STATE OF NEW YORK

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2019-2020 Regular Sessions

IN ASSEMBLY

January 16, 2019

Introduced by M. of A. PEOPLES-STOKES, GOTTFRIED, LUPARDO, WRIGHT, WEPRIN, HUNTER, HYNDMAN, PICHARDO, BLAKE, L. ROSENTHAL, JAFFEE, DINOWITZ, JEAN-PIERRE, ABINANTI, RICHARDSON, HEVESI, WALKER, VANEL, NIOU, BICHOTTE, CAHILL, LIFTON, EPSTEIN, QUART, ORTIZ, REYES, DICKENS, FRONTUS, CRUZ, SOLAGES, RAYNOR, RODRIGUEZ, FERNANDEZ, ARROYO, BRONSON, DE LA ROSA, FALL, CARROLL, LENTOL, DenDEKKER, RAMOS, BENEDETTO, SIMOTAS -- Multi-Sponsored by -- M. of A. MOSLEY, SEAWRIGHT, SIMON, STECK, TAYLOR -- 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 in relation to constituting chapter 7-A of the consolidated laws, in relation to the creation of a new office of cannabis management, as an independent entity within the division of alcoholic beverage control, providing for the licensure of persons authorized to cultivate, process, distribute and sell cannabis and the use of cannabis by persons aged twenty-one or older; to amend the public health law, in relation to the description of cannabis; to amend the penal law, in relation to the growing and use of cannabis by persons twenty-one years of age or older; to amend the tax law, in relation to providing for the levying of taxes on cannabis; 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, the alcoholic beverage control law, the general obligations law, the social services law, the agriculture and markets law and the vehicle and traffic law, in relation to making conforming changes; to amend the public health law, in relation to the definition of smoking; to amend the state finance law, in relation to establishing the New York state cannabis revenue fund, the New York state drug treatment and public education fund and the New York state community grants reinvestment fund; to amend chapter 90 of the laws of 2014 amending the public health law, the tax law, the state finance law, the general business law, the penal law and the criminal procedure law relating to medical use of

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

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marihuana, in relation to the effectiveness thereof; to repeal certain provisions of the public health law relating to growing of cannabis and medical use of marihuana; to repeal article 221 of the penal law relating to offenses involving marihuana; to repeal paragraph (f) of subdivision 2 of section 850 of the general business law relating to drug related paraphernalia; to repeal certain provisions of the criminal procedure law relating to certain criminal actions; and to repeal certain provisions of the agriculture and markets law relating to industrial hemp

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

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

§ 2. Chapter 7-A of the consolidated laws is enacted, to read as follows:

CHAPTER 7-A OF THE CONSOLIDATED LAWS
CANNABIS LAW
ARTICLE 1
SHORT TITLE; LEGISLATIVE FINDINGS AND INTENT; DEFINITIONS

Section 1. Short title.
2. Legislative findings and intent
3. Definitions.

Section 1. Short title. This chapter shall be known and may be cited and referred to as the "cannabis law".

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

The intent of this act is to regulate, control, and tax marihuana, heretofore known as cannabis, generate millions of dollars in new revenue, prevent access to cannabis by those under the age of twenty-one years, reduce the illegal drug market and reduce violent crime, reduce participation of otherwise law-abiding citizens in the illicit market, end the racially disparate impact of existing cannabis laws and create new industries and increase employment.

Nothing in this act is intended to limit the authority of any district government agency or office or employers to enact and enforce policies pertaining to cannabis in the workplace, to allow driving under the influence of cannabis, to allow individuals to engage in conduct that endangers others, to allow smoking cannabis in any location where smoking tobacco is prohibited, or to require any individual to engage in any conduct that violates federal law or to exempt anyone from any require-

ment of federal law or pose any obstacle to the federal enforcement of federal law.

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

The legislature further finds and declares that it is in the best interest of the state to regulate medical cannabis, adult-use cannabis, and hemp extracts under one independent agency, known as the office of cannabis management.

§ 3. Definitions. Whenever used in this chapter, unless otherwise expressly stated or unless the context or subject matter requires a different meaning, the following terms shall have the representative meanings hereinafter set forth or indicated:

1. "Applicant" means a resident of New York state aged twenty-one years or older applying for any cannabis or hemp license or special use permit issued by the office of cannabis management.

2. "Cannabinoid extractor" means a person licensed by the office to acquire, possess, extract and manufacture hemp extract from licensed cannabinoid growers for the manufacture and sale of hemp extract products marketed for cannabinoid content and used or intended for human or animal consumption or use.

3. "Cannabinoid grower" means a person licensed by the office, and in compliance with article twenty-nine of the agriculture and markets law, to acquire, possess, cultivate, and sell hemp extract for its cannabinoid content.

4. "Cannabis" means all parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. It does not include hemp extract as defined by this section.

5. "Cannabis consumer" means a person twenty-one years of age or older acting in accordance with any provision of this chapter.

6. "Cannabis flower" means the flower of a plant of the genus Cannabis that has been harvested, dried, and cured, and prior to any processing whereby the plant material is transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients. Cannabis flower excludes leaves and stem.

7. "Cannabis product" or "adult-use cannabis" means cannabis, concentrated cannabis, and cannabis-infused products for use by a cannabis consumer.

8. "Cannabis-infused products" means products that have been manufactured and contain either cannabis or concentrated cannabis and other ingredients that are intended for use or consumption.

9. "Cannabis trim" means all parts of the plant of the genus Cannabis other than cannabis flower that have been harvested, dried, and cured, but prior to any further processing.

10. "Caring for" means treating a patient, in the course of which the practitioner has completed a full assessment of the patient's medical history and current medical condition.

11. "Certification" means a certification made under this chapter.

12. "Certified medical use" includes the acquisition, administration, cultivation, manufacture, delivery, harvest, possession, preparation, transfer, transportation, or use of cannabis or paraphernalia relating to the administration of cannabis to treat or alleviate a certified patient's medical condition or symptoms associated with the patient's medical condition.

13. "Certified patient" means a patient who is a resident of New York state or receiving care and treatment in New York state as determined by the executive director in regulation, and is certified under this chapter.

14. "Commercial cannabis activity" means the production, cultivation, manufacturing, processing, possession, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of cannabis and cannabis products as provided for in this chapter.

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

16. "Condition" means having one of the following conditions: cancer, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, amyotrophic lateral sclerosis, Parkinson's disease, multiple sclerosis, damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity, epilepsy, inflammatory bowel disease, neuropathies, Huntington's disease, post-traumatic stress disorder, pain that degrades health and functional capability where the use of medical cannabis is an alternative to opioid use, substance use disorder, Alzheimer's, muscular dystrophy, dystonia, rheumatoid arthritis, autism or any other condition certified by the practitioner.

17. "Cultivation" means growing, cloning, harvesting, drying, curing, grading, and trimming of cannabis plants for sale to certain other categories of cannabis license- and permit-holders.

18. "Delivery" means the direct delivery of cannabis products by a retail licensee, microbusiness licensee, or delivery license holder to a cannabis consumer.

19. "Designated caregiver facility" means a general hospital or residential health care facility operating pursuant to article twenty-eight of the public health law; an adult care facility operating pursuant to title two of article seven of the social services law; a community mental health residence established pursuant to section 41.44 of the mental hygiene law; a hospital operating pursuant to section 7.17 of the mental hygiene law; a mental hygiene facility operating pursuant to article thirty-one of the mental hygiene law; an inpatient or residen-

tial treatment program certified pursuant to article thirty-two of the mental hygiene law; a residential facility for the care and treatment of persons with developmental disabilities operating pursuant to article sixteen of the mental hygiene law; a residential treatment facility for children and youth operating pursuant to article thirty-one of the mental hygiene law; a private or public school; research institution with an internal review board; or any other facility as determined by the executive director in regulation; that registers with the office to assist one or more certified patients with the acquisition, possession, delivery, transportation or administration of medical cannabis.

20. "Designated caregiver" means an individual designated by a certified patient in a registry application. A certified patient may designate up to five designated caregivers not counting designated caregiver facilities or designated caregiver facilities' employees.

21. "Designated caregiver facility employee" means an employee of a designated caregiver facility.

22. "Distributor" means any person who sells at wholesale any cannabis product, except medical cannabis, for the sale of which a license is required under the provisions of this chapter.

23. "Executive director" means the executive director of the office of cannabis management.

24. "Form of medical cannabis" means characteristics of the medical cannabis recommended or limited for a particular certified patient, including the method of consumption and any particular strain, variety, and quantity or percentage of cannabis or particular active ingredient.

25. "Hemp extract" means any product made or derived from industrial hemp, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than an amount determined by the office in regulation, used or intended for human or animal consumption or use for its cannabinoid content, as determined by the executive director in regulation. Hemp extract excludes industrial hemp used or intended exclusively for an industrial purpose.

26. "Industrial hemp" means the plant Cannabis sativa L. and any part of such plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis, used or intended for an industrial purpose.

27. "Labor peace agreement" means an agreement between an entity and a labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the entity.

28. "Laboratory testing facility" means any independent laboratory capable of testing cannabis and cannabis products for adult-use and medical-use; hemp extract; or for all categories of cannabis and cannabis products as per regulations set forth by the office.

29. "License" means a written authorization issued by the office of cannabis management permitting persons to engage in a specified activity with respect to cannabis or cannabis products.

30. "Medical cannabis" means cannabis as defined in this section, intended for a certified medical use, as determined by the executive director in consultation with the commissioner of health.

31. "Microbusiness" means a licensee that may act as a cannabis producer for the cultivation of cannabis, a cannabis processor, and a cannabis retailer under this article; provided such licensee complies with all requirements imposed by this article on licensed producers, processors, and retailers to the extent the licensee engages in such activities. A "microbusiness" may distribute its cannabis and cannabis products to other licensed cannabis businesses and may deliver cannabis and cannabis products to customers.

32. "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.

33. "Office" or "office of cannabis management" means the New York state office of cannabis management.

34. "On-site consumption" means the consumption of cannabis in an area licensed for such activity by the office.

35. "Owner" means an individual with an aggregate ownership interest of twenty percent or more in a cannabis business licensed pursuant to this chapter, unless such interest is solely a security, lien, or encumbrance, or an individual that will be participating in the direction, control, or management of the licensed cannabis business.

36. "Package" means any container or receptacle used for holding cannabis or cannabis products.

37. "Permit" means a permit issued pursuant to this chapter.

38. "Permittee" means any person to whom a permit has been issued pursuant to this chapter.

39. "Practitioner" means a practitioner who: (i) is authorized to prescribe controlled substances within the state, (ii) by training or experience is qualified to treat patients; and (iii) completes, at a minimum, a two-hour course as determined by the executive director in regulation. A person's status as a practitioner under this chapter is deemed to be a "license" for purposes of section thirty-three hundred ninety of the public health law and shall be subject to the same revocation process.

40. "Processor" means a licensee that extracts concentrated cannabis and/or compounds, blends, extracts, infuses, or otherwise manufactures concentrated cannabis or cannabis products, but not the cultivation of the cannabis contained in the cannabis product.

41. "Registered organization" means an organization registered under article three of this chapter.

42. "Registry application" means an application properly completed and filed with the office of cannabis management by a certified patient under article three of this chapter.

43. "Registry identification card" means a document that identifies a certified patient or designated caregiver, as provided under this chapter.

44. "Retail sale" means to solicit or receive an order for, to keep or expose for sale, and to keep with intent to sell, made by any person, whether principal, proprietor, agent, or employee, of any cannabis, cannabis product, or hemp extract product to a cannabis consumer for any purpose other than resale.

45. "Retailer" means any person who sells at retail any cannabis product, the sale of which a license is required under the provisions of this chapter.

46. "Smoking" means the burning of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco or cannabis provided that it does not include the use of an electronic smoking

device that creates an aerosol or vapor, unless local laws or ordinances or state statutes extend prohibitions on smoking to electronic smoking devices.

47. "Terminally ill" means an individual has a medical prognosis that the individual's life expectancy is approximately one year or less if the illness runs its normal course.

48. "Warehouse" means and includes a place in which cannabis products are housed or stored.

49. "Wholesale" means to solicit or receive an order for, to keep or expose for sale, and to keep with intent to sell, made by any person, whether principal, proprietor, agent, or employee of any adult-use, medical-use, or hemp extract product for purposes of resale.

ARTICLE 2
NEW YORK STATE OFFICE OF CANNABIS MANAGEMENT

Section 9. Establishment of an office of cannabis management.
10. Executive director.
11. Functions, powers and duties of the office and executive director.
12. Rulemaking authority.
13. State cannabis advisory board.
14. Disposition of moneys received for license fees.
15. Legal presumptions.
16. Violations of cannabis laws or regulations; penalties and injunctions.
17. Formal hearings; notice and procedure.
18. Ethics, transparency and accountability.

§ 9. Establishment of an office of cannabis management. There is hereby established, within the division of alcoholic beverage control, an independent office of cannabis management, which shall have exclusive jurisdiction to exercise the powers and duties provided by this chapter. The office shall exercise its authority by and through an executive director.

§ 10. Executive director. The executive director shall be appointed by the governor and confirmed by the senate. The executive director of the state office of cannabis management shall receive an annual salary not to exceed an amount appropriated therefor by the legislature and his or her expenses actually and necessarily incurred in the performance of official duties, unless otherwise provided by the legislature.

§ 11. Functions, powers and duties of the office and executive director. The office of cannabis management, by and through its executive director, shall have the following powers and duties:

1. To issue or refuse to issue any registration, license or permit provided for in this chapter, and to issue temporary or provisional licenses.

2. To issue or refuse to issue registrations, licenses, permits, and temporary or provisional licenses in a manner that prioritizes social equity applicants, and small business opportunities and concerns, avoids market dominance in sectors of the industry, and reflects the demographics of the state.

3. To limit, or not to limit, in the executive director's discretion, the number of registrations, licenses and permits of each class to be issued within the state or any political subdivision thereof, and in connection therewith to prohibit the acceptance of applications for such

classes which have been so limited. Such limitations shall consider consumer access, market demand, and geographic diversity.

4. To develop testing standards and certify testing laboratories in the state.

5. To regulate advertising, marketing, branding, packaging, and labeling, including regulating the accuracy of information about cannabis and cannabis products and restricting marketing and advertising to youth.

6. To revoke, cancel or suspend for cause any registration, license, or permit issued under this chapter and/or to impose a civil penalty for cause against any holder of a registration, license, or permit issued pursuant to this chapter.

7. To fix by rule the standards of cultivation and processing of medical cannabis, adult use cannabis and hemp extract, including but not limited to, the ability to regulate potency and the types of products which may be manufactured and/or processed, in order to ensure the health and safety of the public and the use of proper ingredients and methods in the manufacture of all medical cannabis, adult use cannabis, and hemp extract to be sold or consumed in the state.

8. To hold hearings, subpoena witnesses, compel their attendance, administer oaths, to examine any person under oath and in connection therewith to require the production of any books or records relative to the inquiry. A subpoena issued under this section shall be regulated by the civil practice law and rules.

9. To appoint any necessary directors, deputies, counsels, assistants, investigators, and other employees within the limits provided by appropriation. Investigators so employed by the office shall be deemed to be peace officers for the purpose of enforcing the provisions of the cannabis control law or judgements or orders obtained for violation thereof, with all the powers set forth in section 2.20 of the criminal procedure law. Directors, deputies, and counsels shall be in the exempt class of the civil service. The other assistants, investigators and employees of the office shall all be in the competitive class of the civil service. Employees transferred to the office shall be transferred without further examination or qualification to the same or similar titles and shall remain in the same collective bargaining units and shall retain their respective civil service classifications, status and rights pursuant to their collective bargaining units and collective bargaining agreements. Employees serving in positions in newly created titles shall be assigned to the appropriate collective bargaining unit.

10. To remove any employee of the office for cause, after giving such employee a copy of the charges against him or her in writing, and an opportunity to be heard thereon. Any action taken under this subdivision shall be subject to and in accordance with the civil service law.

11. To inspect or provide for the inspection at any time of any premises where medical cannabis, adult use cannabis, or hemp extract is cultivated, processed, stored, distributed or sold.

12. To prescribe forms of applications for registrations, licenses and permits under this chapter and of all reports deemed necessary by the office.

13. To delegate the powers provided in this section to such other officers or employees or other state agencies as may be deemed appropriate by the executive director.

14. To appoint such advisory groups and committees as the executive director deems necessary to provide assistance to the office to carry out the purposes and objectives of this chapter.

15. To exercise the powers and perform the duties in relation to the administration of the office as are necessary but not specifically vested by this chapter, including but not limited to budgetary and fiscal matters in consultation with the cannabis advisory board.

16. To develop and establish minimum criteria for certifying employees to work in the cannabis industry, including the establishment of a cannabis workers certification program.

17. To enter into contracts, memoranda of understanding, and agreements as deemed appropriate by the executive director to effectuate the policy and purpose of this chapter.

18. To issue and administer low interest or zero-interest loans and other assistance to qualified social equity applicants.

19. If the executive director finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in an order, summary suspension of a license may be ordered, effective on the date specified in such order or upon service of a certified copy of such order on the licensee, whichever shall be later, pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined. In addition, the executive director may order the administrative seizure of product, issue a stop order, or take any other action necessary to effectuate and enforce the policy and purpose of this chapter.

20. To issue regulations, declaratory rulings, guidance and industry advisories.

§ 12. Rulemaking authority. 1. The office shall perform such acts, prescribe such forms and propose such rules, regulations and orders as it may deem necessary or proper to fully effectuate the provisions of this chapter.

2. The office shall have the power to promulgate any and all necessary rules and regulations governing the cultivation, manufacture, processing, transportation, distribution, testing, delivery, and sale of medical cannabis, adult-use cannabis, and hemp extract, including but not limited to the registration of organizations authorized to sell medical cannabis, the licensing and/or permitting of adult-use cannabis cultivators, processors, cooperatives, distributors, laboratories, and retailers, and the licensing of hemp extract producers and processors pursuant to this chapter, including, but not limited to:

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

(b) the qualifications and selection criteria for registration, licensing, or permitting;

(c) the books and records to be created and maintained by registered organizations, licensees, and permittees, including the reports to be made thereon to the office, and inspection of any and all books and records maintained by any registered organization, licensee, or permitee and on the premise of any registered organization, licensee, or permittee;

(d) methods of producing, processing, and packaging cannabis, medical cannabis, cannabis-infused products, concentrated cannabis, and hemp extract; conditions of sanitation, and standards of ingredients, quality, and identity of cannabis products cultivated, processed, packaged, or sold by registered organizations and licensees;

(e) security requirements for adult-use cannabis retail dispensaries and premises where cannabis products, medical cannabis, and hemp extract, are cultivated, produced, processed, or stored, and safety

protocols for registered organizations, licensees and their employees; and

(f) hearing procedures and additional causes for cancellation, revocation, and/or civil penalties against any person registered, licensed, or permitted by the authority.

3. The office shall promulgate rules and regulations that are designed to:

(a) prevent the distribution of adult-use cannabis to persons under twenty-one years of age;

(b) prevent the revenue from the sale of cannabis from going to criminal enterprises, gangs, and cartels;

(c) prevent the diversion of cannabis from this state to other states;

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

(e) prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of cannabis;

(f) prevent the growing of cannabis on public lands; and

(g) prevent the possession and use of cannabis on federal property.

4. The office, in consultation with the department of agriculture and markets and the department of environmental conservation, shall promulgate necessary rules and regulations governing the safe production of cannabis, including environmental and energy standards and restrictions on the use of pesticides.

§ 13. State cannabis advisory board. 1. The executive director shall establish within the office a state cannabis advisory board prior to engaging in rulemaking, which may consider all matters submitted to it by the executive director, and advise the office and the legislature on cannabis cultivation, processing, distribution, transport, equity in the cannabis industry, public health concerns related to cannabis, and on the testing and sale of cannabis and cannabis products.

2. The executive director of the office shall serve as the chairperson of the board. The vice chairperson shall be elected from among the members of the board by the members of such board, and shall represent the board in the absence of the chairperson at all official board functions.

3. The members of the board shall be appointed by the temporary president of the senate and the speaker of the assembly and shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their duties as board members.

4. The executive director shall promulgate regulations establishing the number of members on the board, the term of the board members and any other terms or conditions regarding the state cannabis advisory board, including that such board shall include members from the geographic regions of the state.

5. Every effort shall be made to ensure a balanced and diverse board, which shall have expertise in public and behavioral health, substance use disorder treatment, effective rehabilitative treatment for adults and juveniles, economic development, environmental conservation, job training and placement, criminal justice, and drug policy. Further, the board shall include residents from communities most impacted by cannabis prohibition, people with prior drug convictions, the formerly incarcerated, and representatives of organizations serving communities impacted by past federal and state drug policies.

§ 14. Disposition of moneys received for license fees. The office shall establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this chapter and the size of the cannabis business being licensed, as follows:

1. The office shall charge each registered organization, licensee and permittee a registration, licensure or permit fee, and renewal fee, as applicable. The fees may vary depending upon the nature and scope of the different registration, licensure and permit activities.

2. The total fees assessed pursuant to this chapter shall be set at an amount that will generate sufficient total revenue to, at a minimum, fully cover the total costs of administering this chapter.

3. All registration and licensure fees shall be set on a scaled basis by the office, dependent on the size and capacity of the business.

4. The office shall deposit all fees collected in the New York state cannabis revenue fund established pursuant to section ninety-nine-hh of the state finance law.

§ 15. Legal presumptions. The action, proceedings, authority, and orders of the office in enforcing the provisions of the cannabis law and applying them to specific cases shall at all times be regarded as in their nature judicial, and shall be treated as prima facie just and legal.

§ 16. Violations of cannabis laws or regulations; penalties and injunctions. 1. A person who willfully violates any provision of this chapter, or any regulation lawfully made or established by any public officer under authority of this chapter, the punishment for violating which is not otherwise prescribed by this chapter or any other law, is punishable by imprisonment not exceeding one year, or by a fine not exceeding five thousand dollars or by both.

2. Any person who violates, disobeys or disregards any term or provision of this chapter or of any lawful notice, order or regulation pursuant thereto for which a civil or criminal penalty is not otherwise expressly prescribed by law, shall be liable to the people of the state for a civil penalty of not to exceed five thousand dollars for every such violation.

3. The penalty provided for in subdivision one of this section may be recovered by an action brought by the executive director in any court of competent jurisdiction.

4. Such civil penalty may be released or compromised by the executive director before the matter has been referred to the attorney general, and where such matter has been referred to the attorney general, any such penalty may be released or compromised and any action commenced to recover the same may be settled and discontinued by the attorney general with the consent of the executive director.

5. It shall be the duty of the attorney general upon the request of the executive director to bring an action for an injunction against any person who violates, disobeys or disregards any term or provision of this chapter or of any lawful notice, order or regulation pursuant thereto; provided, however, that the executive director shall furnish the attorney general with such material, evidentiary matter or proof as may be requested by the attorney general for the prosecution of such an action.

6. It is the purpose of this section to provide additional and cumulative remedies, and nothing herein contained shall abridge or alter rights of action or remedies now or hereafter existing, nor shall any provision of this section, nor any action done by virtue of this

section, be construed as estopping the state, persons or municipalities in the exercising of their respective rights.

§ 17. Formal hearings; notice and procedure. 1. The executive director, or any person designated by him or her for this purpose, may issue subpoenas and administer oaths in connection with any hearing or investigation under or pursuant to this chapter, and it shall be the duty of the executive director and any persons designated by him or her for such purpose to issue subpoenas at the request of and upon behalf of the respondent.

2. The executive director and those designated by him or her shall not be bound by the laws of evidence in the conduct of hearing proceedings, but the determination shall be founded upon sufficient evidence to sustain it.

3. Notice of hearing shall be served at least fifteen days prior to the date of the hearing, provided that, whenever because of danger to the public health, safety or welfare it appears prejudicial to the interests of the people of the state to delay action for fifteen days, the executive director may serve the respondent with an order requiring certain action or the cessation of certain activities immediately or within a specified period of less than fifteen days.

4. Service of notice of hearing or order shall be made by personal service or by registered or certified mail. Where service, whether by personal service or by registered or certified mail, is made upon an incompetent, partnership, or corporation, it shall be made upon the person or persons designated to receive personal service by article three of the civil practice law and rules.

5. At a hearing, the respondent may appear personally, shall have the right of counsel, and may cross-examine witnesses against him or her and produce evidence and witnesses in his or her behalf.

6. Following a hearing, the executive director may make appropriate determinations and issue a final order in accordance therewith.

7. The executive director may adopt, amend and repeal administrative rules and regulations governing the procedures to be followed with respect to hearings, such rules to be consistent with the policy and purpose of this chapter and the effective and fair enforcement of its provisions.

8. The provisions of this section shall be applicable to all hearings held pursuant to this chapter, except where other provisions of this chapter applicable thereto are inconsistent therewith, in which event such other provisions shall apply.

§ 18. Ethics, transparency and accountability. No member of the office or any officer, deputy, assistant, inspector or employee thereof shall have any interest, direct or indirect, either proprietary or by means of any loan, mortgage or lien, or in any other manner, in or on any premises where adult use cannabis, medical cannabis or hemp extract is cultivated, processed, distributed or sold; nor shall he or she have any interest, direct or indirect, in any business wholly or partially devoted to the cultivation, processing, distribution, sale, transportation or storage of adult use cannabis, medical cannabis or hemp extract, or own any stock in any corporation which has any interest, proprietary or otherwise, direct or indirect, in any premises where adult use cannabis, medical cannabis or hemp extract is cultivated, processed, distributed or sold, or in any business wholly or partially devoted to the cultivation, processing, distribution, sale, transportation or storage of adult use cannabis, medical cannabis or hemp extract, or receive any commission or profit whatsoever, direct or indirect, from any person

applying for or receiving any license or permit provided for in this chapter, or hold any other elected or appointed public office in the state or in any political subdivision. Anyone who violates any of the provisions of this section shall be removed and shall divulge themselves of such direct or indirect interests, in addition to any other penalty provided by law.

ARTICLE 3
MEDICAL CANNABIS

Section 30. Certification of patients.
31. Lawful medical use.
32. Registry identification cards.
33. Registration as a designated caregiver facility.
34. Registered organizations.
35. Registering of registered organizations.
36. Reports of registered organizations.
37. Evaluation; research programs; report by office.
38. Cannabis research license.
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§ 30. Certification of patients. 1. A patient certification may only be issued if:

(a) the patient has a condition, which shall be specified in the patient's health care record;

(b) the practitioner by training or experience is qualified to treat the condition;

(c) the patient is under the practitioner's continuing care for the condition; and

(d) in the practitioner's professional opinion and review of past treatments, the patient is likely to receive therapeutic or palliative benefit from the primary or adjunctive treatment with medical use of cannabis for the condition.

2. The certification shall include: (a) the name, date of birth and address of the patient; (b) a statement that the patient has a condition and the patient is under the practitioner's care for the condition; (c) a statement attesting that all requirements of subdivision one of this section have been satisfied; (d) the date; and (e) the name, address, telephone number, and the signature of the certifying practitioner. The executive director may require by regulation that the certification shall be on a form provided by the office. The practitioner may state in the certification that, in the practitioner's professional opinion, the patient would benefit from medical cannabis only until a specified date. The practitioner may state in the certification that, in the practitioner's professional opinion, the patient is terminally ill and that the certification shall not expire until the patient dies.

3. In making a certification, the practitioner may consider the form of medical cannabis the patient should consume, including the method of consumption and any particular strain, variety, and quantity or percentage of cannabis or particular active ingredient, and appropriate dosage. The practitioner may state in the certification any recommendation or

limitation the practitioner makes, in his or her professional opinion, concerning the appropriate form or forms of medical cannabis and dosage.

4. Every practitioner shall consult the prescription monitoring program registry prior to making or issuing a certification, for the purpose of reviewing a patient's controlled substance history. For purposes of this section, a practitioner may authorize a designee to consult the prescription monitoring program registry on his or her behalf, provided that such designation is in accordance with section thirty-three hundred forty-three-a of the public health law.

5. The practitioner shall give the certification to the certified patient, and place a copy in the patient's health care record.

6. No practitioner shall issue a certification under this section for themselves.

7. A registry identification card based on a certification shall expire one year after the date the certification is signed by the practitioner.

8. (a) If the practitioner states in the certification that, in the practitioner's professional opinion, the patient would benefit from medical cannabis only until a specified earlier date, then the registry identification card shall expire on that date; (b) if the practitioner states in the certification that in the practitioner's professional opinion the patient is terminally ill and that the certification shall not expire until the patient dies, then the registry identification card shall state that the patient is terminally ill and that the registration card shall not expire until the patient dies; (c) if the practitioner re-issues the certification to terminate the certification on an earlier date, then the registry identification card shall expire on that date and shall be promptly destroyed by the certified patient; (d) if the certification so provides, the registry identification card shall state any recommendation or limitation by the practitioner as to the form or forms of medical cannabis or dosage for the certified patient; and (e) the executive director shall make regulations to implement this subdivision.

§ 31. Lawful medical use. The possession, acquisition, use, delivery, transfer, transportation, or administration of medical cannabis by a certified patient, designated caregiver or the employees of a designated caregiver facility, for certified medical use, shall be lawful under this article provided that:

1. the cannabis that may be possessed by a certified patient shall not exceed a sixty-day supply of the dosage if determined by the practitioner, consistent with any guidance and regulations issued by the executive director, provided that during the last seven days of any sixty-day period, the certified patient may also possess up to such amount for the next sixty-day period;

2. the cannabis that may be possessed by designated caregivers does not exceed the quantities referred to in subdivision one of this section for each certified patient for whom the caregiver possesses a valid registry identification card, up to five certified patients;

3. the cannabis that may be possessed by designated caregiver facilities does not exceed the quantities referred to in subdivision one of this section for each certified patient under the care or treatment of the facility;

4. the form or forms of medical cannabis that may be possessed by the certified patient, designated caregiver or designated caregiver facility pursuant to a certification shall be in compliance with any recommendation or limitation by the practitioner as to the form or forms of

medical cannabis or dosage for the certified patient in the certification;

5. the medical cannabis shall be kept in the original package in which it was dispensed under this article, except for the portion removed for immediate consumption for certified medical use by the certified patient; and

6. in the case of a designated caregiver facility, the employee assisting the patient has been designated as such by the designated caregiver facility.

§ 32. Registry identification cards. 1. Upon approval of the certification, the office shall issue registry identification cards for certified patients and designated caregivers. A registry identification card shall expire as provided in this article or as otherwise provided in this section. The office shall begin issuing registry identification cards as soon as practicable after the certifications required by this chapter are granted. The office may specify a form for a registry application, in which case the office shall provide the form on request, reproductions of the form may be used, and the form shall be available for downloading from the office's website.

2. To obtain, amend or renew a registry identification card, a certified patient or designated caregiver shall file a registry application with the office, unless otherwise exempted by the executive director in regulation. The registry application or renewal application shall include:

(a) in the case of a certified patient:

(i) the patient's certification, a new written certification shall be provided with a renewal application;

(ii) the name, address, and date of birth of the patient;

(iii) the date of the certification;

(iv) if the patient has a registry identification card based on a current valid certification, the registry identification number and expiration date of that registry identification card;

(v) the specified date until which the patient would benefit from medical cannabis, if the certification states such a date;

(vi) the name, address, and telephone number of the certifying practitioner;

(vii) any recommendation or limitation by the practitioner as to the form or forms of medical cannabis or dosage for the certified patient;

(viii) if the certified patient designates a designated caregiver, the name, address, and date of birth of the designated caregiver, and other individual identifying information required by the office;

(ix) if the designated caregiver is a cannabis research license holder under this chapter, the name of the organization conducting the research, the address, phone number, name of the individual leading the research or appropriate designee, and other identifying information required by the executive director; and

(x) other individual identifying information required by the office;

(b) in the case of a designated caregiver:

(i) the name, address, and date of birth of the designated caregiver;

(ii) if the designated caregiver has a registry identification card, the registry identification number and expiration date of that registry identification card; and

(iii) other individual identifying information required by the office;

(c) a statement that a false statement made in the application is punishable under section 210.45 of the penal law;

(d) the date of the application and the signature of the certified patient or designated caregiver, as the case may be;

(e) any other requirements determined by the executive director.

3. Where a certified patient is under the age of eighteen or otherwise incapable of consent:

(a) The application for a registry identification card shall be made by the person responsible for making health care decisions for the patient.

(b) The designated caregiver shall be: (i) a parent or legal guardian of the certified patient; (ii) a person designated by a parent or legal guardian; (iii) an employee of a designated caregiver facility, including a cannabis research license holder; or (iv) an appropriate person approved by the office upon a sufficient showing that no parent or legal guardian is appropriate or available.

4. No person may be a designated caregiver if the person is under twenty-one years of age unless a sufficient showing is made to the office that the person should be permitted to serve as a designated caregiver. The requirements for such a showing shall be determined by the executive director.

5. No person may be a designated caregiver for more than five certified patients at one time; provided, however, that this limitation shall not apply to a designated caregiver facility, or cannabis research license holder as defined by this chapter.

6. If a certified patient wishes to change or terminate his or her designated caregiver, for whatever reason, the certified patient shall notify the office as soon as practicable. The office shall issue a notification to the designated caregiver that their registration card is invalid and must be promptly destroyed. The newly designated caregiver must comply with all requirements set forth in this section.

7. If the certification so provides, the registry identification card shall contain any recommendation or limitation by the practitioner as to the form or forms of medical cannabis or dosage for the certified patient.

8. The office shall issue separate registry identification cards for certified patients and designated caregivers as soon as reasonably practicable after receiving a complete application under this section, unless it determines that the application is incomplete or factually inaccurate, in which case it shall promptly notify the applicant.

9. If the application of a certified patient designates an individual as a designated caregiver who is not authorized to be a designated caregiver, that portion of the application shall be denied by the office but that shall not affect the approval of the balance of the application.

10. A registry identification card shall:

(a) contain the name of the certified patient or the designated caregiver as the case may be;

(b) contain the date of issuance and expiration date of the registry identification card;

(c) contain a registry identification number for the certified patient or designated caregiver, as the case may be and a registry identification number;

(d) contain a photograph of the individual to whom the registry identification card is being issued, which shall be obtained by the office in a manner specified by the executive director in regulations; provided, however, that if the office requires certified patients to submit photographs for this purpose, there shall be a reasonable accommodation of certified patients who are confined to their homes due to

their medical conditions and may therefore have difficulty procuring photographs;

(e) be a secure document as determined by the office;

(f) plainly state any recommendation or limitation by the practitioner as to the form or forms of medical cannabis or dosage for the certified patient; and

(g) any other requirements determined by the executive director.

11. A certified patient or designated caregiver who has been issued a registry identification card shall notify the office of any change in his or her name or address or, with respect to the patient, if he or she ceases to have the condition noted on the certification within ten days of such change. The certified patient's or designated caregiver's registry identification card shall be deemed invalid and shall be promptly destroyed.

12. If a certified patient or designated caregiver loses his or her registry identification card, he or she shall notify the office within ten days of losing the card. The office shall issue a new registry identification card as soon as practicable, which may contain a new registry identification number, to the certified patient or designated caregiver, as the case may be.

13. The office shall maintain a confidential list of the persons to whom it has issued registry identification cards. Individual identifying information obtained by the office under this article shall be confidential and exempt from disclosure under article six of the public officers law. Notwithstanding this subdivision, the office may notify any appropriate law enforcement agency of information relating to any violation or suspected violation of this article.

14. The office shall verify to law enforcement personnel in an appropriate case whether a registry identification card is valid.

15. If a certified patient or designated caregiver willfully violates any provision of this article as determined by the executive director, his or her certification and registry identification card may be suspended or revoked. This is in addition to any other penalty that may apply.

§ 33. Registration as a designated caregiver facility. 1. To obtain, amend or renew a registration as a designated caregiver facility, the facility shall file a registry application with the office. The registry application or renewal application shall include:

(a) the facility's full name and address;

(b) operating certificate or license number where appropriate;

(c) printed name, title, and signature of an authorized facility representative;

(d) a statement that the facility agrees to secure and ensure proper handling of all medical cannabis products;

(e) an acknowledgement that a false statement in the application is punishable under section 210.45 of the penal law; and

(f) any other information that may be required by the executive director.

2. Prior to issuing or renewing a designated caregiver facility registration, the office may verify the information submitted by the applicant. The applicant shall provide, at the office's request, such information and documentation, including any consents or authorizations that may be necessary for the office to verify the information.

3. The office shall approve, deny or determine incomplete or inaccurate an initial or renewal application within thirty days of receipt of the application. If the application is approved within the thirty-day

period, the office shall issue a registration as soon as is reasonably practicable.

4. An applicant shall have thirty days from the date of a notification of an incomplete or factually inaccurate application to submit the materials required to complete, revise or substantiate information in the application. If the applicant fails to submit the required materials within such thirty-day time period, the application shall be denied by the office.

5. Registrations issued under this section shall remain valid for two years from the date of issuance.

§ 34. Registered organizations. 1. A registered organization shall be a for-profit business entity or not-for-profit corporation organized for the purpose of acquiring, possessing, manufacturing, selling, delivering, transporting, distributing or dispensing cannabis for certified medical use.

2. The acquiring, possession, manufacture, sale, delivery, transporting, distributing or dispensing of medical cannabis by a registered organization under this article in accordance with its registration under this article or a renewal thereof shall be lawful under this chapter.

3. Each registered organization shall contract with an independent laboratory permitted by the office to test the medical cannabis produced by the registered organization. The executive director shall approve the laboratory used by the registered organization and may require that the registered organization use a particular testing laboratory. The executive director is authorized to issue regulations requiring the laboratory to perform certain tests and services.

4. (a) A registered organization may lawfully, in good faith, sell, deliver, distribute or dispense medical cannabis to a certified patient or designated caregiver upon presentation to the registered organization of a valid registry identification card for that certified patient or designated caregiver. When presented with the registry identification card, the registered organization shall provide to the certified patient or designated caregiver a receipt, which shall state: the name, address, and registry identification number of the registered organization; the name and registry identification number of the certified patient and the designated caregiver, if any; the date the cannabis was sold; any recommendation or limitation by the practitioner as to the form or forms of medical cannabis or dosage for the certified patient; and the form and the quantity of medical cannabis sold. The registered organization shall retain a copy of the registry identification card and the receipt for six years.

(b) The proprietor of a registered organization shall file or cause to be filed any receipt and certification information with the office by electronic means on a real-time basis as the executive director shall require by regulation. When filing receipt and certification information electronically pursuant to this paragraph, the proprietor of the registered organization shall dispose of any electronically recorded prescription information in such manner as the executive director shall by regulation require.

5. (a) No registered organization may sell, deliver, distribute or dispense to any certified patient or designated caregiver a quantity of medical cannabis larger than that individual would be allowed to possess under this chapter.

(b) When dispensing medical cannabis to a certified patient or designated caregiver, the registered organization: (i) shall not dispense an

amount greater than a sixty-day supply to a certified patient until the certified patient has exhausted all but a seven day supply provided pursuant to a previously issued certification; and (ii) shall verify the information in subparagraph (i) of this paragraph by consulting the prescription monitoring program registry under this article.

(c) Medical cannabis dispensed to a certified patient or designated caregiver by a registered organization shall conform to any recommendation or limitation by the practitioner as to the form or forms of medical cannabis or dosage for the certified patient.

6. When a registered organization sells, delivers, distributes or dispenses medical cannabis to a certified patient or designated caregiver, it shall provide to that individual a safety insert, which will be developed by the registered organization and approved by the executive director and include, but not be limited to, information on:

(a) methods for administering medical cannabis,

(b) any potential dangers stemming from the use of medical cannabis,

(c) how to recognize what may be problematic usage of medical cannabis and obtain appropriate services or treatment for problematic usage, and

(d) other information as determined by the executive director.

7. Registered organizations shall not be managed by or employ anyone who has been convicted within three years of the date of hire, of any felony related to the functions or duties of operating a business, except that if the executive director determines that the manager or employee is otherwise suitable to be hired, and hiring the manager or employee would not compromise public safety, the executive director shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the manager or employee, and shall evaluate the suitability of the manager or employee based on the evidence found through the review. In determining which offenses are substantially related to the functions or duties of operating a business, the executive director shall include, but not be limited to, the following:

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

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

A felony conviction for the sale or possession of drugs, narcotics, or controlled substances is not substantially related. This subdivision shall only apply to managers or employees who come into contact with or handle medical cannabis.

8. Manufacturing of medical cannabis by a registered organization shall only be done in an indoor, enclosed, secure facility located in New York state, which may include a greenhouse. The executive director shall promulgate regulations establishing requirements for such facilities.

9. Dispensing of medical cannabis by a registered organization shall only be done in an indoor, enclosed, secure facility located in New York state, which may include a greenhouse. The executive director shall promulgate regulations establishing requirements for such facilities.

10. A registered organization may contract with a person or entity to provide facilities, equipment or services that are ancillary to the registered organization's functions or activities under this article including, but not limited to, shipping, maintenance, construction,

repair, and security, provided that the person or entity shall not perform any function or activity directly involving the planting, growing, tending, harvesting, processing, or packaging of cannabis plants, medical cannabis, or medical cannabis products being produced by the registered organization; or any other function directly involving manufacturing or retailing of medical cannabis. All laws and regulations applicable to such facilities, equipment, or services shall apply to the contract. The registered organization and other parties to the contract shall each be responsible for compliance with such laws and regulations under the contract. The executive director may make regulations consistent with this article relating to contracts and parties to contracts under this subdivision.

11. A registered organization shall, based on the findings of an independent laboratory, provide documentation of the quality, safety and clinical strength of the medical cannabis manufactured or dispensed by the registered organization to the office and to any person or entity to which the medical cannabis is sold or dispensed.

12. A registered organization shall be deemed to be a "health care provider" for the purposes of title two-D of article two of the public health law.

13. Medical cannabis shall be dispensed to a certified patient or designated caregiver in a sealed and properly labeled package. The labeling shall contain: (a) the information required to be included in the receipt provided to the certified patient or designated caregiver by the registered organization; (b) the packaging date; (c) any applicable date by which the medical cannabis should be used; (d) a warning stating, "This product is for medicinal use only. Women should not consume during pregnancy or while breastfeeding except on the advice of the certifying health care practitioner, and in the case of breastfeeding mothers, including the infant's pediatrician. This product might impair the ability to drive. Keep out of reach of children."; (e) the amount of individual doses contained within; and (f) a warning that the medical cannabis must be kept in the original container in which it was dispensed.

14. The executive director is authorized to make rules and regulations restricting the advertising and marketing of medical cannabis.

§ 35. Registering of registered organizations. 1. (a) An applicant for registration as a registered organization under section thirty-four of this article shall include such information prepared in such manner and detail as the executive director may require, including but not limited to:

(i) a description of the activities in which it intends to engage as a registered organization;

(ii) that the applicant:

(A) is of good moral character;

(B) possesses or has the right to use sufficient land, buildings, and other premises, which shall be specified in the application, and equipment to properly carry on the activity described in the application, or in the alternative posts a bond of not less than two million dollars;

(C) is able to maintain effective security and control to prevent diversion, abuse, and other illegal conduct relating to the cannabis; and

(D) is able to comply with all applicable state laws and regulations relating to the activities in which it intends to engage under the registration;

(iii) that the applicant has entered into a labor peace agreement with a bona fide labor organization that is actively engaged in representing or attempting to represent the applicant's employees and the maintenance of such a labor peace agreement shall be an ongoing material condition of certification;

(iv) the applicant's status as a for-profit business entity or not-for-profit corporation; and

(v) the application shall include the name, residence address and title of each of the officers and directors and the name and residence address of any person or entity that is a member of the applicant. Each such person, if an individual, or lawful representative if a legal entity, shall submit an affidavit with the application setting forth:

(A) any position of management or ownership during the preceding ten years of a twenty per centum or greater interest in any other business, located in or outside this state, manufacturing or distributing drugs;

(B) whether such person or any such business has been convicted of a felony or had a registration or license suspended or revoked in any administrative or judicial proceeding; and

(C) such other information as the executive director may reasonably require.

2. The applicant shall be under a continuing duty to report to the office any change in facts or circumstances reflected in the application or any newly discovered or occurring fact or circumstance which is required to be included in the application.

3. (a) The executive director shall grant a registration or amendment to a registration under this section if he or she is satisfied that:

(i) the applicant will be able to maintain effective control against diversion of cannabis;

(ii) the applicant will be able to comply with all applicable state laws;

(iii) the applicant and its officers are ready, willing and able to properly carry on the manufacturing or distributing activity for which a registration is sought;

(iv) the applicant possesses or has the right to use sufficient land, buildings and equipment to properly carry on the activity described in the application;

(v) it is in the public interest that such registration be granted, including but not limited to:

(A) whether the number of registered organizations in an area will be adequate or excessive to reasonably serve the area;

(B) whether the registered organization is a minority and/or woman owned business enterprise or a service-disabled veteran-owned business;

(C) whether the registered organization provides education and outreach to practitioners;

(D) whether the registered organization promotes the research and development of medical cannabis and patient outreach; and

(E) the affordability of medical cannabis products offered by the registered organization;

(vi) the applicant and its managing officers are of good moral character;

(vii) the applicant has entered into a labor peace agreement with a bona fide labor organization that is actively engaged in representing or attempting to represent the applicant's employees; and the maintenance of such a labor peace agreement shall be an ongoing material condition of registration; and

(viii) the applicant satisfies any other conditions as determined by the executive director.

(b) If the executive director is not satisfied that the applicant should be issued a registration, he or she shall notify the applicant in writing of those factors upon which the denial is based. Within thirty days of the receipt of such notification, the applicant may submit a written request to the executive director to appeal the decision.

(c) The fee for a registration under this section shall be an amount determined by the office in regulations; provided, however, if the registration is issued for a period greater than two years the fee shall be increased, pro rata, for each additional month of validity.

(d) Registrations issued under this section shall be effective only for the registered organization and shall specify:

(i) the name and address of the registered organization;

(ii) which activities of a registered organization are permitted by the registration;

(iii) the land, buildings and facilities that may be used for the permitted activities of the registered organization; and

(iv) such other information as the executive director shall reasonably provide to assure compliance with this article.

(e) Upon application of a registered organization, a registration may be amended to allow the registered organization to relocate within the state or to add or delete permitted registered organization activities or facilities. The fee for such amendment shall be two hundred fifty dollars.

4. A registration issued under this section shall be valid for two years from the date of issue, except that in order to facilitate the renewals of such registrations, the executive director may upon the initial application for a registration, issue some registrations which may remain valid for a period of time greater than two years but not exceeding an additional eleven months.

5. (a) An application for the renewal of any registration issued under this section shall be filed with the office not more than six months nor less than four months prior to the expiration thereof. A late-filed application for the renewal of a registration may, in the discretion of the executive director, be treated as an application for an initial license.

(b) The application for renewal shall include such information prepared in the manner and detail as the executive director may require, including but not limited to:

(i) any material change in the circumstances or factors listed in subdivision one of this section; and

(ii) every known charge or investigation, pending or concluded during the period of the registration, by any governmental or administrative agency with respect to:

(A) each incident or alleged incident involving the theft, loss, or possible diversion of medical cannabis manufactured or distributed by the applicant; and

(B) compliance by the applicant with the laws of the state with respect to any substance listed in section thirty-three hundred six of the public health law.

(c) An applicant for renewal shall be under a continuing duty to report to the office any change in facts or circumstances reflected in the application or any newly discovered or occurring fact or circumstance which is required to be included in the application.

(d) If the executive director is not satisfied that the registered organization applicant is entitled to a renewal of the registration, he or she shall within a reasonably practicable time as determined by the executive director, serve upon the registered organization or its attorney of record in person or by registered or certified mail an order directing the registered organization to show cause why its application for renewal should not be denied. The order shall specify in detail the respects in which the applicant has not satisfied the executive director that the registration should be renewed.

6. (a) The executive director shall renew a registration unless he or she determines and finds that:

(i) the applicant is unlikely to maintain or be able to maintain effective control against diversion;

(ii) the applicant is unlikely to comply with all state laws applicable to the activities in which it may engage under the registration;

(iii) it is not in the public interest to renew the registration because the number of registered organizations in an area is excessive to reasonably serve the area; or

(iv) the applicant has either violated or terminated its labor peace agreement.

(b) For purposes of this section, proof that a registered organization, during the period of its registration, has failed to maintain effective control against diversion, violates any provision of this article, or has knowingly or negligently failed to comply with applicable state laws relating to the activities in which it engages under the registration, shall constitute grounds for suspension, termination or limitation of the registered organization's registration or as determined by the executive director. The registered organization shall also be under a continuing duty to report to the authority any material change or fact or circumstance to the information provided in the registered organization's application.

7. The office may suspend or terminate the registration of a registered organization, on grounds and using procedures under this article relating to a license, to the extent consistent with this article. The authority shall suspend or terminate the registration in the event that a registered organization violates or terminates the applicable labor peace agreement. Conduct in compliance with this article which may violate conflicting federal law, shall not be grounds to suspend or terminate a registration.

8. A registered organization that manufactures medical cannabis may have no more than four dispensing sites wholly owned and operated by such registered organization. The executive director shall ensure that such registered organizations and dispensing sites are geographically distributed across the state and that their ownership reflects the demographics of the state. The executive director shall register additional registered organizations reflecting the demographics of the state.

§ 36. Reports of registered organizations. 1. The executive director shall, by regulation, require each registered organization to file reports by the registered organization during a particular period. The executive director shall determine the information to be reported and the forms, time, and manner of the reporting.

2. The executive director shall, by regulation, require each registered organization to adopt and maintain security, tracking, record keeping, record retention and surveillance systems, relating to all medical cannabis at every stage of acquiring, possession, manufacture,

sale, delivery, transporting, distributing, or dispensing by the registered organization, subject to regulations of the executive director.

§ 37. Evaluation; research programs; report by office. 1. The executive director may provide for the analysis and evaluation of the operation of this article. The executive director may enter into agreements with one or more persons, not-for-profit corporations or other organizations, for the performance of an evaluation of the implementation and effectiveness of this article.

2. The office may develop, seek any necessary federal approval for, and carry out research programs relating to medical use of cannabis. Participation in any such research program shall be voluntary on the part of practitioners, patients, and designated caregivers.

3. The office shall report every two years, beginning two years after the effective date of this chapter, to the governor and the legislature on the medical use of cannabis under this article and make appropriate recommendations.

§ 38. Cannabis research license. 1. The executive director shall establish a cannabis research license that permits a licensee to produce, process, purchase and possess cannabis for the following limited research purposes:

(a) to test chemical potency and composition levels;

(b) to conduct clinical investigations of cannabis-derived drug products;

(c) to conduct research on the efficacy and safety of administering cannabis as part of medical treatment; and

(d) to conduct genomic or agricultural research.

2. As part of the application process for a cannabis research license, an applicant must submit to the office a description of the research that is intended to be conducted as well as the amount of cannabis to be grown or purchased. The office shall review an applicant's research project and determine whether it meets the requirements of subdivision one of this section. In addition, the office shall assess the application based on the following criteria:

(a) project quality, study design, value, and impact;

(b) whether the applicant has the appropriate personnel, expertise, facilities and infrastructure, funding, and human, animal, or other approvals in place to successfully conduct the project; and

(c) whether the amount of cannabis to be grown or purchased by the applicant is consistent with the project's scope and goals. If the office determines that the research project does not meet the requirements of subdivision one of this section, the application must be denied.

3. A cannabis research licensee may only sell cannabis grown or within its operation to other cannabis research licensees. The office may revoke a cannabis research license for violations of this subsection.

4. A cannabis research licensee may contract with the higher education institutions to perform research in conjunction with the university. All research projects, entered into under this section must be approved by the office and meet the requirements of subdivision one of this section.

5. In establishing a cannabis research license, the executive director may adopt regulations on the following:

(a) application requirements;

(b) cannabis research license renewal requirements, including whether additional research projects may be added or considered;

(c) conditions for license revocation;

(d) security measures to ensure cannabis is not diverted to purposes other than research;

(e) amount of plants, useable cannabis, cannabis concentrates, or cannabis-infused products a licensee may have on its premises;

(f) licensee reporting requirements;

(g) conditions under which cannabis grown by licensed cannabis producers and other product types from licensed cannabis processors may be donated to cannabis research licensees; and

(h) any additional requirements deemed necessary by the office.

6. A cannabis research license issued pursuant to this section must be issued in the name of the applicant and specify the location at which the cannabis researcher intends to operate, which must be within the state of New York.

7. The application fee for a cannabis research license shall be determined by the executive director on an annual basis.

8. Each cannabis research licensee shall issue an annual report to the office. The office shall review such report and make a determination as to whether the research project continues to meet the research qualifications under this section.

§ 39. Registered organizations and adult-use cannabis. 1. The executive director shall have the authority to grant some or all of the registered organizations registered with the department of health and currently registered and in good standing with the office, the ability to be licensed to cultivate, process, or sell adult-use cannabis and cannabis products, pursuant to any fees, rules or conditions prescribed by the executive director in regulation and subject to the restrictions on licensed adult-use cultivators and processors on having any ownership interest in a licensed adult-use retail dispensary pursuant to this chapter.

2. Prior to granting the licenses provided by subdivision one of this section, the office shall assess a registered organization registered prior to the enactment of this chapter with a one-time special licensing fee so that they may become authorized to bypass the restrictions on having any ownership interest in a licensed adult-use retail dispensary, provided that the fees generated from such assessment shall be used to administer incubators and low or zero-interest loans and other assistance to qualified social equity applicants. The timing and manner in which registered organizations may be granted such authority shall be determined by the executive director in regulation.

§ 40. Relation to other laws. 1. The provisions of this article shall apply, except that where a provision of this article conflicts with another provision of this chapter, this article shall apply.

2. Medical cannabis shall not be deemed to be a "drug" for purposes of article one hundred thirty-seven of the education law.

§ 41. Protections for the medical use of cannabis. 1. Certified patients, designated caregivers, designated caregiver facilities, practitioners, registered organizations and the employees of registered organizations, and cannabis researchers shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, solely for the certified medical use or manufacture of cannabis, or for any other action or conduct in accordance with this article.

2. Being a certified patient shall be deemed to be having a "disability" under article fifteen of the executive law, section forty-c of the civil rights law, sections 240.00, 485.00, and 485.05 of the penal law,

and section 200.50 of the criminal procedure law. This subdivision shall not bar the enforcement of a policy prohibiting an employee from performing his or her employment duties while impaired by a controlled substance. This subdivision shall not require any person or entity to do any act that would put the person or entity in direct violation of federal law or cause it to lose a federal contract or funding.

3. The fact that a person is a certified patient and/or acting in accordance with this article, shall not be a consideration in a proceeding pursuant to applicable sections of the domestic relations law, the social services law and the family court act.

4. (a) Certification applications, certification forms, any certified patient information contained within a database, and copies of registry identification cards shall be deemed exempt from public disclosure under sections eighty-seven and eighty-nine of the public officers law.

(b) The name, contact information, and other information relating to practitioners registered with the office under this article shall be public information and shall be maintained by the executive director on the office's website accessible to the public in searchable form. However, if a practitioner notifies the office in writing that he or she does not want his or her name and other information disclosed, that practitioner's name and other information shall thereafter not be public information or maintained on the office's website, unless the practitioner cancels the request.

§ 42. Regulations. The executive director shall promulgate regulations in consultation with the cannabis advisory board to implement this article.

§ 43. Suspend; terminate. Based upon the recommendation of the executive director and/or the superintendent of state police that there is a risk to the public health or safety, the governor may immediately terminate all licenses issued to registered organizations.

§ 44. Pricing. Registered organizations shall submit documentation to the executive director of any change in pricing per dose for any medical cannabis product within fifteen days of such change. Prior approval by the executive director shall not be required for any such change; provided however that the executive director is authorized to modify the price per dose for any medical cannabis product if necessary to maintain public access to appropriate medication.

ARTICLE 4
ADULT-USE CANNABIS

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§ 60. Licenses issued. The following kinds of licenses shall be issued by the executive director for the cultivation, processing, distribution and sale of cannabis, cannabis producers, and concentrated cannabis to cannabis consumers:

1. Adult-use cultivator license;
2. Adult-use processor license;
3. Adult-use cooperative license;
4. Adult-use distributor license;
5. Adult-use retail dispensary license;
6. On-site consumption license;
7. Microbusiness license;
8. Delivery license;
9. Nursery license; and
10. Any other type of license as prescribed by the executive director in regulation.

§ 61. License Application. 1. Any person may apply to the office for a license to cultivate, process, distribute or dispense cannabis within this state for sale. Such application shall be in writing and verified and shall contain such information as the office shall require. Such application shall be accompanied by a check or draft for the amount required by this article for such license. If the office shall approve the application, it shall issue a license in such form as shall be determined by its rules. Such license shall contain a description of the licensed premises and in form and in substance shall be a license to the person therein specifically designated to cultivate, process, distribute or dispense cannabis in the premises therein specifically licensed.

2. Except as otherwise provided in this article, a separate license shall be required for each facility at which cultivation, processing, distribution or retail dispensing is conducted.

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

§ 62. Information to be requested in applications for licenses. 1. The office shall have the authority to prescribe the manner and form in

which an application must be submitted to the office for licensure under this article.

2. The executive director is authorized to adopt regulations, including by emergency rule, establishing information which must be included on an application for licensure under this article. Such information may include, but is not limited to: information about the applicant's identity, including racial and ethnic diversity; ownership and investment information, including the corporate structure; evidence of good moral character, including the submission of fingerprints by the applicant to the division of criminal justice services; information about the premises to be licensed; financial statements; and any other information prescribed by regulation.

3. All license applications shall be signed by the applicant (if an individual), by a managing member (if a limited liability company), by an officer (if a corporation), or by all partners (if a partnership). Each person signing such application shall verify it or affirm it as true under the penalties of perjury.

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

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

6. In giving any notice, or taking any action in reference to a registered organization or licensee of a licensed premises, the office may rely upon the information furnished in such application and in any supplemental statement connected therewith, and such information may be presumed to be correct, and shall be binding upon a registered organizations, licensee or licensed premises as if correct. All information required to be furnished in such application or supplemental statements shall be deemed material in any prosecution for perjury, any proceeding to revoke, cancel or suspend any license, and in the office's determination to approve or deny the license.

§ 63. Fees. 1. The office shall have the authority to charge applicants for licensure under this article a non-refundable application fee. Such fee may be based on the type of licensure sought, cultivation and/or production volume, or any other factors deemed reasonable and appropriate by the office to achieve the policy and purpose of this chapter.

2. The office shall have the authority to charge licensees a biennial license fee. Such fee shall be based on the amount of cannabis to be cultivated, processed, distributed and/or dispensed by the licensee or the gross annual receipts of the licensee for the previous license period, and any other factors deemed reasonable and appropriate by the office.

3. The office shall have the authority to waive or reduce fees for social and economic equity applicants.

§ 64. Selection criteria. 1. The executive director shall develop regulations for determining whether or not an applicant should be granted the privilege of an adult-use cannabis license, based on, but not limited to, the following criteria:

(a) the applicant will be able to maintain effective control against the illegal diversion of cannabis;
(b) the applicant will be able to comply with all applicable state laws and regulations;
(c) the applicant and its officers are ready, willing, and able to properly carry on the activities for which a license is sought;
(d) the applicant possesses or has the right to use sufficient land, buildings, and equipment to properly carry on the activity described in the application;
(e) the applicant qualifies as a social equity applicant or sets out a plan for benefiting communities and people disproportionally impacted by cannabis law enforcement;
(f) it is in the public interest that such license be granted, taking into consideration, but not limited to, the following criteria:
(i) that it is a privilege, and not a right, to cultivate, process, distribute, and sell cannabis;
(ii) the number, classes, and character of other licenses in proximity to the location and in the particular municipality or subdivision thereof;
(iii) evidence that all necessary licenses and permits have been obtained from the state and all other governing bodies;
(iv) effect of the grant of the license on pedestrian or vehicular traffic, and parking, in proximity to the location;
(v) the existing noise level at the location and any increase in noise level that would be generated by the proposed premises;
(vi) the ability to mitigate adverse environmental impacts, including but not limited to energy usage and carbon emissions;
(vii) the effect on the production and availability of cannabis and cannabis products; and
(viii) any other factors specified by law or regulation that are relevant to determine that granting a license would promote public convenience and advantage and the public interest of the community;
(g) the applicant and its managing officers are of good moral character and do not have an ownership or controlling interest in more licenses or permits than allowed by this chapter;
(h) the applicant has entered into a labor peace agreement with a bona-fide labor organization that is actively engaged in representing or attempting to represent the applicant's employees, and the maintenance of such a labor peace agreement shall be an ongoing material condition of licensure. In evaluating applications from entities with twenty-five or more employees, the office shall give priority to applicants that are a party to a collective bargaining agreement with a bona-fide labor organization in New York or in another state, and uses union labor to construct its licensed facility;
(i) the applicant will contribute to communities and people disproportionately harmed by cannabis law enforcement and report these contributions to the office;
(j) if the application is for an adult-use cultivator or processor license, the environmental impact of the facility to be licensed; and
(k) the applicant satisfies any other conditions as determined by the executive director.
2. If the executive director is not satisfied that the applicant should be issued a license, the executive director shall notify the applicant in writing of the specific reason or reasons for denial.

3. The executive director shall have the authority to, in consultation with the cannabis advisory board, determine the number of licenses issued pursuant to this article.

§ 65. Limitations of licensure; duration. 1. No license of any kind may be issued to a person under the age of twenty-one years, nor shall any licensee employ anyone under the age of twenty-one years.

2. No licensee shall sell, deliver, or give away or cause or permit or procure to be sold, delivered or given away any cannabis to any person, actually or apparently, under the age of twenty-one years unless the person under twenty-one is also a certified patient and the licensee is appropriately licensed under article three of this chapter.

3. The office shall have the authority to limit, by canopy, plant count, square footage or other means, the amount of cannabis allowed to be grown, processed, distributed or sold by a licensee.

4. All licenses under this article shall expire two years after the date of issue.

§ 66. License renewal. 1. Each license, issued pursuant to this article, may be renewed upon application therefore by the licensee and the payment of the fee for such license as prescribed by this article. In the case of applications for renewals, the office may dispense with the requirements of such statements as it deems unnecessary in view of those contained in the application made for the original license, but in any event the submission of photographs of the licensed premises shall be dispensed with, provided the applicant for such renewal shall file a statement with the office to the effect that there has been no alteration of such premises since the original license was issued. The office may make such rules as it deems necessary, not inconsistent with this chapter, regarding applications for renewals of licenses and permits and the time for making the same.

2. Each applicant must submit to the office documentation of the racial, ethnic, and gender diversity of the applicant's employees and owners prior to a license being renewed. In addition, the office may create a social responsibility framework agreement and make the adherence to such agreement a conditional requirement of license renewal.

3. The office shall provide an application for renewal of a license issued under this article not less than ninety days prior to the expiration of the current license.

4. The office may only issue a renewal license upon receipt of the prescribed renewal application and renewal fee from a licensee if, in addition to the criteria in this section, the licensee's license is not under suspension and has not been revoked.

5. Each applicant must maintain a labor peace agreement with a bona-fide labor organization that is actively engaged in representing or attempting to represent the applicant's employees and the maintenance of such a labor peace agreement shall be an ongoing material condition of licensure. Each applicant must provide evidence of the execution of their plan for benefitting communities and people required for initial licensing pursuant to section sixty-four of this article.

§ 67. Amendments; changes in ownership and organizational structure. 1. Licenses issued pursuant to this article shall specify:

(a) the name and address of the licensee;

(b) the activities permitted by the license;

(c) the land, buildings and facilities that may be used for the licensed activities of the licensee;

(d) a unique license number issued by the office to the licensee; and

(e) such other information as the executive director shall deem necessary to assure compliance with this chapter.

2. Upon application of a licensee to the office, a license may be amended to allow the licensee to relocate within the state, to add or delete licensed activities or facilities, or to amend the ownership or organizational structure of the entity that is the licensee. The executive director shall establish a fee for such amendments.

3. A license shall become void by a change in ownership, substantial corporate change or location without prior written approval of the executive director. The executive director may promulgate regulations allowing for certain types of changes in ownership without the need for prior written approval.

4. For purposes of this section, "substantial corporate change" shall mean:

(a) for a corporation, a change of eighty percent or more of the officers and/or directors, or a transfer of eighty percent or more of stock of such corporation, or an existing stockholder obtaining eighty percent or more of the stock of such corporation; or

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

§ 68. Adult-use cultivator license. 1. An adult-use cultivator's license shall authorize the acquisition, possession, cultivation and sale of cannabis from the licensed premises of the adult-use cultivator by such licensee to duly licensed processors in this state. The executive director may establish regulations allowing licensed adult-use cultivators to perform certain types of minimal processing without the need for an adult-use processor license.

2. For purposes of this section, cultivation shall include, but not be limited to, the planting, growing, cloning, harvesting, drying, curing, grading and trimming of cannabis.

3. A person holding an adult-use cultivator's license may apply for, and obtain, one processor's license and one distributor's license that may only be used to distribute their own cannabis and cannabis products.

4. A person holding an adult-use cultivator's license may not also hold a retail dispensary license pursuant to this article and no adult-use cannabis cultivator shall have a direct or indirect interest, including by stock ownership, interlocking directors, mortgage or lien, personal or real property, or any other means, in any premises licensed as an adult-use cannabis retail dispensary or in any business licensed as an adult-use cannabis retail dispensary pursuant to this article.

5. A person holding an adult-use cultivator's license may not hold a license to distribute cannabis under this article unless the licensed cultivator is also licensed as a processor under this article.

6. No person may have a direct or indirect financial or controlling interest in more than one adult-use cultivator license issued pursuant to this chapter.

§ 69. Adult-use processor license. 1. A processor's license shall authorize the acquisition, possession, processing and sale of cannabis from the licensed premises of the adult-use cultivator by such licensee to duly licensed distributors.

2. For purposes of this section, processing shall include, but not be limited to, blending, extracting, infusing, packaging, labeling, brand-

ing and otherwise making or preparing cannabis products. Processing shall not include the cultivation of cannabis.

3. No processor shall be engaged in any other business on the premises to be licensed; except that nothing contained in this chapter shall prevent a cannabis cultivator, cannabis processor, and cannabis distributor from operating on the same premises and from a person holding all three licenses.

4. No cannabis processor licensee may hold more than three cannabis processor licenses.

5. No adult-use cannabis processor shall have a direct or indirect interest, including by stock ownership, interlocking directors, mortgage or lien, personal or real property, or any other means, in any premises licensed as an adult-use cannabis retail dispensary or in any business licensed as an adult-use cannabis retail dispensary pursuant to this article.

§ 70. Adult-use cooperative license. 1. A cooperative license shall authorize the acquisition, possession, cultivation, processing and sale from the licensed premises of the adult-use cooperative by such licensee to duly licensed distributors, on-site consumption sites, and/or retail dispensaries; but not directly to cannabis consumers.

2. To be licensed as an adult-use cooperative, the cooperative must:

(i) be comprised of residents of the state of New York as a limited liability company or limited liability partnership under the laws of the state, or an appropriate business structure as determined by the executive director;

(ii) subordinate capital, both as regards control over the cooperative undertaking, and as regards the ownership of the pecuniary benefits arising therefrom;

(iii) be democratically controlled by the members themselves on the basis of one vote per member;

(iv) vest in and allocate with priority to and among the members of all increases arising from their cooperative endeavor in proportion to the members' active participation in the cooperative endeavor; and

(v) the cooperative must operate according to the seven cooperative principles published by the International Cooperative Alliance in nineteen hundred ninety-five.

3. No natural person shall be a member of more than one adult-use cooperative licensed pursuant to this section.

4. No natural person or member of an adult-use cooperative license may have a direct or indirect financial or controlling interest in any other adult-use cannabis license issued pursuant to this chapter.

5. No adult-use cannabis cooperative shall have a direct or indirect interest, including by stock ownership, interlocking directors, mortgage or lien, personal or real property, or any other means, in any premises licensed as an adult-use cannabis retail dispensary or in any business licensed as an adult-use cannabis retail dispensary pursuant to this chapter.

6. The executive director shall promulgate regulations governing cooperative licenses, including, but not limited to, the establishment of canopy limits on the size and scope of cooperative licensees, and other measures designed to incentivize the use and licensure of cooperatives.

§ 71. Adult-use distributor license. 1. A distributor's license shall authorize the acquisition, possession, distribution and sale of cannabis from the licensed premises of a licensed adult-use processor, microbusiness or registered organization authorized pursuant to this chapter to sell adult-use cannabis, to duly licensed retail dispensaries.

2. No distributor shall have a direct or indirect economic interest in any adult-use retail dispensary licensed pursuant to this article, or in any registered organization registered pursuant to article three of this chapter. This restriction shall not prohibit a registered organization authorized pursuant to section thirty-nine of this chapter, from being granted licensure by the office to distribute adult-use cannabis products cultivated and processed by the registered organization only to the registered organization's own licensed adult-use retail dispensaries.

3. Nothing in subdivision two of this section shall prevent a distributor from charging an appropriate fee for the distribution of cannabis, including based on the volume of cannabis distributed.

§ 72. Adult-use retail dispensary license. 1. A retail dispensary license shall authorize the acquisition, possession and sale of cannabis from the licensed premises of the retail dispensary by such licensee to cannabis consumers.

2. No person may have a direct or indirect financial or controlling interest in more than three retail dispensary licenses issued pursuant to this chapter.

3. No person holding a retail dispensary license may also hold an adult-use cultivation, processor, microbusiness, cooperative or distributor license pursuant to this article.

4. No retail license shall be granted for any premises, unless the applicant shall be the owner thereof, or shall be able to demonstrate possession of the premises within thirty days of initial approval of the license through a lease, management agreement or other agreement giving the applicant control over the premises, in writing, for a term not less than the license period.

5. With the exception of microbusiness licensees, no premises shall be licensed to sell cannabis products, unless said premises shall be located in a store, the principal entrance to which shall be from the street level and located on a public thoroughfare in premises which may be occupied, operated or conducted for business, trade or industry or on an arcade or sub-surface thoroughfare leading to a railroad terminal.

6. No cannabis retail license shall be granted for any premises within two hundred feet of a school grounds as such term is defined in the education law.

§ 73. Microbusiness license. 1. A microbusiness license shall authorize the limited cultivation, processing, distribution and dispensing of adult use cannabis and cannabis products.

2. A microbusiness licensee may not hold interest in any other license and may only distribute its own cannabis and cannabis products to dispensaries.

3. The size and scope of a microbusiness shall be determined by regulation by the executive director in consultation with the cannabis advisory board.

§ 74. Notification to municipalities of adult-use retail dispensary. 1. Not less than thirty days nor more than two hundred seventy days before filing an application for licensure as an adult-use cannabis retail dispensary, an applicant shall notify the municipality in which the premises is located of such applicant's intent to file such an application.

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

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

(b) in the city of New York, the community board established pursuant to section twenty-eight hundred of the New York city charter with jurisdiction over the area in which the premises is located shall be considered the appropriate public body to which notification shall be given.

3. Such notification shall be made in such form as shall be prescribed by the rules of the office.

4. A municipality may express an opinion for or against the granting of such application. Any such opinion shall be deemed part of the record upon which the office makes its determination to grant or deny the application.

5. Such notification shall be made by: (a) certified mail, return receipt requested; (b) overnight delivery service with proof of mailing; or (c) personal service upon the offices of the clerk or community board.

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

(a) the trade name or "doing business as" name, if any, of the establishment;

(b) the full name of the applicant;

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

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

(e) the name, address and telephone number of the attorney or representative of the applicant, if any;

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

(i) a new establishment;

(ii) a transfer of an existing licensed business;

(iii) a renewal of an existing license; or

(iv) an alteration of an existing licensed premises;

(g) if the establishment is a transfer or previously licensed premises, the name of the old establishment and such establishment's registration or license number;

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

(i) the type of license.

§ 75. On-site consumption license; provisions governing on-site consumption licenses. 1. No licensed adult-use cannabis retail dispensary shall be granted a cannabis on-site consumption license for any premises, unless the applicant shall be the owner thereof, or shall be in possession of said premises under a lease, in writing, for a term not less than the license period except, however, that such license may thereafter be renewed without the requirement of a lease as provided in this section. This subdivision shall not apply to premises leased from government agencies; provided, however, that the appropriate administrator of such government agency provides some form of written documentation regarding the terms of occupancy under which the applicant is leasing said premises from the government agency for presentation to the office at the time of the license application. Such documentation shall include the terms of occupancy between the applicant and the government agency, including, but not limited to, any short-term leasing agreements or written occupancy agreements.

2. No adult-use cannabis retail dispensary shall be granted a cannabis on-site consumption license for any premises within two hundred feet of school grounds as such term is defined in the education law.

3. The office may consider any or all of the following in determining whether public convenience and advantage and the public interest will be promoted by the granting of a license for an on-site cannabis consumption at a particular location:

(a) that it is a privilege, and not a right, to cultivate, process, distribute, and sell cannabis;

(b) the number, classes, and character of other licenses in proximity to the location and in the particular municipality or subdivision thereof;

(c) evidence that all necessary licenses and permits have been obtained from the state and all other governing bodies;

(d) whether there is a demonstrated need for spaces to consume cannabis;

(e) effect of the grant of the license on pedestrian or vehicular traffic, and parking, in proximity to the location;

(f) the existing noise level at the location and any increase in noise level that would be generated by the proposed premises; and

(g) any other factors specified by law or regulation that are relevant to determine that granting a license would promote public convenience and advantage and the public interest of the community.

4. If the office shall disapprove an application for an on-site consumption license, it shall state and file in its offices the reasons therefor and shall notify the applicant thereof. Such applicant may thereupon apply to the office for a review of such action in a manner to be prescribed by the rules of the office.

5. No adult-use cannabis on-site consumption licensee shall keep upon the licensed premises any adult-use cannabis products except those purchased from a licensed distributor, adult-use cooperative, or microbusiness authorized to sell adult-use cannabis, and only in containers approved by the office. Such containers shall have affixed thereto such labels as may be required by the rules of the office. No cannabis retail licensee for on-site consumption shall reuse, refill, tamper with, adulterate, dilute or fortify the contents of any container of cannabis products as received from the manufacturer or distributor.

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

7. Except where a permit to do so is obtained pursuant to section 405.10 of the penal law, no cannabis on-site consumption licensee shall suffer, permit, or promote an event on its premises wherein any person shall use, explode, or cause to explode, any fireworks or other pyrotechnics in a building as defined in paragraph e of subdivision one of section 405.10 of the penal law, that is covered by such license or possess such fireworks or pyrotechnics for such purpose. In addition to any other penalty provided by law, a violation of this subdivision shall constitute an adequate ground for instituting a proceeding to suspend, cancel, or revoke the license of the violator in accordance with the applicable procedures specified in this chapter; provided however, if more than one licensee is participating in a single event, upon approval by the office, only one licensee must obtain such permit.

8. No premises licensed to sell adult-use cannabis for on-site consumption under this chapter shall be permitted to have any opening or means of entrance or passageway for persons or things between the licensed premises and any other room or place in the building containing the licensed premises, or any adjoining or abutting premises, unless ingress and egress is restricted by an employee, agent of the licensee, or other method approved by the office of controlling access to the facility.

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

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

11. A cannabis on-site consumption licensee shall not provide cannabis products to any person under the age of twenty-one.

§ 76. Record keeping and tracking. 1. The executive director shall, by regulation, require each licensee pursuant to this article to adopt and maintain security, tracking, record keeping, record retention and surveillance systems, relating to all cannabis at every stage of acquiring, possession, manufacture, sale, delivery, transporting, testing or distributing by the licensee, subject to regulations of the executive director.

2. Every licensee shall keep and maintain upon the licensed premises adequate books and records of all transactions involving the licensee and sale of its products, which shall include, but is not limited to, all information required by any rules promulgated by the office.

3. Each sale shall be recorded separately on a numbered invoice, which shall have printed thereon the number, the name of the licensee, the address of the licensed premises, and the current license number. Licensed producers shall deliver to the licensed distributor a true duplicate invoice stating the name and address of the purchaser, the quantity purchased, description and the price of the product, and a true, accurate and complete statement of the terms and conditions on which such sale is made.

4. Such books, records and invoices shall be kept for a period of five years and shall be available for inspection by any authorized representative of the office.

5. Each adult-use cannabis retail dispensary, microbusiness, and on-site consumption licensee shall keep and maintain upon the licensed premises, adequate records of all transactions involving the business transacted by such licensee which shall show the amount of cannabis, in weight, purchased by such licensee together with the names, license numbers and places of business of the persons from whom the same were purchased, the amount involved in such purchases, as well as the sales of cannabis made by such licensee.

§ 77. Inspections and ongoing requirements. All licensed or permitted premises, regardless of the type of premises, shall be subject to inspection by the office, by the duly authorized representatives of the office, by any peace officer acting pursuant to his or her special duties, or by a police officer, during the hours when the said premises are open for the transaction of business. The office shall make reasonable accommodations so that ordinary business is not interrupted and safety and security procedures are not compromised by the inspection. A person who holds a license or permit must make himself or herself, or an agent thereof, available and present for any inspection required by the office. Such inspection may include, but is not limited to, ensuring compliance by the licensee or permittee with all other applicable building codes, fire, health, safety, and governmental regulations, including at the municipal, county, and state level.

§ 78. Adult-use cultivators, processors or distributors not to be interested in retail dispensaries. 1. It shall be unlawful for a cultivator, processor, cooperative or distributor licensed under this article to:

(a) be interested directly or indirectly in any premises where any cannabis product is sold at retail; or in any business devoted wholly or partially to the sale of any cannabis product at retail by stock ownership, interlocking directors, mortgage or lien or any personal or real property, or by any other means.

(b) make, or cause to be made, any loan to any person engaged in the manufacture or sale of any cannabis product at wholesale or retail.

(c) make any gift or render any service of any kind whatsoever, directly or indirectly, to any person licensed under this chapter which in the judgment of the office may tend to influence such licensee to purchase the product of such cultivator or processor or distributor.

(d) enter into any contract with any retail licensee whereby such licensee agrees to confine his sales to cannabis products manufactured or sold by one or more such cultivator or processors or distributors. Any such contract shall be void and subject the licenses of all parties concerned to revocation for cause.

2. The provisions of this section shall not prohibit a registered organization authorized pursuant to section thirty-nine of this chapter, from cultivating, processing, or selling adult-use cannabis under this article, at facilities wholly owned and operated by such registered organization, subject to any conditions, limitations or restrictions established by the office and this chapter.

3. The office shall have the power to create rules and regulations in regard to this section.

§ 79. Packaging and labeling of adult-use cannabis products. 1. The office is hereby authorized to promulgate rules and regulations governing the advertising, branding, marketing, packaging and labeling of

cannabis products, sold or possessed for sale in New York state, including rules pertaining to the accuracy of information and rules restricting marketing and advertising to youth.

2. Such regulations shall include, but not be limited to, requiring that:

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

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

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

(d) packages and labels shall not be made to be attractive to minors.

3. Such regulations shall include requiring labels warning consumers of any potential impact on human health resulting from the consumption of cannabis products that shall be affixed to those products when sold, if such labels are deemed warranted by the office.

4. Such rules and regulations shall establish methods and procedures for determining serving sizes for cannabis-infused products and active cannabis concentration per serving size. Such regulations shall also require a nutritional fact panel that incorporates data regarding serving sizes and potency thereof.

5. The packaging, sale, marketing, branding, advertising, labeling or possession by any licensee of any cannabis product not labeled or offered in conformity with rules and regulations promulgated in accordance with this section shall be grounds for the imposition of a fine, and/or the suspension, revocation or cancellation of a license.

§ 80. Laboratory testing. 1. Every processor of adult-use cannabis shall contract with an independent laboratory permitted pursuant to section one hundred twenty-nine of this chapter, to test the cannabis products it produces pursuant to rules and regulations prescribed by the office. The executive director may assign an approved testing laboratory, which the processor of adult-use cannabis must use.

2. Adult-use cannabis processors shall make laboratory test reports available to licensed distributors and retail dispensaries for all cannabis products manufactured by the processor.

3. Licensed retail dispensaries shall maintain accurate documentation of laboratory test reports for each cannabis product offered for sale to cannabis consumers. Such documentation shall be made publicly available by the licensed retail dispensary.

4. Onsite laboratory testing by licensees is permissible; however, such testing shall not be certified by the office and does not exempt the licensee from the requirements of quality assurance testing at a testing laboratory pursuant to this section.

5. An owner of a cannabis laboratory testing permit shall not hold a license in any other category within this article and shall not own or have ownership interest in a registered organization registered pursuant to article three of this chapter.

6. The office shall have the authority to require any licensee under this article to submit cannabis or cannabis products to one or more independent laboratories for testing.

§ 81. Provisions governing the cultivation and processing of adult-use cannabis. 1. Cultivation of cannabis must not be visible from a public place by normal unaided vision.

2. No cultivator or processor of adult-use cannabis shall sell, or agree to sell or deliver in the state any cannabis products, as the case

may be, except in sealed containers containing quantities in accordance with size standards pursuant to rules adopted by the office. Such containers shall have affixed thereto such labels as may be required by the rules of the office.

3. No cultivator or processor of adult-use cannabis shall furnish or cause to be furnished to any licensee, any exterior or interior sign, printed, painted, electric or otherwise, except as authorized by the office. The office may make such rules as it deems necessary to carry out the purpose and intent of this subdivision.

4. Cultivators of adult-use cannabis shall comply with plant cultivation regulations, standards, and guidelines issued by the office, in consultation with the department of environmental conservation. Such regulations, standards, and guidelines shall be guided by sustainable farming principles and practices such as organic, regenerative, and integrated pest management models, and shall restrict whenever possible, the use of pesticides, herbicides, and fungicides to those which are botanical and/or biological.

5. No cultivator or processor of adult-use cannabis, including an adult-use cannabis cooperative or microbusiness may offer any incentive, payment or other benefit to a licensed cannabis retail dispensary in return for carrying the cultivator, processor, cooperative or microbusiness products, or preferential shelf placement.

6. All cannabis products shall be processed in accordance with good manufacturing processes, pursuant to Part 111 of Title 21 of the Code of Federal Regulations, as may be modified by the executive director in regulation.

7. No processor of adult-use cannabis shall produce any product which, in the discretion of the office, is designed to appeal to anyone under the age of twenty-one years.

8. The use or integration of alcohol or nicotine in cannabis products is strictly prohibited.

§ 82. Provisions governing the distribution of adult-use cannabis. 1. No distributor shall sell, or agree to sell or deliver any cannabis products, as the case may be, in any container, except in a sealed package. Such containers shall have affixed thereto such labels as may be required by the rules of the office.

2. No distributor shall deliver any cannabis products, except in vehicles owned and operated by such distributor, or hired and operated by such distributor from a trucking or transportation company registered with the office, and shall only make deliveries at the licensed premises of the purchaser.

3. Each distributor shall keep and maintain upon the licensed premises, adequate books and records of all transactions involving the business transacted by such distributor, which shall show the amount of cannabis products purchased by such distributor together with the names, license numbers and places of business of the persons from whom the same was purchased and the amount involved in such purchases, as well as the amount of cannabis products sold by such distributor together with the names, addresses, and license numbers of such purchasers. Each sale shall be recorded separately on a numbered invoice, which shall have printed thereon the number, the name of the licensee, the address of the licensed premises, and the current license number. Such distributor shall deliver to the purchaser a true duplicate invoice stating the name and address of the purchaser, the quantity of cannabis products, description by brands and the price of such cannabis products, and a true, accurate and complete statement of the terms and conditions on

which such sale is made. Such books, records and invoices shall be kept for a period of five years and shall be available for inspection by any authorized representative of the office.

4. No distributor shall furnish or cause to be furnished to any licensee, any exterior or interior sign, printed, painted, electric or otherwise, unless authorized by the office.

5. No distributor shall provide any discount, rebate or customer loyalty program to any licensed retailer, except as otherwise allowed by the office.

6. The executive director is authorized to promulgate regulations establishing a maximum margin for which a distributor may mark up a cannabis product for sale to a retail dispensary. Any adult-use cannabis product sold by a distributor for more than the maximum markup allowed in regulation, shall be unlawful.

7. Each distributor shall keep and maintain upon the licensed premises, adequate books and records to demonstrate the distributor's actual cost of doing business, using accounting standards and methods regularly employed in the determination of costs for the purpose of federal income tax reporting, for the total operation of the licensee. Such books, records and invoices shall be kept for a period of five years and shall be available for inspection by any authorized representative of the office for use in determining the maximum markup allowed in regulation pursuant to subdivision six of this section.

§ 83. Provisions governing adult-use cannabis retail dispensaries. 1. No cannabis retail licensee shall sell, deliver, or give away or cause or permit or procure to be sold, delivered or given away any cannabis to any person, actually or apparently, under the age of twenty-one years.

2. No cannabis retail licensee shall sell alcoholic beverages, nor have or possess a license or permit to sell alcoholic beverages, on the same premises where cannabis products are sold.

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

4. No cannabis retail licensee shall sell or deliver any cannabis products to any person with knowledge of, or with reasonable cause to believe, that the person to whom such cannabis products are being sold, has acquired the same for the purpose of selling or giving them away in violation of the provisions of this chapter or in violation of the rules and regulations of the office.

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

6. No cannabis retail licensee shall be interested, directly or indirectly, in any cultivator, processor, distributor or microbusiness operator licensed pursuant to this article, by stock ownership, interlocking directors, mortgage or lien on any personal or real property or by any other means. Any lien, mortgage or other interest or estate, however, now held by such retailer on or in the personal or real property of such manufacturer or distributor, which mortgage, lien, interest or estate was acquired on or before December thirty-first, two thousand eighteen, shall not be included within the provisions of this subdivision; provided, however, the burden of establishing the time of the accrual of the interest comprehended by this subdivision, shall be upon the person

who claims to be entitled to the protection and exemption afforded hereby.

7. No cannabis retail licensee shall make or cause to be made any loan to any person engaged in the cultivation, processing or distribution of cannabis pursuant to this article.

8. Each cannabis retail licensee shall designate the price of each item of cannabis by attaching to or otherwise displaying immediately adjacent to each such item displayed in the interior of the licensed premises where sales are made a price tag, sign or placard setting forth the price at which each such item is offered for sale therein.

9. No person licensed to sell cannabis products at retail, shall allow or permit any gambling, or offer any gambling on the licensed premises, or allow or permit illicit drug activity on the licensed premises. The use of the licensed premises or any part thereof for the sale of lottery tickets, when duly authorized and lawfully conducted thereon, shall not constitute gambling within the meaning of this subdivision.

10. If an employee of a cannabis retail licensee suspects that a cannabis consumer may be abusing cannabis, such an employee shall encourage such cannabis consumer to seek help from a substance use disorder program or harm reduction services. Cannabis retail licensees shall develop standard operating procedures and written materials for employees to utilize when consulting consumers for purposes of this subdivision.

11. The executive director is authorized to promulgate regulations governing licensed adult-use dispensing facilities, including but not limited to, the hours of operation, size and location of the licensed facility, potency and types of products offered and establishing a minimum margin for which a retail dispensary must markup a cannabis product or products before selling to a cannabis consumer. Any adult-use cannabis product sold by a retail dispensary for less than the minimum markup allowed in regulation, shall be unlawful.

§ 84. Adult-use cannabis advertising. 1. The office is hereby authorized to promulgate rules and regulations governing the advertising and marketing of licensed cannabis and any cannabis products or services.

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

(a) is false, deceptive, or misleading;

(b) promotes overconsumption;

(c) depicts consumption by children or other minors;

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

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

(f) is within two hundred feet of school grounds as such term is defined in section 220.00 of the penal law;

(g) is in public transit vehicles and stations;

(h) is in the form of an unsolicited internet pop-up;

(i) is on publicly owned or operated property; or

(j) makes medical claims or promotes adult-use cannabis for a medical or wellness purpose.

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

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

(b) disseminate false or misleading information to customers.

4. The office shall promulgate explicit rules requiring that:

(a) all advertisements and marketing accurately and legibly identify the licensee or other business responsible for its content; and

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

§ 85. Social and economic equity, minority and women-owned businesses, and disadvantaged farmers; incubator program. 1. The office shall implement a social and economic equity plan and actively promote applicants from communities disproportionately impacted by cannabis prohibition, and promote racial, ethnic, and gender diversity when issuing licenses for adult-use cannabis related activities, including by prioritizing consideration of applications by applicants who are from communities disproportionately impacted by the enforcement of cannabis prohibition or who qualify as a minority or women-owned business, or disadvantaged farmers. Such qualifications shall be determined by the office in regulation.

2. The office shall create a social and economic equity plan to promote diversity in ownership and employment, and opportunities for social and economic equity in the adult-use cannabis industry and ensure inclusion of:

(a) individuals from communities disproportionately impacted by the enforcement of cannabis prohibition;

(b) minority-owned businesses;

(c) women-owned businesses;

(d) minority and women-owned businesses, as defined in paragraph (d) of subdivision five of this section; and

(e) disadvantaged farmers, as defined in subdivision five of this section.

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

(a) is a member of a community disproportionately impacted by the enforcement of cannabis prohibition;

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

(c) was convicted of a cannabis-related offense prior to the effective date of this chapter, or had a parent, guardian, child, spouse, or dependent, or was a dependent of an individual who, prior to the effective date of this chapter, was convicted of a cannabis-related offense.

4. The office shall also create an incubator program to provide direct support to social and economic equity applicants to achieve and upon having been granted licenses. The program shall provide direct support in the form of counseling services, education, small business coaching, and compliance assistance.

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

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

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

(ii) an enterprise in which such minority ownership is real, substantial and continuing;

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

(iv) an enterprise authorized to do business in this state and independently owned and operated; and

(v) an enterprise that is a small business.

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

(i) black persons having origins in any of the black African racial groups;

(ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;

(iii) Native American or Alaskan native persons having origins in any of the original peoples of North America; or

(iv) Asian and Pacific Islander persons having origins in any of the far east countries, south east Asia, the Indian subcontinent or the Pacific islands.

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

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

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

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

(iv) an enterprise authorized to do business in this state and independently owned and operated; and

(v) an enterprise that is a small business.

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

(e) "disadvantaged farmer" shall mean a New York state resident or business enterprise, including a sole proprietorship, partnership, limited liability company or corporation, that has reported at least two-thirds of its federal gross income as income from farming, in at least one of the past five preceding tax years, and who:

(i) farms in a county that has greater than ten percent rate of poverty according to the latest U.S. Census Bureau's American Communities Survey;

(ii) has been disproportionately impacted by low commodity prices or faces the loss of farmland through development or suburban sprawl; and

(iii) meets any other qualifications as defined in regulation by the office.

(f) "communities disproportionately impacted" shall mean, but not be limited to, a history of arrests, convictions, and other law enforcement practices in a certain geographic area, such as, but not limited to, precincts, zip codes, neighborhoods, and political subdivisions, reflecting a disparate enforcement of cannabis prohibition during a certain time period, when compared to the rest of the state. The office shall, in consultation with the cannabis advisory board, issue guidelines to determine how to assess which communities have been disproportionately impacted and how to assess if someone is a member of a community disproportionately impacted.

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

7. Licenses issued under the social and economic equity plan shall not be transferable except to qualified social and economic equity applicants and only upon prior written approval of the executive director.

8. The office shall collect demographic data on owners and employees in the adult-use cannabis industry and shall annually publish such data.

§ 86. Regulations. The executive director shall promulgate regulations in consultation with the cannabis advisory board to implement this article.

ARTICLE 5
HEMP EXTRACT

Section 90. Definitions.
91. Rulemaking authority.
92. Cannabinoid related hemp extract licensing.
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115. Hemp workgroup.
116. Prohibitions.

§ 90. Definitions. Wherever used in this article unless otherwise expressly stated or unless the context or subject matter requires a different meaning, the following terms shall have the representative meanings hereinafter set forth or indicated:

1. "Applicant" means a for-profit entity or not-for-profit corporation and includes board members who submit an application to become a licensee.

2. "Hemp extract" means any product made or derived from industrial hemp, including the seeds thereof and all derivatives whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than an amount of the plant Cannabis sativa L. and any part of such plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than an

amount determined by the office in regulation, used or intended for human or animal consumption or use for its cannabinoid content, as determined by the office in regulation. Hemp extract excludes industrial hemp used or intended exclusively for an industrial purpose and those food and/or food ingredients that are generally recognized as safe by the department of agriculture and markets, and shall not be regulated as hemp extract within the meaning of this article.

3. "Cannabinoid grower" means a person licensed by the office, and in compliance with this article to acquire, possess, cultivate, and sell hemp extract for its cannabinoid content.

4. "Cannabinoid manufacturer" means a person licensed by the office to acquire, possess, and manufacture hemp extract from licensed cannabinoid growers or cannabinoid extractors for the manufacture and sale of hemp extract products marketed for cannabinoid content and used or intended for human or animal consumption or use.

5. "Cannabinoid extractor" means a person licensed by the office to acquire, possess, extract and manufacture hemp extract from licensed cannabinoid growers for the manufacture and sale of hemp extract products marketed for cannabinoid content and used or intended for human or animal consumption or use.

6. "License" means a license issued pursuant to this article.

7. "Industrial hemp" means the plant Cannabis sativa L. and any part of such plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

§ 91. Rulemaking authority. 1. The office shall perform such acts, prescribe such forms and propose such rules, regulations and orders as it may deem necessary or proper to fully effectuate the provisions of this article.

2. In consultation with the cannabis advisory board and the hemp workgroup, the office shall have the power to promulgate any and all necessary rules and regulations governing the production, processing, transportation, distribution, and sale of hemp extract, including but not limited to the licensing of cannabinoid growers, manufacturers, extractors and retailers, including, but not limited to:

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

(b) the qualifications and selection criteria for licensing, or permitting;

(c) limitations on the number of licenses to be awarded;

(d) the books and records to be created and maintained by licensees, and permittees, including the reports to be made thereon to the office, and inspection of any and all books and records maintained by any licensee, or permittee, and on the premises of any licensee or permittee;

(e) methods of producing, processing, and packaging hemp extract; conditions of sanitation, and standards of ingredients, quality, and identity of hemp extract products cultivated, processed, packaged, or sold by licensees; and

(f) hearing procedures and additional causes for cancellation, revocation, and/or civil penalties against any person licensed, or permitted by the office.

3. The office, in consultation with the department of environmental conservation and the New York state energy research and development agency, shall promulgate necessary rules and regulations governing the

safe production of hemp extract, including environmental and energy standards.

§ 92. Cannabinoid related hemp extract licensing. 1. Persons growing, processing, extracting, and/or manufacturing hemp extract or producing hemp extract products distributed, sold or marketed for cannabinoid content and used or intended for human or animal consumption or use, shall be required to obtain the following license or licenses from the office, depending upon the operation:

(a) cannabinoid grower license;

(b) cannabinoid manufacturer license;

(c) cannabinoid extractor license.

2. Notwithstanding subdivision one of this section, those persons growing, processing or manufacturing food or food ingredients from industrial hemp pursuant to article twenty-nine of the agriculture and markets law which food or food ingredients are generally recognized as safe, shall be subject to regulation and/or licensing by the office.

§ 93. Cannabinoid grower licenses. 1. A cannabinoid grower's license authorizes the acquisition, possession, cultivation and sale of hemp extract grown or used for its cannabinoid content on the licensed premises of the grower.

2. A person holding a cannabinoid grower's license shall not sell hemp extract products marketed, distributed or sold for its cannabinoid content and intended for human consumption or use without also being licensed as a manufacturer or extractor pursuant to this article or otherwise permitted pursuant to section ninety-two of this article.

3. Persons growing industrial hemp pursuant to article twenty-nine of the agriculture and markets law are not authorized to and shall not sell hemp extract for human or animal consumption or use, other than as food or a food ingredient that has been generally recognized as safe in accordance with the office and determined by the state to be safe for human consumption as food or a food ingredient without also being licensed as a manufacturer or extractor pursuant to this article or otherwise permitted pursuant to section ninety-two of this article.

4. A person authorized under article twenty-nine of the agriculture and markets law as an industrial hemp grower may apply for a cannabinoid grower license provided he or she can demonstrate to the office that its cultivation of industrial hemp meets all the requirements for hemp extract cultivated under a cannabinoid grower license.

§ 94. Cannabinoid manufacturer license. 1. A cannabinoid manufacturer license authorizes the licensee's acquisition, possession, and manufacture of hemp extract from a licensed cannabinoid grower or cannabinoid extractor for the processing of hemp extract or the production of hemp extract products marketed, distributed or sold for cannabinoid content and used or intended for human or animal consumption or use.

2. Notwithstanding subdivision one of this section, nothing shall prevent a cannabinoid manufacturer from manufacturing industrial hemp products not used or intended for human or animal consumption or use.

§ 95. Cannabinoid extractor license. 1. A cannabinoid extractor license authorizes the licensee's acquisition, possession, extraction and manufacture of hemp extract from a licensed cannabinoid grower for the processing of hemp extract or the production of hemp extract products marketed, distributed or sold for cannabinoid content and used or intended for human or animal consumption or use.

2. No cannabinoid extractor licensee shall engage in any other business on the licensed premises; except that nothing contained in this

article shall prevent a cannabinoid extractor licensee from also being licensed as a cannabinoid grower on the same premises.

3. Notwithstanding subdivisions one and two of this section, nothing shall prevent a cannabinoid extractor from manufacturing industrial hemp products not used or intended for human or animal consumption or use.

4. A person authorized under article twenty-nine of the agriculture and markets law as an industrial hemp processor shall qualify for a cannabinoid extractor license provided it can demonstrate to the office that its extraction of industrial hemp meets all the requirements for hemp extract under a cannabinoid extractor license.

§ 96. Cannabinoid license applications. 1. Persons shall apply for a cannabinoid grower license, cannabinoid manufacturer license and/or a cannabinoid extractor license by submitting an application upon a form supplied by the office, providing all the requested information, verified by the applicant or an authorized representative of the applicant.

2. A separate license shall be required for each facility at which growing, manufacturing and/or extracting is conducted.

3. Each applicant shall remit with its application the fee for each office requested license.

§ 97. Information to be requested in applications for licenses. 1. The office shall have the authority to prescribe the manner and form in which an application must be submitted to the office for licensure under this article.

2. The executive director is authorized to adopt regulations pursuant to the state administrative procedure act establishing information which must be included on an application for licensure under this article. Such information may include, but is not limited to: information about the applicant's identity, including racial and ethnic diversity; information about prior use of farmland; ownership and investment information, including the corporate structure; evidence of good moral character, including the submission of fingerprints by the applicant to the division of criminal justice services; information about the premises to be licensed; financial statements; and any other information prescribed in regulation.

3. All license applications shall be signed by the applicant (if an individual), by a managing partner (if a limited liability corporation), by an officer (if a corporation), or by all partners (if a partnership). Each person signing such application shall verify it as true under the penalties of perjury.

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

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

6. In giving any notice, or taking any action in reference to a licensee of a licensed premises, the office may rely upon the information furnished in such application and in any supplemental statement connected therewith, and such information may be presumed to be correct, and shall be binding upon a licensee or licensed premises as if correct. All information required to be furnished in such application or supplemental statements shall be deemed material in any prosecution for perju-

ry, any proceeding to revoke, cancel or suspend any license, and in the office's determination to approve or deny the license.

7. The office may, upon documentation therefor, waive the submission of any category of information described in this section for any category of license or permit, provided that it shall not be permitted to waive the requirement for submission of any such category of information solely for an individual applicant or applicants.

§ 98. Fees. The office shall have the authority to charge licensees a biennial license fee. Such fee may be based on the amount of hemp extract to be grown, processed, manufactured or extracted by the licensee, the gross annual receipts of the licensee for the previous license period, or any other factors deemed appropriate by the office.

§ 99. Selection criteria. 1. An applicant shall furnish evidence:

(a) its ability to effectively maintain a delta-9-tetrahydrocannabinol concentration that does not exceed a percentage of delta-9-tetrahydrocannabinol cannabis set by the executive director on a dry weight basis of combined leaves and flowers of the plant of the genus cannabis, or per volume or weight of cannabis product;

(b) its ability to comply with all applicable state laws and regulations;

(c) that the applicant is ready, willing and able to properly carry on the activities for which a license is sought; and

(d) that the applicant is in possession of or has the right to use land, buildings and equipment sufficient to properly carry on the activity described in the application.

2. The office, in considering whether to grant the license application, shall consider whether:

(a) it is in the public interest that such license be granted, taking into consideration whether the number of licenses will be adequate or excessive to reasonably serve demand;

(b) the applicant and its managing officers are of good moral character and do not have an ownership or controlling interest in more licenses or permits than allowed by this chapter;

(c) preference shall be given to applicants that are currently farming in the state and are eligible or currently receiving an agricultural assessment pursuant to article twenty-five-AA of the agriculture and markets law; and

(d) the applicant satisfies any other conditions as determined by the office.

3. If the executive director is not satisfied that the applicant should be issued a license, the executive director shall notify the applicant in writing of the specific reason or reasons for denial.

4. The executive director shall have authority and sole discretion to determine the number of licenses issued pursuant to this article.

§ 100. Limitations of licensure; duration. 1. No license pursuant to this article may be issued to a person under the age of eighteen years.

2. The office shall have the authority to limit, by canopy, plant count or other means, the amount of hemp extract allowed to be cultivated, processed, extracted or sold by a licensee.

3. All licenses under this article shall expire two years after the date of issue and be subject to any rules or limitations prescribed by the executive director in regulation.

§ 101. License renewal. 1. Each license, issued pursuant to this article, may be renewed upon application therefor by the licensee and the payment of the fee for such license as prescribed by this article.

2. In the case of applications for renewals, the office may dispense with the requirements of such statements as it deems unnecessary in view of those contained in the application made for the original license, but in any event the submission of photographs of the licensed premises shall be dispensed with, provided the applicant for such renewal shall file a statement with the office to the effect that there has been no alteration of such premises since the original license was issued.

3. The office may make such rules as may be necessary, not inconsistent with this chapter, regarding applications for renewals of licenses and permits and the time for making the same.

4. The office shall provide an application for renewal of a license issued under this article not less than ninety days prior to the expiration of the current license.

5. The office may only issue a renewal license upon receipt of the prescribed renewal application and renewal fee from a licensee if, in addition to the criteria in section ninety-seven of this article, the licensee's license is not under suspension and has not been revoked.

6. The office shall have the authority to charge applicants for licensure under this article a non-refundable application fee. Such fee may be based on the type of licensure sought, cultivation and/or production volume, or any other factors deemed reasonable and appropriate by the office to achieve the policy and purpose of this chapter.

§ 102. Form of license. Licenses issued pursuant to this article shall specify:

1. the name and address of the licensee;

2. the activities permitted by the license;

3. the land, buildings and facilities that may be used for the licensed activities of the licensee;

4. a unique license number issued by the department to the licensee; and

5. such other information as the executive director shall deem necessary to assure compliance with this chapter.

§ 103. Amendments to license and duty to update information submitted for licensing. 1. Upon application of a licensee to the office, a license may be amended to allow the licensee to relocate within the state, to add or delete licensed activities or facilities, or to amend the ownership or organizational structure of the entity that is the licensee. The fee for such amendment shall be two hundred fifty dollars.

2. In the event that any of the information provided by the applicant changes either while the application is pending or after the license is granted, within ten days of any such change, the applicant or licensee shall submit to the office a verified statement setting forth the change in circumstances of facts set forth in the application. Failure to do so shall, if willful and deliberate, be cause for revocation of the license.

3. A license shall become void by a change in ownership, substantial corporate change or location without prior written approval of the executive director. The executive director may promulgate regulations allowing for certain types of changes in ownership without the need for prior written approval.

4. For purposes of this section, "substantial corporate change" shall mean:

(a) for a corporation, a change of eighty percent or more of the officers and/or directors, or a transfer of eighty percent or more of stock of such corporation, or an existing stockholder obtaining eighty percent or more of the stock of such corporation; and

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

§ 104. Record keeping and tracking. 1. The executive director shall, by regulation, require each licensee pursuant to this article to adopt and maintain security, tracking, record keeping, record retention and surveillance systems, relating to all hemp extract at every stage of acquiring, possession, manufacture, transport, sale, or delivery, or distribution by the licensee, subject to regulations of the executive director.

2. Every licensee shall keep and maintain upon the licensed premises, adequate books and records of all transactions involving the licensee and sale of its products, which shall include all information required by rules promulgated by the office.

3. Each sale shall be recorded separately on a numbered invoice, which shall have printed thereon the number, the name of the licensee, the address of the licensed premises, and the current license number.

4. Such books, records and invoices shall be kept for a period of five years and shall be available for inspection by any authorized representative of the office.

§ 105. Inspections and ongoing requirements. All licensees shall be subject to reasonable inspection by the office, in consultation with the department of health, and a person who holds a license must make himself or herself, or an agent thereof, available and present for any inspection required by the office. The office shall make reasonable accommodations so that ordinary business is not interrupted and safety and security procedures are not compromised by the inspection.

§ 106. Packaging and labeling of hemp extract. 1. The office, in consultation with the department of health, is authorized to promulgate rules and regulations governing the packaging and labeling of hemp extract products, sold or possessed for sale in New York state.

2. Such regulations shall include, but not be limited to, requiring labels warning consumers of any potential impact on human health resulting from the consumption of hemp extract products that shall be affixed to those products when sold, if such labels are deemed warranted by the office. No label may state that hemp extract can treat, cure or prevent any disease without approval pursuant to federal law.

3. Such rules and regulations shall establish a QR code which may be used in conjunction with similar technology for labels and establish methods and procedures for determining, among other things, serving sizes for hemp extract products, active cannabinoid concentration per serving size, number of servings per container, and the growing region, state or country of origin if not from the United States. Such regulations shall also require a supplement fact panel that incorporates data regarding serving sizes and potency thereof.

4. The packaging, sale, or possession by any licensee of any hemp product intended for human or animal consumption or use not labeled or offered in conformity with rules and regulations promulgated in accordance with this section shall be grounds for the imposition of a fine, and/or the suspension, revocation or cancellation of a license.

§ 107. Provisions governing the growing, manufacturing and extracting of hemp extract. 1. No licensed cannabinoid grower, manufacturer or extractor shall sell, or agree to sell or deliver in the state any hemp extract products, as the case may be, except in sealed containers

containing quantities in accordance with size standards pursuant to rules adopted by the office. Such containers shall have affixed thereto such labels as may be required by the rules of the office.

2. Licensed cannabinoid growers shall be prohibited from using pesticides.

3. All hemp extract products shall be extracted and manufactured in accordance with good manufacturing processes, pursuant to Part 111 or 117 of Title 21 of the Code of Federal Regulations as may be modified and decided upon by the executive director in regulation.

4. Within thirty days of the effective date of this article, the office shall approve the manufacture, distribution, and sale of beverages containing no more than twenty milligrams of cannabidiol per twelve ounce beverage. The hemp extract used in such beverages shall be grown, extracted and manufactured in the state of New York. The office shall issue guidance on the label, warning, point of sale, and advertising for such beverages.

5. Terpenes derived from the hemp plant are generally recognized as safe.

6. Those persons growing, processing or manufacturing food or food ingredients from hemp extracts, which food or food ingredients are generally recognized as safe, shall be subject to regulation and/or licensing under this article.

7. Notwithstanding any other provision of law to the contrary, prepackaged beverages that contain hemp or any part of the hemp plant, including the seeds and all naturally occurring cannabinoids, compounds, concentrates, extracts, isolates, terpenes, resins, isomers, acids, salts, salts of isomers or cannabiodiol derivatives, are not considered to be adulterated or misbranded under this article based solely on the inclusion of hemp or any part of the hemp plant as long as the amount of cannabidiol is limited to twenty milligrams per serving. The office shall allow cannabidiol in food products and have the power to alter amounts in beverages on the basis of scientific evidence connected with health effects.

8. The nonpharmaceutical or nonmedical production, marketing, sale or distribution of beverages, food or food products within the state that contain hemp or any part of the hemp plant may not be restricted or prohibited within the state based solely on the inclusion of hemp or any part of the hemp plant.

9. A beverage and/or food producer may not make any claims that a beverage, food or food product that contains hemp can treat, cure or prevent any disease without approval pursuant to federal law.

§ 108. Laboratory testing. 1. Every cannabinoid manufacturer and cannabinoid extractor shall contract with an independent laboratory to test the hemp extract products produced by the licensed manufacturer or extractor. The executive director, in consultation with the commissioner of health, shall approve the laboratory and require that the laboratory report testing results in a manner determined by the executive director. The executive director is authorized to issue regulations requiring the laboratory to perform certain tests and services.

2. Cannabinoid manufacturers and cannabinoid extractors shall make laboratory test reports available to persons holding a cannabinoid permit pursuant to section one hundred twelve of this article for all cannabis products manufactured by the licensee.

3. On-site laboratory testing by licensees is permissible; however, such testing shall not be certified by the office and does not exempt

the licensee from the requirements of quality assurance testing at a testing laboratory pursuant to this section.

§ 109. Advertising. The office shall promulgate rules and regulations governing the advertising of hemp extract and any other related products or services as determined by the executive director.

§ 110. Research. 1. The office shall promote research and development through public-private partnerships to bring new hemp extract and industrial hemp derived products to market within the state.

2. The executive director may develop and carry out research programs which may include programs at the New York state college of agriculture and life sciences, pursuant to section fifty-seven hundred twelve of the education law and/or New York state university research institutions relating to industrial hemp and hemp extract.

§ 111. Regulations. The executive director shall in consultation with the cannabis advisory board and the hemp workgroup promulgate regulations pursuant to the state administrative procedure act to implement this article.

§ 112. Cannabinoid permit. The office is hereby authorized to issue cannabinoid permits to retailers, wholesalers, and distributors authorizing them to sell cannabis products derived from hemp extract. The executive director shall have the authority to set fees for such permit, to establish the period during which such permit is authorized, and to make rules and regulations, including emergency regulations, to implement this section.

§ 113. New York hemp product. The executive director may establish and adopt official grades and standards for hemp extract and hemp extract products as he or she may deem advisable, which are produced for sale in this state and, from time to time, may amend or modify such grades and standards.

§ 114. Penalties and violations of this article. Notwithstanding the provision of any law to the contrary, the failure to comply with the requirements of this article, the rules and regulations promulgated thereunder, may be punishable by a fine of not more than one thousand dollars for a first violation; not more than five thousand dollars for a second violation; and not more than ten thousand dollars for a third violation and each subsequent violation thereafter.

§ 115. Hemp workgroup. The executive director shall appoint a New York state industrial hemp and hemp extract workgroup, composed of researchers, producers, processors, manufacturers and trade associations, to make recommendations for the industrial hemp and hemp extract programs, state and federal policies and policy initiatives, and opportunities for the promotion and marketing of industrial hemp and hemp extract as consistent with federal and state laws, rules and regulations, which workgroup shall continue for such time as the executive director deems appropriate.

§ 116. Prohibitions. Except as authorized in this article, the manufacturing of hemp extract for human or animal consumption and the distribution and/or sale thereof is prohibited in this state unless the manufacturer is licensed under this article. Hemp extract and products derived therefrom for human and animal consumption produced outside the state shall not be distributed or sold in this state unless they meet all standards and requirements established for such product manufactured in the state under this article and its rules and regulations as determined by the office.

ARTICLE 6
GENERAL PROVISIONS

Section 125. General prohibitions and restrictions.
126. License to be confined to premises licensed; premises for which no license shall be granted; transporting cannabis.
127. Protections for the use of cannabis; unlawful discriminations prohibited.
128. Registrations and licenses.
129. Laboratory testing permits.
130. Special use permits.
131. Professional and medical record keeping.
132. Local opt-out; municipal control and preemption.
133. Personal cultivation.
134. Executive director to be necessary party to certain proceedings.
135. Penalties for violation of this chapter.
136. Revocation of registrations, licenses and permits for cause; procedure for revocation or cancellation.
137. Lawful actions pursuant to this chapter.
138. Review by courts.
139. Illicit cannabis.
140. Persons forbidden to traffic cannabis; certain officials not to be interested in manufacture or sale of cannabis products.
141. Access to criminal history information through the division of criminal justice services.
142. Severability.

§ 125. General prohibitions and restrictions. 1. No person shall cultivate, process, or distribute for sale or sell at wholesale or retail any cannabis, cannabis product, medical cannabis or hemp extract product within the state without obtaining the appropriate registration, license, or permit therefor required by this chapter.

2. No registered organization, licensee, or permittee shall sell, or agree to sell or deliver in this state any cannabis or hemp extract for the purposes of resale to any person who is not duly registered, licensed or permitted pursuant to this chapter to sell such product, at wholesale or retail, as the case may be, at the time of such agreement and sale.

3. No registered organization, licensee, or permittee shall employ, or permit to be employed, or shall allow to work, on any premises registered or licensed for retail sale hereunder, any person under the age of twenty-one years in any capacity where the duties of such person require or permit such person to sell, dispense or handle cannabis.

4. No registered organization, licensee, or permittee shall sell, deliver or give away, or cause, permit or procure to be sold, delivered or given away any cannabis, cannabis product, or medical cannabis on credit; except that a registered organization, licensee or permittee may accept third party credit cards for the sale of any cannabis, cannabis product, or medical cannabis for which it is registered, licensed or permitted to dispense or sell to patients or cannabis consumers. This includes, but is not limited to, any consignment sale of any kind.

5. No registered organization, licensee, or permittee shall cease to be operated as a bona fide or legitimate premises within the contemplation of the registration, license, or permit issued for such premises, as determined within the judgment of the office.

6. No registered organization, licensee, or permittee shall refuse, nor any person holding a registration, license, or permit refuse, nor any officer or director of any corporation or organization holding a registration, license, or permit refuse, to appear and/or testify under oath at an inquiry or hearing held by the office, with respect to any matter bearing upon the registration, license, or permit, the conduct of any people at the licensed premises, or bearing upon the character or fitness of such registrant, licensee, or permittee to continue to hold any registration, license, or permit. Nor shall any of the above offer false testimony under oath at such inquiry or hearing.

7. No registered organization, licensee, or permittee shall engage, participate in, or aid or abet any violation or provision of this chapter, or the rules or regulations of the office.

8. The proper conduct of registered, licensed, or permitted premises is essential to the public interest. Failure of a registered organization, licensee, or permittee to exercise adequate supervision over the registered, licensed, or permitted location poses a substantial risk not only to the objectives of this chapter but imperils the health, safety, and welfare of the people of this state. It shall be the obligation of each person registered, licensed, or permitted under this chapter to ensure that a high degree of supervision is exercised over any and all conduct at any registered, licensed, or permitted location at any and all times in order to safeguard against abuses of the privilege of being registered, licensed, or permitted, as well as other violations of law, statute, rule, or regulation. Persons registered, licensed, or permitted shall be held strictly accountable for any and all violations that occur upon any registered, licensed, or permitted premises, and for any and all violations committed by or permitted by any manager, agent or employee of such registered, licensed, or permitted person.

9. It shall be unlawful for any person, partnership or corporation operating a place for profit or pecuniary gain, with a capacity for the assemblage of twenty or more persons to permit a person or persons to come to the place of assembly for the purpose of cultivating, processing, distributing, or retail distribution or sale of cannabis on said premises. This includes, but is not limited, to, cannabis that is either provided by the operator of the place of assembly, his agents, servants or employees, or cannabis that is brought onto said premises by the person or persons assembling at such place, unless an appropriate registration, license, or permit has first been obtained from the office of cannabis management by the operator of said place of assembly.

10. As it is a privilege under the law to be registered, licensed, or permitted to cultivate, process, distribute, or sell cannabis, the office may impose any such further restrictions upon any registrant, licensee, or permittee in particular instances as it deems necessary to further state policy and best serve the public interest. A violation or failure of any person registered, licensed, or permitted to comply with any condition, stipulation, or agreement, upon which any registration, license, or permit was issued or renewed by the office shall subject the registrant, licensee, or permittee to suspension, cancellation, revocation, and/or civil penalties as determined by the office.

11. No adult-use cannabis or medical cannabis may be imported to, or exported out of, New York state by a registered organization, licensee or person holding a license and/or permit pursuant to this chapter, until such time as it may become legal to do so under federal law. Should it become legal to do so under federal law, the office is granted

the power to promulgate such rules and regulations as it deems necessary to protect the public and the policy of the state.

12. No registered organization, licensee or any of its agents, servants or employees shall sell any cannabis product, or medical cannabis from house to house by means of a truck or otherwise, where the sale is consummated and delivery made concurrently at the residence or place of business of a cannabis consumer. This subdivision shall not prohibit the delivery by a registered organization to certified patients or their designated caregivers, pursuant to article three of this chapter.

13. No licensee shall employ any canvasser or solicitor for the purpose of receiving an order from a certified patient, designated caregiver or cannabis consumer for any cannabis product, or medical cannabis at the residence or place of business of such patient, caregiver or consumer, nor shall any licensee receive or accept any order, for the sale of any cannabis product, or medical cannabis which shall be solicited at the residence or place of business of a patient, caregiver or consumer. This subdivision shall not prohibit the solicitation by a distributor of an order from any licensee at the licensed premises of such licensee.

§ 126. License to be confined to premises licensed; premises for which no license shall be granted; transporting cannabis. 1. A registration, license, or permit issued to any person, pursuant to this chapter, for any registered, licensed, or permitted premises shall not be transferable to any other person, to any other location or premises, or to any other building or part of the building containing the licensed premises except in the discretion of the office. All privileges granted by any registration, license, or permit shall be available only to the person therein specified, and only for the premises licensed and no other except if authorized by the office. Provided, however, that the provisions of this section shall not be deemed to prohibit the amendment of a registration or license as provided for in this chapter. A violation of this section shall subject the registration, license, or permit to revocation for cause.

2. Where a registration or license for premises has been revoked, the office in its discretion may refuse to issue a registration, license, or permit under this chapter, for a period of up to five years after such revocation, for such premises or for any part of the building containing such premises and connected therewith.

3. In determining whether to issue such a proscription against granting any registration, license, or permit for such five-year period, in addition to any other factors deemed relevant to the office, the office shall, in the case of a license revoked due to the illegal sale of cannabis to a minor, determine whether the proposed subsequent licensee has obtained such premises through an arm's length transaction, and, if such transaction is not found to be an arm's length transaction, the office shall deny the issuance of such license.

4. For purposes of this section, "arm's length transaction" shall mean a sale of a fee of all undivided interests in real property, lease, management agreement, or other agreement giving the applicant control over the cannabis at the premises, or any part thereof, in the open market, between an informed and willing buyer and seller where neither is under any compulsion to participate in the transaction, unaffected by any unusual conditions indicating a reasonable possibility that the sale was made for the purpose of permitting the original licensee to avoid the effect of the revocation. The following sales shall be presumed not to be arm's length transactions unless adequate documentation is

provided demonstrating that the sale, lease, management agreement, or other agreement giving the applicant control over the cannabis at the premises, was not conducted, in whole or in part, for the purpose of permitting the original licensee to avoid the effect of the revocation:

(a) a sale between relatives;

(b) a sale between related companies or partners in a business; or

(c) a sale, lease, management agreement, or other agreement giving the applicant control over the cannabis at the premises, affected by other facts or circumstances that would indicate that the sale, lease, management agreement, or other agreement giving the applicant control over the cannabis at the premises, is entered into for the primary purpose of permitting the original licensee to avoid the effect of the revocation.

5. No registered organization, licensee or permittee shall transport cannabis products or medical cannabis except in vehicles owned and operated by such registered organization, licensee or permittee, or hired and operated by such registered organization, licensee or permittee from a trucking or transportation company permitted and registered with the office.

6. No common carrier or person operating a transportation facility in this state, other than the United States government, shall receive for transportation or delivery within the state any cannabis products or medical cannabis unless the shipment is accompanied by copy of a bill of lading, or other document, showing the name and address of the consignor, the name and address of the consignee, the date of the shipment, and the quantity and kind of cannabis products or medical cannabis contained therein.

§ 127. Protections for the use of cannabis; unlawful discriminations prohibited. 1. No person, registered organization, licensee or permittee, employees, or their agents shall be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil liability or disciplinary action by a business or occupational or professional licensing board or office, solely for conduct permitted under this chapter. For the avoidance of doubt, the appellate division of the supreme court of the state of New York, and any disciplinary or character and fitness committees established by them are occupational and professional licensing boards within the meaning of this section. State or local law enforcement agencies shall not cooperate with or provide assistance to the government of the United States or any agency thereof in enforcing the federal controlled substances act solely for actions consistent with this chapter, except as pursuant to a valid court order.

2. No school or landlord may refuse to enroll or lease to and may not otherwise penalize a person solely for conduct allowed under this chapter, except as exempted:

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

(b) if the institution has adopted a code of conduct prohibiting cannabis use on the basis of religious belief; or

(c) if a property is registered with the New York smoke-free housing registry, it is not required to permit the smoking of cannabis products on its premises.

3. For the purposes of medical care, including organ transplants, a certified patient's authorized use of medical cannabis must be considered the equivalent of the use of any other medication under the direction of a practitioner and does not constitute the use of an illicit

substance or otherwise disqualify a registered qualifying patient from medical care.

4. It is the public policy of the state of New York to prohibit employers from discriminating against employees for legal activities occurring outside of the workplace. Nothing in this section shall interfere with an employer's obligation to provide a safe and healthy work place, free from recognized hazards, as required by state and federal occupation safety and health law or require an employer to commit any act that would cause the employer to be in violation of any other federal law, or that would result in the loss of a federal contract or federal funding.

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

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

7. As used in this section, "adverse employment action" means refusing to hire or employ, barring or discharging from employment, requiring a person to retire from employment, or discriminating against in compensation or in terms, conditions, or privileges of employment.

8. A person currently under parole, probation or other state supervision, or released on bail awaiting trial may not be punished or otherwise penalized for conduct allowed under this chapter.

9. No person may be denied custody of or visitation or parenting time with a minor, and there is no presumption of neglect or child endangerment for conduct allowed under section 222.05 of the penal law, unless the person's behavior creates an unreasonable danger to the safety of the minor as established by clear and convincing evidence. For the purposes of this section, an "unreasonable danger" determination cannot be based solely on whether, when, and how often a person uses cannabis without separate evidence of harm.

§ 128. Registrations and licenses. 1. No registration or license shall be transferable or assignable except that notwithstanding any other provision of law, the registration or license of a sole proprietor converting to corporate form, where such proprietor becomes the sole stockholder and only officer and director of such new corporation, may be transferred to the subject corporation if all requirements of this chapter remain the same with respect to such registration or license as transferred and, further, the registered organization or licensee shall transmit to the office, within ten days of the transfer of license allowable under this subdivision, on a form prescribed by the office, notification of the transfer of such license.

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

3. Licenses issued under this chapter shall contain, in addition to any further information or material to be prescribed by the rules of the office, the following information:

(a) name of the person to whom the license is issued;

(b) type of license and what type of cannabis commerce is thereby permitted;

(c) description by street and number, or otherwise, of licensed premises; and

(d) a statement in substance that such license shall not be deemed a property or vested right, and that it may be revoked at any time pursuant to law.

§ 129. Laboratory testing permits. 1. The executive director shall approve and permit one or more independent cannabis testing laboratories to test medical cannabis, adult-use cannabis and/or hemp extract.

2. To be permitted as an independent cannabis laboratory, a laboratory must apply to the office, on a form and in a manner prescribed by the office, and must demonstrate the following to the satisfaction of the executive director:

(a) the owners and directors of the laboratory are of good moral character;

(b) the laboratory and its staff has the skills, resources and expertise needed to accurately and consistently perform all of the testing required for adult-use cannabis, medical cannabis and/or hemp extract;

(c) the laboratory has in place and will maintain adequate policies, procedures, and facility security to ensure proper: collection, labeling, accessioning, preparation, analysis, result reporting, disposal and storage of adult-use cannabis, and/or medical cannabis;

(d) the laboratory is physically located in New York state;

(e) the laboratory has been approved by the department of health pursuant to Part 55-2 of Title 10 of the New York Codes, Rules and Regulations, pertaining to laboratories performing environmental analysis; and

(f) the laboratory meets any and all requirements prescribed by this chapter and by the executive director in regulation.

3. The owner of a laboratory testing permit under this section shall not hold a registration or license in any category of this chapter and shall not have any direct or indirect ownership interest in such registered organization or licensee. No board member, officer, manager, owner, partner, principal stakeholder or member of a registered organization or licensee under this chapter, or such person's immediate family member, shall have an interest or voting rights in any laboratory testing permittee.

4. The executive director shall require that the permitted laboratory report testing results to the office in a manner, form and timeframe as determined by the executive director.

5. The executive director is authorized to promulgate regulations, requiring permitted laboratories to perform certain tests and services.

6. A laboratory granted a laboratory testing permit under this chapter shall not required to be licensed by the federal drug enforcement agency.

§ 130. Special use permits. The office is hereby authorized to issue the following kinds of permits for carrying on activities consistent with the policy and purpose of this chapter with respect to cannabis. The executive director has the authority to set fees for all permits issued pursuant to this section, to establish the periods during which permits are authorized, and to make rules and regulations, including emergency regulations, to implement this section.

1. Industrial cannabis permit - to purchase cannabis from one of the entities licensed by the office for use in the manufacture and sale of any of the following, when such cannabis is not otherwise suitable for

consumption purposes, namely: (a) apparel, energy, paper, and tools; (b) scientific, chemical, mechanical and industrial products; or (c) any other industrial use as determined by the executive director in regulation.

2. Trucking permit - to allow for the trucking or transportation of cannabis products, or medical cannabis by a person other than a registered organization or licensee under this chapter.

3. Warehouse permit - to allow for the storage of cannabis, cannabis products, or medical cannabis at a location not otherwise registered or licensed by the office.

4. Cannabinoid permit - to sell cannabinoid products for off-premises consumption.

5. Temporary retail cannabis permit - to authorize the retail sale of adult-use cannabis to cannabis consumers, for a limited purpose or duration.

6. Caterer's permit - to authorize the service of cannabis products at a function, occasion or event in a hotel, restaurant, club, ballroom or other premises, which shall authorize within the hours fixed by the office, during which cannabis may lawfully be sold or served on the premises in which such function, occasion or event is held.

7. Packaging permit - to authorize a licensed cannabis distributor to sort, package, label and bundle cannabis products from one or more registered organizations or licensed processors, on the premises of the licensed cannabis distributor or at a warehouse for which a permit has been issued under this section.

8. Miscellaneous permits - to purchase, receive or sell cannabis, cannabis products or medical cannabis, or receipts, certificates, contracts or other documents pertaining to cannabis, cannabis products, or medical cannabis, in cases not expressly provided for by this chapter, when in the judgment of the office it would be appropriate and consistent with the policy and purpose of this chapter.

§ 131. Professional and medical record keeping. Any professional providing services in connection with a licensed or potentially licensed business under this chapter, or in connection with other conduct permitted under this chapter, and any medical professional providing medical care to a patient, other than a certified patient, may agree with their client or patient to maintain no record, or any reduced level of record keeping that professional and client or patient may agree. In case of such agreement, the professional's only obligation shall be to keep such records as agreed, and to keep a record of the agreement. Such reduced record keeping is conduct permitted under this chapter.

§ 132. Local opt-out; municipal control and preemption. 1. The provisions of article four of this chapter, authorizing the cultivation, processing, distribution and sale of adult-use cannabis to cannabis consumers, shall not be applicable to a town, city or village which, after a mandatory referendum held pursuant to section twenty-three of the municipal home rule law, adopts a local law to prohibit the establishment or operation of one or more types of licenses contained in article four of this chapter, within the jurisdiction of the town, city or village. Provided, however, that any town law shall apply to the area of the town outside of any village within such town.

2. Except as provided for in subdivision one of this section, all county, town, city and village governing bodies are hereby preempted from adopting any rule, ordinance, regulation or prohibition pertaining to the operation or licensure of registered organizations, adult-use cannabis licenses or hemp licenses. However, municipalities may pass

local laws and ordinances governing the time, place and manner of licensed adult-use cannabis retail dispensaries, provided such ordinance or regulation does not make the operation of such licensed retail dispensaries unreasonably impracticable as determined by the executive director in consultation with the cannabis advisory board.

§ 133. Personal cultivation. 1. Notwithstanding any provision of law to the contrary, a person over the age of twenty-one shall be able to plant, cultivate, harvest, dry or process cannabis for personal use subject to the following restrictions:

(a) all cultivation and processing shall be done in accordance with local ordinances; and

(b) the living plants and any cannabis produced by the plants in excess of three ounces must be kept within the person's private residence, or upon the grounds of that private residence (e.g., in an outdoor garden area), in a locked space, and not visible by normal unaided vision from a public place; and

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

2. A town, city or village may enact and enforce regulations to reasonably regulate the actions and conduct under this section. Regulations may not completely prohibit persons engaging in conduct made lawful under subdivision one of this section.

3. A violation of subdivision one of this section is a misdemeanor, punishable under section 222.10 of the penal law and subject to a local fine of not more than one hundred dollars.

§ 134. Executive director to be necessary party to certain proceedings. The executive director shall be made a party to all actions and proceedings affecting in any manner the ability of a registered organization or licensee to operate within a municipality, or the result of any vote thereupon; to all actions and proceedings relative to issuance or revocation of registrations, licenses or permits; to all injunction proceedings, and to all other civil actions or proceedings which in any manner affect the enjoyment of the privileges or the operation of the restrictions provided for in this chapter.

§ 135. Penalties for violation of this chapter. 1. Any person who cultivates for sale or sells cannabis, cannabis products, or medical cannabis without having an appropriate registration, license or permit therefor, or whose registration, license, or permit has been revoked, surrendered or cancelled, shall be subject to conviction as provided by article two hundred twenty-two of the penal law.

2. Any registered organization or licensee, whose registration or license has been suspended pursuant to the provisions of this chapter, who sells cannabis, cannabis products, medical cannabis or hemp extract during the suspension period, shall be subject to conviction as provided by article two hundred twenty-two of the penal law, and upon conviction thereof shall be punished by a fine of not more than five thousand dollars per instance.

3. Any person who shall make any false statement in the application for a registration, license or a permit under this chapter shall be subject to a fine of not more than five thousand dollars.

4. Any violation by any person of any provision of this chapter for which no punishment or penalty is otherwise provided shall be a misdemeanor.

5. Any person under the age of twenty-one found to be in possession of cannabis or cannabis products that is not a patient registered pursuant

to article three of this chapter shall be in violation of this chapter and shall be subject to the following penalty:

(a) (i) The person shall be subject to a fine of not more than twenty-five dollars. The fine shall be payable to the office of cannabis management.

(ii) Any identifying information provided by the enforcement agency for the purpose of facilitating payment of the fine shall not be shared or disclosed under any circumstances with any other agency or law enforcement division.

(b) The person shall, upon payment of the required fine, be provided with information related to the dangers of underage use of cannabis and information related to cannabis use disorder by the office of cannabis management.

(c) The issuance and subsequent payment of such fine shall in no way qualify as a criminal accusation, admission of guilt, or a criminal conviction and shall in no way operate as a disqualification of any such person from holding public office, attaining public employment, or as a forfeiture of any right or privilege.

6. Cannabis recovered from individuals who are found to be in violation of this chapter shall be considered a nuisance and shall be disposed of or destroyed.

§ 136. Revocation of registrations, licenses and permits for cause; procedure for revocation or cancellation. 1. Any registration, license or permit issued pursuant to this chapter may be revoked, cancelled, suspended and/or subjected to the imposition of a civil penalty for cause, and must be revoked for the following causes:

(a) conviction of the registered organization, licensee, permittee or his or her agent or employee for selling any illegal cannabis on the premises registered, licensed or permitted; or

(b) for transferring, assigning or hypothecating a registration, license or permit without prior written approval of the office.

2. Notwithstanding the issuance of a registration, license or permit by way of renewal, the office may revoke, cancel or suspend such registration, license or permit and/or may impose a civil penalty against any holder of such registration, license or permit, as prescribed by this section, for causes or violations occurring during the license period immediately preceding the issuance of such registration, license or permit.

3. (a) As used in this section, the term "for cause" shall also include the existence of a sustained and continuing pattern of misconduct, failure to adequately prevent diversion or disorder on or about the registered, licensed or permitted premises, or in the area in front of or adjacent to the registered or licensed premises, or in any parking lot provided by the registered organization or licensee for use by registered organization or licensee's patrons, which, in the judgment of the office, adversely affects or tends to affect the protection, health, welfare, safety, or repose of the inhabitants of the area in which the registered or licensed premises is located, or results in the licensed premises becoming a focal point for police attention, or is offensive to public decency.

(b) (i) As used in this section, the term "for cause" shall also include deliberately misleading the authority:

(A) as to the nature and character of the business to be operated by the registered organization, licensee or permittee; or

(B) by substantially altering the nature or character of such business during the registration or licensing period without seeking appropriate approvals from the office.

(ii) As used in this subdivision, the term "substantially altering the nature or character" of such business shall mean any significant alteration in the scope of business activities conducted by a registered organization, licensee or permittee that would require obtaining an alternate form of registration, license or permit.

4. As used in this chapter, the existence of a sustained and continuing pattern of misconduct, failure to adequately prevent diversion or disorder on or about the premises may be presumed upon the sixth incident reported to the office by a law enforcement agency, or discovered by the office during the course of any investigation, of misconduct, diversion or disorder on or about the premises or related to the operation of the premises, absent clear and convincing evidence of either fraudulent intent on the part of any complainant or a factual error with respect to the content of any report concerning such complaint relied upon by the office.

5. Notwithstanding any other provision of this chapter to the contrary, a suspension imposed under this section against the holder of a registration issued pursuant to article three of this chapter, shall only suspend the licensed activities related to the type of cannabis, medical cannabis or adult-use cannabis involved in the violation resulting in the suspension.

6. Any registration, license or permit issued by the office pursuant to this chapter may be revoked, cancelled or suspended and/or be subjected to the imposition of a monetary penalty in the manner prescribed by this section and by the executive director in regulation.

7. The office may on its own initiative, or on complaint of any person, institute proceedings to revoke, cancel or suspend any adult-use cannabis retail dispensary license or adult-use cannabis on-site consumption license and may impose a civil penalty against the licensee after a hearing at which the licensee shall be given an opportunity to be heard. Such hearing shall be held in such manner and upon such notice as may be prescribed in regulation by the executive director.

8. All other registrations, licenses or permits issued under this chapter may be revoked, cancelled, suspended and/or made subject to the imposition of a civil penalty by the office after a hearing to be held in such manner and upon such notice as may be prescribed in regulation by the executive director.

9. Where a licensee or permittee is convicted of two or more qualifying offenses within a five-year period, the office, upon receipt of notification of such second or subsequent conviction, shall, in addition to any other sanction or civil or criminal penalty imposed pursuant to this chapter, impose on such licensee a civil penalty not to exceed ten thousand dollars. For purposes of this subdivision, a qualifying offense shall mean the unlawful sale of cannabis to a person under the age of twenty-one. For purposes of this subdivision, a conviction of a licensee or an employee or agent of such licensee shall constitute a conviction of such licensee.

§ 137. Lawful actions pursuant to this chapter. 1. Contracts related to the operation of registered organizations, licenses and permits under this chapter shall be lawful and shall not be deemed unenforceable on the basis that the actions permitted pursuant to the registration, license or permit are prohibited by federal law.

2. The following actions are not unlawful as provided under this chapter, shall not be an offense under any state or local law, and shall not result in any civil fine, seizure, or forfeiture of assets, or be the basis for detention or search against any person acting in accordance with this chapter:

(a) Actions of a registered organization, licensee, or permittee, or the employees or agents of such registered organization, licensee or permittee, as permitted by this chapter and consistent with rules and regulations of the office, pursuant to a valid registration, license or permit issued by the office.

(b) Actions of those who allow property to be used by a registered organization, licensee, or permittee, or the employees or agents of such registered organization, licensee or permittee, as permitted by this chapter and consistent with rules and regulations of the office, pursuant to a valid registration, license or permit issued by the office.

(c) Actions of any person or entity, their employees, or their agents providing a service to a registered organization, licensee, permittee or a potential registered organization, licensee, or permittee, as permitted by this chapter and consistent with rules and regulations of the office, relating to the formation of a business.

(d) The purchase, possession, or consumption of cannabis, and medical cannabis, as permitted by law, and consistent with rules and regulations of the office.

§ 138. Review by courts. 1. The following actions by the office, and only the following actions by the office, shall be subject to review by the supreme court in the manner provided in article seventy-eight of the civil practice law and rules:

(a) Refusal by the office to issue a registration, license, or a permit.

(b) The revocation, cancellation or suspension of a registration, license, or permit by the office.

(c) The failure or refusal by the office to render a decision upon any application or hearing submitted to or held by the office within sixty days after such submission or hearing.

(d) The transfer by the office of a registration, license, or permit to any other entity or premises, or the failure or refusal by the office to approve such a transfer.

(e) Refusal to approve alteration of premises.

(f) Refusal to approve a corporate change in stockholders, stockholdings, officers or directors.

2. No stay shall be granted pending the determination of such matter except on notice to the office and only for a period of less than thirty days. In no instance shall a stay be granted where the office has issued a summary suspension of a registration, license, or permit for the protection of the public health, safety, and welfare.

§ 139. Illicit cannabis. 1. "Illicit cannabis" means and includes any cannabis product, or medical cannabis owned, cultivated, distributed, bought, sold, packaged, rectified, blended, treated, fortified, mixed, processed, warehoused, possessed or transported, or on which any tax required to have been paid under any applicable state law has not been paid.

2. Any person who shall knowingly possess or have under his or her control any cannabis known by the person to be illicit cannabis is guilty of a misdemeanor.

3. Any person who shall knowingly barter or exchange with, or sell, give or offer to sell or to give another any cannabis known by the person to be illicit cannabis is guilty of a misdemeanor.

4. Any person who shall possess or have under his or her control or transport any cannabis known by the person to be illicit cannabis with intent to barter or exchange with, or to sell or give to another the same or any part thereof is guilty of a misdemeanor. Such intent is presumptively established by proof that the person knowingly possessed or had under his or her control one or more ounces of illicit cannabis. This presumption may be rebutted.

5. Any person who, being the owner, lessee, or occupant of any room, shed, tenement, booth or building, float or vessel, or part thereof, knowingly permits the same to be used for the cultivation, processing, distribution, purchase, sale, warehousing, transportation, or storage of any illicit cannabis, is guilty of a misdemeanor.

§ 140. Persons forbidden to traffic cannabis; certain officials not to be interested in manufacture or sale of cannabis products. 1. The following are forbidden to traffic in cannabis:

(a) An individual who has been convicted of an offense related to the functions or duties of owning and operating a business within three years of the application date, except that if the office determines that the owner or licensee is otherwise suitable to be issued a license, and granting the license would not compromise public safety, the office shall conduct a thorough review of the nature of the crime, conviction, circumstances and evidence of rehabilitation of the owner, and shall evaluate the suitability of the owner or licensee to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the functions or duties of owning and operating a business, the office shall include, but not be limited to, the following:

(i) a felony conviction involving fraud, money laundering, forgery and other unlawful conduct related to owning and operating a business; and

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

(b) A person under the age of twenty-one years;

(c) A person who is not a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(d) A partnership or a corporation, unless each member of the partnership, or each of the principal officers and directors of the corporation, is a citizen of the United States or an alien lawfully admitted for permanent residence in the United States, not less than twenty-one years of age; provided however that a corporation which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal officers and more than one-half of its directors are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; and provided further that a corporation organized under the not-for-profit corporation law or the education law which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal officers and directors are not less than twenty-one years of age; and provided, further, that a corporation organized under the not-for-profit corporation law or the education law and located on the premises of a college as defined by section two of the education law which otherwise conforms

to the requirements of this section and chapter may be licensed if each of its principal officers and each of its directors are not less than twenty-one years of age;

(e) A person who shall have had any registration or license issued under this chapter revoked for cause, until the expiration of two years from the date of such revocation;

(f) A person not registered or licensed under the provisions of this chapter, who has been convicted of a violation of this chapter, until the expiration of two years from the date of such conviction; or

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

2. Except as may otherwise be provided for in regulation, it shall be unlawful for any police commissioner, police inspector, captain, sergeant, roundsman, patrolman or other police official or subordinate of any police department in the state, to be either directly or indirectly interested in the cultivation, processing, distribution, or sale of cannabis products or to offer for sale, or recommend to any registered organization or licensee any cannabis products. A person may not be denied any registration or license granted under the provisions of this chapter solely on the grounds of being the spouse of a public servant described in this section. The solicitation or recommendation made to any registered organization or licensee, to purchase any cannabis products by any police official or subordinate as hereinabove described, shall be presumptive evidence of the interest of such official or subordinate in the cultivation, processing, distribution, or sale of cannabis products.

3. No elective village officer shall be subject to the limitations set forth in subdivision two of this section unless such elective village officer shall be assigned duties directly relating to the operation or management of the police department.

§ 141. Access to criminal history information through the division of criminal justice services. In connection with the administration of this chapter, the executive director is authorized to request, receive and review criminal history information through the division of criminal justice services with respect to any person seeking a registration, license, permit or authorization to cultivate, process, distribute or sell medical cannabis, adult use cannabis or hemp extract. At the executive director's request, each person, member, principal and/or officer of the applicant shall submit to the office his or her fingerprints in such form and in such manner as specified by the division, for the purpose of conducting a criminal history search and returning a report thereon in accordance with the procedures and requirements established by the division pursuant to the provisions of article thirty-five of the executive law, which shall include the payment of the prescribed processing fees for the cost of the division's full search and retain procedures and a national criminal history record check. The executive director, or his or her designee, shall submit such fingerprints and the processing fee to the division. The division shall forward to the executive director a report with respect to the applicant's previous criminal history, if any, or a statement that the applicant has no previous criminal history according to its files. Fingerprints submitted to the division pursuant to this subdivision may also be submitted to the federal bureau of investigation for a national criminal history record check. If

additional copies of fingerprints are required, the applicant shall furnish them upon request.

§ 142. Severability. If any provision of this chapter or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared severable.

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

§ 3302. Definitions of terms of general use in this article. Except where different meanings are expressly specified in subsequent provisions of this article, the following terms have the following meanings:

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

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

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

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

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

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

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

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

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

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

[~~9.~~] **8.** "Dispense" means to deliver a controlled substance to an ultimate user or research subject by lawful means, including by means of the

internet, and includes the packaging, labeling, or compounding necessary to prepare the substance for such delivery.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) by a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

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

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

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

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

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

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

(c) opium poppy and poppy straw.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[~~37.~~] 35. "Electronic prescription" means a prescription issued with an electronic signature and transmitted by electronic means in accordance with regulations of the commissioner and the commissioner of education and consistent with federal requirements. A prescription generated on an electronic system that is printed out or transmitted via facsimile is not considered an electronic prescription and must be manually signed.

[~~38.~~] 36. "Electronic" means of or relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities. "Electronic" shall not include facsimile.

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

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

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

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

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

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

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

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

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

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

(13) [~~Marihuana.~~

~~(14)~~] Mescaline.

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

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

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

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

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

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

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

[/\] **delta** 1 cis or trans tetrahydrocannabinol, and their optical isomers

[/\] **delta** 6 cis or trans tetrahydrocannabinol, and their optical isomers

[/\] **delta** 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers (since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered).

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

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

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

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

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

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

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

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

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

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

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

§ 5. Section 3382 of the public health law is REPEALED.

§ 6. Title 5-A of article 33 of the public health law is REPEALED.

§ 7. Paragraph (d) of subdivision 3, subdivision 3-a and paragraphs (a) and (b) of subdivision 11 of section 1311 of the civil practice law and rules, paragraph (d) of subdivision 3 and subdivision 3-a as added by chapter 655 of the laws of 1990 and paragraphs (a) and (b) of subdivision 11 as amended by section 47 of part A1 of chapter 56 of the laws of 2010, are amended to read as follows:

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

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

(a) Any stipulation or settlement agreement between the parties to a forfeiture action shall be filed with the clerk of the court in which the forfeiture action is pending. No stipulation or settlement agreement

shall be accepted for filing unless it is accompanied by an affidavit from the claiming authority that written notice of the stipulation or settlement agreement, including the terms of such, has been given to the office of victim services, the state division of criminal justice services[~~, and in the case of a forfeiture based on a felony defined in article two hundred twenty or section 221.30 or 221.55 of the penal law, to the state division of substance abuse services~~].

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

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

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

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

§ 114-a. Drug. The term "drug" when used in this chapter, means and includes any substance listed in section thirty-three hundred six of the public health law **and any substance or combination of substances that impair physical and mental abilities**.

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

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

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

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

21. "Concentrated cannabis" means:

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

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

22. "Cannabis products" means cannabis, concentrated cannabis, and cannabis-infused products containing concentrated cannabis and other ingredients.

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

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

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

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

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

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

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

§ 220.50 Criminally using drug paraphernalia in the second degree.

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

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

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

3. Scales and balances used or designed for the purpose of weighing or measuring controlled substances, under circumstances evincing an intent to use, or under circumstances evincing knowledge that some person intends to use, the same for purpose of unlawfully manufacturing, pack-

aging or dispensing of any narcotic drug or stimulant, other than cannabis or concentrated cannabis.

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

§ 15. Article 221 of the penal law is REPEALED.

§ 16. The penal law is amended by adding a new article 222 to read as follows:

ARTICLE 222
CANNABIS

Section 222.00 Cannabis; definitions.
222.05 Personal use of cannabis.
222.10 Unlawful cultivation of cannabis.
222.15 Licensing of cannabis production and distribution.
222.20 Unlawful possession of cannabis.
222.25 Unlicensed sale of cannabis in the second degree.
222.30 Unlicensed sale of cannabis in the first degree.
222.35 Sale of cannabis to a person less than twenty-one years of age in the second degree.
222.40 Sale of cannabis to a person less than twenty-one years of age in the first degree.

§ 222.00 Cannabis; definitions.

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

2. "Concentrated cannabis" means:

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

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

3. "Cannabis-infused products" means products that have been manufactured and contain either cannabis or concentrated cannabis and other ingredients that are intended for use or consumption.

4. "Mature cannabis plant" means a cannabis plant with observable flowers or buds.

5. For the purposes of this article, "sale" shall mean to sell, exchange or dispose of for compensation. "Sale" shall not include the transfer of cannabis, concentrated cannabis or cannabis-infused product between persons twenty-one years of age or older without compensation in the quantities authorized in paragraph (b) of subdivision one of section 222.05 of this article.

§ 222.05 Personal use of cannabis.

Notwithstanding any other provision of law to the contrary:

1. The following acts are lawful for persons twenty-one years of age or older: (a) possessing, displaying, purchasing, obtaining, or trans-

porting up to three ounces of cannabis and up to twenty-four grams of concentrated cannabis, or equivalent amount of cannabis-infused products;

(b) transferring, without compensation, to a person twenty-one years of age or older, up to three ounces of cannabis and up to twenty-four grams of concentrated cannabis, or equivalent amount of cannabis-infused products;

(c) using, smoking, ingesting, or consuming cannabis, concentrated cannabis or cannabis-infused products unless otherwise prohibited by state law or regulation;

(d) possessing, using, displaying, purchasing, obtaining, manufacturing, transporting or giving to any person twenty-one years of age or older cannabis paraphernalia or concentrated cannabis paraphernalia; and

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

2. Cannabis, concentrated cannabis, cannabis-infused products, cannabis paraphernalia or concentrated cannabis paraphernalia involved in any way with conduct deemed lawful by this section are not contraband nor subject to seizure or forfeiture of assets under article four hundred eighty of this chapter, section thirteen hundred eleven of the civil practice law and rules, or other applicable law, and no conduct deemed lawful by this section shall constitute the basis for approach, search, seizure, arrest or detention.

3. Except as provided in subdivision four of this section, none of the following shall, individually or in combination with each other, constitute reasonable suspicion of a crime or be used as evidence of probable cause in any criminal proceeding against a defendant twenty-one years of age or older:

(a) the odor of cannabis or of burnt cannabis;

(b) the possession of or the suspicion of possession of cannabis, concentrated cannabis or cannabis-infused products in the amounts authorized in this section;

(c) the possession of multiple containers of cannabis without evidence of possession of more than three ounces of cannabis, twenty-four grams of concentrated cannabis or the equivalent amount of cannabis-infused products; or

(d) the presence of cash or currency in proximity to cannabis, concentrated cannabis or cannabis-infused products.

4. Subdivision three of this section shall not apply when a law enforcement officer is investigating: (a) an alleged offense pursuant to section 222.20, 222.25, 222.30, 222.35 or 222.40 of this article; or (b) whether a person is operating or in physical control of a vehicle or watercraft while intoxicated, under the influence of, or impaired by alcohol or a drug or any combination thereof in violation of article thirty-one of the vehicle and traffic law.

5. (a) Nothing in this section shall be construed to permit any person to:

(i) smoke cannabis in public;

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

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

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

(b) For purposes of this section:

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

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

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

§ 222.10 Unlawful cultivation of cannabis.

A person is guilty of unlawful cultivation of cannabis when he or she knowingly and unlawfully plants, cultivates, harvests, dries, or processes cannabis on public lands or otherwise in violation of article six of the cannabis law.

Unlawful cultivation of cannabis is a class B misdemeanor.

§ 222.15 Licensing of cannabis production and distribution.

The criminal penalties pursuant to the provisions of this article for possessing, manufacturing, transporting, distributing, selling or transferring cannabis, concentrated cannabis or cannabis-infused products shall not apply to any person engaged in such activity in compliance with the cannabis law.

§ 222.20 Unlawful possession of cannabis.

A person is guilty of unlawful possession of cannabis when he or she knowingly and unlawfully possesses:

1. cannabis and such cannabis weighs more than three ounces; or

2. concentrated cannabis and such concentrated cannabis weighs more than twenty-four grams; or

3. equivalent amount of cannabis-infused products.

Unlawful possession of cannabis is a violation punishable by a fine of not more than one hundred twenty-five dollars.

§ 222.25 Unlicensed sale of cannabis in the second degree.

1. A person is guilty of unlicensed sale of cannabis in the second degree when he or she knowingly and unlawfully sells up to three ounces of cannabis, or twenty-four grams of concentrated cannabis or equivalent amount of cannabis-infused products.

2. A violation of this section is subject to the following penalties, as applicable:

(a) violation punishable by a fine of not more than one hundred twenty-five dollars;

(b) if, within the previous five years, the defendant was convicted of the crime of unlicensed sale of cannabis in the first degree, sale of cannabis to a person less than twenty-one years of age in the second degree, sale of cannabis to a person less than twenty-one years of age in the first degree or this section, then a violation punishable by a fine of not more than two hundred fifty dollars for a second such offense; or

(c) if, within the previous five years, the defendant was convicted of the crime of unlicensed sale of cannabis in the first degree, sale of cannabis to a person less than twenty-one years of age in the second degree, sale of cannabis to a person less than twenty-one years of age

in the first degree or this section, then a class B misdemeanor for such third or subsequent offense.

§ 222.30 Unlicensed sale of cannabis in the first degree.

1. A person is guilty of unlicensed sale of cannabis in the first degree when he or she knowingly and unlawfully sells more than three ounces of cannabis, more than twenty-four grams of concentrated cannabis or the equivalent amount of cannabis-infused products.

2. A violation of this section is subject to the following penalties, as applicable:

(a) a violation punishable by a fine of not more than two hundred fifty dollars;

(b) if, within the previous five years, the defendant was convicted of the crime of unlicensed sale of cannabis in the second degree, sale of cannabis to a person less than twenty-one years of age in the second degree, sale of cannabis to a person less than twenty-one years of age in the first degree or this section, then a violation punishable by a fine of not more than five hundred dollars for such second offense; or

(c) if, within the previous five years, the defendant was convicted of the crime of unlicensed sale of cannabis in the second degree, sale of cannabis to a person less than twenty-one years of age in the second degree, sale of cannabis to a person less than twenty-one years of age in the first degree or this section, then a class A misdemeanor for such third or subsequent offense.

§ 222.35 Sale of cannabis to a person less than twenty-one years of age in the second degree.

A person twenty-one years of age or older is guilty of the sale of cannabis to a person less than twenty-one years of age in the second degree when, being twenty-one years of age or older, he or she knowingly and unlawfully sells cannabis, concentrated cannabis or cannabis-infused products to a person less than twenty-one years of age.

Sale of cannabis to a person under twenty-one years of age in the second degree is a class A misdemeanor.

§ 222.40 Sale of cannabis to a person less than twenty-one years of age in the first degree.

A person twenty-one years of age and older is guilty of the sale of cannabis to a person under twenty-one years of age in the first degree when, being twenty-one years of age or older, he or she knowingly and unlawfully sells more than three ounces of cannabis, more than twenty-four grams of concentrated cannabis or the equivalent amount of cannabis-infused products.

Sale of cannabis to a person less than twenty-one years of age in the first degree is a class E felony.

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

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

§ 18. Section 1.20 of the criminal procedure law is amended by adding a new subdivision 45 to read as follows:

45. "Expunge" means, where an arrest and any enforcement activity connected with that arrest, including prosecution and any disposition in any New York state court, is deemed a nullity and the accused is restored, in contemplation of the law, to the status such individual

occupied before the arrest and/or prosecution; that records of such arrest, prosecution and/or disposition shall be marked as expunged or shall be destroyed as set forth in section 160.50 of this chapter. Neither the arrest nor prosecution and/or disposition, if any, of a matter deemed a nullity shall operate as a disqualification of any person so accused to pursue or engage in any lawful activity, occupation, profession or calling. Except where specifically required or permitted by statute or upon specific authorization of a superior court, no such person shall be required to divulge information pertaining to the arrest, prosecution and/or disposition of such a matter.

§ 19. Subdivision 1 of section 160.50 of the criminal procedure law, as amended by chapter 169 of the laws of 1994, paragraph (d) as amended by chapter 449 of the laws of 2015, is amended and a new subdivision 1-a is added to read as follows:

1. Upon the termination of a criminal action or proceeding against a person in favor of such person, as defined in subdivision three of this section, unless the district attorney upon motion with not less than five days notice to such person or his or her attorney demonstrates to the satisfaction of the court that the interests of justice require otherwise, or the court on its own motion with not less than five days notice to such person or his or her attorney determines that the interests of justice require otherwise and states the reasons for such determination on the record, [~~the record of such action or proceeding shall be sealed and the clerk of the court wherein such criminal action or proceeding was terminated shall immediately notify the commissioner of the division of criminal justice services and the heads of all appropriate police departments and other law enforcement agencies that the action has been terminated in favor of the accused, and unless the court has directed otherwise, that the record of such action or proceeding shall be sealed. Upon receipt of notification of such termination and sealing~~] such action or proceeding shall be deemed a nullity and records of such action or proceeding expunged, and the clerk of the court wherein such criminal action or proceeding was terminated shall immediately notify the commissioner of the division of criminal justice services and the heads of all appropriate police departments and other law enforcement agencies that the action has been terminated in favor of the accused and deemed a nullity, and unless the court has directed otherwise, that the record of or relating to such action or proceeding shall be immediately expunged as follows:

(a) every photograph of such person and photographic plate or proof, and all palmprints and fingerprints, retina scans or DNA material taken or made of such person pursuant to the provisions of this article in regard to the action or proceeding terminated, [~~except a dismissal pursuant to section 170.56 or 210.46 of this chapter,~~] and all duplicates and copies thereof, except a digital fingerprint image where authorized pursuant to paragraph (e) of this subdivision, shall forthwith be[~~, at the discretion of the recipient agency, either~~] destroyed [~~or returned to such person, or to the attorney who represented such person~~] at the time of the termination of the action or proceeding[~~, at the address given by such person or attorney during the action or proceeding,~~] by the division of criminal justice services and by any police department or law enforcement agency having any such photograph, photographic plate or proof, palmprint [~~or~~], fingerprints, retina scans or DNA material in its possession or under its control;

(b) any police department or law enforcement agency, including the division of criminal justice services, which transmitted or otherwise

forwarded to any agency of the United States or of any other state or of any other jurisdiction outside the state of New York copies of any such photographs, photographic plates or proofs, palmprints [~~and~~], finger-prints, retina scans or DNA material, including those relating to actions or proceedings which were dismissed pursuant to section 170.56 or 210.46 of this [~~chapter~~] part, shall forthwith formally [~~request in~~] inform them in writing that [~~all such copies be destroyed or returned to the police department or law enforcement agency which transmitted or forwarded them, and, if returned, such department or agency shall, at its discretion, either destroy or return them as provided herein, except that those relating to dismissals pursuant to section 170.56 or 210.46 of this chapter shall not be destroyed or returned by such department or agency~~] the matter has been expunged and request in writing that all such copies be destroyed;

(c) all official records and papers, including judgments and orders of a court but not including published court decisions or opinions or records and briefs on appeal, relating to the arrest or prosecution, including all duplicates and copies thereof, on file with the division of criminal justice services, any court, police agency, or prosecutor's office shall be [~~sealed and not made available to any person or public or private agency~~] marked as expunged by conspicuously indicating on the face of the record or at the beginning of the digitized file of the record that the record has been designated as expunged. Such records and papers shall be sealed and not be made available to any person, except the individual whose case has been deemed a nullity or their designated agent as set forth in paragraph (d) of this subdivision, or to any public or private agency;

(d) [~~such~~] records set forth in paragraph (c) of this subdivision shall be made available to the person accused or to such person's designated agent, and shall be made available to (i) a prosecutor in any proceeding in which the accused has moved for an order pursuant to section 170.56 or 210.46 of this [~~chapter~~] part, or (ii) a law enforcement agency upon ex parte motion in any superior court, or in any district court, city court or the criminal court of the city of New York provided that such court originally sealed or expunged the record, if such agency demonstrates to the satisfaction of the court that justice requires that such records be made available to it, or (iii) any state or local officer or agency with responsibility for the issuance of licenses to possess guns, when the accused has made application for such a license, or (iv) the New York state department of corrections and community supervision when the accused is on parole supervision as a result of conditional release or a parole release granted by the New York state board of parole, and the arrest which is the subject of the inquiry is one which occurred while the accused was under such supervision, or (v) any prospective employer of a police officer or peace officer as those terms are defined in subdivisions thirty-three and thirty-four of section 1.20 of this chapter, in relation to an application for employment as a police officer or peace officer; provided, however, that every person who is an applicant for the position of police officer or peace officer shall be furnished with a copy of all records obtained under this paragraph and afforded an opportunity to make an explanation thereto, or (vi) the probation department responsible for supervision of the accused when the arrest which is the subject of the inquiry is one which occurred while the accused was under such supervision; and

(e) where fingerprints subject to the provisions of this section have been received by the division of criminal justice services and have been filed by the division as digital images, such images may be retained, provided that a fingerprint card of the individual is on file with the division which was not [~~sealed~~] **destroyed** pursuant to this section or section 160.55 of this article.

(1-a) Cases previously sealed pursuant to this section shall be deemed expunged, and digital records shall be so marked.

§ 20. Paragraphs (i), (j) and (k) of subdivision 3 of section 160.50 of the criminal procedure law, paragraphs (i) and (j) as added by chapter 905 of the laws of 1977, paragraph (k) as added by chapter 835 of the laws of 1977 and as relettered by chapter 192 of the laws of 1980 and such subdivision as renumbered by chapter 142 of the laws of 1991, are amended to read as follows:

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

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

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

§ 21. Subdivision 4 of section 160.50 of the criminal procedure law is REPEALED, and three new subdivisions 4, 5, and 6 are added to read as follows:

4. Where a criminal action or proceeding was terminated, as defined in paragraph (k) of subdivision three of this section, prior to the effective date of this subdivision, such criminal action or proceeding shall

be automatically vacated and dismissed, and all records of such action or proceeding expunged as set forth in subdivision one of this section, and the matter terminated in favor of the accused and deemed a nullity, because the prior conviction is now legally invalid. OCA shall automatically notify the commissioner of the division of criminal justice services and the heads of all appropriate police departments and other law enforcement agencies that the prior conviction is now legally invalid and that the action has been vacated, dismissed and expunged and thus terminated in favor of the accused. Upon receipt of notification of such vacatur, termination and expungement, all records relating to the criminal action shall be expunged as described in subdivision one of this section.

5. In situations where automatic vacatur, dismissal, expungement and record destruction is required by subdivision four of this section but has not taken place, or where supporting court records cannot be located or have been destroyed, and an individual or their attorney presents to OCA fingerprint records from the New York state division of criminal justice services or a court disposition which indicate that a criminal action or proceeding against the applicant was terminated by a conviction for section 221.05, 221.10 221.15, 221.20, 221.25, 221.30, 221.35, or 221.40 of the penal law in effect prior to the effective date of this subdivision, within thirty days of notice to OCA, the action shall forthwith be vacated, dismissed, and expunged as set forth in subdivision one of this section.

6. Vacatur, dismissal and expungement as set forth in subdivision four or subdivision five of this section is without prejudice to an individual or their attorney seeking further relief pursuant to section 440.10 of this part. Nothing in this section is intended to diminish or abrogate any rights or remedies otherwise available to the individual.

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

1. Upon or after arraignment in a local criminal court upon an information, a prosecutor's information or a misdemeanor complaint, where the sole remaining count or counts charge a violation or violations of section [~~221.05, 221.10, 221.15, 221.35 or 221.40~~] 221.45 of the penal law, or upon summons for a nuisance offense under section sixty-five-c of the alcoholic beverage control law and before the entry of a plea of guilty thereto or commencement of a trial thereof, the court, upon motion of a defendant, may order that all proceedings be suspended and the action adjourned in contemplation of dismissal, or upon a finding that adjournment would not be necessary or appropriate and the setting forth in the record of the reasons for such findings, may dismiss in furtherance of justice the accusatory instrument; provided, however, that the court may not order such adjournment in contemplation of dismissal or dismiss the accusatory instrument if: (a) the defendant has previously been granted such adjournment in contemplation of dismissal, or (b) the defendant has previously been granted a dismissal under this section, or (c) the defendant has previously been convicted of any offense involving controlled substances, or (d) the defendant has previously been convicted of a crime and the district attorney does not consent or (e) the defendant has previously been adjudicated a youthful offender on the basis of any act or acts involving controlled substances and the district attorney does not consent. Notwithstanding the limitations set forth in this subdivision, the court may order that all proceedings be suspended and the action adjourned in contemplation of

dismissal based upon a finding of exceptional circumstances. For purposes of this subdivision, exceptional circumstances exist when, regardless of the ultimate disposition of the case, the entry of a plea of guilty is likely to result in severe or ongoing consequences, including, but not limited to, potential or actual immigration consequences.

§ 23. Paragraph (j) of subdivision 1 of section 440.10 of the criminal procedure law, as amended by section 2 of part MMM of chapter 59 of the laws of 2019, is amended and a new paragraph (k) is added to read as follows:

(j) The judgment is a conviction for a class A or unclassified misdemeanor entered prior to the effective date of this paragraph and satisfies the ground prescribed in paragraph (h) of this subdivision. There shall be a rebuttable presumption that a conviction by plea to such an offense was not knowing, voluntary and intelligent, based on ongoing collateral consequences, including potential or actual immigration consequences, and there shall be a rebuttable presumption that a conviction by verdict constitutes cruel and unusual punishment under section five of article one of the state constitution based on such consequences[~~.~~]; or

(k) if pertinent, such relief is available notwithstanding that the judgment was for a violation of section 221.05, 221.10, 221.15, 221.20, 221.25, 221.30, 221.35, or 221.40 of the penal law in effect prior to the effective date of this paragraph and that the underlying action or proceeding has already been vacated, dismissed and expunged pursuant to subdivision four or subdivision five of section 160.50 of this chapter in which case the court shall presume that a conviction by plea for a violation of the aforementioned sections of the then penal law was not knowing, voluntary and intelligent, if it has ongoing consequences, including but not limited to, potential or actual immigration consequences, and shall presume that a conviction by verdict of the aforementioned sections of the then penal law constitutes cruel and unusual punishment under the state constitution, based on those consequences. The prosecution may rebut these presumptions.

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

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

1. Where a person is currently serving a sentence for a conviction, whether by verdict or by open or negotiated plea, who would not have been guilty of an offense after the effective date of this section had this section been in effect at the time of their conviction, the office of court administration shall automatically vacate, dismiss and expunge such conviction pursuant to subdivision four of section 160.50 of this part and immediately notify the New York state department of corrections and community supervision and local jails, which entities shall immediately effectuate the appropriate relief. The office of court administration shall likewise automatically notify the division of criminal justice services and any police department and law enforcement agency, which division, department or agency must immediately destroy appurtenant records as set forth in subdivision four of section 160.50 of this part.

2. (a) A person currently serving a sentence for a conviction, whether by verdict or by open or negotiated plea, who would have been guilty of a lesser offense after the effective date of this section had this section been in effect at the time of their conviction may petition for a recall of sentence before the trial court that entered the judgment of

conviction in their case to request resentencing in accordance with article two hundred twenty-two of the penal law.

(b) Upon receiving a motion under paragraph (a) of this subdivision, the court shall presume the movant satisfies the criteria in such paragraph (a) unless the party opposing the motion proves by clear and convincing evidence that the movant does not satisfy the criteria. If the movant satisfies the criteria in paragraph (a) of this subdivision, the court shall grant the motion to resentence.

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

4. (a) A person who has completed his or her sentence for a conviction under the former article two hundred twenty-one of the penal law, whether by trial or open or negotiated plea, who would have been guilty of a lesser offense on and after the effective date of this section had this section been in effect at the time of his or her conviction, may file an application before the trial court that entered the judgment of conviction in his or her case to have the conviction redesignated (or "reclassified"), in accordance with article two hundred twenty-two of the penal law.

(b) Upon receiving a motion under paragraph (a) of this subdivision, the court shall presume the movant satisfies the criteria in paragraph (a) of this subdivision unless the party opposing the motion proves by clear and convincing evidence that the movant does not satisfy the criteria. If the movant satisfies the criteria in paragraph (a) of this subdivision, the court shall grant the motion to redesignate (or "reclassify") the conviction.

5. (a) If the court that originally sentenced the movant is not available, the presiding judge shall designate another judge to rule on the petition or application.

(b) Unless requested by the movant, no hearing is necessary to grant an application filed under subdivision two or four of this section.

(c) Any felony conviction that is vacated and resentenced under subdivision two of this section or designated as a misdemeanor or violation under subdivision four of this section shall be considered a misdemeanor or violation for all purposes. Any misdemeanor conviction that is vacated and resentenced under subdivision two of this section or designated as a violation under subdivision four of this section shall be considered a violation for all purposes.

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

(e) Nothing in this and related sections is intended to diminish or abrogate the finality of judgments in any case not falling within the purview of this section.

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

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

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

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

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

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

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

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

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

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

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

13. "Serious offense" shall mean any felony involving the offenses enumerated in the closing paragraph of this subdivision; a criminal solicitation of or a conspiracy to commit or an attempt to commit or a criminal facilitation of a felony involving the offenses enumerated in the closing paragraph of this subdivision, which criminal solicitation, conspiracy, attempt or criminal facilitation itself constitutes a felony or any offense in any other jurisdiction which if committed in this state would constitute a felony; any offense in any other jurisdiction which if committed in this state would constitute a felony provided that for the purposes of this article, none of the following shall be considered criminal convictions or reported as such: (i) a conviction for which an executive pardon has been issued pursuant to the executive law; (ii) a conviction which has been vacated and replaced by a youthful offender finding pursuant to article seven hundred twenty of the criminal procedure law, or the applicable provisions of law of any other jurisdiction; or (iii) a conviction the records of which have been sealed pursuant to the applicable provisions of the laws of this state or of any other jurisdiction; and (iv) a conviction for which other evidence of successful rehabilitation to remove the disability has been issued.

Felonies involving: assault, aggravated assault and reckless endangerment pursuant to article one hundred twenty; vehicular manslaughter, manslaughter and murder pursuant to article one hundred twenty-five; sex

offenses pursuant to article one hundred thirty; unlawful imprisonment, kidnapping or coercion pursuant to article one hundred thirty-five; criminal trespass and burglary pursuant to article one hundred forty; criminal mischief, criminal tampering and tampering with a consumer product pursuant to article one hundred forty-five; arson pursuant to article one hundred fifty; larceny and offenses involving theft pursuant to article one hundred fifty-five; offenses involving computers pursuant to article one hundred fifty-six; robbery pursuant to article one hundred sixty; criminal possession of stolen property pursuant to article one hundred sixty-five; forgery and related offenses pursuant to article one hundred seventy; involving false written statements pursuant to article one hundred seventy-five; commercial bribing and commercial bribe receiving pursuant to article one hundred eighty; criminal impersonation and scheme to defraud pursuant to article one hundred ninety; bribery involving public servants and related offenses pursuant to article two hundred; perjury and related offenses pursuant to article two hundred ten; tampering with a witness, intimidating a victim or witness and tampering with physical evidence pursuant to article two hundred fifteen; criminal possession of a controlled substance pursuant to sections 220.06, 220.09, 220.16, 220.18 and 220.21; criminal sale of a controlled substance pursuant to sections 220.31, 220.34, 220.39, 220.41, 220.43 and 220.44; [~~criminal~~] **unlicensed** sale of [~~marijuana~~] **cannabis in the first degree** pursuant to [~~sections 221.45, 221.50 and 221.55~~] **section 222.30**; riot in the first degree, aggravated harassment in the first degree, criminal nuisance in the first degree and falsely reporting an incident in the second or first degree pursuant to article two hundred forty; and crimes against public safety pursuant to article two hundred sixty-five of the penal law.

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

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

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

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

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

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

(b) three or more violations of any of the felonies defined in section 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41, 220.43[~~,~~] **or** 220.77[~~, or 221.55~~] of this chapter, which violations do not constitute a single criminal offense as defined in subdivision one of section 40.10 of the criminal procedure law, or a single criminal transaction, as defined in paragraph (a) of subdivision two of section 40.10 of the criminal procedure law, and at least one of which resulted

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

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

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

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

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

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

§ 34. The article heading of article 20-B of the tax law, as added by chapter 90 of the laws of 2014, is amended to read as follows:

ARTICLE 20-B

EXCISE TAX ON MEDICAL [~~MARIHUANA~~] **CANNABIS**

§ 35. Subdivision 1 of section 171-a of the tax law, as amended by section 3 of part XX of chapter 59 of the laws of 2019, is amended to read as follows:

1. All taxes, interest, penalties and fees collected or received by the commissioner or the commissioner's duly authorized agent under articles nine (except section one hundred eighty-two-a thereof and except as otherwise provided in section two hundred five thereof), nine-A, twelve-A (except as otherwise provided in section two hundred eighty-four-d thereof), thirteen, thirteen-A (except as otherwise provided in section three hundred twelve thereof), eighteen, nineteen, twenty (except as otherwise provided in section four hundred eighty-two thereof), twenty-B, **twenty-C,** twenty-D, twenty-one, twenty-two, twenty-four, twenty-six, twenty-eight (except as otherwise provided in section eleven hundred two or eleven hundred three thereof), twenty-eight-A, twenty-nine-B, thirty-one (except as otherwise provided in section fourteen hundred twenty-one thereof), thirty-three and thirty-three-A of this chapter shall be deposited daily in one account with such responsible banks, banking houses or trust companies as may be designated by the comptroller, to the credit of the comptroller. Such an account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected or received under such articles of this chapter, the comptroller shall retain in the comptroller's hands such amount as the commissioner may determine to be necessary for refunds or reimbursements under such articles of this chapter out of which amount the comptroller shall pay any refunds or reimbursements to which taxpayers shall be entitled under the provisions of such articles of this chapter. The commissioner and the comptroller shall maintain a system of accounts showing the amount of revenue collected or received from each of the taxes imposed by such articles. The comptroller, after reserving the amount to pay such refunds or reimbursements, shall, on or before the tenth day of each month, pay into the state treasury to the credit of the general fund all revenue deposited under this section during the preceding calendar month and remaining to the comptroller's credit on the last day of such preceding month, (i) except that the comptroller shall pay to the state department of social services that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against past-due support pursuant to subdivision six of section one hundred seventy-one-c of this article, (ii) and except that the comptroller shall pay to the New York state higher education services corporation and the state university of New York or the city university of New York respectively that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against the amount of defaults in repayment of guaranteed student loans and state university loans or city university loans pursuant to subdivision five of section one hundred seventy-one-d and subdivision six of section one hundred seventy-one-e of this article, (iii) and except further that, notwithstanding any law, the comptroller shall credit to the revenue arrearage account, pursuant to section ninety-one-a of the state finance law, that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter, and any interest thereon, which is

certified to the comptroller by the commissioner as the amount to be credited against a past-due legally enforceable debt owed to a state agency pursuant to paragraph (a) of subdivision six of section one hundred seventy-one-f of this article, provided, however, he shall credit to the special offset fiduciary account, pursuant to section ninety-one-c of the state finance law, any such amount creditable as a liability as set forth in paragraph (b) of subdivision six of section one hundred seventy-one-f of this article, (iv) and except further that the comptroller shall pay to the city of New York that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any interest thereon that is certified to the comptroller by the commissioner as the amount to be credited against city of New York tax warrant judgment debt pursuant to section one hundred seventy-one-l of this article, (v) and except further that the comptroller shall pay to a non-obligated spouse that amount of overpayment of tax imposed by article twenty-two of this chapter and the interest on such amount which has been credited pursuant to section one hundred seventy-one-c, one hundred seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or one hundred seventy-one-l of this article and which is certified to the comptroller by the commissioner as the amount due such non-obligated spouse pursuant to paragraph six of subsection (b) of section six hundred fifty-one of this chapter; and (vi) the comptroller shall deduct a like amount which the comptroller shall pay into the treasury to the credit of the general fund from amounts subsequently payable to the department of social services, the state university of New York, the city university of New York, or the higher education services corporation, or the revenue arrearage account or special offset fiduciary account pursuant to section ninety-one-a or ninety-one-c of the state finance law, as the case may be, whichever had been credited the amount originally withheld from such overpayment, and (vii) with respect to amounts originally withheld from such overpayment pursuant to section one hundred seventy-one-l of this article and paid to the city of New York, the comptroller shall collect a like amount from the city of New York.

§ 36. Subdivision 1 of section 171-a of the tax law, as amended by section 4 of part XX of chapter 59 of the laws of 2019, is amended to read as follows:

1. All taxes, interest, penalties and fees collected or received by the commissioner or the commissioner's duly authorized agent under articles nine (except section one hundred eighty-two-a thereof and except as otherwise provided in section two hundred five thereof), nine-A, twelve-A (except as otherwise provided in section two hundred eighty-four-d thereof), thirteen, thirteen-A (except as otherwise provided in section three hundred twelve thereof), eighteen, nineteen, twenty (except as otherwise provided in section four hundred eighty-two thereof), **twenty-C,** twenty-D, twenty-one, twenty-two, twenty-four, twenty-six, twenty-eight (except as otherwise provided in section eleven hundred two or eleven hundred three thereof), twenty-eight-A, twenty-nine-B, thirty-one (except as otherwise provided in section fourteen hundred twenty-one thereof), thirty-three and thirty-three-A of this chapter shall be deposited daily in one account with such responsible banks, banking houses or trust companies as may be designated by the comptroller, to the credit of the comptroller. Such an account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. The comptroller shall require adequate security from all

such depositories. Of the total revenue collected or received under such articles of this chapter, the comptroller shall retain in the comptroller's hands such amount as the commissioner may determine to be necessary for refunds or reimbursements under such articles of this chapter out of which amount the comptroller shall pay any refunds or reimbursements to which taxpayers shall be entitled under the provisions of such articles of this chapter. The commissioner and the comptroller shall maintain a system of accounts showing the amount of revenue collected or received from each of the taxes imposed by such articles. The comptroller, after reserving the amount to pay such refunds or reimbursements, shall, on or before the tenth day of each month, pay into the state treasury to the credit of the general fund all revenue deposited under this section during the preceding calendar month and remaining to the comptroller's credit on the last day of such preceding month, (i) except that the comptroller shall pay to the state department of social services that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against past-due support pursuant to subdivision six of section one hundred seventy-one-c of this article, (ii) and except that the comptroller shall pay to the New York state higher education services corporation and the state university of New York or the city university of New York respectively that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against the amount of defaults in repayment of guaranteed student loans and state university loans or city university loans pursuant to subdivision five of section one hundred seventy-one-d and subdivision six of section one hundred seventy-one-e of this article, (iii) and except further that, notwithstanding any law, the comptroller shall credit to the revenue arrearage account, pursuant to section ninety-one-a of the state finance law, that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter, and any interest thereon, which is certified to the comptroller by the commissioner as the amount to be credited against a past-due legally enforceable debt owed to a state agency pursuant to paragraph (a) of subdivision six of section one hundred seventy-one-f of this article, provided, however, he shall credit to the special offset fiduciary account, pursuant to section ninety-one-c of the state finance law, any such amount creditable as a liability as set forth in paragraph (b) of subdivision six of section one hundred seventy-one-f of this article, (iv) and except further that the comptroller shall pay to the city of New York that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any interest thereon that is certified to the comptroller by the commissioner as the amount to be credited against city of New York tax warrant judgment debt pursuant to section one hundred seventy-one-l of this article, (v) and except further that the comptroller shall pay to a non-obligated spouse that amount of overpayment of tax imposed by article twenty-two of this chapter and the interest on such amount which has been credited pursuant to section one hundred seventy-one-c, one hundred seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or one hundred seventy-one-l of this article and which is certified to the comptroller by the commissioner as the amount due such non-obligated spouse pursuant to paragraph six of subsection (b) of section six hundred fifty-one of this

chapter; and (vi) the comptroller shall deduct a like amount which the comptroller shall pay into the treasury to the credit of the general fund from amounts subsequently payable to the department of social services, the state university of New York, the city university of New York, or the higher education services corporation, or the revenue arrearage account or special offset fiduciary account pursuant to section ninety-one-a or ninety-one-c of the state finance law, as the case may be, whichever had been credited the amount originally withheld from such overpayment, and (vii) with respect to amounts originally withheld from such overpayment pursuant to section one hundred seventy-one-l of this article and paid to the city of New York, the comptroller shall collect a like amount from the city of New York.

§ 37. Section 490 of the tax law, as added by chapter 90 of the laws of 2014, is amended to read as follows:

§ 490. [~~Definitions~~] **Excise tax on medical cannabis**. 1. (a) [~~All definitions of terms applicable to title five-A of article thirty-three of the public health law shall apply to this article.~~] **For purposes of this article, the terms "medical cannabis," "registered organization," "certified patient," and "designated caregiver" shall have the same definitions as in section three of the cannabis law.**

(b) As used in this section, where not otherwise specifically defined and unless a different meaning is clearly required "gross receipt" means the amount received in or by reason of any sale, conditional or otherwise, of medical [~~marihuana~~] **cannabis** or in or by reason of the furnishing of medical [~~marihuana~~] **cannabis** from the sale of medical [~~marihuana~~] **cannabis** provided by a registered organization to a certified patient or designated caregiver. Gross receipt is expressed in money, whether paid in cash, credit or property of any kind or nature, and shall be determined without any deduction therefrom on account of the cost of the service sold or the cost of materials, labor or services used or other costs, interest or discount paid, or any other expenses whatsoever. "Amount received" for the purpose of the definition of gross receipt, as the term gross receipt is used throughout this article, means the amount charged for the provision of medical [~~marihuana~~] **cannabis**.

2. There is hereby imposed an excise tax on the gross receipts from the sale of medical [~~marihuana~~] **cannabis** by a registered organization to a certified patient or designated caregiver, to be paid by the registered organization, at the rate of seven percent. The tax imposed by this article shall be charged against and be paid by the registered organization and shall not be added as a separate charge or line item on any sales slip, invoice, receipt or other statement or memorandum of the price given to the retail customer.

3. The commissioner may make, adopt and amend rules, regulations, procedures and forms necessary for the proper administration of this article.

4. Every registered organization that makes sales of medical [~~marihuana~~] **cannabis** subject to the tax imposed by this article shall, on or before the twentieth date of each month, file with the commissioner a return on forms to be prescribed by the commissioner, showing its receipts from the retail sale of medical [~~marihuana~~] **cannabis** during the preceding calendar month and the amount of tax due thereon. Such returns shall contain such further information as the commissioner may require. Every registered organization required to file a return under this section shall, at the time of filing such return, pay to the commissioner the total amount of tax due on its retail sales of medical [~~marihuana~~] **cannabis** for the period covered by such return. If a return is not

filed when due, the tax shall be due on the day on which the return is required to be filed.

5. Whenever the commissioner shall determine that any moneys received under the provisions of this article were paid in error, he may cause the same to be refunded, with interest, in accordance with such rules and regulations as he may prescribe, except that no interest shall be allowed or paid if the amount thereof would be less than one dollar. Such interest shall be at the overpayment rate set by the commissioner pursuant to subdivision twenty-sixth of section one hundred seventy-one of this chapter, or if no rate is set, at the rate of six percent per annum, from the date when the tax, penalty or interest to be refunded was paid to a date preceding the date of the refund check by not more than thirty days. Provided, however, that for the purposes of this subdivision, any tax paid before the last day prescribed for its payment shall be deemed to have been paid on such last day. Such moneys received under the provisions of this article which the commissioner shall determine were paid in error, may be refunded out of funds in the custody of the comptroller to the credit of such taxes provided an application therefor is filed with the commissioner within two years from the time the erroneous payment was made.

6. The provisions of article twenty-seven of this chapter shall apply to the tax imposed by this article in the same manner and with the same force and effect as if the language of such article had been incorporated in full into this section and had expressly referred to the tax imposed by this article, except to the extent that any provision of such article is either inconsistent with a provision of this article or is not relevant to this article.

7. All taxes, interest and penalties collected or received by the commissioner under this article shall be deposited and disposed of pursuant to the provisions of section one hundred seventy-one-a of this chapter, provided that an amount equal to one hundred percent collected under this article less any amount determined by the commissioner to be reserved by the comptroller for refunds or reimbursements shall be paid by the comptroller to the credit of the medical [~~marihuana~~] **cannabis** trust fund established by section eighty-nine-h of the state finance law.

8. A registered organization that dispenses medical [~~marihuana~~] **cannabis** shall provide to the department information on where the medical [~~marihuana~~] **cannabis** was dispensed and where the medical [~~marihuana~~] **cannabis** was manufactured. A registered organization that obtains [~~marihuana~~] **cannabis** from another registered organization shall obtain from such registered organization information on where the medical [~~marihuana~~] **cannabis** was manufactured.

§ 38. Section 491 of the tax law, as added by chapter 90 of the laws of 2014, subdivision 1 as amended by section 1 of part II of chapter 60 of the laws of 2016, is amended to read as follows:

§ 491. Returns to be secret. 1. Except in accordance with proper judicial order or as in this section or otherwise provided by law, it shall be unlawful for the commissioner, any officer or employee of the department, or any officer or person who, pursuant to this section, is permitted to inspect any return or report or to whom a copy, an abstract or a portion of any return or report is furnished, or to whom any information contained in any return or report is furnished, or any person engaged or retained by such department on an independent contract basis or any person who in any manner may acquire knowledge of the contents of a return or report filed pursuant to this article to divulge or make known

in any manner the contents or any other information relating to the business of a distributor, owner or other person contained in any return or report required under this article. The officers charged with the custody of such returns or reports shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the state, [~~the state department of health~~] **office of cannabis management**, or the commissioner in an action or proceeding under the provisions of this chapter or on behalf of the state or the commissioner in any other action or proceeding involving the collection of a tax due under this chapter to which the state or the commissioner is a party or a claimant or on behalf of any party to any action or proceeding under the provisions of this article, when the returns or the reports or the facts shown thereby are directly involved in such action or proceeding, or in an action or proceeding relating to the regulation or taxation of medical [~~marihuana~~] **cannabis** on behalf of officers to whom information shall have been supplied as provided in subdivision two of this section, in any of which events the court may require the production of, and may admit in evidence so much of said returns or reports or of the facts shown thereby as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the commissioner, in his or her discretion, from allowing the inspection or delivery of a certified copy of any return or report filed under this article or of any information contained in any such return or report by or to a duly authorized officer or employee of the [~~state department of health~~] **office of cannabis management**; or by or to the attorney general or other legal representatives of the state when an action shall have been recommended or commenced pursuant to this chapter in which such returns or reports or the facts shown thereby are directly involved; or the inspection of the returns or reports required under this article by the comptroller or duly designated officer or employee of the state department of audit and control, for purposes of the audit of a refund of any tax paid by a registered organization or other person under this article; nor to prohibit the delivery to a registered organization, or a duly authorized representative of such registered organization, a certified copy of any return or report filed by such registered organization pursuant to this article, nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns or reports and the items thereof. This section shall also not be construed to prohibit the disclosure, for tax administration purposes, to the division of the budget and the office of the state comptroller, of information aggregated from the returns filed by all the registered organizations making sales of, or manufacturing, medical [~~marihuana~~] **cannabis** in a specified county, whether the number of such registered organizations is one or more. Provided further that, notwithstanding the provisions of this subdivision, the commissioner may, in his or her discretion, permit the proper officer of any county entitled to receive an allocation, following appropriation by the legislature, pursuant to this article and section eighty-nine-h of the state finance law, or the authorized representative of such officer, to inspect any return filed under this article, or may furnish to such officer or the officer's authorized representative an abstract of any such return or supply such officer or such representative with information concerning an item contained in any such return, or disclosed by any investigation of tax liability under this article.

2. The commissioner, in his or her discretion and pursuant to such rules and regulations as he or she may adopt, may permit [~~the commissioner of internal revenue of the United States, or~~] the appropriate officers of any other state which regulates or taxes medical [~~marihuana~~] cannabis, or the duly authorized representatives of such [~~commissioner or of any such~~] officers, to inspect returns or reports made pursuant to this article, or may furnish to such [~~commissioner or~~] other officers, or duly authorized representatives, a copy of any such return or report or an abstract of the information therein contained, or any portion thereof, or may supply [~~such commissioner or~~] any such officers or such representatives with information relating to the business of a registered organization making returns or reports hereunder. The commissioner may refuse to supply information pursuant to this subdivision [~~to the commissioner of internal revenue of the United States or~~] to the officers of any other state if the statutes [~~of the United States, or~~] of the state represented by such officers, do not grant substantially similar privileges to the commissioner, but such refusal shall not be mandatory. Information shall not be supplied to [~~the commissioner of internal revenue of the United States or~~] the appropriate officers of any other state which regulates or taxes medical [~~marihuana~~] cannabis, or the duly authorized representatives [~~of such commissioner or~~] of any of such officers, unless such [~~commissioner,~~] officer or other representatives shall agree not to divulge or make known in any manner the information so supplied, but such officers may transmit such information to their employees or legal representatives when necessary, who in turn shall be subject to the same restrictions as those hereby imposed upon such [~~commissioner,~~] officer or other representatives.

3. (a) Any officer or employee of the state who willfully violates the provisions of subdivision one or two of this section shall be dismissed from office and be incapable of holding any public office in this state for a period of five years thereafter.

(b) Cross-reference: For criminal penalties, see article thirty-seven of this chapter.

§ 39. The tax law is amended by adding a new article 20-C to read as follows:

ARTICLE 20-C
TAX ON ADULT-USE CANNABIS PRODUCTS

Section 492. Definitions.
493. Tax on cannabis.
494. Registration and renewal.
495. Returns and payment of tax.
496. Returns to be kept secret.

§ 492. Definitions. For purposes of this article, the following definitions shall apply:

(a) "Cannabis" means all parts of a plant of the genus cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. For purposes of this article, cannabis does not include medical cannabis or hemp extract as defined in section three of the cannabis law.

(b) "Cannabis flower" means the flower of a plant of the genus cannabis that has been harvested, dried, and cured, and prior to any processing whereby the plant material is transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or

topical product containing cannabis or concentrated cannabis and other ingredients. Cannabis flower excludes leaves and stem.

(c) "Cannabis trim" means all parts of a plant of the genus cannabis other than cannabis flowers that have been harvested, dried, and cured, and prior to any processing whereby the plant material is transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis and other ingredients.

(d) "Cannabis product" or "adult use cannabis" means a cannabis product as defined in section three of the cannabis law. For purposes of this article, under no circumstances shall adult-use cannabis product include medical cannabis or hemp extract as defined in section three of the cannabis law.

(e) "Person" means every individual, partnership, limited liability company, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of the foregoing.

(f) "Wholesaler" means any person that sells or transfers adult-use cannabis products to a retail dispensary licensed pursuant to section seventy-two of the cannabis law. Where the cultivator or processor is also the retail dispensary, the retail dispensary shall be the wholesaler for purposes of this article.

(g) "Cultivation" has the same meaning as described in subdivision two of section sixty-eight of the cannabis law.

(h) "Retail dispensary" means a dispensary licensed to sell adult-use cannabis products pursuant to section seventy-two of the cannabis law.

(i) "Transfer" means to grant, convey, hand over, assign, sell, exchange or barter, in any manner or by any means, with or without consideration.

(j) "Sale" means any transfer of title, possession or both, exchange or barter, rental, lease or license to use or consume, conditional or otherwise, in any manner or by any means whatsoever for a consideration or any agreement therefor.

(k) "Processor" has the same meaning as described in subdivision two of section sixty-nine of the cannabis law.

§ 493. Tax on cannabis. (a) There is hereby imposed and shall be paid a tax on the cultivation of cannabis flower and cannabis trim at the rate of one dollar per dry-weight gram of cannabis flower and twenty-five cents per dry-weight gram of cannabis trim. Where the wholesaler is not the cultivator, such tax shall be collected from the cultivator by the wholesaler at the time such flower or trim is transferred to the wholesaler. Where the wholesaler is the cultivator, such tax shall be paid by the wholesaler and shall accrue at the time of sale or transfer to a retail dispensary. Where the cultivator is also the retail dispensary, such tax shall accrue at the time of the sale to the retail customer.

(b) In addition to the tax imposed by subdivision (a) of this section, there is hereby imposed a tax on the sale or transfer by a wholesaler to a retail dispensary of adult-use cannabis products, to be paid by such wholesaler. Where the wholesaler is not the retail dispensary, such tax shall be at the rate of eighteen percent of the invoice price charged by the wholesaler to a retail dispensary, and shall accrue at the time of such sale. Where the wholesaler is the retail dispensary, such tax shall be at the rate of eighteen percent of the price charged to the retail customer and shall accrue at the time of such sale.

(c) In addition to the taxes imposed by subdivisions (a) and (b) of this section, there is hereby imposed a tax on the sale or transfer by a wholesaler to a retail dispensary of adult-use cannabis products, in trust for and on account of the county in which the retail dispensary is located. Such tax shall be paid by the wholesaler and shall accrue at the time of such sale. Where the wholesaler is not the retail dispensary, such tax shall be at the rate of four percent of the invoice price charged by the wholesaler to a retail dispensary. Where the wholesaler is the retail dispensary, such tax shall be at the rate of four percent of the price charged to the retail customer.

(d) Notwithstanding any other provision of law to the contrary, the taxes imposed by article twenty of this chapter shall not apply to any product subject to tax under this article.

§ 494. Registration and renewal. (a) Every wholesaler must file with the commissioner a properly completed application for a certificate of registration before engaging in business. In order to apply for such certificate of registration, such person must first be in possession of a valid license from the office of cannabis management. An application for a certificate of registration must be submitted electronically, on a form prescribed by the commissioner, and must be accompanied by a non-refundable application fee of six hundred dollars. A certificate of registration shall not be assignable or transferable and shall be destroyed immediately upon such person ceasing to do business as specified in such certificate, or in the event that such business never commenced.

(b) The commissioner shall refuse to issue a certificate of registration to any applicant and shall revoke the certificate of registration of any such person who does not possess a valid license from the office of cannabis management. The commissioner may refuse to issue a certificate of registration to any applicant where such applicant: (1) has a past-due liability as that term is defined in section one hundred seventy-one-v of this chapter; (2) has had a certificate of registration under this article, a license from the office of cannabis management, or any license or registration provided for in this chapter revoked within one year from the date on which such application was filed; (3) has been convicted of a crime provided for in this chapter within one year from the date on which such application was filed of the certificate's issuance; (4) willfully fails to file a report or return required by this article; (5) willfully files, causes to be filed, gives or causes to be given a report, return, certificate or affidavit required by this article which is false; or (6) willfully fails to collect or truthfully account for or pay over any tax imposed by this article.

(c) A certificate of registration shall be valid for the period specified thereon, unless earlier suspended or revoked. Upon the expiration of the term stated on a certificate of registration, such certificate shall be null and void.

(d) Every holder of a certificate of registration must notify the commissioner of changes to any of the information stated on the certificate, or of changes to any information contained in the application for the certificate of registration. Such notification must be made on or before the last day of the month in which a change occurs and must be made electronically on a form prescribed by the commissioner.

(e) Every holder of a certificate of registration under this article shall be required to reapply prior to such certificate's expiration, during a reapplication period established by the commissioner. Such reapplication period shall not occur more frequently than every two

years. Such reapplication shall be subject to the same requirements and conditions, including grounds for refusal, as an initial application, including the payment of the application fee.

(f) Penalties. A person to whom adult-use cannabis products have been transferred or who sells adult-use cannabis products without a valid certificate of registration pursuant to subdivision (a) of this section shall be subject to a penalty of five hundred dollars for each month or part thereof during which such person continues to possess adult-use cannabis products that have been transferred to such person or who sells such products after the expiration of the first month after which such person operates without a valid certificate of registration, not to exceed ten thousand dollars in the aggregate.

§ 495. Returns and payment of tax. (a) 1. Every wholesaler shall, on or before the twentieth day of the month, file with the commissioner a return on forms to be prescribed by the commissioner, showing the total weight of cannabis flower and cannabis trim subject to tax pursuant to subdivision (a) of section four hundred ninety-three of this article and the total amount of tax due thereon in the preceding calendar month, and the total amount of tax due under subdivisions (b) and (c) of such section on its sales to a retail dispensary during the preceding calendar month, along with such other information as the commissioner may require. Every person required to file a return under this section shall, at the time of filing such return, pay to the commissioner the total amount of tax due for the period covered by such return. If a return is not filed when due, the tax shall be due on the day on which the return is required to be filed.

2. The wholesaler shall maintain such records in such form as the commissioner may require regarding such items as: where the wholesaler is not the cultivator, the weight of the cannabis flower and cannabis trim transferred to it by a cultivator or, where the wholesaler is the cultivator, the weight of such flower and trim produced by it; the geographic location of every retail dispensary to which it sold adult-use cannabis products; and any other record or information required by the commissioner. This information must be kept by such person for a period of three years after the return was filed.

(b) The provisions of article twenty-seven of this chapter shall apply to the tax imposed by this article in the same manner and with the same force and effect as if the language of such article had been incorporated in full into this section and had expressly referred to the tax imposed by this article, except to the extent that any provision of such article is either inconsistent with a provision of this article or is not relevant to this article.

(c) 1. All taxes, interest, and penalties collected or received by the commissioner under this article shall be deposited and disposed of pursuant to the provisions of section one hundred seventy-one-a of this chapter, provided that an amount equal to one hundred percent collected under this article less any amount determined by the commissioner to be reserved by the comptroller for refunds or reimbursements shall be paid by the comptroller to the credit of the cannabis revenue fund established by section ninety-nine-hh of the state finance law. Of the total revenue collected or received under this article, the comptroller shall retain such amount as the commissioner may determine to be necessary for refunds. The commissioner is authorized and directed to deduct from the registration fees under subdivision (a) of section four hundred ninety-four of this article, before deposit into the cannabis revenue fund designated by the comptroller, a reasonable amount necessary to effectu-

ate refunds of appropriations of the department to reimburse the department for the costs incurred to administer, collect, and distribute the taxes imposed by this article.

2. Notwithstanding the foregoing, the commissioner shall certify to the comptroller the total amount of tax, penalty and interest received by him or her on account of the tax imposed by subdivision (c) of section four hundred ninety-three of this article in trust for and on account of each county in which a retail dispensary is located. On or before the twelfth day of each month, the comptroller, after reserving such refund fund, shall pay to the appropriate fiscal officer of each such county the taxes, penalties and interest received and certified by the commissioner for the preceding calendar month.

§ 496. Returns to be kept secret. (a) Except in accordance with proper judicial order or as in this section or otherwise provided by law, it shall be unlawful for the commissioner, any officer or employee of the department, or any officer or person who, pursuant to this section, is permitted to inspect any return or report or to whom a copy, an abstract or a portion of any return or report is furnished, or to whom any information contained in any return or report is furnished, or any person who in any manner may acquire knowledge of the contents of a return or report filed pursuant to this article to divulge or make known in any manner the content or any other information related to the business of the wholesaler contained in any return or report required under this article. The officers charged with the custody of such returns or reports shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the state, the office of cannabis management, or the commissioner in an action or proceeding involving the collection of tax due under this chapter to which the state or the commissioner is a party or a claimant or on behalf of any party to any action or proceeding under the provisions of this article, when the returns or the reports or the facts shown thereby are directly involved in such action or proceeding, or in an action or proceeding related to the regulation or taxation of adult-use cannabis products on behalf of officers to whom information shall have been supplied as provided in this section, in any of which events the courts may require the production of, and may admit in evidence so much of said returns or reports or of the facts shown thereby as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the commissioner, in his or her discretion, from allowing the inspection or delivery of a certified copy of any return or report filed under this article or of any information contained in any such return or report by or to a duly authorized officer or employee of the office of cannabis management or by or to the attorney general or other legal representatives of the state when an action shall have been recommended or commenced pursuant to this chapter in which such returns or reports or the facts shown thereby are directly involved; or the inspection of the returns or reports required under this article by the comptroller or duly designated officer or employee of the state department of audit and control, for purposes of the audit of a refund of any tax paid by the wholesaler under this article; nor to prohibit the delivery to such person or a duly authorized representative of such person, a certified copy of any return or report filed by such person pursuant to this article, nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns or reports and the items thereof. This section shall also not be construed to prohibit the disclosure, for tax administration purposes,

to the division of the budget and the office of the state comptroller, of information aggregated from the returns filed by all wholesalers purchasing and selling such products in the state, whether the number of such persons is one or more. Provided further that, notwithstanding the provisions of this subdivision, the commissioner may in his or her discretion, permit the proper officer of any county entitled to receive any distribution of the monies received on account of the tax imposed by subdivision (c) of section four hundred ninety-three of this article, or the authorized representative of such officer, to inspect any return filed under this article, or may furnish to such officer or the officer's authorized representative an abstract of any such return or supply such officer or representative with information concerning an item contained in any such return, or disclosed by any investigation of tax liability under this article.

(b) The commissioner, in his or her discretion, may permit the appropriate officers of any other state that regulates or taxes cannabis or the duly authorized representatives of such commissioner or of any such officers, to inspect returns or reports made pursuant to this article, or may furnish to the commissioner or other officer, or duly authorized representatives, a copy of any such return or report or an abstract of the information therein contained, or any portion thereof, or may supply such commissioner or any such officers or such representatives with information relating to the business of a wholesaler making returns or reports hereunder solely for purposes of tax administration. The commissioner may refuse to supply information pursuant to this subdivision to the officers of any other state if the statutes of the state represented by such officers do not grant substantially similar privileges to the commissioner, but such refusal shall not be mandatory. Information shall not be supplied to the appropriate officers of any state that regulates or taxes cannabis, or the duly authorized representatives of such commissioner or of any such officers, unless such commissioner, officer, or other representatives shall agree not to divulge or make known in any manner the information so supplied, but such officers may transmit such information to their employees or legal representatives when necessary, who in turn shall be subject to the same restrictions as those hereby imposed upon such commissioner, officer or other representatives.

(c) 1. Any officer or employee of the state who willfully violates the provisions of subdivision (a) or (b) of this section shall be dismissed from office and be incapable of holding any public office in the state for a period of five years thereafter.

2. For criminal penalties, see article thirty-seven of this chapter.

§ 40. Subdivision (a) of section 1115 of the tax law is amended by adding a new paragraph 3-b to read as follows:

(3-b) Adult-use cannabis products as defined by article twenty-C of this chapter.

§ 41. Section 12 of chapter 90 of the laws of 2014 amending the public health law, the tax law, the state finance law, the general business law, the penal law and the criminal procedure law relating to medical use of marihuana, is amended to read as follows:

§ 12. This act shall take effect immediately [~~and~~]; provided, however that sections one, three, five, six, seven-a, eight, nine, ten and eleven of this act shall expire and be deemed repealed seven years after such date; provided that the amendments to section 171-a of the tax law made by section seven of this act shall take effect on the same date and in the same manner as section 54 of part A of chapter 59 of the laws of 2014 takes effect and shall not expire and be deemed repealed; and

provided, further, that the amendments to subdivision 5 of section 410.91 of the criminal procedure law made by section eleven of this act shall not affect the expiration and repeal of such section and shall expire and be deemed repealed therewith.

§ 42. The office of cannabis management, in consultation with the division of the budget, the department of taxation and finance, the department of health, office of alcoholism and substance abuse services, office of mental health, New York state police and the division of criminal justice services, shall conduct a study of the effectiveness of this act. Such study shall examine all aspects of this act, including economic and fiscal impacts, the impact on the public health and safety of New York residents and the progress made in achieving social justice goals and toward eliminating the illegal market for cannabis products in New York. The office shall make recommendations regarding the appropriate level of taxation of adult-use cannabis, as well as changes, if any, necessary to improve and protect the public health and safety of New Yorkers. Such study shall be conducted two years after the effective date of this act and shall be presented to the governor, the majority leader of the senate and the speaker of the assembly, no later than October 1, 2022.

§ 43. Section 102 of the alcoholic beverage control law is amended by adding a new subdivision 8 to read as follows:

8. No alcoholic beverage retail licensee shall sell cannabis, nor have or possess a license or permit to sell cannabis, on the same premises where alcoholic beverages are sold.

§ 44. Subdivisions 1, 4, 5, 6, 7 and 13 of section 12-102 of the general obligations law, as added by chapter 406 of the laws of 2000, are amended to read as follows:

1. "Illegal drug" means any controlled substance [~~or marijuana~~] the possession of which is an offense under the public health law or the penal law.

4. "Grade one violation" means possession of one-quarter ounce or more, but less than four ounces, or distribution of less than one ounce of an illegal drug [~~other than marijuana, or possession of one pound or twenty-five plants or more, but less than four pounds or fifty plants, or distribution of less than one pound of marijuana~~].

5. "Grade two violation" means possession of four ounces or more, but less than eight ounces, or distribution of one ounce or more, but less than two ounces, of an illegal drug [~~other than marijuana, or possession of four pounds or more or fifty plants or distribution of more than one pound but less than ten pounds of marijuana~~].

6. "Grade three violation" means possession of eight ounces or more, but less than sixteen ounces, or distribution of two ounces or more, but less than four ounces, of a specified illegal drug [~~or possession of eight pounds or more or seventy-five plants or more, but less than sixteen pounds or one hundred plants, or distribution of more than five pounds but less than ten pounds of marijuana~~].

7. "Grade four violation" means possession of sixteen ounces or more or distribution of four ounces or more of a specified illegal drug [~~or possession of sixteen pounds or more or one hundred plants or more or distribution of ten pounds or more of marijuana~~].

13. "Drug trafficker" means a person convicted of a class A or class B felony controlled substance [~~or marijuana offense~~] who, in connection with the criminal conduct for which he or she stands convicted, possessed, distributed, sold or conspired to sell a controlled substance [~~or marijuana~~] which, by virtue of its quantity, the person's prominent

role in the enterprise responsible for the sale or distribution of such controlled substance and other circumstances related to such criminal conduct indicate that such person's criminal possession, sale or conspiracy to sell such substance was not an isolated occurrence and was part of an ongoing pattern of criminal activity from which such person derived substantial income or resources and in which such person played a leadership role.

§ 45. Paragraph (g) of subdivision 1 of section 488 of the social services law, as added by section 1 of part B of chapter 501 of the laws of 2012, is amended to read as follows:

(g) "Unlawful use or administration of a controlled substance," which shall mean any administration by a custodian to a service recipient of: a controlled substance as defined by article thirty-three of the public health law, without a prescription; or other medication not approved for any use by the federal food and drug administration**, except for the administration of medical cannabis when such administration is in accordance with article three of the cannabis law and any regulations promulgated thereunder as well as the rules, regulations, policies, or procedures of the state oversight agency or agencies governing such custodians**. It also shall include a custodian unlawfully using or distributing a controlled substance as defined by article thirty-three of the public health law, at the workplace or while on duty.

§ 46. Paragraphs (e) and (f) of subdivision 1 of section 490 of the social services law, as added by section 1 of part B of chapter 501 of the laws of 2012, are amended and a new paragraph (g) is added to read as follows:

(e) information regarding individual reportable incidents, incident patterns and trends, and patterns and trends in the reporting and response to reportable incidents is shared, consistent with applicable law, with the justice center, in the form and manner required by the justice center and, for facilities or provider agencies that are not state operated, with the applicable state oversight agency which shall provide such information to the justice center; [~~and~~]

(f) incident review committees are established; provided, however, that the regulations may authorize an exemption from this requirement, when appropriate, based on the size of the facility or provider agency or other relevant factors. Such committees shall be composed of members of the governing body of the facility or provider agency and other persons identified by the director of the facility or provider agency, including some members of the following: direct support staff, licensed health care practitioners, service recipients and representatives of family, consumer and other advocacy organizations, but not the director of the facility or provider agency. Such committee shall meet regularly to: (i) review the timeliness, thoroughness and appropriateness of the facility or provider agency's responses to reportable incidents; (ii) recommend additional opportunities for improvement to the director of the facility or provider agency, if appropriate; (iii) review incident trends and patterns concerning reportable incidents; and (iv) make recommendations to the director of the facility or provider agency to assist in reducing reportable incidents. Members of the committee shall be trained in confidentiality laws and regulations, and shall comply with section seventy-four of the public officers law[~~.~~]**; and**

(g) safe storage, administration, and diversion prevention policies regarding controlled substances and medical cannabis.

§ 47. Subdivision 1 of section 505 of the agriculture and markets law, as added by chapter 524 of the laws of 2014, is amended to read as follows:

1. "Industrial hemp" means the plant Cannabis sativa L. and any part of such plant, **including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers**, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

§ 48. Section 506 of the agriculture and markets law, as amended by section 1 of part OO of chapter 58 of the laws of 2017, is amended to read as follows:

§ 506. Growth, sale, distribution, transportation and processing of industrial hemp and products derived from such hemp permitted. [~~Notwithstanding any provision of law to the contrary, industrial~~] **1. Industrial** hemp and products derived from such hemp are agricultural products which may be grown, produced [~~and~~]**,** possessed [~~in the state, and~~]**,** sold, distributed, transported [~~or~~] **and/or** processed [~~either~~] in [~~or out of~~] state [~~as part of agricultural pilot programs pursuant to authorization under federal law and the provisions of this article~~ **pursuant to authorization under federal law and/or the provisions of this article**~~.~~

[~~Notwithstanding any provision of law to the contrary restricting the growing or cultivating, sale, distribution, transportation or processing of industrial hemp and products derived from such hemp, and subject to authorization under federal law, the~~]

2. The commissioner may authorize the growing or cultivating of industrial hemp as part of agricultural pilot programs conducted by the department and/or an institution of higher education to study the growth and cultivation, sale, distribution, transportation and processing of such hemp and products derived from such hemp provided that the sites and programs used for growing or cultivating industrial hemp are certified by, and registered with, the department.

3. The industrial hemp used for research pursuant to this section shall be sourced from authorized New York state industrial hemp producers. The research partner may obtain an exemption for only grain or fiber from this requirement upon a satisfactory showing to the department that a suitable variety of industrial hemp for the research project is not grown in New York and/or the use of New York sourced hemp is not practicable for the project. Hemp for extracts can only be sourced from authorized New York state industrial hemp producers.

4. Nothing in this section shall limit the jurisdiction of the department under any other article of this chapter.

§ 49. Section 507 of the agriculture and markets law is REPEALED and a new section 507 is added to read as follows:

§ 507. Licensing; fees. 1. No person shall grow, process, produce, distribute and/or sell industrial hemp or products derived from industrial hemp in the state unless (a) licensed biennially by the commissioner or (b) authorized by the commissioner as part of an agricultural research pilot program established under this article.

2. Application for a license to grow industrial hemp shall be made upon a form prescribed by the commissioner, accompanied by a per-acre license fee and a non-refundable application fee of five hundred dollars.

3. The applicant shall furnish evidence of his or her good character, experience and competency, that the applicant has adequate facilities,

equipment, process controls, testing capability and security to grow hemp.

4. Growers who intend to cultivate hemp for cannabinoids shall be required to obtain licensure from the department pursuant to article twenty-nine-A of this chapter.

5. A renewal application shall be submitted to the commissioner at least sixty days prior to the commencement of the next license period.

§ 50. Section 508 of the agriculture and markets law is REPEALED and a new section 508 is added to read as follows:

§ 508. Compliance action plan. If the commissioner determines, after notice and an opportunity for hearing, that a licensee has negligently violated a provision of and/or a regulation promulgated pursuant to this article, that licensee shall be required to comply with a corrective action plan established by the commissioner to correct the violation by a reasonable date and to periodically report to the commissioner with respect to the licensee's compliance with this article for a period of no less than the next two calendar years following the commencement date of the compliance action plan. The provisions of this section shall not be applicable to research partners conducting hemp research pursuant to a research partner agreement, the terms of which shall control.

§ 51. Section 509 of the agriculture and markets law is REPEALED and a new section 509 is added to read as follows:

§ 509. Granting, suspending or revoking licenses. The commissioner may decline to grant a new license, may decline to renew a license, may suspend or revoke a license already granted after due notice and opportunity for hearing whenever he or she finds that:

1. any statement contained in an application for an applicant or licensee is or was false or misleading;

2. the applicant or licensee does not have good character, the required experience and/or competency, adequate facilities, equipment, process controls, testing capability and/or security to produce hemp or products derived from hemp;

3. the applicant or licensee has failed or refused to produce any records or provide any information demanded by the commissioner reasonably related to the administration and enforcement of this article; or

4. the applicant or licensee, or any officer, director, partner, holder of ten percent of the voting stock, or any other person exercising any position of management or control has failed to comply with any of the provisions of this article or rules and regulations promulgated pursuant thereto.

§ 52. Section 510 of the agriculture and markets law is REPEALED and a new section 510 is added to read as follows:

§ 510. Regulations. The commissioner may develop regulations consistent with the provisions of this article for the growing and cultivation, sale, distribution, and transportation of industrial hemp grown in the state, including:

1. the authorization or licensing of any person who may: acquire or possess industrial hemp plants or seeds; grow or cultivate industrial hemp plants; and/or sell, purchase, distribute, or transport such industrial hemp plants, plant parts, or seeds;

2. maintaining relevant information regarding land on which industrial hemp is produced within the state, including the legal description of the land, for a period of not less than three calendar years;

3. the procedure for testing of industrial hemp produced in the state for delta-9-tetrahydrocannabinol levels, using a representative non-de-

carboxylated sample of flowers and leaves from the whole plant or other similarly reliable methods;

4. the procedure for effective disposal of industrial hemp plants or products derived from hemp that are produced in violation of this article;

5. a procedure for conducting at least a random sample of industrial hemp producers to verify that hemp is not produced in violation of this article;

6. any required security measures; and

7. such other and further regulation as the commissioner deems appropriate or necessary.

§ 53. Section 511 of the agriculture and markets law is REPEALED and a new section 511 is added to read as follows:

§ 511. Prohibitions. Except as authorized by state law, and regulations promulgated thereunder, the growth, cultivation, processing, sale, and/or distribution of industrial hemp is prohibited.

§ 54. Section 512 of the agriculture and markets law is REPEALED and a new section 512 is added to read as follows:

§ 512. Industrial hemp data collection and best farming practices. The commissioner shall have the power to collect and publish data and research concerning, among other things, the growth, cultivation, production and processing methods of industrial hemp and products derived from industrial hemp and work with the New York state college of agriculture and life science at Cornell pursuant to section fifty-seven hundred twelve of the education law and the Cornell cooperative extension pursuant to section two hundred twenty-four of the county law to promote best farming practices for industrial hemp which are compatible with state water quality and other environmental objectives.

§ 55. Sections 513 and 514 of the agriculture and markets law are REPEALED and two new sections 513 and 514 are added to read as follows:

§ 513. Access to criminal history information through the division of criminal justice services. In connection with the administration of this article, the commissioner is authorized to request, receive and review criminal history information through the division of criminal justice services (division) with respect to any person seeking a license or authorization to undertake a hemp pilot project. At the commissioner's request, each researcher, principal and/or officer of the applicant shall submit to the department his or her fingerprints in such form and in such manner as specified by the division, for the purpose of conducting a criminal history search and returning a report thereon in accordance with the procedures and requirements established by the division pursuant to the provisions of article thirty-five of the executive law, which shall include the payment of the prescribed processing fees for the cost of the division's full search and retain procedures and a national criminal history record check. The commissioner, or his or her designee, shall submit such fingerprints and the processing fee to the division. The division shall forward to the commissioner a report with respect to the applicant's previous criminal history, if any, or a statement that the applicant has no previous criminal history according to its files. Fingerprints submitted to the division of criminal justice services pursuant to this section may also be submitted to the federal bureau of investigation for a national criminal history record check. If additional copies of fingerprints are required, the applicant shall furnish them upon request.

§ 514. Aids to enforcement. 1. The commissioner shall have full access to all premises, buildings, factories, farms, vehicles, cars, boats,

airplanes, vessels, containers, packages, barrels, boxes, and/or cans for the purpose of enforcing the provisions of this article. The commissioner may, at such locations, examine industrial hemp and hemp products and may open any package and/or container reasonably believed to contain industrial hemp or hemp products, to determine whether such industrial hemp or hemp products follow applicable law or regulation.

2. A search warrant shall be issued by any court to which application is made therefor, whenever it shall be made to appear to such court that a licensee has: refused to permit any industrial hemp to be inspected or samples taken therefrom; refused to permit access to any premises, or place where licensed activities are conducted; and/or refused or prevented access thereto by any inspector of the department and that such inspector has reasonable grounds to believe that such person has any industrial hemp in his or her possession, or under his or her control and/or is in violation of the provisions or regulations of this article. In such a case, a warrant shall be issued in the name of the people, directed to a police officer, commanding him or her to: (a) search any place of business, factory, building, premises, or farm where licensed activities have occurred and any vehicle, boat, vessel, container, package, barrel, box, tub or can, containing, or believed to contain industrial hemp in the possession or under the control of any person who shall refuse to allow access to such hemp for inspection or sampling, (b) permit the inspection and sampling of any industrial hemp found in the execution of the warrant, as the officer applying for the search warrant shall designate when the same is found, by an inspector or a department official authorized by the commissioner or by this chapter, and/or (c) permit access to any place where access is refused or prevented, and to allow and enable a department inspector or other department official to conduct an inspection of the place. The provisions of article six hundred ninety of the criminal procedure law shall apply to such warrant as far as applicable thereto. The officer to whom the warrant is delivered shall make a return in writing of his or her proceedings thereunto to the court which issued the same.

3. The commissioner may quarantine industrial hemp when he or she has reason to believe that such commodity does not meet the definition thereof, set forth in subdivision one of section five hundred five of this article, or is otherwise in violation of or does not meet a standard set forth in, applicable law or regulation. The quarantine may by the issuance of an order directing the owner or custodian of industrial hemp not to distribute, dispose of, or move that commodity without the written permission of the commissioner. The commissioner may also quarantine a product by placing a tag or other appropriate marking thereon or adjacent thereto that provides and requires that such product must not be distributed, disposed of, or moved without his or her written permission, or may quarantine a product by otherwise informing the owner or custodian thereof that such condition must be complied with.

4. The commissioner may seize industrial hemp by taking physical possession of industrial hemp when he or she has substantial evidence to believe that such commodity does not meet the definition thereof, set forth in subdivision one of section five hundred five of this article, or is otherwise in violation of, or does not meet a standard set forth in, applicable law or regulation.

5. Subsequent to quarantining or seizing industrial hemp, as authorized in subdivisions three and four of this section, the commissioner shall promptly give the owner or custodian thereof an opportunity to be heard to show cause why such industrial hemp should not be ordered

destroyed. The commissioner shall, thereafter, consider all the relevant evidence and information presented and shall make a determination whether such industrial hemp should be ordered to be destroyed; that determination may be reviewed as provided for in article seventy-eight of the civil practice law and rules.

§ 56. Sections 179.00, 179.05, 179.10, 179.11 and 179.15 of the penal law, as added by chapter 90 of the laws of 2014, are amended to read as follows:

§ 179.00 Criminal diversion of medical [~~marihuana~~] cannabis; definitions.

The following definitions are applicable to this article:

1. "Medical [~~marihuana~~] cannabis" means medical [~~marihuana~~] cannabis as defined in [~~subdivision eight of section thirty-three hundred sixty of the public health law~~] section three of the cannabis law.

2. "Certification" means a certification, made under section [~~thirty-three hundred sixty-one of the public health law~~] thirty of the cannabis law.

§ 179.05 Criminal diversion of medical [~~marihuana~~] cannabis; limitations.

The provisions of this article shall not apply to:

1. a practitioner authorized to issue a certification who acted in good faith in the lawful course of his or her profession; or

2. a registered organization as that term is defined in [~~subdivision nine of section thirty-three hundred sixty of the public health law~~] section thirty-four of the cannabis law who acted in good faith in the lawful course of the practice of pharmacy; or

3. a person who acted in good faith seeking treatment for a medical condition or assisting another person to obtain treatment for a medical condition.

§ 179.10 Criminal diversion of medical [~~marihuana~~] cannabis in the first degree.

A person is guilty of criminal diversion of medical [~~marihuana~~] cannabis in the first degree when he or she is a practitioner, as that term is defined in [~~subdivision twelve of section thirty-three hundred sixty of the public health law~~] section three of the cannabis law, who issues a certification with knowledge of reasonable grounds to know that (i) the recipient has no medical need for it, or (ii) it is for a purpose other than to treat a [~~serious~~] condition as defined in [~~subdivision seven of section thirty-three hundred sixty of the public health law~~] section three of the cannabis law.

Criminal diversion of medical [~~marihuana~~] cannabis in the first degree is a class E felony.

§ 179.11 Criminal diversion of medical [~~marihuana~~] cannabis in the second degree.

A person is guilty of criminal diversion of medical [~~marihuana~~] cannabis in the second degree when he or she sells, trades, delivers, or otherwise provides medical [~~marihuana~~] cannabis to another with knowledge or reasonable grounds to know that the recipient is not registered under [~~title five-A of article thirty-three of the public health law~~] article three of the cannabis law.

Criminal diversion of medical [~~marihuana~~] cannabis in the second degree is a class B misdemeanor.

§ 179.15 Criminal retention of medical [~~marihuana~~] cannabis.

A person is guilty of criminal retention of medical [~~marihuana~~] cannabis when, being a certified patient or designated caregiver, as those terms are defined in [~~subdivisions three and five of section thirty-~~

~~three hundred sixty of the public health law, respectively~~] section three of the cannabis law, he or she knowingly obtains, possesses, stores or maintains an amount of [~~marihuana~~] cannabis in excess of the amount he or she is authorized to possess under the provisions of [~~title five-A of article thirty-three of the public health law~~] article three of the cannabis law.

Criminal retention of medical [~~marihuana~~] cannabis is a class A misdemeanor.

§ 57. Section 220.78 of the penal law, as added by chapter 154 of the laws of 2011, is amended to read as follows:

§ 220.78 Witness or victim of drug or alcohol overdose.

1. A person who, in good faith, seeks health care for someone who is experiencing a drug or alcohol overdose or other life threatening medical emergency shall not be charged or prosecuted for a controlled substance offense under this article [~~two hundred twenty~~] or a [~~marihuana~~] cannabis offense under article two hundred [~~twenty-one~~] twenty-two of this title, other than an offense involving sale for consideration or other benefit or gain, or charged or prosecuted for possession of alcohol by a person under age twenty-one years under section sixty-five-c of the alcoholic beverage control law, or for possession of drug paraphernalia under article thirty-nine of the general business law, with respect to any controlled substance, [~~marihuana~~] cannabis, alcohol or paraphernalia that was obtained as a result of such seeking or receiving of health care.

2. A person who is experiencing a drug or alcohol overdose or other life threatening medical emergency and, in good faith, seeks health care for himself or herself or is the subject of such a good faith request for health care, shall not be charged or prosecuted for a controlled substance offense under this article or a [~~marihuana~~] cannabis offense under article two hundred [~~twenty-one~~] twenty-two of this title, other than an offense involving sale for consideration or other benefit or gain, or charged or prosecuted for possession of alcohol by a person under age twenty-one years under section sixty-five-c of the alcoholic beverage control law, or for possession of drug paraphernalia under article thirty-nine of the general business law, with respect to any substance, [~~marihuana~~] cannabis, alcohol or paraphernalia that was obtained as a result of such seeking or receiving of health care.

3. Definitions. As used in this section the following terms shall have the following meanings:

(a) "Drug or alcohol overdose" or "overdose" means an acute condition including, but not limited to, physical illness, coma, mania, hysteria or death, which is the result of consumption or use of a controlled substance or alcohol and relates to an adverse reaction to or the quantity of the controlled substance or alcohol or a substance with which the controlled substance or alcohol was combined; provided that a patient's condition shall be deemed to be a drug or alcohol overdose if a prudent layperson, possessing an average knowledge of medicine and health, could reasonably believe that the condition is in fact a drug or alcohol overdose and (except as to death) requires health care.

(b) "Health care" means the professional services provided to a person experiencing a drug or alcohol overdose by a health care professional licensed, registered or certified under title eight of the education law or article thirty of the public health law who, acting within his or her lawful scope of practice, may provide diagnosis, treatment or emergency services for a person experiencing a drug or alcohol overdose.

4. It shall be an affirmative defense to a criminal sale controlled substance offense under this article or a criminal sale of [~~marihuana~~] cannabis offense under article two hundred [~~twenty-one~~] twenty-two of this title, not covered by subdivision one or two of this section, with respect to any controlled substance or [~~marihuana~~] cannabis which was obtained as a result of such seeking or receiving of health care, that:

(a) the defendant, in good faith, seeks health care for someone or for him or herself who is experiencing a drug or alcohol overdose or other life threatening medical emergency; and

(b) the defendant has no prior conviction for the commission or attempted commission of a class A-I, A-II or B felony under this article.

5. Nothing in this section shall be construed to bar the admissibility of any evidence in connection with the investigation and prosecution of a crime with regard to another defendant who does not independently qualify for the bar to prosecution or for the affirmative defense; nor with regard to other crimes committed by a person who otherwise qualifies under this section; nor shall anything in this section be construed to bar any seizure pursuant to law, including but not limited to pursuant to section thirty-three hundred eighty-seven of the public health law.

6. The bar to prosecution described in subdivisions one and two of this section shall not apply to the prosecution of a class A-I felony under this article, and the affirmative defense described in subdivision four of this section shall not apply to the prosecution of a class A-I or A-II felony under this article.

§ 58. Subdivision 1 of section 260.20 of the penal law, as amended by chapter 362 of the laws of 1992, is amended as follows:

1. He knowingly permits a child less than eighteen years old to enter or remain in or upon a place, premises or establishment where sexual activity as defined by article one hundred thirty, two hundred thirty or two hundred sixty-three of this [~~chapter~~] part or activity involving controlled substances as defined by article two hundred twenty of this [~~chapter or involving marihuana as defined by article two hundred twenty-one of this chapter~~] part is maintained or conducted, and he knows or has reason to know that such activity is being maintained or conducted; or

§ 59. Section 89-h of the state finance law, as added by chapter 90 of the laws of 2014, is amended to read as follows:

§ 89-h. Medical [~~marihuana~~] cannabis trust fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a special fund to be known as the "medical [~~marihuana~~] cannabis trust fund."

2. The medical [~~marihuana~~] cannabis trust fund shall consist of all moneys required to be deposited in the medical [~~marihuana~~] cannabis trust fund pursuant to the provisions of section four hundred ninety of the tax law.

3. The moneys in the medical [~~marihuana~~] cannabis trust fund shall be kept separate and shall not be commingled with any other moneys in the custody of the commissioner of taxation and finance and the state comptroller.

4. The moneys of the medical [~~marihuana~~] cannabis trust fund, following appropriation by the legislature, shall be allocated upon a certificate of approval of availability by the director of the budget as follows: (a) Twenty-two and five-tenths percent of the monies shall be transferred to the counties in New York state in which the medical

[~~marihuana~~] cannabis was manufactured and allocated in proportion to the gross sales originating from medical [~~marihuana~~] cannabis manufactured in each such county; (b) twenty-two and five-tenths percent of the moneys shall be transferred to the counties in New York state in which the medical [~~marihuana~~] cannabis was dispensed and allocated in proportion to the gross sales occurring in each such county; (c) five percent of the monies shall be transferred to the office of alcoholism and substance abuse services, which shall use that revenue for additional drug abuse prevention, counseling and treatment services; and (d) five percent of the revenue received by the department shall be transferred to the division of criminal justice services, which shall use that revenue for a program of discretionary grants to state and local law enforcement agencies that demonstrate a need relating to [~~title five-A of article thirty-three of the public health law~~] article three of the cannabis law; said grants could be used for personnel costs of state and local law enforcement agencies. For purposes of this subdivision, the city of New York shall be deemed to be a county.

§ 60. The state finance law is amended by adding three new sections 99-hh, 99-ii and 99-jj to read as follows:

§ 99-hh. New York state cannabis revenue fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a special fund to be known as the "New York state cannabis revenue fund".

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

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

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

(b) Reasonable costs incurred by the office of cannabis management for implementing, administering, and enforcing the marihuana regulation and taxation act to the extent those costs are not reimbursed pursuant to the cannabis law. This paragraph shall remain operative through the two thousand twenty-four--two thousand twenty-five fiscal year.

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

(i) Seven hundred fifty thousand dollars to the office of cannabis management policy to track and report data related to the licensing of cannabis businesses, including the geographic location, structure, and function of licensed cannabis businesses, and demographic data, including race, ethnicity, and gender, of license holders. The office of cannabis management shall publish reports on its findings annually and shall make the reports available to the public.

(ii) Seven hundred fifty thousand dollars to the department of criminal justice services to track and report data related to any infractions, violations, or criminal convictions that occur under any of the

remaining cannabis statutes. The department of criminal justice services shall publish reports on its findings annually and shall make the reports available to the public.

(iii) One million dollars to the state university of New York to research and evaluate the implementation and effect of the marihuana regulation and taxation act. No more than four percent of these monies may be used for expenses related to administrative costs of conducting such research, and to, if appropriate, make recommendations to the legislature and governor regarding possible amendments to the marihuana regulation and taxation act. The recipients of these funds shall publish reports on their findings at a minimum of every two years and shall make the reports available to the public. The research funded pursuant to this subdivision shall include but not necessarily be limited to:

(A) the impact on public health, including health costs associated with cannabis use, as well as whether cannabis use is associated with an increase or decrease in use of alcohol or other drugs;

(B) the impact of treatment for cannabis use disorder and the effectiveness of different treatment programs;

(C) public safety issues related to cannabis use, including studying the effectiveness of the packaging and labeling requirements and advertising and marketing restrictions contained in the act at preventing underage access to and use of cannabis and cannabis products, and studying the health-related effects among users of varying potency levels of cannabis and cannabis products;

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

(E) cannabis market prices, illicit market prices, tax structures and rates, including an evaluation of how to best tax cannabis based on potency, and the structure and function of licensed cannabis businesses;

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

(G) the economic impacts in the private and public sectors, including but not necessarily limited to, job creation, workplace safety, revenues, taxes generated for state and local budgets, and criminal justice impacts, including, but not necessarily limited to, impacts on law enforcement and public resources, short and long term consequences of involvement in the criminal justice system, and state and local government agency administrative costs and revenue;

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

(I) any environmental issues related to cannabis production and the criminal prohibition of cannabis production.

(d) One million dollars annually, for a period of three years after the effective date of this section, to the state police to expand and enhance the drug recognition expert training program and technologies utilized in the process of maintaining road safety.

(i) The state police, in association with the office of cannabis management, are authorized to establish a pilot program for the testing and development of new technologies to detect drivers who are driving under the influence of cannabis.

(ii) Pursuant to such pilot program, a law enforcement officer, who upon reasonable suspicion and belief, identifies an individual who

appears to be driving under the influence of a drug as defined by section one hundred fourteen-a of the vehicle and traffic law, may, with the knowing and intelligent permission of the driver, utilize developing technologies for the purpose of identifying said drug within the system of the driver.

(iii) The objection to, compliance with, or results of the administration of said developing technologies may not be used against any driver for the purpose of advancing a criminal action. Additionally, saliva, or other biological material obtained from the driver shall not be admissible against the driver in any criminal proceeding, or retained for any reason.

(iv) The driver shall be notified of the results of any administration of said developing technologies and provided with documentation of said results.

(v) The pilot program established by subparagraph (i) of this paragraph shall be in effect for one year after the effective date of this section.

4. After the dispersal of moneys pursuant to subdivision three of this section, the remaining moneys in the fund deposited during the prior fiscal year shall be disbursed into the state lottery fund and two additional sub-funds created within the cannabis revenue fund known as the drug treatment and public education fund and the community grants reinvestment fund, as follows:

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

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

(c) fifty percent shall be deposited in the community grants reinvestment fund established by section ninety-nine-jj of this article.

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

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

(b) recipients of awards from the fund;

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

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

(e) a summary financial plan for such monies which shall include estimates of all receipts and all disbursements for the current and succeeding fiscal years, along with the actual results from the prior fiscal year.

6. Moneys shall be payable directly from the cannabis revenue fund to the department of education.

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

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

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

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

(a) To develop and implement a youth-focused public health education and prevention campaign, including school-based prevention, early intervention, and health care services and programs to reduce the risk of cannabis and other substance use by school-aged children;

(b) To develop and implement a statewide public health campaign focused on the health effects of cannabis and legal use, including an ongoing education and prevention campaign that educates the general public, including parents, consumers and retailers, on the legal use of cannabis, the importance of preventing youth access, the importance of safe storage and preventing secondhand cannabis smoke exposure, information for pregnant or breastfeeding women, and the overconsumption of edibles;

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

(d) To evaluate the programs being funded to determine their effectiveness.

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

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

(b) recipients of awards from the fund;

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

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

(e) a summary financial plan for such monies which shall include estimates of all receipts and all disbursements for the current and succeeding fiscal years, along with the actual results from the prior fiscal year.

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

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

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

3. The fund shall be governed and administered by an executive steering committee of thirteen members, including a representative from the office of children and family services, the labor department, and the health department appointed by the governor, and a representative of the education department appointed by the board of regents. In addition, the majority and minority leaders of the senate and assembly shall each appoint one member to the executive steering committee, the comptroller shall appoint three additional members, and the attorney general shall appoint two additional members from relevant local government entities and community-based organizations. Every effort shall be made to ensure a balanced and diverse committee representing the regions and demographics of the state, which shall have expertise in job placement, homelessness and housing, behavioral health and substance use disorder treatment, and effective rehabilitative treatment for adults and juveniles, and shall include representatives of organizations serving communities impacted by past federal and state drug policies.

4. The moneys in such fund shall be expended by the executive steering committee to qualified community-based nonprofit organizations and approved local government entities for the purpose of reinvesting in communities disproportionately affected by past federal and state drug policies. The grants from this program shall be used, including but not limited to, to support job placement, job skills services, adult education, mental health treatment, substance use disorder treatment, housing, community banking, nutrition services, afterschool and child care services, system navigation services, legal services to address barriers to reentry, and linkages to medical care, women's health services and other community-based supportive services. The grants from this program may also be used to further support the social and economic equity program created by article four of the cannabis law and distributed through the office of cannabis management.

5. On or before the first day of February each year, the commissioner of the office of children and family services shall provide a written report to the temporary president of the senate, speaker of the assembly, chair of the senate finance committee, chair of the assembly ways and means committee, chair of the senate committee on children and families, chair of the assembly children and families committee, chair of the senate committee on labor, chair of the assembly labor committee, chair of the senate committee on health, chair of the assembly health committee, chair of the senate committee on education, chair of the assembly education committee, the state comptroller and the public. Such report shall detail how the monies of the fund were utilized during the preceding calendar year, and shall include:

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

(b) recipients of awards from the fund;

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

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

(e) a summary financial plan for such monies which shall include estimates of all receipts and all disbursements for the current and succeeding fiscal years, along with the actual results from the prior fiscal year.

6. Moneys shall be payable from the fund on the audit and warrant of the comptroller on vouchers approved and certified by the executive steering committee.

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

§ 62. This act shall take effect immediately; provided, however that if section 3 of part XX of chapter 59 of the laws of 2019 shall not have taken effect on or before such date then section thirty-five of this act shall take effect on the same date and in the same manner as such chapter of the laws of 2019 takes effect; provided, further, that sections thirty-nine and forty of this act shall take effect April 1, 2020, and shall apply on and after such date: (a) to the cultivation of cannabis flower and cannabis trim transferred by a cultivator who is not a wholesaler; (b) to the cultivation of cannabis flower and cannabis trim sold or transferred to a retail dispensary by a cultivator who is a wholesaler; and (c) to the sale or transfer of adult use cannabis products to a retail dispensary; provided, further, that the amendments to article 179 of the penal law made by section fifty-six of this act shall not affect the repeal of such article and shall be deemed to be repealed therewith; provided, further, that the amendments to section 89-h of the state finance law made by section fifty-nine of this act shall not affect the repeal of such section and shall be deemed repealed therewith; and provided, further, that the amendments to subdivision 1 of section 171-a of the tax law made by section thirty-five of this act shall not affect the expiration of such subdivision and shall expire therewith, when upon such date the provisions of section thirty-six of this act shall take effect.