

52 (i) gender diversity;

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (a) marihuana producer license;

8 (b) marihuana processor license;

9 (c) marihuana microbusiness license;

10 (d) marihuana retailer license;

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

12 (f) marihuana delivery license;

13 (g) marihuana testing license; and/or

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

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

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

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

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

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

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

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

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

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

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

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

49 (b) the full name of the applicant;

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

45 (ii) recipients of awards from the fund;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

49 (b) recipients of awards from the fund;

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

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

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

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

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

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

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

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

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

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

- 1 (a) the amount of money dispersed from the fund and the award process
- 2 used for such disbursements;
- 3 (b) recipients of awards from the fund;
- 4 (c) the amount awarded to each recipient of an award from the fund;
- 5 (d) the purposes for which such awards were granted; and
- 6 (e) a summary financial plan for such monies which shall include esti-
- 7 mates of all receipts and all disbursements for the current and succeed-
- 8 ing fiscal years, along with the actual results from the prior fiscal
- 9 year.

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

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

15 ARTICLE 18-A

16 PROVISIONS RELATING TO MARIHUANA

17 Section 446. Definitions.

18 447. Taxes imposed.

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

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

22 448. Surety bond.

23 449. Collection of tax.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (a) maximizing net revenue;

14 (b) minimizing the illegal marihuana industry; and

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

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

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

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

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

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

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

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

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

14 (k) (i) The accusatory instrument alleged a violation of article two  
15 hundred twenty or section 240.36 of the penal law, prior to the taking  
16 effect of article two hundred twenty-one of the penal law, or by the  
17 conviction of such person of a violation of [~~article two hundred twen-~~  
18 ~~ty-one~~] section 221.45 of the penal law on or after the effective date  
19 of the chapter of the laws of 2017 that amended this subdivision or a  
20 violation of sections 221.05, 221.10, 221.15, 221.20, 221.25, 221.30,  
21 221.35, or 221.40 of the penal law prior to the effective date of the  
22 chapter of the laws of 2017 that amended this subdivision; and (ii) the  
23 sole controlled substance involved is [~~marijuana; (iii) the conviction~~  
24 ~~was only for a violation or violations; and (iv) at least three years~~  
25 ~~have passed since the offense occurred]~~ marihuana. No defendant shall  
26 be required or permitted to waive eligibility for sealing pursuant to  
27 this paragraph as part of a plea of guilty, sentence or any agreement  
28 related to a conviction for a violation of section 221.45 of the penal  
29 law. Any such waiver shall be deemed void and wholly unenforceable.

30 § 35. Subdivision 4 of section 160.50 of the criminal procedure law,  
31 as amended by chapter 905 of the laws of 1977 and renumbered by chapter  
32 142 of the laws of 1991, is amended to read as follows:

33 4. A person in whose favor a criminal action or proceeding was termi-  
34 nated, as defined in [~~paragraph~~] paragraphs (a) through (h), (k) or (l)  
35 of subdivision [~~two~~] three of this section, prior to the effective date  
36 of [~~this section, may upon motion apply to the court in which such~~  
37 ~~termination occurred, upon not less than twenty days notice to the~~  
38 ~~district attorney, for an order granting to such person the relief set~~  
39 ~~forth in subdivision one of this section, and such order shall be grant-~~  
40 ~~ed unless the district attorney demonstrates to the satisfaction of the~~  
41 ~~court that the interests of justice require otherwise. A person in whose~~  
42 ~~favor a criminal action or proceeding was terminated, as defined in~~  
43 ~~paragraph (i) or (j) of subdivision two of this section, prior to the~~  
44 ~~effective date of this section, may apply to the appropriate prosecutor~~  
45 ~~or police agency for a certification as described in said paragraph (i)~~  
46 ~~or (j) granting to such person the relief set forth therein, and such~~  
47 ~~certification shall be granted by such prosecutor or police agency.] the  
48 chapter of the laws of two thousand seventeen that amended this subdivi-  
49 sion, and whose records have not been sealed pursuant to subdivision one  
50 of this section, may apply to have the records of such criminal action  
51 or proceeding sealed at the clerk's office for the court in which the  
52 criminal action or proceeding was terminated. Application may be made by  
53 the person or his or her attorney. Upon a determination by the clerk  
54 that the action or proceeding was terminated in the person's favor as  
55 defined in subdivision three of this section, the clerk of the court  
56 shall immediately notify the commissioner of the division of criminal~~

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 § 48. Paragraphs (b) and (c) of subdivision 7 of section 480.00 of the  
5 penal law, paragraph (b) as amended by section 31 of part AAA of chapter  
6 56 of the laws of 2009 and paragraph (c) as added by chapter 655 of the  
7 laws of 1990, are amended to read as follows:

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

38 (a) "Person in need of supervision". A person less than eighteen years  
39 of age who does not attend school in accordance with the provisions of  
40 part one of article sixty-five of the education law or who is incorrigi-  
41 ble, ungovernable or habitually disobedient and beyond the lawful  
42 control of a parent or other person legally responsible for such child's  
43 care, or other lawful authority, or who violates the provisions of  
44 section [~~221.05-0#~~] 230.00 of the penal law, or who appears to be a  
45 sexually exploited child as defined in paragraph (a), (c) or (d) of  
46 subdivision one of section four hundred forty-seven-a of the social  
47 services law, but only if the child consents to the filing of a petition  
48 under this article.

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

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

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