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IN ASSEMBLY

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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, DARLING, RODRIGUEZ, FERNANDEZ, ARROYO, BRONSON, DE LA ROSA, FALL, CARROLL, LENTOL, DenDEKKER, RAMOS, BENEDETTO, SIMONTAS, SIMON, KIM, AUBRY -- Multi-Sponsored by -- M. of A. MOSLEY, SEAWRIGHT, 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 -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, 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

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

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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 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:

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

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

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

- 10 Section 1. Short title.
- 11 2. Legislative findings and intent.
- 12 3. Definitions.

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

15 § 2. Legislative findings and intent. The legislature finds that
16 existing marihuana laws have not been beneficial to the welfare of the
17 general public. Existing laws have been ineffective in reducing or curb-
18 ing marihuana use and have instead resulted in devastating collateral
19 consequences including mass incarceration and other complex generational
20 trauma, that inhibit an otherwise law-abiding citizen's ability to
21 access housing, employment opportunities, and other vital services.
22 Existing laws have also created an illicit market which represents a
23 threat to public health and reduces the ability of the legislature to
24 deter the accessing of marihuana by minors. Existing marihuana laws have
25 disproportionately impacted African-American and Latinx communities.

26 The intent of this act is to regulate, control, and tax marihuana,
27 heretofore known as cannabis, generate significant new revenue, make
28 substantial investments in communities and people most impacted by mari-
29 huana criminalization to address the collateral consequences of such
30 criminalization, prevent access to cannabis by those under the age of
31 twenty-one years, reduce the illegal drug market and reduce violent
32 crime, reduce participation of otherwise law-abiding citizens in the
33 illicit market, end the racially disparate impact of existing cannabis
34 laws, create new industries and increase employment and strengthen New
35 York's agriculture sector.

36 Nothing in this act is intended to limit the authority of any district
37 government agency or office or employers to enact and enforce policies
38 pertaining to cannabis in the workplace, to allow driving under the

1 influence of cannabis, to allow individuals to engage in conduct that
2 endangers others, to allow smoking cannabis in any location where smok-
3 ing tobacco is prohibited, or to require any individual to engage in any
4 conduct that violates federal law or to exempt anyone from any require-
5 ment of federal law or pose any obstacle to the federal enforcement of
6 federal law.

7 The legislature further finds and declares that it is in the best
8 interest of the state to regulate medical cannabis, adult-use cannabis,
9 cannabinoid hemp and hemp extracts under independent entities, known as
10 the cannabis control board and the office of cannabis management.

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

15 1. "Applicant" means a resident of New York state who is a citizen of
16 the United States or a person lawfully admitted for permanent residency
17 in the United States aged twenty-one years or older applying for any
18 cannabis or hemp licenses or special use permits issued by the New York
19 state cannabis control board pursuant to this chapter; provided, however
20 applicants for hemp licenses may be aged eighteen years or older.

21 2. "Cannabinoid" means the phytocannabinoids found in hemp and does
22 not include synthetic cannabinoids as that term is defined in subdivi-
23 sion (g) of schedule I of section thirty-three hundred six of the public
24 health law.

25 3. "Cannabinoid hemp" means any hemp and any product processed or
26 derived from hemp, that is used for human consumption provided that when
27 such product is packaged or offered for retail sale to a consumer, it
28 shall not have a concentration of more than three tenths of a percent
29 delta-9 tetrahydrocannabinol.

30 4. "Cannabinoid hemp processor license" means a license granted by the
31 department to process, extract, pack or manufacture cannabinoid hemp or
32 hemp extract into products, whether in intermediate or final form, used
33 for human consumption.

34 5. "Cannabis" means all parts of the plant of the genus Cannabis,
35 whether growing or not; the seeds thereof; the resin extracted from any
36 part of the plant; and every compound, manufacture, salt, derivative,
37 mixture, or preparation of the plant, its seeds or resin. It does not
38 include the mature stalks of the plant, fiber produced from the stalks,
39 oil or cake made from the seeds of the plant, any other compound, manu-
40 facture, salt, derivative, mixture, or preparation of the mature stalks
41 (except the resin extracted therefrom), fiber, oil, or cake, or the
42 sterilized seed of the plant which is incapable of germination. It does
43 not include hemp, cannabinoid hemp or hemp extract as defined by this
44 section.

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

47 7. "Cannabis control board" means the New York state cannabis control
48 board created pursuant to article two of this chapter.

49 8. "Cannabis flower" means the flower of a plant of the genus Cannabis
50 that has been harvested, dried, and cured, prior to any processing
51 whereby the plant material is transformed into a concentrate, including,
52 but not limited to, concentrated cannabis, or an edible or topical prod-
53 uct containing cannabis or concentrated cannabis and other ingredients.
54 Cannabis flower excludes leaves and stem.

- 1 9. "Cannabis product" or "adult-use cannabis product" means cannabis,
2 concentrated cannabis, and cannabis-infused products for use by a canna-
3 bis consumer.
- 4 10. "Cannabis-infused products" means products that have been manufac-
5 tured and contain either cannabis or concentrated cannabis and other
6 ingredients that are intended for use or consumption.
- 7 11. "Cannabis trim" means all parts of the plant of the genus Cannabis
8 other than cannabis flower that have been harvested, dried, and cured,
9 but prior to any further processing.
- 10 12. "Caring for" means treating a patient, in the course of which the
11 practitioner has completed a full assessment of the patient's medical
12 history and current medical condition.
- 13 13. "Certification" means a certification made under this chapter.
- 14 14. "Certified medical use" includes the acquisition, administration,
15 cultivation, manufacture, delivery, harvest, possession, preparation,
16 transfer, transportation, or use of cannabis or paraphernalia relating
17 to the administration of cannabis to treat or alleviate a certified
18 patient's medical condition or symptoms associated with the patient's
19 medical condition.
- 20 15. "Certified patient" means a patient who is a resident of New York
21 state or receiving care and treatment in New York state as determined by
22 the board in regulation, and is certified under this chapter.
- 23 16. "Chief equity officer" means the chief equity officer of the
24 office of cannabis management.
- 25 17. "Commercial cannabis activity" means the production, cultivation,
26 manufacturing, processing, possession, storing, laboratory testing,
27 packaging, labeling, transportation, delivery, or sale of cannabis and
28 cannabis products as provided for in this chapter.
- 29 18. "Concentrated cannabis" means: (a) the separated resin, whether
30 crude or purified, obtained from a plant of the genus Cannabis; or (b) a
31 material, preparation, mixture, compound or other substance which
32 contains more than three percent by weight of delta-9 tetrahydrocannabi-
33 nol, or its isomer, delta-8 dibenzopyran numbering system, or delta-1
34 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpene numbering
35 system.
- 36 19. "Condition" means having one of the following conditions: cancer,
37 positive status for human immunodeficiency virus or acquired immune
38 deficiency syndrome, amyotrophic lateral sclerosis, Parkinson's disease,
39 multiple sclerosis, damage to the nervous tissue of the spinal cord with
40 objective neurological indication of intractable spasticity, epilepsy,
41 inflammatory bowel disease, neuropathies, Huntington's disease, post-
42 traumatic stress disorder, pain that degrades health and functional
43 capability where the use of medical cannabis is an alternative to opioid
44 use, substance use disorder, Alzheimer's, muscular dystrophy, dystonia,
45 rheumatoid arthritis, autism or any other condition certified by the
46 practitioner.
- 47 20. "Cultivation" means growing, cloning, harvesting, drying, curing,
48 grading, and trimming of cannabis plants for sale to certain other cate-
49 gories of cannabis license- and permit-holders.
- 50 21. "Delivery" means the direct delivery of cannabis products by a
51 retail licensee, microbusiness licensee, or delivery license holder to a
52 cannabis consumer.
- 53 22. "Designated caregiver facility" means a general hospital or resi-
54 dential health care facility operating pursuant to article twenty-eight
55 of the public health law; an adult care facility operating pursuant to
56 title two of article seven of the social services law; a community

1 mental health residence established pursuant to section 41.44 of the
2 mental hygiene law; a hospital operating pursuant to section 7.17 of the
3 mental hygiene law; a mental hygiene facility operating pursuant to
4 article thirty-one of the mental hygiene law; an inpatient or residen-
5 tial treatment program certified pursuant to article thirty-two of the
6 mental hygiene law; a residential facility for the care and treatment of
7 persons with developmental disabilities operating pursuant to article
8 sixteen of the mental hygiene law; a residential treatment facility for
9 children and youth operating pursuant to article thirty-one of the
10 mental hygiene law; a private or public school; research institution
11 with an internal review board; or any other facility as determined by
12 the board in regulation; that registers with the office to assist one or
13 more certified patients with the acquisition, possession, delivery,
14 transportation or administration of medical cannabis.

15 23. "Designated caregiver" means an individual designated by a certi-
16 fied patient in a registry application. A certified patient may desig-
17 nate up to five designated caregivers not counting designated caregiver
18 facilities or designated caregiver facilities' employees.

19 24. "Designated caregiver facility employee" means an employee of a
20 designated caregiver facility.

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

24 26. "Executive director" means the executive director of the office of
25 cannabis management.

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

30 28. "Hemp" means the plant *Cannabis sativa* L. and any part of such
31 plant, including the seeds thereof and all derivatives, extracts, canna-
32 binoids, isomers, acids, salts, and salts of isomers, whether growing or
33 not, with a delta-9 tetrahydrocannabinol concentration (THC) of not more
34 than three-tenths of a percent on a dry weight basis. It shall not
35 include "medical cannabis" as defined in this section.

36 29. "Hemp extract" means all derivatives, extracts, cannabinoids,
37 isomers, acids, salts, and salts of isomers derived from hemp, used or
38 intended for human consumption, for its cannabinoid content, with a
39 delta-9 tetrahydrocannabinol concentration of not more than an amount
40 determined by the department in regulation. For the purpose of this
41 article, hemp extract excludes (a) any food, food ingredient or food
42 additive that is generally recognized as safe pursuant to federal law;
43 or (b) any hemp extract that is not used for human consumption. Such
44 excluded substances shall not be regulated pursuant to the provisions of
45 this article but are subject to other provisions of applicable state
46 law, rules and regulations.

47 30. "Labor peace agreement" means an agreement between an entity and a
48 labor organization that, at a minimum, protects the state's proprietary
49 interests by prohibiting labor organizations and members from engaging
50 in picketing, work stoppages, boycotts, and any other economic interfer-
51 ence with the entity.

52 31. "Laboratory testing facility" means any independent laboratory
53 capable of testing cannabis and cannabis products for adult-use and
54 medical-use; cannabinoid hemp and hemp extract; or for all categories of
55 cannabis and cannabis products as per regulations set forth by the state
56 cannabis control board.

1 32. "License" means a written authorization as provided under this
2 chapter permitting persons to engage in a specified activity authorized
3 pursuant to this chapter.

4 33. "Licensee" means an individual or an entity who has been granted a
5 license under this chapter.

6 34. "Medical cannabis" means cannabis as defined in this section,
7 intended for a certified medical use, as determined by the board in
8 consultation with the commissioner of health.

9 35. "Microbusiness" means a licensee that may act as a cannabis
10 producer for the cultivation of cannabis, a cannabis processor, a canna-
11 bis distributor and a cannabis retailer under this article; provided
12 such licensee complies with all requirements imposed by this article on
13 licensed producers, processors, distributors and retailers to the extent
14 the licensee engages in such activities.

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

18 37. "Office" or "office of cannabis management" means the New York
19 state office of cannabis management.

20 38. "On-site consumption" means the consumption of cannabis in an area
21 licensed as provided for in this chapter.

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

27 40. "Package" means any container or receptacle used for holding
28 cannabis or cannabis products.

29 41. "Permit" means a permit issued pursuant to this chapter.

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

32 43. "Practitioner" means a practitioner who is licensed, registered or
33 certified by New York state to prescribe controlled substances within
34 the state. Nothing in this chapter shall be interpreted so as to give
35 any such person authority to act outside their scope of practice as
36 defined by title eight of the education law. Additionally, nothing in
37 this chapter shall be interpreted to allow any unlicensed, unregistered,
38 or uncertified person to act in a manner that would require a license,
39 registration, or certification pursuant to title eight of the education
40 law.

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

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

47 46. "Registry application" means an application properly completed and
48 filed with the board by a certified patient under article three of this
49 chapter.

50 47. "Registry identification card" means a document that identifies a
51 certified patient or designated caregiver, as provided under this chap-
52 ter.

53 48. "Retail sale" means to solicit or receive an order for, to keep or
54 expose for sale, and to keep with intent to sell, made by any licensed
55 person, whether principal, proprietor, agent, or employee, of any canna-

1 bis, cannabis product, cannabinoid hemp or hemp extract product to a
2 cannabis consumer for any purpose other than resale.

3 49. "Retailer" means any person who sells at retail any cannabis prod-
4 uct, the sale of which a license is required under the provisions of
5 this chapter.

6 50. "Small business" means small business as defined in section one
7 hundred thirty-one of the economic development law, and shall apply for
8 purposes of this chapter where any inconsistencies exist.

9 51. "Smoking" means the burning of a lighted cigar, cigarette, pipe or
10 any other matter or substance which contains cannabis including the use
11 of an electronic smoking device that creates an aerosol or vapor.

12 52. "Social and economic equity applicant" means an individual or an
13 entity who is eligible for priority licensing pursuant to the criteria
14 established in article four of this chapter.

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

18 54. "Warehouse" means and includes a place in which cannabis products
19 are securely housed or stored.

20 55. "Wholesale" means to solicit or receive an order for, to keep or
21 expose for sale, and to keep with intent to sell, made by any licensed
22 person, whether principal, proprietor, agent, or employee of any adult-
23 use, medical-use cannabis or cannabis product, or cannabinoid hemp and
24 hemp extract product for purposes of resale.

25 ARTICLE 2

26 NEW YORK STATE CANNABIS CONTROL BOARD

27 Section 7. Establishment of the cannabis control board or "board".

28 8. Establishment of an office of cannabis management.

29 9. Executive director.

30 10. Powers and duties of the cannabis control board.

31 11. Functions, powers and duties of the executive director;
32 office of cannabis control.

33 12. Chief equity officer.

34 13. Rulemaking authority.

35 14. State cannabis advisory board.

36 15. Disposition of moneys received for license fees.

37 16. Violations of cannabis laws or regulations; penalties and
38 injunctions.

39 17. Formal hearings; notice and procedure.

40 18. Ethics, transparency and accountability.

41 § 7. Establishment of the cannabis control board or "board". 1. The
42 cannabis control board is hereby created and shall consist of a chair-
43 person nominated by the governor and with the advice and consent of the
44 senate, with one vote, and four other voting board members as provided
45 for in subdivision two of this section. In addition, the commissioners
46 of the departments of environmental conservation, health, agriculture
47 and markets, taxation and finance, the superintendent of financial
48 services, and the director of the office of addiction services and
49 supports or their designees shall serve as ex-officio members in an
50 advisory capacity.

51 2. Appointments. The governor shall have three appointments with the
52 advice and consent of the senate, the temporary president of the senate
53 and the speaker of the assembly shall each have one appointment to the
54 board. Appointments shall be for a term of three years each and shall be

1 geographically and demographically representative of the state and
2 communities historically affected by the war on drugs. Board members
3 shall be citizens and permanent residents of this state. The chairperson
4 and the remaining members of such board shall continue to serve as
5 chairperson and members of the board until the expiration of the respec-
6 tive terms for which they were appointed. Upon the expiration of such
7 respective terms the successors of such chairperson and members shall be
8 appointed to serve for a term of three years each and until their
9 successors have been appointed and qualified. The members shall when
10 performing the work of the board, be compensated at a rate of two
11 hundred sixty dollars per day, and together with an allowance for actual
12 and necessary expenses incurred in the discharge of their duties. No
13 member or member's spouse or minor child shall have any interest in an
14 entity regulated by the board.

15 3. Expenses. Each member of the board shall be entitled to their
16 expenses actually and necessarily incurred by them in the performance of
17 their duties.

18 4. Removal. Any member of the board may be removed by the governor for
19 good cause after notice and an opportunity to be heard. A statement of
20 the good cause for their removal shall be filed by the governor in the
21 office of the secretary of state.

22 5. Vacancies; quorum. (A) In the event of a vacancy caused by the
23 death, resignation, removal or inability to perform his or her duties of
24 any board member, the vacancy shall be filled in the manner as the
25 original appointment for the remainder of the unexpired term.

26 (B)(i) In the event of a vacancy caused by the death, resignation,
27 removal, or inability to act of the chair, the vacancy shall be filled
28 in the same manner as the original appointment for the remainder of the
29 unexpired term. Notwithstanding any other provision of law to the
30 contrary, the governor shall designate one of the remaining board
31 members to serve as acting chairperson for a period not to exceed six
32 months or until a successor chairperson has been confirmed by the
33 senate. Upon the expiration of the six month term, if the governor has
34 nominated a successor chairperson, but the senate has not acted upon the
35 nomination, the acting chairperson can continue to serve as acting
36 chairperson for an additional ninety days or until the governor's
37 successor chairperson nomination is confirmed by the senate, whichever
38 comes first;

39 (ii) The governor shall provide immediate written notice to the tempo-
40 rary president of the senate and the speaker of the assembly of the
41 designation of a board member as acting chairperson;

42 (iii) If (a) the governor has not nominated a successor chairperson
43 upon the expiration of the six month term or (b) the senate does not
44 confirm the governor's successor nomination within the additional ninety
45 days, the board member designated as acting chairperson shall no longer
46 be able to serve as acting chairperson and the governor is prohibited
47 from extending the powers of that acting chairperson or from designating
48 another board member to serve as acting chairperson; and

49 (iv) A board member serving as the acting chairperson of the cannabis
50 control board shall be deemed a state officer for purposes of section
51 seventy-three of the public officers law.

52 (C) A majority of the voting board members of the board shall consti-
53 tute a quorum for the purpose of conducting the business thereof and a
54 majority vote of all the members in office shall be necessary for
55 action. Provided, however, that a board member designated as an acting

1 chairperson pursuant to this chapter shall have only one vote for
2 purposes of conducting the business of the cannabis control board.

3 6. Officers; employees; offices. (A) The board shall have power to
4 appoint any necessary deputies, counsels, assistants, investigators, and
5 other employees within the limits provided by appropriation. Investi-
6 gators so employed by the board shall be deemed to be peace officers
7 only for the purpose of enforcing the provisions of the cannabis law or
8 judgments or orders obtained for violation thereof, with all the powers
9 set forth in section 2.20 of the criminal procedure law. The counsel,
10 secretary, chief executive officer, assistant chief executive officers,
11 chief equity officer, confidential secretaries to board members and
12 deputies shall be in the exempt class of the civil service. The other
13 assistants, investigators and employees of the office of cannabis
14 management shall all be in the competitive class of the civil service
15 and shall be considered for purposes of article fourteen of the civil
16 service law to be public employees in the civil service of the state,
17 and shall be assigned to the appropriate collective bargaining unit.
18 Employees serving in positions in newly created titles shall be assigned
19 to the same collective bargaining units as they would have been assigned
20 to were such titles created prior to the establishment of the office of
21 cannabis management by this chapter.

22 The cannabis control board and office of cannabis management shall
23 have its principal office in the city of Albany, and maintain branch
24 offices in the cities of New York and Buffalo and such other places as
25 it may deem necessary.

26 (B) The board shall establish appropriate procedures to ensure that
27 hearing officers are shielded from ex parte communications with alleged
28 violators and their attorneys and from other employees of the office of
29 cannabis management and shall take such other steps as it shall deem
30 necessary and proper to shield its judicial processes from unwarranted
31 and inappropriate communications and attempts to influence.

32 7. Disqualification of members of the board and employees of the
33 office of cannabis management. No member of the board or any officer,
34 deputy, assistant, inspector or employee or spouse or minor child there-
35 of shall have any interest, direct or indirect, either proprietary or by
36 means of any loan, mortgage or lien, or in any other manner, in or on
37 any premises where cannabis is manufactured or sold; nor shall they have
38 any interest, direct or indirect, in any business wholly or partially
39 devoted to the cultivation, manufacture, distribution, sale, transporta-
40 tion or storage of cannabis, or own any stock in any corporation which
41 has any interest, proprietary or otherwise, direct or indirect, in any
42 premises where cannabis or hemp extract is cultivated or manufactured,
43 distributed, or sold, or in any business wholly or partially devoted to
44 the cultivation, manufacture, distribution, sale, transportation or
45 storage of cannabis or hemp extract or receive any commission or profit
46 whatsoever, direct or indirect, from any person applying for or receiv-
47 ing any license or permit provided for in this chapter, or hold any
48 other public office in the state or in any political subdivision except
49 upon the written permission of the board, such member of the board or
50 office of cannabis management or officer, deputy, assistant, inspector
51 or employee thereof may hold the public office of notary public or
52 member of a community board of education in the city school district of
53 the city of New York. Anyone who violates any of the provisions of this
54 section shall be removed.

55 § 8. Establishment of an office of cannabis management. There is here-
56 by established, within the division of alcoholic beverage control, an

1 independent office of cannabis management, which shall have exclusive
2 jurisdiction to exercise the powers and duties provided by this chapter.
3 The office shall exercise its authority by and through an executive
4 director.

5 § 9. Executive director. The office shall exercise its authority,
6 other than powers and duties specifically granted to the board, by and
7 through an executive director nominated by the governor and confirmed by
8 the senate. The executive director shall serve for a term of three
9 years and once confirmed, may only be removed for good cause with appro-
10 priate notice. The executive director of the state office of cannabis
11 management shall receive an annual salary not to exceed an amount appro-
12 priated therefor by the legislature and his or her expenses actually and
13 necessarily incurred in the performance of his or her official duties,
14 unless otherwise provided by the legislature.

15 § 10. Powers and duties of the cannabis control board. The cannabis
16 control board or "board" shall have the following functions, powers and
17 duties as provided for in this chapter:

18 1. Sole discretion to issue or refuse to issue any registration,
19 license or permit provided for in this chapter.

20 2. Sole discretion to limit, or not to limit, the number of registra-
21 tions, licenses and permits of each class to be issued within the state
22 or any political subdivision thereof, in a manner that prioritizes
23 social and economic equity applicants with the goal of fifty percent
24 awarded to such applicants, and considers small business opportunities
25 and concerns, avoids market dominance in sectors of the industry, and
26 reflects the demographics of the state.

27 3. Sole discretion to revoke, cancel or suspend for cause any regis-
28 tration, license, or permit issued under this chapter and/or to impose a
29 civil penalty for cause, after notice and an opportunity for a hearing,
30 against any holder of a registration, license, or permit issued pursuant
31 to this chapter.

32 4. To fix by rule and regulation the standards of cultivation and
33 processing of medical cannabis, adult use cannabis and cannabis product,
34 and cannabinoid hemp and hemp extract, including but not limited to, the
35 ability to regulate potency and the types of products which may be manu-
36 factured and/or processed, in order to ensure the health and safety of
37 the public and the use of proper ingredients and methods in the manufac-
38 ture of all medical, adult-use, cannabinoid hemp and hemp extract to be
39 sold or consumed in the state.

40 5. To limit or prohibit, at any time of public emergency and without
41 previous notice or advertisement, the cultivation, processing, distrib-
42 ution or sale of any or all cannabis products, medical cannabis or
43 cannabinoid hemp and hemp extract, for and during the period of such
44 emergency.

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

50 7. To appoint any necessary directors, deputies, counsels, assistants,
51 investigators, and other employees within the limits provided by appro-
52 priation. Directors, deputies and counsels shall be in the exempt class
53 of the civil service. The other assistants, investigators and employees
54 of the office shall all be in the competitive class of the civil service
55 and shall be considered for purposes of article fourteen of the civil
56 service law to be public employees of the state, and shall be assigned

1 to the appropriate bargaining unit. Investigators so employed by the
2 office shall be deemed to be peace officers only for the purposes of
3 enforcing the provisions of this chapter or judgments or orders obtained
4 for violation thereof, with all the powers set forth in section 2.20 of
5 the criminal procedure law. Employees transferred to the office shall be
6 transferred without further examination or qualification to the same or
7 similar titles and shall remain in the same collective bargaining units
8 and shall retain their respective civil service classifications, status
9 and rights pursuant to their collective bargaining units and collective
10 bargaining agreements. Employees serving in positions in newly created
11 titles shall be assigned to the appropriate collective bargaining unit
12 as they would have been assigned to were such titles created prior to
13 the establishment of the office of cannabis management. Any action
14 taken under this subdivision shall be subject to and in accordance with
15 the civil service law.

16 8. To inspect or provide authorization for the inspection at any time
17 of any premises where medical cannabis, adult-use cannabis or cannabi-
18 noid hemp and hemp extract is cultivated, processed, stored, distributed
19 or sold.

20 9. To prescribe forms of applications for registrations, licenses and
21 permits under this chapter and of all reports deemed necessary by the
22 board.

23 10. To appoint such advisory groups and committees as deemed necessary
24 to provide assistance to the board to carry out the purposes and objec-
25 tives of this chapter.

26 11. To exercise the powers and perform the duties in relation to the
27 administration of the board and the office of cannabis management as are
28 necessary but not specifically vested by this chapter, including but not
29 limited to budgetary and fiscal matters.

30 12. To develop and establish minimum criteria for certifying employees
31 to work in the cannabis industry in positions requiring advanced train-
32 ing and education.

33 13. To enter into contracts, memoranda of understanding, and agree-
34 ments as deemed appropriate to effectuate the policy and purpose of this
35 chapter.

36 14. To advise the urban development corporation in making low interest
37 or zero-interest loans to qualified social and economic equity appli-
38 cants as provided for in this chapter.

39 15. If public health, safety, or welfare imperatively requires emer-
40 gency action, and incorporates a finding to that effect in an order,
41 summary suspension of a license may be ordered, effective on the date
42 specified in such order or upon service of a certified copy of such
43 order on the licensee, whichever shall be later, pending proceedings for
44 revocation or other action. These proceedings shall be promptly insti-
45 tuted and determined. In addition, the board may be directed to order
46 the administrative seizure of product, issue a stop order, or take any
47 other action necessary to effectuate and enforce the policy and purpose
48 of this chapter.

49 16. To draft and provide for public comment and issue regulations,
50 declaratory rulings, guidance and industry advisories.

51 17. To draft and provide an annual report on the effectiveness of this
52 chapter no later than January first, two thousand twenty-two and annual-
53 ly thereafter. The annual report shall be prepared, in consultation
54 with the division of the budget, the urban development corporation, the
55 department of taxation and finance, the department of health, department
56 of agriculture and markets, office of addiction services and supports,

1 office of mental health, New York state police and the division of crim-
2 inal justice services. The report shall provide, but not be limited to,
3 the following information:

4 (a) the number of registrations, licenses, and permits applied for by
5 geographic region of the state; the number of registrations, licenses,
6 and permits approved or denied by geographic region of the state;

7 (b) the economic and fiscal impacts associated with this chapter,
8 including revenue from licensing or other fees, fines and taxation
9 related to the cultivation, distribution and sale of cannabis for
10 medical and adult-use and cannabinoid hemp and hemp extract in this
11 state;

12 (c) specific programs and progress made by the cannabis control board
13 and the office of cannabis management in achieving the goals of the
14 social and economic equity plan, and other social justice goals includ-
15 ing, but not limited to, restorative justice, minority- and women-owned
16 businesses, disadvantaged farmers business and service disabled veter-
17 ans;

18 (d) collect demographic data on owners and employees in the medical
19 cannabis, adult-use cannabis and cannabinoid hemp and hemp extract
20 industry;

21 (e) impacts to public health and safety, including substance use
22 disorder;

23 (f) impacts associated with public safety, including, but not limited
24 to, traffic-related issues, law enforcement, under-age prevention in
25 relation to accessing adult-use cannabis, and efforts to eliminate the
26 illegal market for cannabis products in New York; and

27 (g) any other information or data deemed significant.

28 18. The board shall make recommendations regarding the appropriate
29 level of taxation of adult-use cannabis, as well as changes necessary
30 to: improve registration, licensing and permitting; promoting and
31 encouraging social and economic equity applicants; improve and protect
32 the public health and safety of New Yorkers; improve access and avail-
33 ability for substance abuse treatment programs; and any other recommen-
34 dations deemed necessary and appropriate. Such report shall be presented
35 to the governor, the majority leader of the senate and the speaker of
36 the assembly, no later than January first, two thousand twenty-two and
37 annually thereafter.

38 § 11. Functions, powers and duties of the executive director; office
39 of cannabis management. The executive director, as authorized by and
40 through this chapter, shall have the following functions, powers and
41 duties as provided for in this chapter:

42 1. To exercise the powers and perform the duties in relation to the
43 administration of the office of cannabis management as are not specif-
44 ically vested by this chapter in the cannabis control board.

45 2. To keep records in such form as he or she may prescribe of all
46 registrations, licenses and permits issued and revoked within the state;
47 such records shall be so kept as to provide ready information as to the
48 identity of all licensees including the names of the officers and direc-
49 tors of corporate licensees and the location of all licensed premises.
50 The executive director may contract to furnish copies of the records of
51 licenses and permits of each class and type issued within the state or
52 any political subdivision thereof, for any license or permit year or
53 term of years not exceeding five years.

54 3. To inspect or provide for the inspection of any premises where
55 medical cannabis, adult-use cannabis, hemp cannabis are manufactured or
56 sold.

1 4. To prescribe forms of applications for licenses and permits under
2 this chapter and of all reports deemed necessary by the board.

3 5. As authorized by the board, to inspect or provide for the
4 inspection of any licensed or permitted premises where medical, adult-
5 use or hemp is cultivated, processed, stored, distributed or sold.

6 6. To prescribe forms of applications for registrations, licenses and
7 permits under this chapter and of all reports deemed necessary by the
8 board.

9 7. To delegate the powers provided in this section to such other offi-
10 cers or employees as may be deemed appropriate by the executive direc-
11 tor.

12 8. To exercise the powers and perform the duties as delegated by the
13 board in relation to the administration of the office as are necessary,
14 including but not limited to budgetary and fiscal matters.

15 9. To enter into contracts, memoranda of understanding, and agreements
16 on the recommendation of the executive director and as authorized by the
17 board to effectuate the policy and purpose of this chapter.

18 10. To advise and assist the board in carrying out any of its func-
19 tions, powers and duties.

20 § 12. Chief equity officer. The chief equity officer shall be nomi-
21 nated by the governor and confirmed by the senate. The chief equity
22 officer shall receive an annual salary not to exceed an amount appropri-
23 ated therefor by the legislature and their expenses actually and neces-
24 sarily incurred in the performance of official duties, unless otherwise
25 provided by the legislature.

26 1. The chief equity officer shall assist with the development and
27 implementation of, and ensure the cannabis control board and the office
28 of cannabis management's continued compliance with, the social and
29 economic equity plan, required to be developed pursuant to article four
30 of this chapter.

31 2. The chief equity officer shall establish public education program-
32 ming dedicated to providing communities that have been impacted by
33 cannabis prohibition with information detailing the licensing process
34 and informing individuals of the support and resources that the office
35 can provide to individuals and entities interested in participating in
36 activity licensed under this chapter.

37 3. The chief equity officer shall provide a report to the legislature,
38 no later than January first, two thousand twenty-two, and annually ther-
39 eafter, of their activities in ensuring compliance with the social and
40 economic equity plan, required to be developed pursuant to article four
41 of this chapter.

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

46 2. The board shall, in consultation with the executive director, the
47 chief equity officer and the state cannabis advisory board, have the
48 authority to promulgate any and all necessary rules and regulations
49 governing the cultivation, manufacture, processing, transportation,
50 distribution, testing, delivery, and sale of medical cannabis, adult-use
51 cannabis, and cannabinoid hemp and hemp extract, including but not
52 limited to the registration of organizations authorized to sell medical
53 cannabis, the licensing and/or permitting of adult-use cannabis cultiva-
54 tors, processors, cooperatives, microbusiness, distributors, laborato-
55 ries, and retailers, and the licensing of cannabinoid hemp and hemp

1 extract producers and processors pursuant to this chapter, including,
2 but not limited to:

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

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

7 (c) the books and records to be created and maintained by all regis-
8 tered organizations, licensees, and permittees, including the reports to
9 be made thereon to the office, and inspection of any and all books and
10 records maintained by any registered organization, licensee, or permit-
11 tee and on the premise of any registered organization, licensee, or
12 permittee;

13 (d) methods of producing, processing, and packaging cannabis, medical
14 cannabis, cannabis-infused products, concentrated cannabis, and cannabi-
15 noid hemp and hemp extract; conditions of sanitation, and standards of
16 ingredients, quality, and identity of cannabis products cultivated,
17 processed, packaged, or sold by any registered organizations and licen-
18 sees;

19 (e) security requirements for medical cannabis and adult-use cannabis
20 retail dispensaries and premises where cannabis products, medical canna-
21 bis, and cannabinoid hemp and hemp extract, are cultivated, produced,
22 processed, or stored, and safety protocols for registered organizations,
23 licensees and their employees; and

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

27 3. The board, in consultation with the state cannabis advisory board,
28 shall promulgate rules and regulations that are designed to:

29 (a) prevent the distribution of adult-use cannabis or cannabis product
30 to persons under twenty-one years of age, including the modification of
31 tobacco vaping products for use with cannabis;

32 (b) prevent the revenue from the sale of cannabis from going to crimi-
33 nal enterprises;

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

35 (d) prevent cannabis, hemp, cannabinoid hemp and hemp extract activity
36 that is legal under state law from being used as a cover or pretext for
37 the trafficking of other illegal drugs or other illegal activity;

38 (e) prevent driving while impaired and the exacerbation of other
39 adverse public health consequences associated with the use of cannabis;

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

41 (g) inform the public about the prohibition on the possession and use
42 of cannabis on federal property.

43 4. The board, in consultation with the department of agriculture and
44 markets and the department of environmental conservation, shall promul-
45 gate necessary rules and regulations governing the safe production of
46 cannabis, including environmental and energy standards and restrictions
47 on the use of pesticides and best practices for water and energy conser-
48 vation.

49 5. Emergency rules and regulations: In adopting any emergency rule,
50 the board shall comply with the provisions of subdivision six of section
51 two hundred two of the state administrative procedure act and subdivi-
52 sion three of section one hundred one-a of the executive law; provided,
53 however, that notwithstanding the provisions of such laws:

54 (a) Such emergency rule may remain in effect for no longer than one
55 hundred twenty days, unless within such time the board complies with the
56 provisions of such laws and adopts the rule as a permanent rule;

1 (b) If, prior to the expiration of a rule adopted pursuant to this
2 paragraph, the board finds that the readoption of such rule on an emer-
3 gency basis or the adoption of a substantially similar rule on an emer-
4 gency basis is necessary for the preservation of the public health,
5 safety or general welfare the agency may only readopt the rule on an
6 emergency basis or adopt a substantially similar rule on an emergency
7 basis if on or before the date of such action the board has also submit-
8 ted a notice of proposed rule making pursuant to subdivision six of
9 section two hundred two of the state administrative procedure act and
10 subdivision three of section one hundred one-a of the executive law. An
11 emergency rule adopted pursuant to this paragraph may remain in effect
12 for no longer than one hundred twenty days;

13 (c) An emergency rule adopted pursuant to this subdivision or a
14 substantially similar rule may be adopted on an emergency basis may
15 remain in effect for no longer than one hundred twenty days, but upon
16 the expiration of such one hundred twenty-day period no further
17 readoptions or adoptions of substantially similar rules shall be permit-
18 ted for a period of one hundred twenty days. Nothing in this subdivi-
19 sion shall preclude the adoption of such rule by submitting a notice of
20 adoption pursuant to subdivision five of section two hundred two of the
21 state administrative procedure act.

22 (d) Strict compliance with the provisions of this subdivision shall be
23 required, and any emergency rule or substantially similar rule that does
24 not so comply shall be void and of no legal effect.

25 § 14. State cannabis advisory board. 1. The state cannabis advisory
26 board or "advisory board" is established within the office of cannabis
27 management and directed to work in collaboration with the cannabis
28 control board and the executive director to regulate and control the use
29 of medical cannabis, adult-use cannabis and cannabinoid hemp and hemp
30 extract in the state of New York.

31 2. The state cannabis advisory board, shall consist of thirteen voting
32 appointed members, along with the commissioners of environmental conser-
33 vation, health, agriculture and markets and addiction services and
34 supports serving as ex-officio members. The governor shall have seven
35 appointments, the temporary president of the senate and the speaker of
36 the assembly shall each have three appointments to the board. The
37 members shall be appointed to each serve three year terms and in the
38 event of a vacancy, the vacancy shall be filled in the manner of the
39 original appointment for the remainder of the term. The appointed
40 members and commissioners shall receive no compensation for their
41 services but shall be allowed their actual and necessary expenses
42 incurred in the performance of their duties as board members.

43 3. Advisory board members shall have statewide geographic represen-
44 tation that is balanced and diverse in its composition. Appointed
45 members shall have an expertise in public and behavioral health,
46 substance use disorder treatment, effective rehabilitative treatment for
47 adults and juveniles, economic development, environmental conservation,
48 job training and placement, criminal justice, and drug policy. Further,
49 the advisory board shall include residents from communities most
50 impacted by cannabis prohibition, people with prior drug convictions,
51 the formerly incarcerated, and representatives of organizations serving
52 communities impacted by past federal and state drug policies.

53 4. The chairperson of the advisory board and the vice chairperson
54 shall be elected from among the members of the advisory board by the
55 members of such advisory board. The vice chairperson shall represent the

1 advisory board in the absence of the chairperson at all official advisory board functions.

2
3 5. The advisory board shall work in collaboration with the cannabis control board and the executive director prior to the adoption of any rules and regulations governing the medical cannabis, adult-use cannabis or cannabinoid hemp and hemp extract industries. The advisory board shall also make recommendations to the cannabis control board, the office and the legislature on cannabis and hemp cultivation, processing, distribution, transport, social and economic equity in the cannabis and hemp industries, criminal justice, public health and safety concerns, law enforcement related to cannabis and cannabis products, and on the testing and sale of cannabis and cannabis products.

12 § 15. Disposition of moneys received for license fees. The board 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:

17 1. The board 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.

21 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.

25 3. All registration and licensure fees shall be set on a scaled basis by the board, dependent on the size and capacity of the business and for social and economic equity applicants such fees may be assessed to accomplish the goals of this chapter.

29 4. The board 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.

31 § 16. Violations of cannabis laws or regulations; penalties and injunctions. 1. 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.

38 2. The penalty provided for in subdivision one of this section may be recovered by an action brought by the board in any court of competent jurisdiction.

41 3. Such civil penalty may be released or compromised by the board 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 board.

47 4. It shall be the duty of the attorney general upon the request of the board 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.

54 5. 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

1 provision of this section, nor any action done by virtue of this
2 section, be construed as estopping the state, persons or municipalities
3 in the exercising of their respective rights.

4 § 17. Formal hearings; notice and procedure. 1. The board, or any
5 person designated by them for this purpose, may issue subpoenas and
6 administer oaths in connection with any hearing or investigation under
7 or pursuant to this chapter, and it shall be the duty of the board and
8 any persons designated by them for such purpose to issue subpoenas at
9 the request of and upon behalf of the respondent.

10 2. The board and those designated by them shall not be bound by the
11 laws of evidence in the conduct of hearing proceedings, but the determi-
12 nation shall be founded upon preponderance of evidence to sustain it.

13 3. Notice and right of hearing as provided in the state administrative
14 procedure act, shall be served at least fifteen days prior to the date
15 of the hearing, provided that, whenever because of danger to the public
16 health, safety or welfare it appears prejudicial to the interests of the
17 people of the state to delay action for fifteen days, the board may
18 serve the respondent with an order requiring certain action or the
19 cessation of certain activities immediately or within a specified period
20 of less than fifteen days.

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

27 5. At a hearing, that to the greatest extent practicable shall be
28 reasonably near the respondent, the respondent may appear personally,
29 shall have the right of counsel, and may cross-examine witnesses against
30 him or her and produce evidence and witnesses in his or her behalf.

31 6. Following a hearing, the board may make appropriate determinations
32 and issue a final order in accordance therewith.

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

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

41 § 18. Ethics, transparency and accountability. No member of the board
42 or office or any officer, deputy, assistant, inspector or employee, or
43 spouse or minor child of such member, officer, assistant, inspector or
44 employee thereof shall have any interest, direct or indirect, either
45 proprietary or by means of any loan, mortgage or lien, or in any other
46 manner, in or on any premises where adult-use cannabis, medical cannabis
47 or cannabinoid hemp and hemp extract is cultivated, processed, distrib-
48 uted or sold; nor shall he or she have any interest, direct or indirect,
49 in any business wholly or partially devoted to the cultivation, process-
50 ing, distribution, sale, transportation or storage of adult-use canna-
51 bis, medical cannabis or cannabinoid hemp and hemp extract, or own any
52 stock in any corporation which has any interest, proprietary or other-
53 wise, direct or indirect, in any premises where adult use cannabis,
54 medical cannabis or cannabinoid hemp and hemp extract is cultivated,
55 processed, distributed or sold, or in any business wholly or partially
56 devoted to the cultivation, processing, distribution, sale, transporta-

1 tion or storage of adult-use cannabis, medical cannabis or cannabinoid
 2 hemp and hemp extract, or receive any commission or profit whatsoever,
 3 direct or indirect, from any person applying for or receiving any
 4 license or permit provided for in this chapter, or hold any other
 5 elected or appointed public office in the state or in any political
 6 subdivision. After notice and opportunity to be heard, anyone found to
 7 have knowingly violated any of the provisions of this section shall,
 8 after notice, be removed and shall divest themselves of such direct or
 9 indirect interests, in addition to any other penalty provided by law.

10 ARTICLE 3
 11 MEDICAL CANNABIS

- 12 Section 30. Certification of patients.
 13 31. Lawful medical use.
 14 32. Registry identification cards.
 15 33. Registration as a designated caregiver facility.
 16 34. Registered organizations.
 17 35. Registering of registered organizations.
 18 36. Reports of registered organizations.
 19 37. Evaluation; research programs; report by board.
 20 38. Cannabis research license.
 21 39. Registered organizations and adult-use cannabis.
 22 40. Relation to other laws.
 23 41. Home cultivation of medical cannabis.
 24 42. Protections for the medical use of cannabis.
 25 43. Regulations.
 26 44. Suspend; terminate.
 27 45. Pricing.

28 § 30. Certification of patients. 1. A patient certification may only
 29 be issued if:

- 30 (a) the patient has a condition, which shall be specified in the
 31 patient's health care record;
 32 (b) the practitioner by training or experience is qualified to treat
 33 the condition;
 34 (c) the patient is under the practitioner's continuing care for the
 35 condition; and
 36 (d) in the practitioner's professional opinion and review of past
 37 treatments, the patient is likely to receive therapeutic or palliative
 38 benefit from the primary or adjunctive treatment with medical use of
 39 cannabis for the condition.

40 2. The certification shall include: (a) the name, date of birth and
 41 address of the patient; (b) a statement that the patient has a condition
 42 and the patient is under the practitioner's care for the condition; (c)
 43 a statement attesting that all requirements of subdivision one of this
 44 section have been satisfied; (d) the date; and (e) the name, address,
 45 telephone number, and the signature of the certifying practitioner. The
 46 board may require by regulation that the certification shall be on a
 47 form provided by the office. The practitioner may state in the certif-
 48 ication that, in the practitioner's professional opinion, the patient
 49 would benefit from medical cannabis only until a specified date. The
 50 practitioner may state in the certification that, in the practitioner's
 51 professional opinion, the patient is terminally ill and that the certif-
 52 ication shall not expire until the patient dies.

53 3. In making a certification, the practitioner may consider the form
 54 of medical cannabis the patient should consume, including the method of

1 consumption and any particular strain, variety, and quantity or percent-
2 age of cannabis or particular active ingredient, and appropriate dosage.
3 The practitioner may state in the certification any recommendation or
4 limitation the practitioner makes, in his or her professional opinion,
5 concerning the appropriate form or forms of medical cannabis and dosage.

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

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

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

17 7. A registry identification card based on a certification shall
18 expire one year after the date the certification is signed by the prac-
19 titioner, except as provided for in subdivision eight of this section.

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

36 9. (a) A certification may be a special certification if, in addition
37 to the other requirements for a certification, the practitioner certi-
38 fies in the certification that the patient's condition is progressive
39 and degenerative or that delay in the patient's certified medical use of
40 cannabis poses a risk to the patient's life or health.

41 (b) The office shall create the form to be used for a special certif-
42 ication and shall make that form available to be downloaded from the
43 office's website.

44 10. Prior to issuing a certification a practitioner must complete, at
45 a minimum, a two-hour course as determined by the board in regulation.
46 For the purposes of this article a person's status as a practitioner is
47 deemed to be a "license" for the purposes of section thirty-three
48 hundred ninety of the public health law and shall be subject to the same
49 revocation process.

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

55 1. the cannabis that may be possessed by a certified patient shall not
56 exceed a sixty-day supply of the dosage if determined by the practition-

1 er, consistent with any guidance and regulations issued by the board,
2 provided that during the last seven days of any sixty-day period, the
3 certified patient may also possess up to such amount for the next
4 sixty-day period;

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

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

13 4. the form or forms of medical cannabis that may be possessed by the
14 certified patient, designated caregiver or designated caregiver facility
15 pursuant to a certification shall be in compliance with any recommenda-
16 tion or limitation by the practitioner as to the form or forms of
17 medical cannabis or dosage for the certified patient in the certif-
18 ication;

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

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

26 § 32. Registry identification cards. 1. Upon approval of the certif-
27 ication, the office shall issue registry identification cards for certi-
28 fied patients and designated caregivers. A registry identification card
29 shall expire as provided in this article or as otherwise provided in
30 this section. The office shall begin issuing registry identification
31 cards as soon as practicable after the certifications required by this
32 chapter are granted. The office may specify a form for a registry appli-
33 cation, in which case the office shall provide the form on request,
34 reproductions of the form may be used, and the form shall be available
35 for downloading from the board's or office's website.

36 2. To obtain, amend or renew a registry identification card, a certi-
37 fied patient or designated caregiver shall file a registry application
38 with the office, unless otherwise exempted by the board in regulation.
39 The registry application or renewal application shall include:

40 (a) in the case of a certified patient:

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

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

44 (iii) the date of the certification;

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

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

50 (vi) the name, address, and telephone number of the certifying practi-
51 tioner;

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

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

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

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

7 (b) in the case of a designated caregiver:

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

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

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

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

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

17 (e) any other requirements determined by the board.

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

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

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

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

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

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

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

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

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

1 10. A registry identification card shall:
2 (a) contain the name of the certified patient or the designated care-
3 giver as the case may be;
4 (b) contain the date of issuance and expiration date of the registry
5 identification card;
6 (c) contain a registry identification number for the certified patient
7 or designated caregiver, as the case may be and a registry identifica-
8 tion number;
9 (d) contain a photograph of the individual to whom the registry iden-
10 tification card is being issued, which shall be obtained by the office
11 in a manner specified by the board in regulations; provided, however,
12 that if the office requires certified patients to submit photographs for
13 this purpose, there shall be a reasonable accommodation of certified
14 patients who are confined to their homes due to their medical conditions
15 and may therefore have difficulty procuring photographs;
16 (e) be a secure document as determined by the board;
17 (f) plainly state any recommendation or limitation by the practitioner
18 as to the form or forms of medical cannabis or dosage for the certified
19 patient; and
20 (g) any other requirements determined by the board.

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

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

34 13. The office shall maintain a confidential list of the persons to
35 whom it has issued registry identification cards. Individual identifying
36 information obtained by the office under this article shall be confiden-
37 tial and exempt from disclosure under article six of the public officers
38 law.

39 14. The board shall verify to law enforcement personnel in an appro-
40 priate case whether a registry identification card is valid.

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

45 16. The board shall make regulations for special certifications, which
46 shall include expedited procedures and which may require the applicant
47 to submit additional documentation establishing the clinical basis for
48 the special certification. If the board has not established and made
49 available a form for a registry application or renewal application, or
50 established and made available a form for a registry application or
51 renewal application, then in the case of a special certification, a
52 registry application or renewal application that otherwise conforms with
53 the requirements of this section shall not require the use of a form.

54 § 33. Registration as a designated caregiver facility. 1. To obtain,
55 amend or renew a registration as a designated caregiver facility, the

1 facility shall file a registry application with the office. The registry
2 application or renewal application shall include:

- 3 (a) the facility's full name and address;
- 4 (b) operating certificate or license number where appropriate;
- 5 (c) printed name, title, and signature of an authorized facility
6 representative;
- 7 (d) a statement that the facility agrees to secure and ensure proper
8 handling of all medical cannabis products;
- 9 (e) an acknowledgement that a false statement in the application is
10 punishable under section 210.45 of the penal law; and
- 11 (f) any other information that may be required by the board.

12 2. Prior to issuing or renewing a designated caregiver facility regis-
13 tration, the office may verify the information submitted by the appli-
14 cant. The applicant shall provide, at the office's request, such infor-
15 mation and documentation, including any consents or authorizations that
16 may be necessary for the office to verify the information.

17 3. The office shall approve, deny or determine incomplete or inaccu-
18 rate an initial or renewal application within thirty days of receipt of
19 the application. If the application is approved within the thirty-day
20 period, the office shall issue a registration as soon as is reasonably
21 practicable.

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

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

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

35 2. The acquiring, possession, manufacture, sale, delivery, transport-
36 ing, distributing or dispensing of medical cannabis by a registered
37 organization under this article in accordance with its registration
38 under this article or a renewal thereof shall be lawful under this chap-
39 ter.

40 3. Each registered organization shall contract with an independent
41 laboratory permitted by the board to test the medical cannabis produced
42 by the registered organization. The board shall approve the laboratory
43 used by the registered organization and may require that the registered
44 organization use a particular testing laboratory. The board is author-
45 ized to issue regulations requiring the laboratory to perform certain
46 tests and services.

47 4. (a) A registered organization may lawfully, in good faith, sell,
48 deliver, distribute or dispense medical cannabis to a certified patient
49 or designated caregiver upon presentation to the registered organization
50 of a valid registry identification card for that certified patient or
51 designated caregiver. When presented with the registry identification
52 card, the registered organization shall provide to the certified patient
53 or designated caregiver a receipt, which shall state: the name, address,
54 and registry identification number of the registered organization; the
55 name and registry identification number of the certified patient and the
56 designated caregiver, if any; the date the cannabis was sold; any recom-

1 mendation or limitation by the practitioner as to the form or forms of
2 medical cannabis or dosage for the certified patient; and the form and
3 the quantity of medical cannabis sold. The registered organization shall
4 retain a copy of the registry identification card and the receipt for
5 six years.

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

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

17 (b) When dispensing medical cannabis to a certified patient or desig-
18 nated caregiver, the registered organization: (i) shall not dispense an
19 amount greater than a sixty-day supply to a certified patient until the
20 certified patient has exhausted all but a seven day supply provided
21 pursuant to a previously issued certification; and (ii) shall verify the
22 information in subparagraph (i) of this paragraph by consulting the
23 prescription monitoring program registry under this article.

24 (c) Medical cannabis dispensed to a certified patient or designated
25 caregiver by a registered organization shall conform to any recommenda-
26 tion or limitation by the practitioner as to the form or forms of
27 medical cannabis or dosage for the certified patient.

28 6. When a registered organization sells, delivers, distributes or
29 dispenses medical cannabis to a certified patient or designated caregiv-
30 er, it shall provide to that individual a safety insert, which will be
31 developed by the registered organization and approved by the board and
32 include, but not be limited to, information on:

33 (a) methods for administering medical cannabis,

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

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

37 (d) other information as determined by the board.

38 7. Registered organizations shall not be managed by or employ anyone
39 who has been convicted within three years of the date of hire, of any
40 felony related to the functions or duties of operating a business,
41 except that if the board determines that the manager or employee is
42 otherwise suitable to be hired, and hiring the manager or employee would
43 not compromise public safety, the board shall conduct a thorough review
44 of the nature of the crime, conviction, circumstances, and evidence of
45 rehabilitation of the manager or employee, and shall evaluate the suit-
46 ability of the manager or employee based on the evidence found through
47 the review. In determining which offenses are substantially related to
48 the functions or duties of operating a business, the board shall
49 include, but not be limited to, the following:

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

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

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

5 8. Manufacturing of medical cannabis by a registered organization
6 shall only be done in an indoor, enclosed, secure facility located in
7 New York state, which may include a greenhouse. The board shall promul-
8 gate regulations establishing requirements for such facilities.

9 9. Dispensing of medical cannabis by a registered organization shall
10 only be done in an indoor, enclosed, secure facility located in New York
11 state, which may include a greenhouse. The board shall promulgate regu-
12 lations establishing requirements for such facilities.

13 10. A registered organization may contract with a person or entity to
14 provide facilities, equipment or services that are ancillary to the
15 registered organization's functions or activities under this article
16 including, but not limited to, shipping, maintenance, construction,
17 repair, and security, provided that the person or entity shall not
18 perform any function or activity directly involving the planting, grow-
19 ing, tending, harvesting, processing, or packaging of cannabis plants,
20 medical cannabis, or medical cannabis products being produced by the
21 registered organization; or any other function directly involving manu-
22 facturing or retailing of medical cannabis. All laws and regulations
23 applicable to such facilities, equipment, or services shall apply to the
24 contract. The registered organization and other parties to the contract
25 shall each be responsible for compliance with such laws and regulations
26 under the contract. The board may make regulations consistent with this
27 article relating to contracts and parties to contracts under this subdi-
28 vision.

29 11. A registered organization shall, based on the findings of an inde-
30 pendent laboratory, provide documentation of the quality, safety and
31 clinical strength of the medical cannabis manufactured or dispensed by
32 the registered organization to the office and to any person or entity to
33 which the medical cannabis is sold or dispensed.

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

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

51 14. The board is authorized to make rules and regulations restricting
52 the advertising and marketing of medical cannabis.

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

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

3 (ii) that the applicant:

4 (A) is of good moral character;

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

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

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

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

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

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

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

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

33 (C) such other information as the board may reasonably require.

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

38 3. (a) The board shall grant a registration or amendment to a regis-
39 tration under this section if he or she is satisfied that:

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

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

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

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

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

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

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

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

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

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

7 (vi) the applicant and its managing officers are of good moral charac-
8 ter;

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

14 (viii) the applicant satisfies any other conditions as determined by
15 the board.

16 (b) If the board is not satisfied that the applicant should be issued
17 a registration, he or she shall notify the applicant in writing of those
18 factors upon which further evidence is required. Within thirty days of
19 the receipt of such notification, the applicant may submit additional
20 material to the board or demand a hearing, or both.

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

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

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

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

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

32 (iv) such other information as the board shall reasonably provide to
33 assure compliance with this article.

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

39 4. A registration issued under this section shall be valid for two
40 years from the date of issue, except that in order to facilitate the
41 renewals of such registrations, the board may upon the initial applica-
42 tion for a registration, issue some registrations which may remain valid
43 for a period of time greater than two years but not exceeding an addi-
44 tional eleven months.

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

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

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

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

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

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

10 (c) An applicant for renewal shall be under a continuing duty to
11 report to the board any change in facts or circumstances reflected in
12 the application or any newly discovered or occurring fact or circum-
13 stance which is required to be included in the application.

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

23 (e) Within a reasonably practicable time as determined by the board of
24 such order, the applicant may submit additional material to the board or
25 demand a hearing or both; if a hearing is demanded the board shall fix a
26 date as soon as reasonably practicable.

27 6. (a) The board shall renew a registration unless he or she deter-
28 mines and finds that:

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

31 (ii) the applicant is unlikely to comply with all state laws applica-
32 ble to the activities in which it may engage under the registration;

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

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

38 (b) For purposes of this section, proof that a registered organiza-
39 tion, during the period of its registration, has failed to maintain
40 effective control against diversion, violates any provision of this
41 article, or has knowingly or negligently failed to comply with applica-
42 ble state laws relating to the activities in which it engages under the
43 registration, shall constitute grounds for suspension, termination or
44 limitation of the registered organization's registration or as deter-
45 mined by the board. The registered organization shall also be under a
46 continuing duty to report to the authority any material change or fact
47 or circumstance to the information provided in the registered organiza-
48 tion's application.

49 7. The board may suspend or terminate the registration of a registered
50 organization, on grounds and using procedures under this article relat-
51 ing to a license, to the extent consistent with this article. The
52 authority shall suspend or terminate the registration in the event that
53 a registered organization violates or terminates the applicable labor
54 peace agreement. Conduct in compliance with this article which may
55 violate conflicting federal law, shall not be grounds to suspend or
56 terminate a registration.

1 8. A registered organization that manufactures medical cannabis may
2 have no more than four dispensing sites wholly owned and operated by
3 such registered organization. Such registered organization may have an
4 additional four dispensing sites; provided, however, that the first two
5 additional dispensing sites shall be located in underserved or unserved
6 geographic locations, as determined by the board. The board shall ensure
7 that such registered organizations and dispensing sites are geograph-
8 ically distributed across the state and that their ownership reflects
9 the demographics of the state. The board shall register additional
10 registered organizations to provide services to unserved and underserved
11 areas of the state. Additional registered organization shall be reflec-
12 tive of the demographics of the state.

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

18 2. The board shall, by regulation, require each registered organiza-
19 tion to adopt and maintain security, tracking, record keeping, record
20 retention and surveillance systems, relating to all medical cannabis at
21 every stage of acquiring, possession, manufacture, sale, delivery,
22 transporting, distributing, or dispensing by the registered organiza-
23 tion, subject to regulations of the board.

24 § 37. Evaluation; research programs; report by board. 1. The board
25 may provide for the analysis and evaluation of the operation of this
26 article. The board may enter into agreements with one or more persons,
27 not-for-profit corporations or other organizations, for the performance
28 of an evaluation of the implementation and effectiveness of this arti-
29 cle.

30 2. The board may develop, seek any necessary federal approval for, and
31 carry out research programs relating to medical use of cannabis. Partic-
32 ipation in any such research program shall be voluntary on the part of
33 practitioners, patients, and designated caregivers.

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

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

- 42 (a) to test chemical potency and composition levels;
- 43 (b) to conduct clinical investigations of cannabis-derived drug
44 products;
- 45 (c) to conduct research on the efficacy and safety of administering
46 cannabis as part of medical treatment; and
- 47 (d) to conduct genomic or agricultural research.

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

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

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

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

9 3. A cannabis research licensee may only sell cannabis grown or within
10 its operation to other cannabis research licensees. The board may revoke
11 a cannabis research license for violations of this section.

12 4. A cannabis research licensee may contract with an institution of
13 higher education, including but not limited to a hospital within the
14 state university of New York, to perform research in conjunction with
15 such institution. All research projects, entered into under this
16 section must be approved by the board and meet the requirements of
17 subdivision one of this section.

18 5. In establishing a cannabis research license, the board may adopt
19 regulations on the following:

20 (a) application requirements;

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

23 (c) conditions for license revocation;

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

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

28 (f) licensee reporting requirements;

29 (g) conditions under which cannabis grown by licensed cannabis produc-
30 ers and other product types from licensed cannabis processors may be
31 donated to cannabis research licensees; and

32 (h) any additional requirements deemed necessary by the board.

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

37 7. The application fee for a cannabis research license shall be deter-
38 mined by the board on an annual basis.

39 8. Each cannabis research licensee shall issue an annual report to the
40 board. The board shall review such report and make a determination as to
41 whether the research project continues to meet the research qualifica-
42 tions under this section.

43 § 39. Registered organizations and adult-use cannabis. The board shall
44 have the authority to grant some or all of the registered organizations
45 registered with the department of health and currently registered and in
46 good standing with the office, the ability to obtain adult-use cannabis
47 licenses pursuant to article four of this chapter subject to any fees,
48 rules or conditions prescribed by the board in regulation.

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

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

54 § 41. Home cultivation of medical cannabis. 1. Notwithstanding the
55 provisions of section thirty-three hundred eighty-two of the public

1 health law certified patients and their designated caregiver(s) twenty-
2 one years of age or older may:

3 (a) plant, cultivate, harvest, dry, process or possess no more than
4 six mature cannabis plants at any one time; or

5 (b) plant, cultivate, harvest, dry, process or possess, within his or
6 her private residence, or on the grounds of his or her private resi-
7 dence, no more than six mature cannabis plants at any one time.

8 2. Any mature cannabis plant described in subdivision one of this
9 section, and any cannabis produced by any such cannabis plant or plants
10 in excess of three ounces, cultivated, harvested, dried, processed or
11 possessed pursuant to subdivision one of this section shall, unless
12 otherwise authorized by law or regulation, be stored except for inci-
13 dental periods within such person's private residence or storage space
14 or on the grounds of such person's private residence or storage space.
15 Such person shall take reasonable steps designed to assure that such
16 cultivated cannabis is in a secured place.

17 3. A county, town, city or village may enact and enforce regulations
18 to reasonably regulate the actions and conduct set forth in subdivision
19 one of this section; provided that:

20 (a) a violation of any such a regulation, as approved by such county,
21 town, city or village enacting the regulation, may constitute no more
22 than an infraction and may be punishable by no more than a discretionary
23 civil penalty of two hundred dollars or less; and

24 (b) no county, town, city or village may enact or enforce any such
25 regulation or regulations that may completely or essentially prohibit a
26 person from engaging in the action or conduct authorized by subdivision
27 one of this section.

28 4. A violation of subdivision one or two of this section may be
29 subject to a civil penalty of up to one hundred twenty-five dollars.

30 5. The board shall develop rules and regulations governing this
31 section within one year of the effective date of this section.

32 § 42. Protections for the medical use of cannabis. 1. Certified
33 patients, designated caregivers, designated caregiver facilities and
34 employees of designated caregiver facilities, practitioners, registered
35 organizations and the employees of registered organizations, and canna-
36 bis researchers shall not be subject to arrest, prosecution, or penalty
37 in any manner, or denied any right or privilege, including but not
38 limited to civil penalty or disciplinary action by a business or occupa-
39 tional or professional licensing board or bureau, solely for the certi-
40 fied medical use or manufacture of cannabis, or for any other action or
41 conduct in accordance with this article.

42 2. Being a certified patient shall be deemed to be having a "disabili-
43 ty" under article fifteen of the executive law, section forty-c of the
44 civil rights law, sections 240.00, 485.00, and 485.05 of the penal law,
45 and section 200.50 of the criminal procedure law. This subdivision shall
46 not bar the enforcement of a policy prohibiting an employee from
47 performing his or her employment duties while impaired by a controlled
48 substance. This subdivision shall not require any person or entity to do
49 any act that would put the person or entity in direct violation of
50 federal law or cause it to lose a federal contract or funding.

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

55 4. (a) Certification applications, certification forms, any certified
56 patient information contained within a database, and copies of registry

1 identification cards shall be deemed exempt from public disclosure under
2 sections eighty-seven and eighty-nine of the public officers law.

3 (b) The name, contact information, and other information relating to
4 practitioners registered with the board under this article shall be
5 public information and shall be maintained on the board's website acces-
6 sible to the public in searchable form. However, if a practitioner noti-
7 fies the board in writing that he or she does not want his or her name
8 and other information disclosed, that practitioner's name and other
9 information shall thereafter not be public information or maintained on
10 the board's website, unless the practitioner cancels the request.

11 5. A person currently under parole, probation or other state or local
12 supervision, or released on bail awaiting trial may not be punished or
13 otherwise penalized for conduct allowed under this article.

14 § 43. Regulations. The board shall promulgate regulations in consulta-
15 tion with the cannabis advisory board to implement this article.

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

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

27 ARTICLE 4
28 ADULT-USE CANNABIS

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16 89. Regulations.

17 § 61. License application. 1. Any person may apply to the board for a
18 license to cultivate, process, distribute or dispense cannabis within
19 this state for sale. Such application shall be in writing and verified
20 and shall contain such information as the board shall require. Such
21 application shall be accompanied by a check or draft for the amount
22 required by this article for such license. If the board shall approve
23 the application, it shall issue a license in such form as shall be
24 determined by its rules. Such license shall contain a description of the
25 licensed premises and in form and in substance shall be a license to the
26 person therein specifically designated to cultivate, process, distrib-
27 ute, deliver or dispense cannabis in the premises therein specifically
28 licensed.

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

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

39 § 62. Information to be requested in applications for licenses. 1.
40 The board shall have the authority to prescribe the manner and form in
41 which an application must be submitted to the board for licensure under
42 this article.

43 2. The board is authorized to adopt regulations, including by emergen-
44 cy rule, establishing information which must be included on an applica-
45 tion for licensure under this article. Such information may include, but
46 is not limited to: information about the applicant's identity, includ-
47 ing racial and ethnic diversity; ownership and investment information,
48 including the corporate structure; evidence of good moral character,
49 including the submission of fingerprints by the applicant to the divi-
50 sion of criminal justice services; information about the premises to be
51 licensed; financial statements; and any other information prescribed by
52 regulation.

53 3. All license applications shall be signed by the applicant (if an
54 individual), by a managing member (if a limited liability company), by
55 an officer (if a corporation), or by all partners (if a partnership).

1 Each person signing such application shall verify or affirm it as true
2 under the penalties of perjury.

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

6 5. If there are any changes, after the filing of the application or
7 the granting of a license or permit, in any of the facts required to be
8 set forth in such application, a supplemental statement giving notice of
9 such change, cost and source of money involved in the change, duly veri-
10 fied or affirmed, shall be filed with the board within ten days after
11 such change. Failure to do so shall, if willful and deliberate, be cause
12 for denial or revocation of the license.

13 6. In giving any notice, or taking any action in reference to a regis-
14 tered organization or licensee of a licensed premises, the board may
15 rely upon the information furnished in such application and in any
16 supplemental statement connected therewith, and such information may be
17 presumed to be correct, and shall be binding upon registered organiza-
18 tions, licensee or licensed premises as if correct. All information
19 required to be furnished in such application or supplemental statements
20 shall be deemed material in any prosecution for perjury, any proceeding
21 to revoke, cancel or suspend any license, and in the board's final
22 determination to approve or deny the license.

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

28 1-a. The board shall also have the authority to assess a registered
29 organization with a one-time special licensing fee for a registered
30 organization adult-use cultivator, processor, distributor, retail
31 dispensary license. Such fee shall be assessed at an amount to
32 adequately fund social and economic equity and incubator assistance
33 pursuant to this article and paragraph (c) of subdivision three of
34 section ninety-nine-hh of the state finance law. Provided, however,
35 that the board shall not allow registered organizations to dispense
36 adult-use cannabis from more than three of their medical cannabis
37 dispensing locations. The timing and manner in which registered organ-
38 izations may be granted such authority shall be determined by the board
39 in regulation.

40 2. The board shall have the authority to charge licensees a biennial
41 license fee. Such fee shall be based on the amount of cannabis to be
42 cultivated, processed, distributed and/or dispensed by the licensee or
43 the gross annual receipts of the licensee for the previous license peri-
44 od, and any other factors deemed reasonable and appropriate by the
45 board.

46 3. The board shall waive or reduce fees for social and economic equity
47 applicants.

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

- 52 (a) the applicant is a social and economic equity applicant;
53 (b) the applicant will be able to maintain effective control against
54 the illegal diversion of cannabis;
55 (c) the applicant will be able to comply with all applicable state
56 laws and regulations;

- 1 (d) the applicant and its officers are ready, willing, and able to
2 properly carry on the activities for which a license is sought including
3 with assistance from the social and economic equity and incubator
4 program, if applicable;
- 5 (e) the applicant possesses or has the right to use sufficient land,
6 buildings, and equipment to properly carry on the activity described in
7 the application or has a plan to do so if qualifying as a social and
8 economic equity applicant;
- 9 (f) the applicant qualifies as a social and economic equity applicant
10 or sets out a plan for benefiting communities and people dispropor-
11 tionally impacted by enforcement of cannabis laws;
- 12 (g) it is in the public interest that such license be granted, taking
13 into consideration, but not limited to, the following criteria:
- 14 (i) that it is a privilege, and not a right, to cultivate, process,
15 distribute, and sell adult-use cannabis;
- 16 (ii) the number, classes, and character of other licenses in proximity
17 to the location and in the particular municipality or subdivision there-
18 of;
- 19 (iii) evidence that all necessary licenses and permits have been or
20 will be obtained from the state and all other relevant governing bodies;
- 21 (iv) effect of the grant of the license on pedestrian or vehicular
22 traffic, and parking, in proximity to the location;
- 23 (v) the existing noise level at the location and any increase in noise
24 level that would be generated by the proposed premises;
- 25 (vi) the ability to mitigate adverse environmental impacts, including
26 but not limited to water usage, energy usage and carbon emissions;
- 27 (vii) the effect on the production and availability of cannabis and
28 cannabis products; and
- 29 (viii) any other factors specified by law or regulation that are rele-
30 vant to determine that granting a license would promote public conven-
31 ience and advantage and the public interest of the community;
- 32 (h) the applicant and its managing officers are of good moral charac-
33 ter and do not have an ownership or controlling interest in more
34 licenses or permits than allowed by this chapter;
- 35 (i) the applicant has entered into a labor peace agreement with a
36 bona-fide labor organization that is actively engaged in representing or
37 attempting to represent the applicant's employees, and the maintenance
38 of such a labor peace agreement shall be an ongoing material condition
39 of licensure. In evaluating applications from entities with twenty-five
40 or more employees, the office shall give priority to applicants that are
41 a party to a collective bargaining agreement with a bona-fide labor
42 organization in New York or in another state, and uses union labor to
43 construct its licensed facility;
- 44 (j) the applicant will contribute to communities and people dispropor-
45 tionately harmed by enforcement of cannabis laws and report these
46 contributions to the board;
- 47 (k) if the application is for an adult-use cultivator or processor
48 license, the environmental and energy impact of the facility to be
49 licensed;
- 50 (l) the applicant satisfies any other conditions as determined by the
51 board; and
- 52 (m) if the applicant is a registered organization, the organization's
53 maintenance of effort in manufacturing and/or dispensing and/or research
54 of medical cannabis for certified patients and caregivers.

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

4 3. The state cannabis advisory board shall have the authority to
5 recommend to the board the number of licenses issued pursuant to this
6 article to ensure a competitive market where no licensee is dominant in
7 the statewide marketplace or in any individual category of licensing, to
8 actively promote and potentially license social and economic equity
9 applicants, and carry out the goals of this chapter.

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

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

19 3. The board, on the recommendation of the office shall have the
20 authority to limit, by canopy, plant count, square footage or other
21 means, the amount of cannabis allowed to be grown, processed, distrib-
22 uted or sold by a licensee.

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

25 § 66. License renewal. 1. Each license, issued pursuant to this arti-
26 cle, may be renewed upon application therefore by the licensee and the
27 payment of the fee for such license as prescribed by this article. In
28 the case of applications for renewals, the board may dispense with the
29 requirements of such statements as it deems unnecessary in view of those
30 contained in the application made for the original license, but in any
31 event the submission of photographs of the licensed premises shall be
32 dispensed with, provided the applicant for such renewal shall file a
33 statement with the board to the effect that there has been no alteration
34 of such premises since the original license was issued. The board may
35 make such rules as it deems necessary, not inconsistent with this chap-
36 ter, regarding applications for renewals of licenses and permits and the
37 time for making the same.

38 2. Each applicant must submit to the board documentation of the
39 racial, ethnic, and gender diversity of the applicant's employees and
40 owners prior to a license being renewed. In addition, the board shall
41 consult with the state cannabis advisory board and the chief equity
42 officer to create a social responsibility framework agreement and make
43 the adherence to such agreement a conditional requirement of license
44 renewal. The board shall promote applicants that foster racial, ethnic,
45 and gender diversity in their workplace.

46 3. The board shall provide an application for renewal of a license
47 issued under this article not less than ninety days prior to the expira-
48 tion of the current license.

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

53 5. Each applicant must maintain a labor peace agreement with a bona-
54 fide labor organization that is actively engaged in representing or
55 attempting to represent the applicant's employees and the maintenance of

1 such a labor peace agreement shall be an ongoing material condition of
2 licensure.

3 6. Each applicant must provide evidence of the execution of their plan
4 for benefitting communities and people disproportionately impacted by
5 cannabis law enforcement required for initial licensing pursuant to
6 section sixty-four of this article.

7 § 67. Amendments; changes in ownership and organizational structure.

8 1. Licenses issued pursuant to this article shall specify:

9 (a) the name and address of the licensee;

10 (b) the activities permitted by the license;

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

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

14 (e) such other information as the board shall deem necessary to assure
15 compliance with this chapter.

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

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

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

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

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

36 (c) for a partnership, a change of eighty percent or more of the
37 managing partners of the company, or a transfer of eighty percent or
38 more of ownership interest in said company, or an existing member
39 obtaining a cumulative of eighty percent or more of the ownership inter-
40 est in said company.

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

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

51 3. A person holding an adult-use cultivator's license may apply for,
52 and obtain, one processor's license.

53 4. A person holding an adult-use cultivator's license may not also
54 hold a retail dispensary license pursuant to this article and no adult-
55 use cannabis cultivator shall have a direct or indirect interest,
56 including by stock ownership, interlocking directors, mortgage or lien,

1 personal or real property, or any other means, in any premises licensed
2 as an adult-use cannabis retail dispensary or in any business licensed
3 as an adult-use cannabis retail dispensary or in any registered organ-
4 ization registered pursuant to article three of this chapter.

5 5. A person holding an adult-use cultivator's license may not hold a
6 license to distribute cannabis under this article.

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

10 § 68-a. Registered organization adult-use cultivator processor
11 distributor retail dispensary license. A registered organization culti-
12 vator processor distributor retail dispensary license shall have the
13 same authorization and conditions as adult-use cultivator, adult-use
14 processor, adult-use distributor and adult-use retail dispensary
15 licenses issued pursuant to this article provided, however that the
16 sales of adult-use cannabis and cannabis products cultivated, processed
17 or distributed by such organizations shall be limited to the organiza-
18 tion's adult-use retail dispensaries and the location of such adult-use
19 dispensaries shall be limited to the organization's medical dispensar-
20 ies' premises and facilities authorized pursuant to article three of
21 this chapter. Provided further that such registered organization shall
22 maintain its medical cannabis license and continue offering medical
23 cannabis to a degree established by regulation of the board.

24 § 68-b. Registered organization adult-use cultivator license. A regis-
25 tered organization cultivator license shall have the same authorization
26 and conditions as an adult-use cultivator license, provided, however,
27 that sales of adult-use cannabis and cannabis products by such organiza-
28 tions shall be limited to licensed adult-use processors and such license
29 does not qualify such organization for any other adult-use license.

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

34 2. For purposes of this section, processing shall include, but not be
35 limited to, blending, extracting, infusing, packaging, labeling, brand-
36 ing and otherwise making or preparing cannabis products. Processing
37 shall not include the cultivation of cannabis.

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

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

44 5. A person holding an adult-use processor's license may not hold a
45 license to distribute cannabis under this article.

46 6. No adult-use cannabis processor shall have a direct or indirect
47 interest, including by stock ownership, interlocking directors, mortgage
48 or lien, personal or real property, or any other means, in any premises
49 licensed as an adult-use cannabis retail dispensary or in any business
50 licensed as an adult-use cannabis retail dispensary or in any registered
51 organization registered pursuant to article three of this chapter.

52 § 70. Small business adult-use cooperative license. 1. A cooperative
53 license shall authorize the acquisition, possession, cultivation, proc-
54 essing and sale from the licensed premises of the adult-use cooperative
55 by such licensee to duly licensed distributors, on-site consumption

1 sites, and/or retail dispensaries; but not directly to cannabis consum-
2 ers.

3 2. To be licensed as a small business adult-use cooperative, the coop-
4 erative must:

5 (i) be comprised of residents of the state of New York as a limited
6 liability company or limited liability partnership under the laws of the
7 state, or an appropriate business structure as determined and authorized
8 by the board;

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

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

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

17 (v) the cooperative must operate according to the seven cooperative
18 principles published by the International Cooperative Alliance in nine-
19 teen hundred ninety-five.

20 3. A cooperative member shall be a natural person and shall not be a
21 member of more than one small business adult-use cooperative licensed
22 pursuant to this section.

23 4. No natural person or member of a small business adult-use cooper-
24 ative license may have a direct or indirect financial or controlling
25 interest in any other adult-use cannabis license issued pursuant to this
26 chapter.

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

33 6. The board shall promulgate regulations governing cooperative
34 licenses, including, but not limited to, the establishment of canopy
35 limits on the size and scope of cooperative licensees, and other meas-
36 ures designed to incentivize the use and licensure of cooperatives.

37 § 71. Adult-use distributor license. 1. A distributor's license shall
38 authorize the acquisition, possession, distribution and sale of cannabis
39 from the licensed premises of a licensed adult-use cultivator, process-
40 or, small business adult-use cooperative or microbusiness authorized
41 pursuant to this chapter to sell adult-use cannabis, to duly licensed
42 retail dispensaries.

43 2. No distributor shall have a direct or indirect economic interest in
44 any adult-use retail dispensary or in any adult-use cultivator or
45 processor licensed pursuant to this article, or in any registered organ-
46 ization registered pursuant to article three of this chapter. This
47 restriction shall not prohibit a registered organization authorized
48 pursuant to subdivision one of section thirty-nine of this chapter, from
49 being granted licensure by the board to distribute adult-use cannabis
50 products cultivated and processed by the registered organization to
51 licensed adult-use retail dispensaries owned and operated by such regis-
52 tered organization.

53 3. Nothing in subdivision two of this section shall prevent a distrib-
54 utor from charging an appropriate fee, authorized by the board, for the
55 distribution of cannabis, including based on the volume of cannabis
56 distributed.

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

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

8 3. No person holding a retail dispensary license may also hold an
9 adult-use cultivation, processor, microbusiness, cooperative or distrib-
10 utor license pursuant to this article or be registered as a registered
11 organization pursuant to article three of this chapter, except for such
12 organizations licensed pursuant to sections sixty-eight-a and sixty-
13 eight-b of this article.

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

20 5. With the exception of microbusiness licensees, no premises shall be
21 licensed to sell cannabis products, unless said premises shall be
22 located in a store, the principal entrance to which shall be from the
23 street level and located on a public thoroughfare in premises which may
24 be occupied, operated or conducted for business, trade or industry.

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

28 § 73. Microbusiness license. 1. A microbusiness license shall author-
29 ize the limited cultivation, processing, distribution and dispensing of
30 their own adult-use cannabis and cannabis products.

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

34 3. The size and scope of a microbusiness shall be determined by regu-
35 lation by the board in consultation with the executive director and the
36 state cannabis advisory board. Such licenses shall promote social and
37 economic equity applicants as provided for in this chapter.

38 § 74. Delivery license. A delivery license shall authorize the deliv-
39 ery of cannabis and cannabis products by licensees independent of anoth-
40 er adult-use cannabis license, provided that each delivery licensee may
41 have a total of no more than twenty-five individuals, or the equivalent
42 thereof, providing full-time paid delivery services, per week under one
43 license. For the purposes of this section the state cannabis advisory
44 board shall provide recommendations to the board for the application
45 process, license criteria, and scope of licensed activities for this
46 class of license. No person may have a direct or indirect financial or
47 controlling interest in more than one delivery license. Such licenses
48 shall promote social and economic equity applicants as provided for in
49 this chapter.

50 § 75. Nursery license. 1. A nursery license shall authorize the
51 production, sale and distribution of clones, immature plants, seeds, and
52 other agricultural products used specifically for the planting, propa-
53 gation, and cultivation of cannabis. For the purposes of this section,
54 the office shall provide recommendations to the board for the applica-
55 tion process, license criteria and scope of licensed activities for this

1 class of license. Such licenses shall promote social and economic equity
2 applicants as provided for in this chapter.

3 2. A person or entity holding a cultivators license may apply for, and
4 obtain, one nursery license to sell directly to other cultivators, coop-
5 eratives, or microbusinesses.

6 § 76. Notification to municipalities of adult-use retail dispensary or
7 on-site consumption license. 1. Not less than thirty days nor more than
8 two hundred seventy days before filing an application for licensure as
9 an adult-use retail dispensary or registered organization adult-use
10 cultivator processor distributor retail dispensary or an on-site
11 consumption licensee, an applicant shall notify the municipality in
12 which the premises is located of such applicant's intent to file such an
13 application.

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

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

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

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

25 4. When a city, town, or village, and in New York city a community
26 board, expresses an opinion for or against the granting of such regis-
27 tration, license or permit application, any such opinion shall be deemed
28 part of the record upon which the office makes its recommendation to the
29 board to grant or deny the application and the board shall respond in
30 writing to such city, town, village or community board with an explana-
31 tion of how such opinion was considered in the granting or denial of an
32 application.

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

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

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

42 (b) the full name of the applicant;

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

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

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

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

50 (i) a new establishment;

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

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

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

54 (g) if the establishment is a transfer or previously licensed prem-
55 ises, the name of the old establishment and such establishment's regis-
56 tration or license number;

1 (h) in the case of a renewal or alteration application, the registra-
2 tion or license number of the applicant; and

3 (i) the type of license.

4 § 77. Adult-use on-site consumption license; provisions governing
5 on-site consumption licenses. 1. No applicant shall be granted an
6 adult-use on-site consumption license for any premises, unless the
7 applicant shall be the owner thereof, or shall be in possession of said
8 premises under a lease, in writing, for a term not less than the license
9 period except, however, that such license may thereafter be renewed
10 without the requirement of a lease as provided in this section. This
11 subdivision shall not apply to premises leased from government agencies;
12 provided, however, that the appropriate administrator of such government
13 agency provides some form of written documentation regarding the terms
14 of occupancy under which the applicant is leasing said premises from the
15 government agency for presentation to the office at the time of the
16 license application. Such documentation shall include the terms of occu-
17 pancy between the applicant and the government agency, including, but
18 not limited to, any short-term leasing agreements or written occupancy
19 agreements.

20 2. No person may have a direct or indirect financial or controlling
21 interest in more than three adult-use on-site consumption licenses
22 issued pursuant to this chapter.

23 3. No person holding an adult-use on-site consumption license may also
24 hold an adult-use retail dispensary, cultivation, processor, microbusi-
25 ness, cooperative or distributor license pursuant to this article or be
26 registered as a registered organization pursuant to article three of
27 this chapter.

28 4. No applicant shall be granted an adult-use on-site consumption
29 license for any premises within five hundred feet of school grounds as
30 such term is defined in the education law.

31 5. The board may consider any or all of the following in determining
32 whether public convenience and advantage and the public interest will be
33 promoted by the granting of an adult-use on-site consumption license at
34 a particular location:

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

37 (b) the number, classes, and character of other licenses in proximity
38 to the location and in the particular municipality or subdivision there-
39 of;

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

42 (d) whether there is a demonstrated need for spaces to consume canna-
43 bis;

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

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

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

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

1 7. No adult-use cannabis on-site consumption licensee shall keep upon
2 the licensed premises any adult-use cannabis products except those
3 purchased from a licensed distributor, adult-use cooperative, or micro-
4 business authorized to sell adult-use cannabis, and only in containers
5 approved by the board. Such containers shall have affixed thereto such
6 labels as may be required by the rules of the board. No adult-use
7 on-site consumption licensee shall reuse, refill, tamper with, adulter-
8 ate, dilute or fortify the contents of any container of cannabis
9 products as received from the manufacturer or distributor.

10 8. No adult-use on-site consumption licensee shall sell, deliver or
11 give away, or cause or permit or procure to be sold, delivered or given
12 away any cannabis for consumption on the premises where sold in a
13 container or package containing a quantity or number of servings more
14 than authorized by the board.

15 9. No adult-use on-site consumption licensee shall suffer, permit or
16 promote activities or events on its premises wherein any person shall
17 use such premises for activities including, but not limited to, gambl-
18 ing, exposing or simulating, contests, or fireworks that are prohibited
19 by subdivision six, six-a, six-b six-c or seven of section one hundred
20 six of the alcoholic beverage control law or any other similar activ-
21 ities the board deems to be prohibited.

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

30 11. Each adult-use on-site consumption licensee shall keep and main-
31 tain upon the licensed premises, adequate records of all transactions
32 involving the business transacted by such licensee which shall show the
33 amount of cannabis products, in an applicable metric measurement,
34 purchased by such licensee together with the names, license numbers and
35 places of business of the persons from whom the same were purchased, the
36 amount involved in such purchases, as well as the sales of cannabis
37 products made by such licensee. The board is hereby authorized to
38 promulgate rules and regulations permitting an on-site licensee operat-
39 ing two or more premises separately licensed to sell cannabis products
40 for on-site consumption to inaugurate or retain in this state methods or
41 practices of centralized accounting, bookkeeping, control records,
42 reporting, billing, invoicing or payment respecting purchases, sales or
43 deliveries of cannabis products, or methods and practices of centralized
44 receipt or storage of cannabis products within this state without segre-
45 gation or earmarking for any such separately licensed premises, wherever
46 such methods and practices assure the availability, at such licensee's
47 central or main office in this state, of data reasonably needed for the
48 enforcement of this chapter. Such records shall be available for
49 inspection by any authorized representative of the board.

50 12. All licensed adult-use on-site consumption premises shall be
51 subject to inspection by any peace officer, acting pursuant to his or
52 her special duties, or police officer and by the duly authorized repre-
53 sentatives of the board, during the hours when the said premises are
54 open for the transaction of business.

55 13. An adult-use on-site consumption licensee shall not provide canna-
56 bis products to any person under the age of twenty-one. No person under

1 the age of twenty-one shall be permitted on the premises of a cannabis
2 on-site consumption facility.

3 14. The provisions of article thirteen-E of the public health law
4 restricting the smoking or vaping of cannabis shall not apply to adult-
5 use on-site consumption premises.

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

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

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

24 4. Such books, records and invoices shall be kept for a period of five
25 years and shall be available for inspection by any authorized represen-
26 tative of the board.

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

35 § 79. Inspections and ongoing requirements. All licensed or permitted
36 premises, regardless of the type of premises, shall be subject to
37 inspection by the office, by the duly authorized representatives of the
38 board, by any peace officer acting pursuant to his or her special
39 duties, or by a police officer, during the hours when the said premises
40 are open for the transaction of business. The board shall make reason-
41 able accommodations so that ordinary business is not interrupted and
42 safety and security procedures are not compromised by the inspection. A
43 person who holds a license or permit must make himself or herself, or an
44 agent thereof, available and present for any inspection required by the
45 board. Such inspection may include, but is not limited to, ensuring
46 compliance by the licensee or permittee with all other applicable state
47 and local building codes, fire, health, safety, and other applicable
48 regulations.

49 § 80. Adult-use cultivators, processors or distributors not to be
50 interested in retail dispensaries. 1. It shall be unlawful for a culti-
51 vator, processor, cooperative or distributor licensed under this article
52 to:

53 (a) be interested directly or indirectly in any premises where any
54 cannabis product is sold at retail; or in any business devoted wholly or
55 partially to the sale of any cannabis product at retail by stock owner-

1 ship, interlocking directors, mortgage or lien or any personal or real
2 property, or by any other means;

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

5 (c) make any gift or render any service of any kind whatsoever,
6 directly or indirectly, to any person licensed under this chapter which
7 in the judgment of the board may influence such licensee to purchase the
8 product of such cultivator or processor or distributor; or

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

14 2. The provisions of this section shall not prohibit a registered
15 organization authorized pursuant to section thirty-nine, sixty-eight-a
16 or sixty-eight-b of this chapter, from cultivating, processing, or sell-
17 ing adult-use cannabis under this article, at facilities wholly owned
18 and operated by such registered organization, subject to any conditions,
19 limitations or restrictions established by this chapter.

20 3. The board shall develop rules and regulations, in regard to this
21 section and, in consultation with the state cannabis advisory board.

22 § 81. Packaging and labeling of adult-use cannabis products. 1. The
23 board is hereby authorized to promulgate rules and regulations governing
24 the advertising, branding, marketing, packaging and labeling of cannabis
25 products, sold or possessed for sale in New York state, including rules
26 pertaining to the accuracy of information and rules restricting market-
27 ing and advertising to youth.

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

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

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

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

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

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

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

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

53 § 82. Laboratory testing. 1. Every processor of adult-use cannabis
54 shall contract with an independent laboratory permitted pursuant to
55 section one hundred twenty-nine of this chapter, to test the cannabis
56 products it produces pursuant to rules and regulations prescribed by the

- 1 office. The board may assign an approved testing laboratory, which the
2 processor of adult-use cannabis must use.
- 3 2. Adult-use cannabis processors shall make laboratory test reports
4 available to licensed distributors and retail dispensaries for all
5 cannabis products manufactured by the processor.
- 6 3. Licensed retail dispensaries shall maintain accurate documentation
7 of laboratory test reports for each cannabis product offered for sale to
8 cannabis consumers. Such documentation shall be made publicly available
9 by the licensed retail dispensary.
- 10 4. Onsite laboratory testing by licensees is permissible; however,
11 such testing shall not be certified by the board and does not exempt the
12 licensee from the requirements of quality assurance testing at a testing
13 laboratory pursuant to this section.
- 14 5. An owner of a cannabis laboratory testing permit shall not hold a
15 license in any other category within this article and shall not own or
16 have ownership interest in a registered organization registered pursuant
17 to article three of this chapter.
- 18 6. The board shall have the authority to require any licensee under
19 this article to submit cannabis or cannabis products to one or more
20 independent laboratories for testing.
- 21 § 83. Provisions governing the cultivation and processing of adult-use
22 cannabis. 1. No cultivator or processor of adult-use cannabis shall
23 sell, or agree to sell or deliver in the state any cannabis products, as
24 the case may be, except in originally sealed containers containing quan-
25 tities in accordance with size standards pursuant to rules adopted by
26 the board. Such containers shall have affixed thereto such labels as may
27 be required by the rules of the board.
- 28 2. No cultivator or processor of adult-use cannabis shall furnish or
29 cause to be furnished to any licensee, any exterior or interior sign,
30 printed, painted, electric or otherwise, except as authorized by the
31 board. The board may make such rules as it deems necessary to carry out
32 the purpose and intent of this subdivision.
- 33 3. Cultivators of adult-use cannabis shall comply with plant culti-
34 vation regulations, standards, and guidelines consistent with the
35 provisions applicable to hemp, cannabinoid hemp, and hemp extract and
36 issued by the board, in consultation with the department of environ-
37 mental conservation and the department of agriculture and markets. Such
38 regulations, standards, and guidelines shall be guided by sustainable
39 farming principles and practices such as organic, regenerative, and
40 integrated pest management models, and shall restrict whenever possible,
41 the use of pesticides to those that are registered by the department of
42 environmental conservation or that specifically meet the United States
43 environmental protection agency registration exemption criteria for
44 minimum risk, used in compliance with rules, regulations, standards and
45 guidelines issued by the department of environmental conservation for
46 pesticides.
- 47 4. No cultivator or processor of adult-use cannabis, including an
48 adult-use cannabis cooperative or microbusiness, may offer any incen-
49 tive, payment or other benefit to a licensed cannabis distributor or
50 retail dispensary in return for carrying the cultivator, processor,
51 cooperative or microbusiness products, or preferential shelf placement.
- 52 5. All cannabis products shall be processed in accordance with good
53 manufacturing processes, pursuant to Part 111 of Title 21 of the Code of
54 Federal Regulations, as may be modified by the board in regulation.

1 6. No processor of adult-use cannabis shall produce any product which,
2 in the discretion of the board, is designed to appeal to anyone under
3 the age of twenty-one years.

4 7. The use or integration of alcohol or nicotine in cannabis products
5 is strictly prohibited.

6 § 84. Provisions governing the distribution of adult-use cannabis. 1.
7 No distributor shall sell, or agree to sell or deliver any cannabis
8 products, as the case may be, in any container, except in a sealed pack-
9 age. Such containers shall have affixed thereto such labels as may be
10 required by the rules of the board.

11 2. No distributor shall deliver any cannabis products, except in vehi-
12 cles owned and operated by such distributor, or hired and operated by
13 such distributor from a trucking or transportation company registered
14 with the board, and shall only make deliveries at the licensed premises
15 of the purchaser.

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

34 4. No distributor shall furnish or cause to be furnished to any licen-
35 see, any exterior or interior sign, printed, painted, electric or other-
36 wise, unless authorized by the board.

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

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

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

54 § 85. Provisions governing adult-use cannabis retail dispensaries. 1.
55 No cannabis retail licensee shall sell, deliver, or give away or cause
56 or permit or procure to be sold, delivered or given away any cannabis to

1 any person, actually or apparently, under the age of twenty-one years
2 or, visibly intoxicated or impaired.

3 2. Valid proof of age is required for each transaction. No licensee,
4 or agent or employee of such licensee shall accept as written evidence
5 of age by any such person for the purchase of any cannabis or cannabis
6 product, any documentation other than: (a) a valid driver's license or
7 non-driver identification card issued by the commissioner of motor vehi-
8 cles, the federal government, any United States territory, commonwealth
9 or possession, the District of Columbia, a state government within the
10 United States or a provincial government of the dominion of Canada, or
11 (b) a valid passport issued by the United States government or any other
12 country, or (c) an identification card issued by the armed forces of the
13 United States. Upon the presentation of such driver's license or non-
14 driver identification card issued by a governmental entity, such licen-
15 see or agent or employee thereof may perform a transaction scan as a
16 precondition to the sale of any cannabis or cannabis product. Nothing in
17 this section shall prohibit a licensee or agent or employee from
18 performing such a transaction scan on any of the other documents listed
19 in this subdivision if such documents include a bar code or magnetic
20 strip that may be scanned by a device capable of deciphering any elec-
21 tronically readable format. In instances where the information deci-
22 phered by the transaction scan fails to match the information printed on
23 the driver's license or non-driver identification card presented by the
24 card holder, or if the transaction scan indicates that the information
25 is false or fraudulent, the attempted purchase of the cannabis or canna-
26 bis product shall be denied.

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

30 4. No sign of any kind printed, painted or electric, advertising any
31 brand shall be permitted on the exterior or interior of such premises,
32 except by permission of the board.

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

39 6. All premises licensed under this section shall be subject to
40 inspection by any peace officer described in subdivision four of section
41 2.10 of the criminal procedure law acting pursuant to his or her special
42 duties, or police officer or any duly authorized representative of the
43 board, during the hours when the said premises are open for the trans-
44 action of business.

45 7. No cannabis retail licensee shall be interested, directly or indi-
46 rectly, in any cultivator, processor, distributor or microbusiness oper-
47 ator licensed pursuant to this article, by stock ownership, interlocking
48 directors, mortgage or lien on any personal or real property or by any
49 other means. Any lien, mortgage or other interest or estate, however,
50 now held by such retailer on or in the personal or real property of such
51 manufacturer or distributor, which mortgage, lien, interest or estate
52 was acquired on or before December thirty-first, two thousand eighteen,
53 shall not be included within the provisions of this subdivision;
54 provided, however, the burden of establishing the time of the accrual of
55 the interest comprehended by this subdivision, shall be upon the person

1 who claims to be entitled to the protection and exemption afforded here-
2 by.

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

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

11 10. No person licensed to sell cannabis products at retail, shall
12 allow or permit any gambling, or offer any gambling on the licensed
13 premises, or allow or permit illicit drug activity on the licensed prem-
14 ises.

15 11. If an employee of an adult-use cannabis retail licensee suspects
16 that a cannabis consumer may be abusing cannabis, such an employee shall
17 encourage such cannabis consumer to seek help from a substance use
18 disorder program or harm reduction services. The board shall develop
19 standard operating procedures and written materials to be distributed to
20 cannabis retail licensees in consultation with the office of addiction
21 services and supports, for adult-use cannabis retail licensee employees
22 to utilize when interacting and/or consulting consumers for purposes of
23 this subdivision.

24 12. The board is authorized, to promulgate regulations governing
25 licensed adult-use dispensing facilities, including but not limited to,
26 the hours of operation, size and location of the licensed facility,
27 potency and types of products offered and establishing a minimum and
28 maximum margin for retail dispensary markups of cannabis product or
29 products before selling to a cannabis consumer. Any adult-use cannabis
30 product sold by a retail dispensary for less than the minimum markup
31 allowed in regulation, shall be unlawful.

32 § 86. Adult-use cannabis advertising. 1. The board shall promulgate
33 rules and regulations governing the advertising and marketing of
34 licensed cannabis and any cannabis products or services.

35 2. The board shall promulgate explicit rules prohibiting advertising
36 that:

- 37 (a) is false, deceptive, or misleading;
38 (b) promotes overconsumption;
39 (c) depicts consumption by children or other minors;
40 (d) is designed in any way to appeal to children or other minors;
41 (e) is within five hundred feet of the perimeter of a school grounds,
42 playground, child day care providers, public park, or library;
43 (f) is in public transit vehicles and stations;
44 (g) is in the form of an unsolicited internet pop-up;
45 (h) is on publicly owned or operated property; or
46 (i) makes medical claims or promotes adult-use cannabis for a medical
47 or wellness purpose.

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

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

54 4. The board shall promulgate explicit rules requiring that:

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

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

5 § 87. Social and economic equity, minority and women-owned businesses,
6 disadvantaged farmers and service-disabled veterans; incubator program.

7 1. The board, in consultation with the state cannabis advisory board and
8 the chief equity officer, and after receiving public input shall create
9 and implement a social and economic equity plan and actively promote
10 applicants from communities disproportionately impacted by cannabis
11 prohibition, and promote racial, ethnic, and gender diversity when issu-
12 ing licenses for adult-use cannabis related activities, including
13 mentoring potential applicants, by prioritizing consideration of appli-
14 cations by applicants who are from communities disproportionately
15 impacted by the enforcement of cannabis prohibition or who qualify as a
16 minority or women-owned business, disadvantaged farmers, or service
17 disabled veterans. Such qualifications shall be determined by the
18 board, in consultation with the state cannabis advisory board and the
19 chief equity officer, in regulation.

20 2. The board's social and economic equity plan shall also promote
21 diversity in commerce, ownership and employment, and opportunities for
22 social and economic equity in the adult-use cannabis industry. A goal
23 shall be established to award fifty percent of adult-use cannabis
24 licenses to social and economic equity applicants and ensure inclusion
25 of:

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

28 (b) minority-owned businesses;

29 (c) women-owned businesses;

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

32 (e) disadvantaged farmers, as defined in subdivision five of this
33 section; and

34 (f) service-disabled veterans.

35 3. The social and economic equity plan shall require the consideration
36 of additional criteria in its licensing determinations. Under the social
37 and economic equity plan, extra priority shall be given to applications
38 that demonstrate that an applicant:

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

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

43 (c) was convicted of a marihuana-related offense prior to the effec-
44 tive date of this chapter, or had a parent, guardian, child, spouse, or
45 dependent, or was a dependent of an individual who, prior to the effec-
46 tive date of this chapter, was convicted of a marihuana-related offense.

47 4. The board in consultation with the cannabis advisory board and the
48 chief equity officer, shall also create an incubator program to encour-
49 age social and economic equity applicants to apply and, if granted an
50 adult-use cannabis license, permit or registration, the program shall
51 provide direct support in the form of counseling services, education,
52 small business coaching and financial planning, and compliance assist-
53 ance.

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

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

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

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

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

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

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

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

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

19 (ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban,
20 Central or South American of either Indian or Hispanic origin, regard-
21 less of race;

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

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

27 (c) "Women-owned business" shall mean a business enterprise, including
28 a sole proprietorship, partnership, limited liability company or corpo-
29 ration that is:

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

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

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

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

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

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

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

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

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

52 (iii) meets any other qualifications as defined in regulation by the
53 board.

54 (f) "Service-disabled veterans" shall mean persons qualified under
55 article seventeen-B of the executive law.

1 (g) "Communities disproportionately impacted" shall mean, but not be
 2 limited to, a history of arrests, convictions, and other law enforcement
 3 practices in a certain geographic area, such as, but not limited to,
 4 precincts, zip codes, neighborhoods, and political subdivisions,
 5 reflecting a disparate enforcement of cannabis prohibition during a
 6 certain time period, when compared to the rest of the state. The board
 7 shall, in consultation with the state cannabis advisory board and the
 8 chief equity officer, issue guidelines to determine how to assess which
 9 communities have been disproportionately impacted and how to assess if
 10 someone is a member of a community disproportionately impacted.

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

13 7. Licenses issued under the social and economic equity plan shall not
 14 be transferred or sold within the first three years of issue, except to
 15 a qualified social and economic equity applicant and with the prior
 16 written approval of the board. In the event a social and economic equity
 17 applicant seeks to transfer or sell their license at any point after
 18 issue and the transferee is to a person or entity that does not qualify
 19 as a social and economic equity applicant, the transfer agreement shall
 20 require the new license holder to pay to the board any outstanding
 21 amount owed by the transferor to the board as repayment of any loan
 22 issued by the board as well as any other fee or assessment as determined
 23 by the board.

24 § 88. Data collection and reporting. The board shall collect demo-
 25 graphic data on owners and employees in the adult-use cannabis industry
 26 and shall annually publish such data in its annual report.

27 § 89. Regulations. The board shall promulgate regulations in consul-
 28 tation with the state cannabis advisory board to implement this article.

29 ARTICLE 5
 30 CANNABINOID HEMP AND HEMP EXTRACT

- 31 Section 90. Definitions.
- 32 91. Rulemaking authority.
 - 33 92. Cannabinoid hemp processor license.
 - 34 93. Cannabinoid hemp retailer license.
 - 35 94. Cannabinoid license applications.
 - 36 95. Information to be requested in applications for licenses.
 - 37 96. Fees.
 - 38 97. Selection criteria.
 - 39 98. License renewal.
 - 40 99. Form of license.
 - 41 100. Transferability; amendment to license; change in ownership
 42 or control.
 - 43 101. Granting, suspending or revoking licenses.
 - 44 102. Record keeping and tracking.
 - 45 103. Packaging and labeling of cannabinoid hemp and hemp
 46 extract.
 - 47 104. Processing of cannabinoid hemp and hemp extract.
 - 48 105. Laboratory testing.
 - 49 106. New York hemp product.
 - 50 107. Penalties.
 - 51 108. Hemp workgroup.
 - 52 109. Prohibitions.
 - 53 110. Special use permits.
 - 54 111. Severability.

1 § 90. Definitions. As used in this article, the following terms shall
2 have the following meanings, unless the context clearly requires other-
3 wise:

4 1. "Cannabinoid" means the phytocannabinoids found in hemp and does
5 not include synthetic cannabinoids as that term is defined in subdivi-
6 sion (g) of schedule I of section thirty-three hundred six of the public
7 health law.

8 2. "Cannabinoid hemp" means any hemp and any product processed or
9 derived from hemp, that is used for human consumption provided that when
10 such product is packaged or offered for retail sale to a consumer, it
11 shall not have a concentration of more than three tenths of a percent
12 delta-9 tetrahydrocannabinol.

13 3. "Used for human consumption" means intended by the manufacturer or
14 distributor to be: (a) used for human consumption for its cannabinoid
15 content; or (b) used in, on or by the human body for its cannabinoid
16 content.

17 4. "Hemp" means the plant *Cannabis sativa* L. and any part of such
18 plant, including the seeds thereof and all derivatives, extracts, canna-
19 binoids, isomers, acids, salts, and salts of isomers, whether growing or
20 not, with a delta-9 tetrahydrocannabinol concentration (THC) of not more
21 than three-tenths of a percent on a dry weight basis. It shall not
22 include "medical cannabis" as defined in section three of this chapter.

23 5. "Hemp extract" means all derivatives, extracts, cannabinoids, isom-
24 ers, acids, salts, and salts of isomers derived from hemp, used or
25 intended for human consumption, for its cannabinoid content, with a
26 delta-9 tetrahydrocannabinol concentration of not more than an amount
27 determined by the board in regulation. For the purpose of this article,
28 hemp extract excludes (a) any food, food ingredient or food additive
29 that is generally recognized as safe pursuant to federal law; or (b) any
30 hemp extract that is not used for human consumption. Such excluded
31 substances shall not be regulated pursuant to the provisions of this
32 article but are subject to other provisions of applicable state law,
33 rules and regulations.

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

35 7. "Cannabinoid hemp processor license" means a license granted by the
36 board to process, extract, pack or manufacture cannabinoid hemp or hemp
37 extract into products, whether in intermediate or final form, used for
38 human consumption.

39 8. "Processing" means extracting, preparing, treating, modifying,
40 compounding, manufacturing or otherwise manipulating cannabinoid hemp to
41 concentrate or extract its cannabinoids, or creating product, whether in
42 intermediate or final form, used for human consumption. For purposes of
43 this article, processing does not include: (a) growing, cultivation,
44 cloning, harvesting, drying, curing, grinding or trimming when author-
45 ized pursuant to article twenty-nine of the agriculture and markets law;
46 or

47 (b) mere transportation, such as by common carrier or another entity
48 or individual.

49 § 91. Rulemaking authority. The board may make regulations pursuant to
50 this article for the processing, distribution, marketing, transportation
51 and sale of cannabinoid hemp and hemp extracts used for human consump-
52 tion, which may include, but not be limited to:

53 1. Specifying forms, establishing application, reasonable adminis-
54 tration and renewal fees, or license duration;

55 2. Establishing the qualifications and criteria for licensing, as
56 authorized by law;

1 3. The books and records to be created and maintained by licensees and
2 lawful procedures for their inspection;

3 4. Any reporting requirements;

4 5. Methods and standards of processing, labeling, packaging and
5 marketing of cannabinoid hemp, hemp extract and products derived there-
6 from;

7 6. Procedures for how cannabinoid hemp, hemp extract or ingredients,
8 additives, or products derived therefrom can be deemed as acceptable for
9 sale in the state;

10 7. Provisions governing the modes and forms of administration, includ-
11 ing inhalation;

12 8. Procedures for determining whether cannabinoid hemp, hemp extract
13 or ingredients, additives, or products derived therefrom produced
14 outside the state or within the state meet the standards and require-
15 ments of this article and can therefore be sold within the state;

16 9. Procedures for the granting, cancellation, revocation or suspension
17 of licenses, consistent with the state administrative procedures act;

18 10. Restrictions governing the advertising and marketing of cannabi-
19 noid hemp, hemp extract and products derived therefrom; and

20 11. Any other regulations necessary to implement this article.

21 § 92. Cannabinoid hemp processor license. 1. Persons processing canna-
22 binoid hemp or hemp extract used for human consumption, whether in
23 intermediate or final form, shall be required to obtain a cannabinoid
24 hemp processor license from the board.

25 2. A cannabinoid hemp processor license authorizes one or more specif-
26 ic activities related to the processing of cannabinoid hemp into
27 products used for human consumption, whether in intermediate or final
28 form, and the distribution or sale thereof by the licensee. Nothing
29 herein shall prevent a cannabinoid hemp processor from processing,
30 extracting and processing hemp products not to be used for human
31 consumption.

32 3. Persons authorized to grow hemp pursuant to article twenty-nine of
33 the agriculture and markets law are not authorized to engage in process-
34 ing of cannabinoid hemp or hemp extract without first being licensed as
35 a cannabinoid hemp processor under this article.

36 4. This article shall not apply to hemp, cannabinoid hemp, hemp
37 extracts or products derived therefrom that are not used for human
38 consumption. This article also shall not apply to hemp, cannabinoid
39 hemp, hemp extracts or products derived therefrom that have been deemed
40 generally recognized as safe pursuant to federal law.

41 5. The board shall have the authority to set reasonable fees for such
42 license, to limit the activities permitted by such license, to establish
43 the period during which such license is authorized, which shall be two
44 years or more, and to make rules and regulations necessary to implement
45 this section.

46 6. Any person holding an active research partnership agreement with
47 the department of agriculture and markets, authorizing that person to
48 process cannabinoid hemp, shall be awarded licensure under this section,
49 provided that the research partner is actively performing research
50 pursuant to such agreement and is able to demonstrate compliance with
51 this article, as determined by the board, after notice and an opportu-
52 nity to be heard.

53 § 93. Cannabinoid hemp retailer license. 1. Retailers selling cannabi-
54 noid hemp, in final form to consumers within the state, shall be
55 required to obtain a cannabinoid hemp retailer license from the board.

1 2. The board shall have the authority to set reasonable fees for such
2 license, to establish the period during which such license is author-
3 ized, which shall be one year or more, and to make rules and regulations
4 necessary to implement this section.

5 § 94. Cannabinoid license applications. 1. Persons shall apply for a
6 license under this article by submitting an application upon a form
7 supplied by the board, providing all the relevant requested information,
8 verified by the applicant or an authorized representative of the appli-
9 cant.

10 2. A separate license shall be required for each facility at which
11 processing or retail sales are conducted; however, an applicant may
12 submit one application for separate licensure at multiple locations.

13 3. Each applicant shall remit with its application the fee for each
14 requested license, which shall be a reasonable fee.

15 § 95. Information to be requested in applications for licenses. 1. The
16 board may specify the manner and form in which an application shall be
17 submitted to the board for licensure under this article.

18 2. The board may adopt regulations establishing what relevant informa-
19 tion shall be included on an application for licensure under this arti-
20 cle. Such information may include, but is not limited to: information
21 about the applicant's identity; ownership and investment information,
22 including the corporate structure; evidence of good moral character;
23 financial statements; information about the premises to be licensed;
24 information about the activities to be licensed; and any other relevant
25 information specified in regulation.

26 3. All license applications shall be signed by the applicant if an
27 individual, by a managing partner if a limited liability company, by an
28 officer if a corporation, or by all partners if a partnership. Each
29 person signing such application shall verify it as true under the penal-
30 ties of perjury.

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

34 5. If there be any change, after the filing of the application or the
35 granting, modification or renewal of a license, in any of the material
36 facts required to be set forth in such application, a supplemental
37 statement giving notice of such change, duly verified, shall be filed
38 with the board within ten days after such change. Failure to do so, if
39 willful and deliberate, may be grounds for revocation of the license.

40 § 96. Fees. The board may charge licensees a reasonable license fee.
41 Such fee may be based on the activities permitted by the license, the
42 amount of cannabinoid hemp or hemp extract to be processed or extracted
43 by the licensee, the gross annual receipts of the licensee for the
44 previous license period, or any other factors reasonably deemed appro-
45 priate by the board.

46 § 97. Selection criteria. 1. The applicant, if an individual or indi-
47 viduals, shall furnish evidence of the individual's good moral charac-
48 ter, and if an entity, the applicant shall furnish evidence of the good
49 moral character of the individuals who have or will have substantial
50 responsibility for the licensed or authorized activity and those in
51 control of the entity, including principals, officers, or others with
52 such control.

53 2. The applicant shall furnish evidence of the applicant's experience
54 and competency, and that the applicant has or will have adequate facili-
55 ties, equipment, process controls, and security to undertake those
56 activities for which licensure is sought.

1 3. The applicant shall furnish evidence of his, her or its ability to
2 comply with all applicable state and local laws, rules and regulations.

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

6 5. No license pursuant to this article may be issued to an individual
7 under the age of eighteen years.

8 § 98. License renewal. 1. Each license, issued pursuant to this arti-
9 cle, may be renewed upon application therefor by the licensee and the
10 payment of the reasonable fee for such license as specified by this
11 article.

12 2. In the case of applications for renewals, the board may dispense
13 with the requirements of such statements as it deems unnecessary in view
14 of those contained in the application made for the original license.

15 3. The board shall provide an application for renewal of any license
16 issued under this article not less than ninety days prior to the expira-
17 tion of the current license.

18 4. The board may only issue a renewal license upon receipt of the
19 specified renewal application and renewal fee from a licensee if, in
20 addition to the selection criteria set out in this article, the
21 licensee's license is not under suspension and has not been revoked.

22 § 99. Form of license. Licenses issued pursuant to this article shall
23 specify:

24 1. The name and address of the licensee;

25 2. The activities permitted by the license;

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

28 4. A unique license number issued by the board to the licensee; and

29 5. Such other information as the board shall deem necessary to assure
30 compliance with this article.

31 § 100. Transferability; amendment to license; change in ownership or
32 control. 1. Licenses issued under this article are not transferable,
33 absent written consent of the board.

34 2. Upon application of a licensee, a license may be amended to add or
35 delete permitted activities.

36 3. A license shall become void by a change in ownership, substantial
37 corporate change or change of location without prior written approval of
38 the board. The board may make regulations allowing for certain types of
39 changes in ownership without the need for prior written approval.

40 § 101. Granting, suspending or revoking licenses. After due notice and
41 an opportunity to be heard, established by rules and regulations, the
42 board may decline to grant a new license, impose conditions or limits
43 with respect to the grant of a license, modify an existing license or
44 decline to renew a license, and may suspend or revoke a license already
45 granted after due notice and an opportunity to be heard, as established
46 by rules and regulations, whenever the board finds that:

47 1. A material statement contained in an application is or was false or
48 misleading;

49 2. The applicant or licensee, or a person in a position of management
50 and control thereof or of the licensed activity, does not have good
51 moral character, necessary experience or competency, adequate facili-
52 ties, equipment, process controls, or security to process, distribute,
53 transport or sell cannabinoid hemp, hemp extract or products derived
54 therefrom;

55 3. After appropriate notice and opportunity, the applicant or licensee
56 has failed or refused to produce any records or provide any information

1 required by this article or the regulations promulgated pursuant there-
2 to;

3 4. The licensee has conducted activities outside of those activities
4 permitted on its license; or

5 5. The applicant or licensee, or any officer, director, partner, or
6 any other person exercising any position of management or control there-
7 of or of the licensed activity has willfully failed to comply with any
8 of the provisions of this article or regulations under it and other laws
9 of this state applicable to the licensed activity.

10 § 102. Record keeping and tracking. Every licensee shall keep, in such
11 form as the board may direct, such relevant records as may be required
12 pursuant to regulations under this article.

13 § 103. Packaging and labeling of cannabinoid hemp and hemp extract. 1.
14 Cannabinoid hemp processors shall be required to provide appropriate
15 label warning to consumers, and restricted from making unapproved label
16 claims, as determined by the board, concerning the potential impact on
17 or benefit to human health resulting from the use of cannabinoid hemp,
18 hemp extract and products derived therefrom for human consumption, which
19 labels shall be affixed to those products when sold, pursuant to rules
20 and regulations that the board may adopt.

21 2. The board may, by rules and regulations, require processors to
22 establish a code, including, but not limited to QR code, for labels and
23 establish methods and procedures for determining, among other things,
24 serving sizes or dosages for cannabinoid hemp, hemp extract and products
25 derived therefrom, active cannabinoid concentration per serving size,
26 number of servings per container, and the growing region, state or coun-
27 try of origin if not from the United States. Such rules and regulations
28 may require an appropriate fact panel that incorporates data regarding
29 serving sizes and potency thereof.

30 3. The packaging, sale, or possession of products derived from canna-
31 binoid hemp or hemp extract used for human consumption not labeled or
32 offered in conformity with regulations under this section shall be
33 grounds for the seizure or quarantine of the product, the imposition of
34 a civil penalty against a processor or retailer, and the suspension,
35 revocation or cancellation of a license, in accordance with this arti-
36 cle.

37 § 104. Processing of cannabinoid hemp and hemp extract. 1. No process-
38 or shall sell or agree to sell or deliver in the state any cannabinoid
39 hemp, hemp extract or product derived therefrom, used for human consump-
40 tion, except in sealed containers containing quantities in accordance
41 with size standards pursuant to rules adopted by the board. Such
42 containers shall have affixed thereto such labels as may be required by
43 the rules of the board.

44 2. Processors shall take such steps necessary to ensure that the
45 cannabinoid hemp or hemp extract used in their processing operation has
46 only been grown with pesticides that are registered by the department of
47 environmental conservation or that specifically meet the United States
48 environmental protection agency registration exemption criteria for
49 minimum risk, used in compliance with rules, regulations, standards and
50 guidelines issued by the department of environmental conservation for
51 pesticides.

52 3. All cannabinoid hemp, hemp extract and products derived therefrom
53 used for human consumption shall be extracted and processed in accord-
54 ance with good manufacturing processes pursuant to Part 117 or Part 111
55 of title 21 of the code of federal regulations, as may be defined, modi-
56 fied and decided upon by the board in rules or regulations.

1 4. As necessary to protect human health, the board shall have the
2 authority to: (a) regulate and prohibit specific ingredients, excipients
3 or methods used in processing cannabinoid hemp, hemp extract and
4 products derived therefrom; and (b) prohibit, or expressly allow,
5 certain products or product classes derived from cannabinoid hemp or
6 hemp extract, to be processed.

7 § 105. Laboratory testing. Every cannabinoid hemp processor shall
8 contract with an independent commercial laboratory to test the hemp
9 extract and products produced by the licensed processor. The board shall
10 establish the necessary qualifications or certifications required for
11 such laboratories used by licensees. The board is authorized to issue
12 rules and regulations consistent with this article establishing the
13 testing required, the reporting of testing results and the form for
14 reporting such laboratory testing results. The board has authority to
15 require licensees to submit any cannabinoid hemp, hemp extract or prod-
16 uct derived therefrom, processed or offered for sale within the state,
17 for testing by the board. This section shall not obligate the board, in
18 any way, to perform any testing on hemp, cannabinoid hemp, hemp extract
19 or product derived therefrom.

20 § 106. New York hemp product. The board may establish and adopt offi-
21 cial grades and standards for cannabinoid hemp, hemp extract and
22 products derived therefrom, as the board may deem advisable, which are
23 produced for sale in this state and, from time to time, may amend or
24 modify such grades and standards.

25 § 107. Penalties. Notwithstanding the provision of any law to the
26 contrary, the failure to comply with a requirement of this article, or a
27 regulation thereunder, may be punishable by a civil penalty of not more
28 than one thousand dollars for a first violation; not more than five
29 thousand dollars for a second violation within three years; and not more
30 than ten thousand dollars for a third violation and each subsequent
31 violation thereafter, within three years.

32 § 108. Hemp workgroup. The board, in consultation with the commis-
33 sioner of the department of agriculture and markets, may appoint a New York
34 state hemp and hemp extract workgroup, composed of growers, researchers,
35 producers, processors, manufacturers and trade associations, to make
36 recommendations for the industrial hemp and cannabinoid hemp programs,
37 state and federal policies and policy initiatives, and opportunities for
38 the promotion and marketing of cannabinoid hemp and hemp extract as
39 consistent with federal and state laws, rules and regulations.

40 § 109. Prohibitions. 1. Except as authorized by the United States food
41 and drug administration, the processing of cannabinoid hemp or hemp
42 extract used for human consumption is prohibited within the state unless
43 the processor is licensed under this article.

44 2. Cannabinoid hemp and hemp extracts used for human consumption and
45 grown or processed outside the state shall not be distributed or sold at
46 retail within the state, unless they meet all standards established for
47 cannabinoid hemp under state law and regulations.

48 3. The retail sale of cannabinoid hemp is prohibited in this state
49 unless the retailer is licensed under this article.

50 § 110. Special use permits. The board shall have the authority to
51 issue temporary permits for carrying on any activity related to cannabi-
52 noid hemp, hemp extract and products derived therefrom, licensed under
53 this article. The board may set reasonable fees for such permits, to
54 establish the periods during which such permits are valid, and to make
55 rules and regulations to implement this section.

1 § 111. Severability. If any provision of this article or the applica-
2 tion thereof to any person or circumstances is held invalid, such inva-
3 lidity shall not affect other provisions or applications of this article
4 which can be given effect without the invalid provision or application,
5 and to this end the provisions of this article are declared to be sever-
6 able.

7 ARTICLE 6
8 GENERAL PROVISIONS

- 9 Section 125. General prohibitions and restrictions.
- 10 126. License to be confined to premises licensed; premises for
- 11 which no license shall be granted; transporting cannabis.
- 12 127. Protections for the use of cannabis; unlawful discrimi-
- 13 nations prohibited.
- 14 128. Permits, registrations and licenses.
- 15 129. Laboratory testing permits.
- 16 130. Special use permits.
- 17 131. Local opt-out; municipal control and preemption.
- 18 132. Penalties for violation of this chapter.
- 19 133. Revocation of registrations, licenses and permits for
- 20 cause; procedure for revocation or cancellation.
- 21 134. Lawful actions pursuant to this chapter.
- 22 135. Review by courts.
- 23 136. Illicit cannabis.
- 24 137. Persons forbidden to traffic cannabis; certain officials
- 25 not to be interested in manufacture or sale of cannabis
- 26 products.
- 27 138. Access to criminal history information through the division
- 28 of criminal justice services.
- 29 139. Severability.

30 § 125. General prohibitions and restrictions. 1. No person shall
31 cultivate, process, distribute for sale or sell at wholesale or retail
32 or deliver to consumers any cannabis, cannabis product, medical cannabis
33 or cannabinoid hemp or hemp extract product within the state without
34 obtaining the appropriate registration, license, or permit therefor
35 required by this chapter unless otherwise authorized by law.

36 2. No registered organization, licensee, or permittee or other entity
37 under the jurisdiction of the board shall sell, or agree to sell or
38 deliver in this state any cannabis or cannabinoid hemp or hemp extract
39 for the purposes of resale to any person who is not duly registered,
40 licensed or permitted pursuant to this chapter to sell such product, at
41 wholesale or retail, as the case may be, at the time of such agreement
42 and sale.

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

49 4. No registered organization, licensee, or permittee, or other entity
50 under the jurisdiction of the board, shall sell, deliver or give away,
51 or cause, permit or procure to be sold, delivered or given away any
52 cannabis, cannabis product, or medical cannabis on credit; except that a
53 registered organization, licensee or permittee may accept third party
54 credit cards for the sale of any cannabis, cannabis product, or medical

1 cannabis for which it is registered, licensed or permitted to dispense
2 or sell to patients or cannabis consumers. This includes, but is not
3 limited to, any consignment sale of any kind.

4 5. No registered organization, licensee, or permittee, or other entity
5 under the jurisdiction of the board, shall cease to be operated as a
6 bona fide or legitimate premises within the contemplation of the regis-
7 tration, license, or permit issued for such premises, as determined
8 within the judgment of the board.

9 6. No registered organization, licensee, or permittee, or other entity
10 under the jurisdiction of the board, shall refuse, nor any person hold-
11 ing a registration, license, or permit refuse, nor any officer or direc-
12 tor of any corporation or organization holding a registration, license,
13 or permit refuse, to appear and/or testify under oath at an inquiry or
14 hearing held by the board, with respect to any matter bearing upon the
15 registration, license, or permit, the conduct of any people at the
16 licensed premises, or bearing upon the character or fitness of such
17 registrant, licensee, or permittee, or other entity under the jurisdic-
18 tion of the board, to continue to hold any registration, license, or
19 permit. Nor shall any of the above offer false testimony under oath at
20 such inquiry or hearing.

21 7. No registered organization, licensee, or permittee, or other entity
22 under the jurisdiction of the board, shall engage, participate in, or
23 aid or abet any violation of any provision of this chapter, or the rules
24 or regulations of the board.

25 8. It shall be the responsibility of the registered organization,
26 licensee or permittee, or other entity under the jurisdiction of the
27 board, to exercise adequate supervision over the registered, licensed or
28 permitted location. Persons registered, licensed, or permitted shall be
29 held strictly accountable for any and all violations that occur upon any
30 registered, licensed, or permitted premises, and for any and all
31 violations committed by or permitted by any manager, agent or employee
32 of such registered, licensed, or permitted person.

33 9. It shall be unlawful for any person, partnership or corporation
34 operating a place for profit or pecuniary gain, with a capacity for the
35 assemblage of twenty or more persons to permit a person or persons to
36 come to the place of assembly for the purpose of cultivating, process-
37 ing, distributing, or retail distribution or sale of cannabis or canna-
38 bis products on said premises. This includes, but is not limited, to,
39 cannabis or cannabis products that are either provided by the operator
40 of the place of assembly, their agents, servants or employees, or canna-
41 bis that is brought onto said premises by the person or persons assembl-
42 ing at such place, unless an appropriate registration, license, or
43 permit has first been obtained from the board by the operator of said
44 place of assembly.

45 10. No adult-use cannabis or medical cannabis may be imported to, or
46 exported out of, New York state by a registered organization, licensee
47 or person holding a license and/or permit pursuant to this chapter,
48 until such time as it may become legal to do so under federal law.
49 Should it become legal to do so under federal law, the board may promul-
50 gate such rules and regulations as it deems necessary to protect the
51 public and the policy of the state, including to prioritize and promote
52 New York cannabis. Further, all such cannabis or cannabis products must
53 be distributed in a manner consistent with the provisions of this chap-
54 ter.

55 11. No registered organization, licensee or any of its agents, serv-
56 ants or employees shall sell any cannabis product, or medical cannabis

1 from house to house by means of a truck or otherwise, where the sale is
2 consummated and delivery made concurrently at the residence or place of
3 business of a cannabis consumer. This subdivision shall not prohibit the
4 delivery by a registered organization to certified patients or their
5 designated caregivers, pursuant to article three of this chapter.

6 12. No licensee shall employ any canvasser or solicitor for the
7 purpose of receiving an order from a certified patient, designated care-
8 giver or cannabis consumer for any cannabis product, or medical cannabis
9 at the residence or place of business of such patient, caregiver or
10 consumer, nor shall any licensee receive or accept any order, for the
11 sale of any cannabis product, or medical cannabis which shall be solici-
12 ited at the residence or place of business of a patient, caregiver or
13 consumer. This subdivision shall not prohibit the solicitation by a
14 distributor of an order from any licensee at the licensed premises of
15 such licensee.

16 § 126. License to be confined to premises licensed; premises for which
17 no license shall be granted; transporting cannabis. 1. A registration,
18 license, or permit issued to any person, pursuant to this chapter, for
19 any registered, licensed, or permitted premises shall not be transfera-
20 ble to any other person, to any other location or premises, or to any
21 other building or part of the building containing the licensed premises
22 except in the discretion of the office. All privileges granted by any
23 registration, license, or permit shall be available only to the person
24 therein specified, and only for the premises licensed and no other
25 except if authorized by the board. Provided, however, that the
26 provisions of this section shall not be deemed to prohibit the amendment
27 of a registration or license as provided for in this chapter. A
28 violation of this section shall subject the registration, license, or
29 permit to revocation for cause.

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

35 3. In determining whether to issue such a proscription against grant-
36 ing any registration, license, or permit for such five-year period, in
37 addition to any other factors deemed relevant to the board, the board
38 shall, in the case of a license revoked due to the sale of cannabis to a
39 person under the age of twenty-one not otherwise authorized by this
40 chapter, determine whether the proposed subsequent licensee has obtained
41 such premises through an arm's length transaction, and, if such trans-
42 action is not found to be an arm's length transaction, the office shall
43 deny the issuance of such license.

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

1 premises, was not conducted, in whole or in part, for the purpose of
2 permitting the original licensee to avoid the effect of the revocation:

- 3 (a) a sale between relatives;
- 4 (b) a sale between related companies or partners in a business; or
- 5 (c) a sale, lease, management agreement, or other agreement giving the
6 applicant control over the cannabis at the premises, affected by other
7 facts or circumstances that would indicate that the sale, lease, manage-
8 ment agreement, or other agreement giving the applicant control over the
9 cannabis at the premises, is entered into for the primary purpose of
10 permitting the original licensee to avoid the effect of the revocation.

11 5. No registered organization, licensee or permittee shall transport
12 cannabis products or medical cannabis except in vehicles owned and oper-
13 ated by such registered organization, licensee or permittee, or hired
14 and operated by such registered organization, licensee or permittee from
15 a trucking or transportation company permitted and registered with the
16 board.

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

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

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

- 43 (a) if failing to do so would cause the school or landlord to lose a
44 monetary or licensing related benefit under federal law or regulations;
- 45 (b) if the institution has adopted a code of conduct prohibiting
46 cannabis use on the basis of religious belief; or
- 47 (c) if a property is registered with the New York smoke-free housing
48 registry, it is not required to permit the smoking of cannabis products
49 on its premises.

50 3. For the purposes of medical care, including organ transplants, a
51 certified patient's authorized use of medical cannabis must be consid-
52 ered the equivalent of the use of any other medication under the direc-
53 tion of a practitioner and does not constitute the use of an illicit
54 substance or otherwise disqualify a registered qualifying patient from
55 medical care.

1 4. (a) No employer shall take adverse employment action against an
2 employee for using cannabis, unless (i) such employee's usage is
3 governed by state or local law or rule, or a collective bargaining
4 agreement that: (1) limits or prohibits the usage of cannabis while
5 performing the employee's job duties; (2) limits or prohibits the usage
6 of cannabis as a condition of attaining or maintaining a license,
7 certification, or professional status required for employment; or (3)
8 governs the testing and disciplinary procedures related to the use of
9 cannabis by employees; and (ii) the employee's usage is in violation of
10 such state or local law or rules, or collective bargaining agreement.

11 (b) Employees whose usage of medical cannabis is governed by state or
12 local law or rules, or a collective bargaining agreement that: (i)
13 limits or prohibits the usage of cannabis while performing the employ-
14 ee's job duties; (ii) limits or prohibits the usage of cannabis as a
15 condition of attaining or maintaining a license, certification, or
16 professional status required for employment; or (iii) governs the test-
17 ing and disciplinary procedures related to the use of cannabis by
18 employees, shall be afforded the same rights, procedures and protections
19 that are available and applicable to injured workers under the workers'
20 compensation law, or any rules or regulations promulgated thereunder,
21 when such injured workers are prescribed medications that may prohibit,
22 restrict, or require the modification of the performance of their
23 duties.

24 (c) Employees shall not face adverse employment actions for usage of
25 cannabis, as such conduct is permitted under this chapter, prior to the
26 beginning or after the conclusion of the employee's work hours, and off
27 of the employer's premises and without use of the employer's equipment
28 or other property.

29 (d) No employer shall take adverse employment action against an appli-
30 cant for employment, or otherwise discriminate against or refuse to
31 interview an applicant for employment, for using cannabis as such
32 conduct is permitted under this chapter.

33 5. Nothing in this section shall interfere with an employer's obli-
34 gation to provide a safe and healthy work place, free from recognized
35 hazards, as required by state and federal occupation safety and health
36 law or require an employer to commit any act that would cause the
37 employer to be in violation of any other federal law, or that would
38 result in the loss of a federal contract or federal funding.

39 6. Nothing in this section shall restrict an employer's ability to
40 prohibit or take adverse employment action for the possession or use of
41 intoxicating substances during work hours, or require an employer to
42 commit any act that would cause the employer to be in violation of
43 federal law, or that would result in the loss of a federal contract or
44 federal funding. For the purposes of this section, an employer may
45 consider an employee's ability to perform the employee's job responsi-
46 bilities to be impaired when the employee manifests specific articulable
47 symptoms while working that decrease or lessen the employee's perform-
48 ance of the duties or tasks of the employee's job position.

49 7. As used in this section, "adverse employment action" means refusing
50 to hire or employ, barring or discharging from employment, requiring a
51 person to retire from employment, or discriminating against in compen-
52 sation or in terms, conditions, or privileges of employment.

53 8. No person may be denied custody of or visitation or parenting time
54 with a minor, for conduct allowed under section 222.05 of the penal law,
55 unless the child's physical, mental or emotional condition has been
56 impaired, or is in imminent danger of becoming impaired as a result of

1 the person's behavior as established by a fair preponderance of the
2 evidence. For the purposes of this section, this determination cannot be
3 based solely on whether, when, and how often a person uses cannabis
4 without separate evidence of harm.

5 § 128. Permits, registrations and licenses. 1. No permit, registra-
6 tion or license shall be transferable or assignable except that notwith-
7 standing any other provision of law, the permit, registration or license
8 of a sole proprietor converting to corporate form, where such proprietor
9 becomes the sole stockholder and only officer and director of such new
10 corporation, may be transferred to the subject corporation if all
11 requirements of this chapter remain the same with respect to such
12 permit, registration or license as transferred and, further, the regis-
13 tered organization or licensee shall transmit to the board, within ten
14 days of the transfer of license allowable under this subdivision, on a
15 form prescribed by the board, notification of the transfer of such
16 license.

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

21 3. Permits, registrations and licenses issued under this chapter shall
22 contain, in addition to any further information or material to be
23 prescribed by the rules and regulations of the board, the following
24 information:

- 25 (a) name of the person to whom the license is issued;
26 (b) type of license and what type of cannabis commerce is thereby
27 permitted;
28 (c) description by street and number, or otherwise, of licensed prem-
29 ises; and
30 (d) a statement in substance that such license shall not be deemed a
31 property or vested right, and that it may be revoked at any time pursu-
32 ant to law.

33 § 129. Laboratory testing permits. 1. The board shall approve and
34 permit one or more independent cannabis testing laboratories to test
35 medical cannabis, adult-use cannabis and/or cannabinoid hemp or hemp
36 extract.

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

- 41 (a) the owners and directors of the laboratory are of good moral char-
42 acter;
43 (b) the laboratory and its staff has the skills, resources and exper-
44 tise needed to accurately and consistently perform all of the testing
45 required for adult-use cannabis, medical cannabis and/or cannabinoid
46 hemp or hemp extract;
47 (c) the laboratory has in place and will maintain adequate policies,
48 procedures, and facility security to ensure proper: collection, label-
49 ing, accessioning, preparation, analysis, result reporting, disposal and
50 storage of adult-use cannabis, and/or medical cannabis;
51 (d) the laboratory is physically located in New York state;
52 (e) the laboratory has been approved by the department of health
53 pursuant to Part 55-2 of Title 10 of the New York Codes, Rules and Regu-
54 lations, pertaining to laboratories performing environmental analysis;
55 and

1 (f) the laboratory meets any and all requirements prescribed by this
2 chapter and by the board in regulation.

3 3. The owner of a laboratory testing permit under this section shall
4 not hold a permit, registration or license in any category of this chap-
5 ter and shall not have any direct or indirect ownership interest in such
6 registered organization or licensee. No board member, officer, manager,
7 owner, partner, principal stakeholder or member of a registered organ-
8 ization or licensee under this chapter, or such person's immediate fami-
9 ly member, shall have an interest or voting rights in any laboratory
10 testing permittee.

11 4. The board shall require that the permitted laboratory report test-
12 ing results to the board in a manner, form and timeframe as determined
13 by the office.

14 5. The board is authorized to promulgate regulations, requiring
15 permitted laboratories to perform certain tests and services.

16 6. A laboratory granted a laboratory testing permit under this chapter
17 shall not required to be licensed by the federal drug enforcement agen-
18 cy.

19 § 130. Special use permits. The board is hereby authorized to issue
20 the following kinds of permits for carrying on activities consistent
21 with the policy and purpose of this chapter with respect to cannabis.
22 The board has the authority to set fees for all permits issued pursuant
23 to this section, to establish the periods during which permits are
24 authorized, and to make rules and regulations, including emergency regu-
25 lations, to implement this section.

26 1. Industrial cannabis permit - to purchase cannabis from one of the
27 entities licensed by the board for use in the manufacture and sale of
28 any of the following, when such cannabis is not otherwise suitable for
29 consumption purposes, namely: (a) apparel, energy, paper, and tools;
30 (b) scientific, chemical, mechanical and industrial products; or (c) any
31 other industrial use as determined by the board in regulation.

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

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

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

43 § 131. Local opt-out; municipal control and preemption. 1. The
44 provisions of article four of this chapter authorizing the retail sale
45 of adult-use cannabis to cannabis consumers shall not be applicable to a
46 town, city or village which, after a mandatory referendum held pursuant
47 to section twenty-three of the municipal home rule law, adopts a local
48 law to prohibit the establishment or operation of retail dispensary
49 licenses contained in article four of this chapter, within the jurisdic-
50 tion of the town, city or village. Provided, however, that any town law
51 shall apply to the area of the town outside of any village within such
52 town.

53 2. Except as provided for in subdivision one of this section, all
54 county, town, city and village governing bodies are hereby preempted
55 from adopting any rule, ordinance, regulation or prohibition pertaining
56 to the operation or licensure of registered organizations, adult-use

1 cannabis licenses or hemp licenses. However, municipalities may pass
2 local laws and ordinances governing the time, place and manner of
3 licensed adult-use cannabis retail dispensaries, provided such ordinance
4 or regulation does not make the operation of such licensed retail
5 dispensaries unreasonably impracticable as determined by the board in
6 consultation with the state cannabis advisory board.

7 § 132. Penalties for violation of this chapter. 1. Any person who
8 cultivates for sale or sells cannabis, cannabis products, or medical
9 cannabis without having an appropriate registration, license or permit
10 therefor, or whose registration, license, or permit has been revoked,
11 surrendered or cancelled, may be subject to prosecution in accordance
12 with article two hundred twenty-two of the penal law.

13 2. Any registered organization or licensee, who has received notifica-
14 tion of a registration or license suspension pursuant to the provisions
15 of this chapter, who sells cannabis, cannabis products, medical cannabis
16 or cannabinoid hemp or hemp extract during the suspension period, shall
17 be subject to prosecution as provided in article two hundred twenty-two
18 of the penal law, and upon conviction thereof under this section may be
19 subject to a civil penalty of not more than five thousand dollars.

20 3. Any person who shall knowingly make any material false statement in
21 the application for a registration, license or a permit under this chap-
22 ter may be subject to a civil penalty of not more than two thousand
23 dollars.

24 4. Any person under the age of twenty-one found to be in possession of
25 cannabis or cannabis products who is not a certified patient pursuant to
26 article three of this chapter shall be in violation of this chapter and
27 shall be subject to the following penalty:

28 (a) (i) The person shall be subject to a civil penalty of not more
29 than fifty dollars. The civil penalty shall be payable to the office of
30 cannabis management.

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

35 (b) The person shall, upon payment of the required civil penalty, be
36 provided with information related to the dangers of underage use of
37 cannabis and information related to cannabis use disorder by the office.

38 (c) The issuance and subsequent payment of such civil penalty shall in
39 no way qualify as a criminal accusation, admission of guilt, or a crimi-
40 nal conviction and shall in no way operate as a disqualification of any
41 such person from holding public office, attaining public employment, or
42 as a forfeiture of any right or privilege.

43 5. Cannabis recovered from individuals who are found to be in
44 violation of this chapter may after notice and opportunity for a hearing
45 be considered a nuisance and shall be disposed of or destroyed.

46 § 133. Revocation of registrations, licenses and permits for cause;
47 procedure for revocation or cancellation. 1. Any registration, license
48 or permit issued pursuant to this chapter may be revoked, cancelled,
49 suspended and/or subjected to the imposition of a civil penalty for
50 cause, and there shall be a rebuttable presumption of revocation for the
51 following causes:

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

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

1 2. Notwithstanding the issuance of a registration, license or permit
2 by way of renewal, the board may revoke, cancel or suspend such regis-
3 tration, license or permit and/or may impose a civil penalty against any
4 holder of such registration, license or permit, as prescribed by this
5 section, for causes or violations occurring during the license period
6 immediately preceding the issuance of such registration, license or
7 permit.

8 3. (a) As used in this section, the term "for cause" shall also
9 include the existence of a sustained and continuing pattern of miscon-
10 duct, failure to adequately prevent diversion or disorder on or about
11 the registered, licensed or permitted premises, or in the area in front
12 of or adjacent to the registered or licensed premises, or in any parking
13 lot provided by the registered organization or licensee for use by
14 registered organization or licensee's patrons, which significantly
15 adversely affects or tends to significantly adversely affect the
16 protection, health, welfare, safety, or repose of the inhabitants of the
17 area in which the registered or licensed premises is located.

18 (b) (i) As used in this section, the term "for cause" shall also
19 include deliberately misleading the board or office of cannabis manage-
20 ment:

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

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

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

31 4. As used in this chapter, the existence of a sustained and continu-
32 ing pattern of misconduct, failure to adequately prevent diversion or
33 disorder on or about the premises may be presumed upon the sixth inci-
34 dent reported to the board by a law enforcement agency, or discovered by
35 the board during the course of any investigation, of misconduct, diver-
36 sion or disorder on or about the premises or related to the operation of
37 the premises, absent clear and convincing evidence of either fraudulent
38 intent on the part of any complainant or a factual error with respect to
39 the content of any report concerning such complaint relied upon by the
40 board.

41 5. Notwithstanding any other provision of this chapter to the contra-
42 ry, a suspension imposed under this section against the holder of a
43 registration issued pursuant to article three of this chapter, shall
44 only suspend the licensed activities related to the type of cannabis,
45 medical cannabis or adult-use cannabis involved in the violation result-
46 ing in the suspension.

47 6. Any registration, license or permit issued by the board pursuant to
48 this chapter may be revoked, cancelled or suspended and/or be subjected
49 to the imposition of a monetary penalty set forth in this chapter in the
50 manner prescribed by this section.

51 7. The board may on its own initiative, or on complaint of any person,
52 institute proceedings to revoke, cancel or suspend any adult-use canna-
53 bis retail dispensary license or adult-use cannabis on-site consumption
54 license and may impose a civil penalty against the licensee after a
55 hearing at which the licensee shall be given an opportunity to be heard.

1 Such hearing shall be held in such manner and upon such notice as may be
2 prescribed in regulation by the board.

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

8 9. Where a licensee or permittee is convicted of two or more qualify-
9 ing offenses within a five-year period, the office, upon receipt of
10 notification of such second or subsequent conviction, shall, in addition
11 to any other sanction or civil or criminal penalty imposed pursuant to
12 this chapter, impose on such licensee a civil penalty not to exceed ten
13 thousand dollars. For purposes of this subdivision, a qualifying offense
14 shall mean the sale of cannabis to a person under the age of twenty-one
15 not otherwise authorized by this chapter. For purposes of this subdivi-
16 sion only, a conviction of a licensee or an employee or agent of such
17 licensee shall constitute a conviction of such licensee.

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

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

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

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

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

43 (d) The purchase, cultivation, possession, or consumption of cannabis,
44 and medical cannabis, as permitted by law, and consistent with rules and
45 regulations of the board.

46 § 135. Review by courts. An action by the board shall be subject to
47 review by the supreme court in the manner provided in article seventy-
48 eight of the civil practice law and rules including, but not limited to:

49 (a) Refusal by the board to issue a registration, license, or a
50 permit.

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

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

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

4 (e) Refusal to approve alteration of premises.

5 (f) Refusal to approve a corporate change in stockholders, stockhold-
6 ings, officers or directors.

7 § 136. Illicit cannabis. 1. "Illicit cannabis" means and includes any
8 cannabis product or medical cannabis that is owned, cultivated, distrib-
9 uted, bought, sold, packaged, rectified, blended, treated, fortified,
10 mixed, processed, warehoused, possessed or transported for which any tax
11 required to have been paid under any applicable state law has not been
12 paid.

13 2. Any person holding a license, permit or registration under this
14 chapter who shall knowingly possess or have under his or her control any
15 cannabis known by the person to be illicit cannabis is guilty of a class
16 B misdemeanor.

17 3. Any person holding a license, permit or registration pursuant to
18 this chapter who shall knowingly barter, exchange, give or sell, or
19 offer to barter, exchange, give or sell any cannabis known by the person
20 to be illicit cannabis is guilty of a misdemeanor.

21 4. Any person holding a license, permit or registration pursuant to
22 this chapter who shall knowingly possess or have under his or her
23 control or transport any cannabis known by the person to be illicit
24 cannabis with intent to barter, exchange, give or sell such cannabis is
25 guilty of a class B misdemeanor.

26 5. Any person who, being the owner, lessee or occupant of any room,
27 shed, tenement, booth, building, float, vessel or part thereof knowingly
28 permits the same to be used for the cultivation, processing, distrib-
29 ution, purchase, sale, warehousing, transportation or storage of any
30 illicit cannabis is guilty of a violation.

31 § 137. Persons forbidden to traffic cannabis; certain officials not to
32 be interested in manufacture or sale of cannabis products. 1. The
33 following are forbidden to traffic in cannabis except in extraordinary
34 circumstances as determined by the board:

35 (a) An individual who has been convicted of an offense related to the
36 functions or duties of owning and operating a business within three
37 years of the application date, except that if the board determines that
38 the owner or licensee is otherwise suitable to be issued a license, and
39 the board determines granting the license is not inconsistent with
40 public safety, the board shall conduct a thorough review of the nature
41 of the crime, conviction, circumstances and evidence of rehabilitation
42 of the owner in accordance with article twenty-three-A of the correction
43 law, and shall evaluate the suitability of the owner or licensee to be
44 issued a license based on the evidence found through the review. In
45 determining which offenses are substantially related to the functions or
46 duties of owning and operating a business, the board shall include, but
47 not be limited to, the following:

48 (i) a felony conviction within the past five years involving fraud,
49 money laundering, forgery and other unlawful conduct related to owning
50 and operating a business; and

51 (ii) a felony conviction within the past five years for hiring,
52 employing, or using a minor in transporting, carrying, selling, giving
53 away, preparing for sale, or peddling, any controlled substance to a
54 minor; or selling, offering to sell, furnishing, offering to furnish,
55 administering, or giving any controlled substance to a minor.

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

1 (c) A partnership or a corporation, unless each member of the partner-
2 ship, or each of the principal officers and directors of the corpo-
3 ration, is a citizen of the United States or a person lawfully admitted
4 for permanent residence in the United States, not less than twenty-one
5 years of age; provided however that a corporation which otherwise
6 conforms to the requirements of this section and chapter may be licensed
7 if each of its principal officers and more than one-half of its direc-
8 tors are citizens of the United States or persons lawfully admitted for
9 permanent residence in the United States; and provided further that a
10 corporation organized under the not-for-profit corporation law or the
11 education law which otherwise conforms to the requirements of this
12 section and chapter may be licensed if each of its principal officers
13 and directors are not less than twenty-one years of age; and provided,
14 further, that a corporation organized under the not-for-profit corpo-
15 ration law or the education law and located on the premises of a college
16 as defined by section two of the education law which otherwise conforms
17 to the requirements of this section and chapter may be licensed if each
18 of its principal officers and each of its directors are not less than
19 twenty-one years of age;

20 (d) A person who shall have had any registration or license issued
21 under this chapter revoked for cause, until the expiration of one year
22 from the date of such revocation;

23 (e) A person not registered or licensed under the provisions of this
24 chapter, who has been convicted of a misdemeanor or felony in violation
25 of this chapter, until the expiration of one year from the date of such
26 conviction; or

27 (f) A corporation or partnership, if any officer and director or any
28 partner, while not licensed under the provisions of this chapter, has
29 been convicted of a misdemeanor or felony in violation of this chapter,
30 or has had a registration or license issued under this chapter revoked
31 for cause, until the expiration of up to one year from the date of such
32 conviction or revocation as determined by the board.

33 2. Except as may otherwise be provided for in regulation, it shall be
34 unlawful for any chief of police, police officer or subordinate of any
35 police department in the state, to be either directly or indirectly
36 interested in the cultivation, processing, distribution, or sale of
37 cannabis products or to offer for sale, or recommend to any registered
38 organization or licensee any cannabis products. A person may not be
39 denied any registration or license granted under the provisions of this
40 chapter solely on the grounds of being the spouse or domestic partner of
41 a public servant described in this section. The solicitation or recom-
42 mendation made to any registered organization or licensee, to purchase
43 any cannabis products by any police official or subordinate as hereina-
44 above described, shall be presumptive evidence of the interest of such
45 official or subordinate in the cultivation, processing, distribution, or
46 sale of cannabis products.

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

51 § 138. Access to criminal history information through the division of
52 criminal justice services. In connection with the administration of
53 this chapter, the board is authorized to request, receive and review
54 criminal history information through the division of criminal justice
55 services with respect to any person seeking a registration, license,
56 permit or authorization to cultivate, process, distribute or sell

1 medical cannabis, adult-use cannabis, cannabinoid hemp or hemp extract.
2 At the board's request, each person, member, principal and/or officer of
3 the applicant shall submit to the board his or her fingerprints in such
4 form and in such manner as specified by the division, for the purpose of
5 conducting a criminal history search identifying criminal convictions
6 and pending criminal charges and returning a report thereon in accord-
7 ance with the procedures and requirements established by the division
8 pursuant to the provisions of article thirty-five of the executive law,
9 which shall include the payment of the reasonable prescribed processing
10 fees for the cost of the division's full search and retain procedures
11 and a national criminal history record check. The board, or their desig-
12 nee, shall submit such fingerprints and the processing fee to the divi-
13 sion. The division shall forward to the board a report with respect to
14 the applicant's previous criminal history, if any, or a statement that
15 the applicant has no previous criminal history according to its files.
16 Fingerprints submitted to the division pursuant to this subdivision may
17 also be submitted to the federal bureau of investigation for a national
18 criminal history record check. If additional copies of fingerprints are
19 required, the applicant shall furnish them upon request. Upon receipt of
20 such criminal history information, the board shall provide such appli-
21 cant with a copy of such criminal history information, together with a
22 copy of article twenty-three-A of the correction law, and inform such
23 applicant of his or her right to seek correction of any incorrect infor-
24 mation contained in such criminal history information pursuant to regu-
25 lations and procedures established by the division of criminal justice
26 services.

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

32 § 3. Section 3302 of the public health law, as added by chapter 878 of
33 the laws of 1972, subdivisions 1, 14, 16, 17 and 27 as amended and
34 subdivisions 4, 5, 6, 7, 8, 11, 12, 13, 15, 18, 19, 20, 22, 23, 24, 25,
35 26, 28, 29 and 30 as renumbered by chapter 537 of the laws of 1998,
36 subdivisions 9 and 10 as amended and subdivisions 34, 35, 36, 37, 38, 39
37 and 40 as added by chapter 178 of the laws of 2010, paragraph (a) of
38 subdivision 20, the opening paragraph of subdivision 22 and subdivision
39 29 as amended by chapter 163 of the laws of 1973, subdivision 21 as
40 amended by chapter 1 of the laws of 2020, subdivision 31 as amended by
41 section 4 of part A of chapter 58 of the laws of 2004, subdivision 41 as
42 added by section 6 of part A of chapter 447 of the laws of 2012, and
43 subdivisions 42 and 43 as added by section 13 of part D of chapter 60 of
44 the laws of 2014, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 ~~[21. "Marihuana" means all parts of the plant of the genus Cannabis,
27 whether growing or not, the seeds thereof, the resin extracted from any
28 part of the plant, and every compound, manufacture, salt, derivative,
29 mixture, or preparation of the plant, its seeds or resin. The term
30 "marihuana" shall not include:~~

31 ~~(a) the mature stalks of the plant, fiber produced from the stalks,
32 oil or cake made from the seeds of the plant, any other compound, manu-
33 facture, salt, derivative, mixture, or preparation of the mature stalks
34 (except the resin extracted therefrom), fiber, oil, or cake, or the
35 sterilized seed of the plant which is incapable of germination,~~

36 ~~(b) hemp, as defined in subdivision one of section five hundred five
37 of the agriculture and markets law;~~

38 ~~(c) cannabinoid hemp as defined in subdivision two of section thirty-
39 three hundred ninety-eight of this chapter, or~~

40 ~~(d) hemp extract as defined in subdivision five of section thirty-
41 three hundred ninety-eight of this chapter.~~

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

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

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

52 (c) opium poppy and poppy straw.

53 ~~[23.]~~ 21. "Opiate" means any substance having an addiction-forming or
54 addiction-sustaining liability similar to morphine or being capable of
55 conversion into a drug having addiction-forming or addiction-sustaining
56 liability. It does not include, unless specifically designated as

1 controlled under section [~~3306~~] thirty-three hundred six of this [~~arti-~~
2 ~~cle~~] title, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and
3 its salts (dextromethorphan). It does include its racemic and levorota-
4 tory forms.

5 [~~24-~~] 22. "Opium poppy" means the plant of the species *Papaver*
6 *somniferum* L., except its seeds.

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

10 [~~26-~~] 24. "Pharmacist" means any person licensed by the state depart-
11 ment of education to practice pharmacy.

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

15 [~~28-~~] 26. "Poppy straw" means all parts, except the seeds, of the
16 opium poppy, after mowing.

17 [~~29-~~] 27. "Practitioner" means:

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

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

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

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

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

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

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

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

55 [~~37-~~] 35. "Electronic prescription" means a prescription issued with
56 an electronic signature and transmitted by electronic means in accord-

1 ance with regulations of the commissioner and the commissioner of educa-
2 tion and consistent with federal requirements. A prescription generated
3 on an electronic system that is printed out or transmitted via facsimile
4 is not considered an electronic prescription and must be manually
5 signed.

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

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

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

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

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

28 [~~43-~~ 41. "Outsourcing facility" means a facility that:

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

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

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

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

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

47 (13) [~~Marihuana-~~

48 ~~(14)]~~ Mescaline.

49 [~~(15)]~~ (14) Parahexyl. Some trade or other names: 3-Hexyl-1-hydroxy-
50 7,8,9,10-tetra hydro-6,6,9-trimethyl-6H-dibenfo{b,d} pyran.

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

56 [~~(17)]~~ (16) N-ethyl-3-piperidyl benzilate.

1 [~~(18)~~] (17) N-methyl-3-piperidyl benzilate.
2 [~~(19)~~] (18) Psilocybin.
3 [~~(20)~~] (19) Psilocyn.
4 [~~(21)~~] (20) Tetrahydrocannabinols. Synthetic tetrahydrocannabinols not
5 derived from the cannabis plant that are equivalents of the substances
6 contained in the plant, or in the resinous extractives of cannabis, sp.
7 and/or synthetic substances, derivatives, and their isomers with similar
8 chemical structure and pharmacological activity such as the following:
9 [~~(\)~~] delta 1 cis or trans tetrahydrocannabinol, and their optical
10 isomers
11 [~~(\)~~] delta 6 cis or trans tetrahydrocannabinol, and their optical
12 isomers
13 [~~(\)~~] delta 3, 4 cis or trans tetrahydrocannabinol, and its optical
14 isomers (since nomenclature of these substances is not internationally
15 standardized, compounds of these structures, regardless of numerical
16 designation of atomic positions covered).
17 [~~(22)~~] (21) Ethylamine analog of phencyclidine. Some trade or other
18 names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethyla-
19 mine, N-(1-phenylcyclohexyl) ethylamine cyclohexamine, PCE.
20 [~~(23)~~] (22) Pyrrolidine analog of phencyclidine. Some trade or other
21 names 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy, PHP.
22 [~~(24)~~] (23) Thiophene analog of phencyclidine. Some trade or other
23 names: 1-{1-(2-thienyl)-cyclohexyl}-piperidine, 2-thienylanalog of
24 phencyclidine, TPCP, TCP.
25 [~~(25)~~] (24) 3,4-methylenedioxymethamphetamine (MDMA).
26 [~~(26)~~] (25) 3,4-methylenedioxy-N-ethylamphetamine (also known as
27 N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA,
28 MDE, MDEA.
29 [~~(27)~~] (26) N-hydroxy-3,4-methylenedioxyamphetamine (also known as
30 N-hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and
31 N-hydroxy MDA.
32 [~~(28)~~] (27) 1-{1-(2-thienyl) cyclohexyl} pyrrolidine. Some other
33 names: TCPY.
34 [~~(29)~~] (28) Alpha-ethyltryptamine. Some trade or other names:
35 etryptamine; Monase; Alpha-ethyl-1H-indole-3-ethanamine;
36 3-(2-aminobutyl) indole; Alpha-ET or AET.
37 [~~(30)~~] (29) 2,5-dimethoxy-4-ethylamphetamine. Some trade or other
38 names: DOET.
39 [~~(31)~~] (30) 4-Bromo-2,5-dimethoxyphenethylamine. Some trade or other
40 names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl
41 DOB; 2C-B, Nexus.
42 [~~(32)~~] (31) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7), its
43 optical isomers, salts and salts of isomers.
44 § 5. Subdivision 8 of section 1399-n of the public health law, as
45 amended by chapter 131 of the laws of 2019, is amended to read as
46 follows:
47 8. "Smoking" means the burning of a lighted cigar, cigarette, pipe or
48 any other matter or substance which contains tobacco or [~~marihuana~~]
49 cannabis as defined in section [~~thirty-three hundred two of this~~
50 ~~chapter~~] 222.00 of the penal law.
51 § 5-a. Section 1399-q of the public health law, as amended by chapter
52 335 of the laws of 2017, is amended to read as follows:
53 § 1399-q. Smoking and vaping restrictions inapplicable. 1. This
54 article shall not apply to:
55 [~~1-~~] (a) Private homes[~~7~~] and private residences [~~and private~~
56 ~~automobiles~~];

- 1 ~~[2-]~~ (b) Private automobiles;
2 ~~(c)~~ A hotel or motel room rented to one or more guests;
3 ~~[3-]~~ (d) Retail tobacco businesses;
4 ~~[4-]~~ (e) Membership associations; provided, however, that smoking and
5 vaping shall only be allowed in membership associations in which all of
6 the duties with respect to the operation of such association, including,
7 but not limited to, the preparation of food and beverages, the service
8 of food and beverages, reception and secretarial work, and the security
9 services of the membership association are performed by members of such
10 membership association who do not receive compensation of any kind from
11 the membership association or any other entity for the performance of
12 such duties;
13 ~~[5-]~~ (f) Cigar bars that, in the calendar year ending December thir-
14 ty-first, two thousand two, generated ten percent or more of its total
15 annual gross income from the on-site sale of tobacco products and the
16 rental of on-site humidors, not including any sales from vending
17 machines, and is registered with the appropriate enforcement officer, as
18 defined in subdivision one of section thirteen hundred ninety-nine-t of
19 this article. Such registration shall remain in effect for one year and
20 shall be renewable only if: (a) in the preceding calendar year, the
21 cigar bar generated ten percent or more of its total annual gross income
22 from the on-site sale of tobacco products and the rental of on-site
23 humidors, and (b) the cigar bar has not expanded its size or changed its
24 location from its size or location since December thirty-first, two
25 thousand two;
26 ~~[6-]~~ (g) Outdoor dining areas of food service establishments with no
27 roof or other ceiling enclosure; provided, however, that smoking and
28 vaping may be permitted in a contiguous area designated for smoking and
29 vaping so long as such area: (a) constitutes no more than twenty-five
30 percent of the outdoor seating capacity of such food service establish-
31 ment, (b) is at least three feet away from the outdoor area of such food
32 service establishment not designated for smoking and vaping, and (c) is
33 clearly designated with written signage as a smoking and vaping area;
34 ~~[7-]~~ (h) Enclosed rooms in food service establishments, bars, catering
35 halls, convention halls, hotel and motel conference rooms, and other
36 such similar facilities during the time such enclosed areas or rooms are
37 being used exclusively for functions where the public is invited for the
38 primary purpose of promoting and sampling tobacco products or electronic
39 cigarettes, and the service of food and drink is incidental to such
40 purpose, provided that the sponsor or organizer gives notice in any
41 promotional material or advertisements that smoking and vaping will not
42 be restricted, and prominently posts notice at the entrance of the
43 facility and has provided notice of such function to the appropriate
44 enforcement officer, as defined in subdivision one of section thirteen
45 hundred ninety-nine-t of this article, at least two weeks prior to such
46 function. The enforcement officer shall keep a record of all tobacco
47 sampling events, and such record shall be made available for public
48 inspection. No such facility shall permit smoking and vaping under this
49 subdivision for more than two days in any calendar year; ~~and~~
50 ~~8-~~ (i) Retail electronic cigarette stores, provided however, that
51 such stores may only permit the use of electronic cigarettes~~-~~; and
52 (j) Adult-use on-site consumption premises authorized pursuant to
53 article four of the cannabis law, provided however, that such locations
54 may only permit the smoking or vaping of cannabis.

2. The restrictions of this article on the smoking or vaping of cannabis shall continue to apply to those locations identified in paragraphs (b), (d), (f), (g), (h) and (i) of subdivision one of this section.

§ 6. Title 5-A of article 33 of the public health law is REPEALED.

§ 6-a. Article 33-B of the public health law is REPEALED.

§ 6-b. The commissioner of health and the cannabis control board shall work in conjunction to expeditiously transfer the oversight of the medical use of cannabis to ensure continuity of care, and the responsibility for regulation of cannabinoid hemp and hemp extract, from the department of health to the office of cannabis management. For the purposes of this section continuity of care shall include, but not be limited to, a certified patient's ability to engage in the lawful medical use of cannabis, and a registered organization's ability to conduct its lawful operations.

§ 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 marijuana~~] 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 marijuana~~].

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

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

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

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

14 1. [~~"Marijuana"~~] "Cannabis" means [~~marijuana~~] cannabis as defined in
15 [~~section thirty three hundred two of this chapter~~] section 222.00 of the
16 penal law and shall also include tetrahydrocannabinols or a chemical
17 derivative of tetrahydrocannabinol.

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

20 § 114-a. Drug. The term "drug" when used in this chapter, means and
21 includes any substance listed in section thirty-three hundred six of the
22 public health law and cannabis and concentrated cannabis as defined in
23 section 222.00 of the penal law.

24 § 9-a. Subdivision 1 of section 1192 of the vehicle and traffic law,
25 as added by chapter 47 of the laws of 1988, is amended to read as
26 follows:

27 1. Driving while ability impaired. a. No person shall operate a motor
28 vehicle while the person's ability to operate such motor vehicle is
29 impaired by the consumption of alcohol.

30 b. No person shall operate a motor vehicle while the person's ability
31 to operate such motor vehicle is impaired by the use of cannabis or
32 concentrated cannabis as defined in section 222.00 of the penal law.

33 § 9-b. Paragraph (a) of subdivision 2 of section 49-a of the naviga-
34 tion law, as amended by chapter 239 of the laws of 2016, is amended to
35 read as follows:

36 (a) (1) No person shall operate a vessel upon the waters of the state
37 while his or her ability to operate such vessel is impaired by the
38 consumption of alcohol. (2) No person shall operate a vessel upon the
39 waters of the state while his or her ability to operate such vessel is
40 impaired by the use of cannabis or concentrated cannabis as defined in
41 section 222.00 of the penal law.

42 (a-1) (1) A violation of paragraph (a) of this subdivision shall be an
43 offense and shall be punishable by a fine of not less than three hundred
44 dollars nor more than five hundred dollars, or by imprisonment in a
45 penitentiary or county jail for not more than fifteen days, or by both
46 such fine and imprisonment. (2) A person who operates a vessel in
47 violation of paragraph (a) of this subdivision after being convicted of
48 a violation of any subdivision of this section within the preceding five
49 years shall be punished by a fine of not less than five hundred dollars
50 nor more than seven hundred fifty dollars, or by imprisonment of not
51 more than thirty days in a penitentiary or county jail or by both such
52 fine and imprisonment. (3) A person who operates a vessel in violation
53 of paragraph (a) of this subdivision after being convicted two or more
54 times of a violation of any subdivision of this section within the
55 preceding ten years shall be guilty of a misdemeanor, and shall be
56 punished by a fine of not less than seven hundred fifty dollars nor more

1 than fifteen hundred dollars, or by imprisonment of not more than one
2 hundred eighty days in a penitentiary or county jail or by both such
3 fine and imprisonment.

4 § 9-c. Subdivision 5-a of section 49-a of the navigation law, as added
5 by chapter 239 of the laws of 2016, is amended to read as follows:

6 5-a. Sentencing; previous convictions. When sentencing a person for a
7 violation of paragraph (b), (c), (d) or (e) of subdivision two of this
8 section pursuant to subparagraph two of paragraph (f) of subdivision two
9 of this section, the court shall consider any prior convictions the
10 person may have for a violation of subdivision two, two-a, three, four,
11 or four-a of section eleven hundred ninety-two of the vehicle and traf-
12 fic law within the preceding ten years. When sentencing a person for a
13 violation of paragraph (b), (c), (d) or (e) of subdivision two of this
14 section pursuant to subparagraph three of paragraph (f) of subdivision
15 two of this section, the court shall consider any prior convictions the
16 person may have for a violation of subdivision two, two-a, three, four,
17 or four-a of section eleven hundred ninety-two of the vehicle and traf-
18 fic law within the preceding ten years. When sentencing a person for a
19 violation of subparagraph two of paragraph [~~(a)~~] (a-1) of subdivision
20 two of this section, the court shall consider any prior convictions the
21 person may have for a violation of any subdivision of section eleven
22 hundred ninety-two of the vehicle and traffic law within the preceding
23 five years. When sentencing a person for a violation of subparagraph
24 three of paragraph [~~(a)~~] (a-1) of subdivision two of this section, the
25 court shall consider any prior convictions the person may have for a
26 violation of any subdivision of section eleven hundred ninety-two of the
27 vehicle and traffic law within the preceding ten years.

28 § 9-d. Paragraph (a) of subdivision 1 of section 25.24 of the parks,
29 recreation and historic preservation law, as amended by chapter 311 of
30 the laws of 2007, is amended to read as follows:

31 (a) (1) No person shall operate a snowmobile upon a street, highway,
32 public trails, lands, bodies of water, or private property of another
33 while his or her ability to operate such snowmobile is impaired by the
34 consumption of alcohol. (2) No person shall operate a snowmobile upon a
35 street, highway, public trails, lands, bodies of water, or private prop-
36 erty of another while his or her ability to operate such snowmobile is
37 impaired by the use of cannabis or concentrated cannabis as defined in
38 section 222.00 of the penal law. (3) A violation of this subdivision
39 shall be an offense and shall be punishable by a fine of not less than
40 two hundred fifty dollars nor more than three hundred fifty dollars, or
41 by imprisonment in a penitentiary or county jail for not more than
42 fifteen days, or by both such fine and imprisonment. A person who oper-
43 ates a snowmobile in violation of this subdivision after being convicted
44 of a violation of any subdivision of this section within the preceding
45 five years shall be punished by a fine of not less than five hundred
46 dollars nor more than fifteen hundred dollars, or by imprisonment of not
47 more than thirty days in a penitentiary or county jail or by both such
48 fine and imprisonment.

49 § 10. Subdivision 9 of section 220.00 of the penal law, as amended by
50 chapter 664 of the laws of 1985, is amended to read as follows:

51 9. "Hallucinogen" means any controlled substance listed in [~~schedule~~
52 ~~(d)~~] paragraphs (5), [~~(18), (19), (20), (21) and (22)~~] (17), (18),
53 (19), (20) and (21) of subdivision (d) of schedule I of section thirty-
54 three hundred six of the public health law.

55 § 10-a. Subdivision 5 of section 220.00 of the penal law, as amended
56 by chapter 537 of the laws of 1998, is amended to read as follows:

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

§ 11. Subdivision 4 of section 220.06 of the penal law is REPEALED.

§ 12. Subdivision 10 of section 220.09 of the penal law is REPEALED.

§ 13. Subdivision 3 of section 220.34 of the penal law is REPEALED.

§ 14. Subdivision 6 of section 220.00 of the penal law is REPEALED.

§ 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 Restrictions on cannabis use.

222.15 Personal cultivation of cannabis.

222.20 Licensing of cannabis production and distribution; defense.

222.25 Unlawful possession of cannabis.

222.30 Criminal possession of cannabis in the third degree.

222.35 Criminal possession of cannabis in the second degree.

222.40 Criminal possession of cannabis in the first degree.

222.45 Unlawful sale of cannabis.

222.50 Criminal sale of cannabis in the third degree.

222.55 Criminal sale of cannabis in the second degree.

222.60 Criminal sale of cannabis in the first degree.

222.65 Aggravated criminal sale of cannabis.

§ 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 hemp, cannabinoid hemp or hemp extract as defined in section three of the cannabis law.

2. "Concentrated cannabis" means:

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

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

3. For the purposes of this article, "sell" shall mean to sell, exchange or dispose of for compensation. "Sell" shall not include the transfer of cannabis or concentrated cannabis 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.

4. For the purposes of this article, "smoking" shall have the same meaning as that term is defined in section three of the cannabis law.

1 § 222.05 Personal use of cannabis.

2 Notwithstanding any other provision of law to the contrary:

3 1. The following acts are lawful for persons twenty-one years of age
4 or older: (a) possessing, displaying, purchasing, obtaining, or trans-
5 porting up to three ounces of cannabis and up to twenty-four grams of
6 concentrated cannabis;

7 (b) transferring, without compensation, to a person twenty-one years
8 of age or older, up to three ounces of cannabis and up to twenty-four
9 grams of concentrated cannabis;

10 (c) using, smoking, ingesting, or consuming cannabis or concentrated
11 cannabis unless otherwise prohibited by state law;

12 (d) possessing, using, displaying, purchasing, obtaining, manufactur-
13 ing, transporting or giving to any person twenty-one years of age or
14 older cannabis paraphernalia or concentrated cannabis paraphernalia;

15 (e) planting, cultivating, harvesting, drying, processing or possess-
16 ing cultivated cannabis in accordance with section 222.15 of this arti-
17 cle; and

18 (f) assisting another person who is twenty-one years of age or older,
19 or allowing property to be used, in any of the acts described in para-
20 graphs (a) through (e) of this subdivision.

21 2. Cannabis, concentrated cannabis, cannabis paraphernalia or concen-
22 trated cannabis paraphernalia involved in any way with conduct deemed
23 lawful by this section are not contraband nor subject to seizure or
24 forfeiture of assets under article four hundred eighty of this chapter,
25 section thirteen hundred eleven of the civil practice law and rules, or
26 other applicable law, and no conduct deemed lawful by this section shall
27 constitute the basis for approach, search, seizure, arrest or detention.

28 3. Except as provided in subdivision four of this section, none of the
29 following shall, individually or in combination with each other, consti-
30 tute reasonable suspicion of a crime or be used as evidence of probable
31 cause in any criminal proceeding against a defendant twenty-one years of
32 age or older:

33 (a) the odor of cannabis or of burnt cannabis;

34 (b) the possession of or the suspicion of possession of cannabis or
35 concentrated cannabis in the amounts authorized in this section;

36 (c) the possession of multiple containers of cannabis without evidence
37 of possession of more than three ounces of cannabis or twenty-four grams
38 of concentrated cannabis;

39 (d) the presence of cash or currency in proximity to cannabis or
40 concentrated cannabis; or

41 (d) the planting, cultivating, harvesting, drying, processing or
42 possessing cultivated cannabis in accordance with section 222.15 of this
43 article.

44 4. Subdivision three of this section shall not apply when a law
45 enforcement officer is investigating: (a) an alleged offense pursuant to
46 this article; or (b) whether a person is operating a motor vehicle,
47 vessel or snowmobile while impaired by cannabis or concentrated cannabis
48 as defined in section 222.00 of this article or drugs or the combined
49 influence of drugs or of alcohol and any drug or drugs in violation of
50 paragraph (b) of subdivision one, subdivision four or subdivision four-a
51 of section eleven hundred ninety-two of the vehicle and traffic law, or
52 subparagraph two of paragraph (a) or paragraph (e) of subdivision two of
53 section forty-nine-a of the navigation law, or subparagraph two of para-
54 graph (a) or paragraph (d) of subdivision one of section 25.24 of the
55 parks, recreation and historic preservation law.

56 § 222.10 Restrictions on cannabis use.

1 Unless otherwise authorized by law or regulation, no person shall:
2 1. smoke or vape cannabis in a location where smoking or vaping canna-
3 bis is prohibited pursuant to article thirteen-E of the public health
4 law; or

5 2. possess, smoke, vape or ingest cannabis or concentrated cannabis in
6 or upon the grounds of a school, as defined in subdivision ten of
7 section eleven hundred twenty-five of the education law or in or on a
8 school bus, as defined in section one hundred forty-two of the vehicle
9 and traffic law; provided, however, provisions of this subdivision shall
10 not apply to acts that are in compliance with article three of the
11 cannabis law.

12 Violations of restrictions on cannabis use are subject to a civil
13 penalty not exceeding twenty-five dollars or an amount of community
14 service not exceeding twenty hours.

15 § 222.15 Personal cultivation of cannabis.

16 1. Notwithstanding the provisions of section thirty-three hundred
17 eighty-two of the public health law, and unless otherwise authorized by
18 law or regulation, no person may:

19 (a) plant, cultivate, harvest, dry, process or possess more than six
20 mature cannabis plants at any one time; or

21 (b) plant, cultivate, harvest, dry, process or possess, within his or
22 her private residence, or on the grounds of his or her private resi-
23 dence, more than six mature cannabis plants at any one time; or

24 (c) being under the age of twenty-one, plant, cultivate, harvest, dry,
25 process or possess cannabis plants.

26 2. Any mature cannabis plant described in paragraph (a) or (b) of
27 subdivision one of this section, and any cannabis produced by any such
28 cannabis plant or plants in excess of three ounces, cultivated,
29 harvested, dried, processed or possessed pursuant to paragraph (a) or
30 (b) of subdivision one of this section shall, unless otherwise author-
31 ized by law or regulation, be stored except for incidental periods with-
32 in such person's private residence or storage space or on the grounds of
33 such person's private residence or storage space. Such person shall take
34 reasonable steps designed to assure that such cultivated cannabis is in
35 a secured place.

36 3. A county, town, city or village may enact and enforce regulations
37 to reasonably regulate the actions and conduct set forth in subdivision
38 one of this section; provided that:

39 (a) a violation of any such a regulation, as approved by such county,
40 town, city or village enacting the regulation, may constitute no more
41 than an infraction and may be punishable by no more than a discretionary
42 civil penalty of two hundred dollars or less; and

43 (b) no county, town, city or village may enact or enforce any such
44 regulation or regulations that may completely or essentially prohibit a
45 person from engaging in the action or conduct authorized by subdivision
46 one of this section.

47 A violation of subdivision one or two of this section may be subject
48 to a civil penalty of up to one hundred twenty-five dollars.

49 § 222.20 Licensing of cannabis production and distribution; defense.

50 In any prosecution for an offense involving cannabis under this arti-
51 cle or an authorized local law, it is a defense that the defendant was
52 engaged in such activity in compliance with the cannabis law.

53 § 222.25 Unlawful possession of cannabis.

54 A person is guilty of unlawful possession of cannabis when he or she
55 knowingly and unlawfully possesses cannabis and such cannabis weighs

1 more than three ounces or concentrated cannabis and such concentrated
2 cannabis weighs more than twenty-four grams.

3 Unlawful possession of cannabis is a violation punishable by a fine of
4 not more than one hundred twenty-five dollars.

5 § 222.30 Criminal possession of cannabis in the third degree.

6 A person is guilty of criminal possession of cannabis in the third
7 degree when he or she knowingly and unlawfully possesses:

8 1. cannabis and such cannabis weighs more than sixteen ounces; or

9 2. concentrated cannabis and such concentrated cannabis weighs more
10 than five ounces.

11 Criminal possession of cannabis in the third degree is a class A
12 misdemeanor.

13 § 222.35 Criminal possession of cannabis in the second degree.

14 A person is guilty of criminal possession of cannabis in the second
15 degree when he or she knowingly and unlawfully possesses:

16 1. cannabis and such cannabis weighs more than five pounds; or

17 2. concentrated cannabis and such concentrated cannabis weighs more
18 than two pounds.

19 Criminal possession of cannabis in the second degree is a class E
20 felony.

21 § 222.40 Criminal possession of cannabis in the first degree.

22 A person is guilty of criminal possession of cannabis in the first
23 degree when he or she knowingly and unlawfully possesses:

24 1. cannabis and such cannabis weighs more than ten pounds; or

25 2. concentrated cannabis and such concentrated cannabis weighs more
26 than four pounds.

27 Criminal possession of cannabis in the first degree is a class D felo-
28 ny.

29 § 222.45 Unlawful sale of cannabis.

30 A person is guilty of unlawful sale of cannabis when he or she know-
31 ingly and unlawfully sells cannabis or concentrated cannabis.

32 Unlawful sale of cannabis is a violation punishable by a fine of not
33 more than two hundred fifty dollars.

34 § 222.50 Criminal sale of cannabis in the third degree.

35 A person is guilty of criminal sale of cannabis in the third degree
36 when:

37 1. he or she knowingly and unlawfully sells more than three ounces of
38 cannabis or more than twenty-four grams of concentrated cannabis; or

39 2. being twenty-one years of age or older, he or she knowingly and
40 unlawfully sells or gives, or causes to be given or sold, cannabis or
41 concentrated cannabis to a person less than twenty-one years of age;
42 except that in any prosecution under this subdivision, it is a defense
43 that the defendant was less than three years older than the person under
44 the age of twenty-one at the time of the offense. This subdivision shall
45 not apply to designated caregivers, practitioners, employees of a regis-
46 tered organization or employees of a designated caregiver facility
47 acting in compliance with article three of the cannabis law.

48 Criminal sale of cannabis in the third degree is a class A misdemea-
49 nor.

50 § 222.55 Criminal sale of cannabis in the second degree.

51 A person is guilty of criminal sale of cannabis in the second degree
52 when:

53 1. he or she knowingly and unlawfully sells more than sixteen ounces
54 of cannabis or more than five ounces of concentrated cannabis; or

55 2. being twenty-one years of age or older, he or she knowingly and
56 unlawfully sells or gives, or causes to be given or sold, more than

three ounces of cannabis or more than twenty-four grams of concentrated cannabis to a person less than eighteen years of age. This subdivision shall not apply to designated caregivers, practitioners, employees of a registered organization or employees of a designated caregiver facility acting in compliance with article three of the cannabis law.

Criminal sale of cannabis in the second degree is a class E felony. § 222.60 Criminal sale of cannabis in the first degree.

A person is guilty of criminal sale of cannabis in the first degree when he or she knowingly and unlawfully sells more than five pounds of cannabis or more than two pounds of concentrated cannabis.

Criminal sale of cannabis in the first degree is a class D felony.

§ 222.65 Aggravated criminal sale of cannabis.

A person is guilty of aggravated criminal sale of cannabis when he or she knowingly and unlawfully sells cannabis or concentrated cannabis weighing one hundred pounds or more.

Aggravated criminal sale of cannabis is a class C felony.

§ 17. Paragraph (k) of subdivision 3 of section 160.50 of the criminal procedure law, as amended by chapter 132 of the laws of 2019, is amended to read as follows:

(k) (i) The conviction was for a violation of article two hundred twenty or section 240.36 of the penal law prior to the effective date of article two hundred twenty-one of the penal law, and the sole controlled substance involved was marihuana and the conviction was only for a misdemeanor and/or violation [~~or violations~~]; or

(ii) the conviction is for an offense defined in section 221.05 or 221.10 of the penal law prior to the effective date of [~~the~~] chapter one hundred thirty-two of the laws of two thousand nineteen [~~that amended this paragraph~~]; or

(iii) the conviction is for an offense defined in [~~section~~] former sections 221.05 [~~or~~], 221.10, 221.15, 221.20, 221.35, or 221.40 of the penal law; or

(iv) the conviction was for a violation of section 220.03 or 220.06 of the penal law prior to the effective date of the chapter of the laws of two thousand twenty that amended this paragraph, and the sole controlled substance involved was concentrated cannabis; or

(v) the conviction is for an offense defined in sections 222.10, 222.15, 222.25 or 222.45 of the penal law.

No defendant shall be required or permitted to waive eligibility for sealing or expungement pursuant to this section as part of a plea of guilty, sentence or any agreement related to a conviction for a violation of [~~section 221.05~~] sections 222.10, 222.15, 222.25 or [~~section 221.10~~] 222.45 of the penal law and any such waiver shall be deemed void and wholly unenforceable.

§ 18. Paragraph (k) of subdivision 1 of section 440.10 of the criminal procedure law, as added by chapter 132 of the laws of 2019, is amended to read as follows:

(k) The judgment occurred prior to the effective date of the laws of two thousand twenty that amended this paragraph and is a conviction for an offense as defined in subparagraphs (i) [~~or~~], (ii), (iii) or (iv) of paragraph (k) of subdivision three of section 160.50 of this part, in which case the court shall presume that a conviction by plea for the aforementioned offenses was not knowing, voluntary and intelligent if it has severe or ongoing consequences, including but not limited to potential or actual immigration consequences, and shall presume that a conviction by verdict for the aforementioned offenses constitutes cruel and unusual punishment under section five of article one of the state

1 constitution, based on those consequences. The people may rebut these
2 presumptions.

3 § 19. Intentionally omitted.

4 § 20. Intentionally omitted.

5 § 21. Intentionally omitted.

6 § 22. Subdivision 1 of section 170.56 of the criminal procedure law,
7 as amended by chapter 360 of the laws of 1977, is amended to read as
8 follows:

9 1. Upon or after arraignment in a local criminal court upon an infor-
10 mation, a prosecutor's information or a misdemeanor complaint, where the
11 sole remaining count or counts charge a violation or violations of
12 section [~~221.05, 221.10, 221.15, 221.35 or 221.40~~] 220.10, 222.15,
13 222.25, 222.30, 222.45 or 222.50 of the penal law, or upon summons for a
14 nuisance offense under section sixty-five-c of the alcoholic beverage
15 control law and before the entry of a plea of guilty thereto or
16 commencement of a trial thereof, the court, upon motion of a defendant,
17 may order that all proceedings be suspended and the action adjourned in
18 contemplation of dismissal, or upon a finding that adjournment would not
19 be necessary or appropriate and the setting forth in the record of the
20 reasons for such findings, may dismiss in furtherance of justice the
21 accusatory instrument; provided, however, that the court may not order
22 such adjournment in contemplation of dismissal or dismiss the accusatory
23 instrument if: (a) the defendant has previously been granted such
24 adjournment in contemplation of dismissal, or (b) the defendant has
25 previously been granted a dismissal under this section, or (c) the
26 defendant has previously been convicted of any offense involving
27 controlled substances, or (d) the defendant has previously been
28 convicted of a crime and the district attorney does not consent or (e)
29 the defendant has previously been adjudicated a youthful offender on the
30 basis of any act or acts involving controlled substances and the
31 district attorney does not consent. Notwithstanding the limitations set
32 forth in this subdivision, the court may order that all proceedings be
33 suspended and the action adjourned in contemplation of dismissal based
34 upon a finding of exceptional circumstances. For purposes of this subdi-
35 vision, exceptional circumstances exist when, regardless of the ultimate
36 disposition of the case, the entry of a plea of guilty is likely to
37 result in severe or ongoing consequences, including, but not limited to,
38 potential or actual immigration consequences.

39 § 23. Intentionally omitted.

40 § 24. The criminal procedure law is amended by adding a new section
41 440.46-a to read as follows:

42 § 440.46-a Motion for resentence; persons convicted of certain marihuana
43 offenses.

44 1. When a person is serving a sentence for a conviction in this state,
45 whether by trial verdict or guilty plea, under former article two
46 hundred twenty-one of the penal law, and such person's conduct as
47 alleged in the accusatory instrument and/or shown by the guilty plea or
48 trial verdict would not have been a crime under article two hundred
49 twenty-two of the penal law, had such article two hundred twenty-two
50 rather than former article two hundred twenty-one of the penal law been
51 in effect at the time of such conduct, then the chief administrative
52 judge of the state of New York shall, in accordance with this section,
53 automatically vacate, dismiss and expunge such conviction in accordance
54 with section 160.50 of this chapter, and the office of court adminis-
55 tration shall immediately notify the state division of criminal justice
56 services, state department of corrections and community supervision and

1 the appropriate local correctional facility which shall immediately
2 effectuate the appropriate relief. Such notification to the division of
3 criminal justice services shall also direct that such agency notify all
4 relevant police and law enforcement agencies of their duty to destroy
5 and/or mark records related to such case in accordance with section
6 160.50 of this chapter. Nothing in this section shall prevent a person
7 who believes his or her sentence is required by this section to be
8 vacated, dismissed and/or expunged from filing a petition with the court
9 to effectuate all appropriate relief.

10 2. (a) When a person is serving or has completed serving a sentence
11 for a conviction in this state, whether by trial verdict or guilty plea,
12 under former article two hundred twenty-one of the penal law, and such
13 person's conduct as alleged in the accusatory instrument and/or shown by
14 the guilty plea or trial verdict, or shown by other information: (i)
15 would not have been a crime under article two hundred twenty-two of the
16 penal law, had such article two hundred twenty-two rather than former
17 article two hundred twenty-one of the penal law been in effect at the
18 time of such conduct; or (ii) under such circumstances such person would
19 have been guilty of a lesser or potentially less onerous offense under
20 such article two hundred twenty-two than such former article two hundred
21 twenty-one of the penal law; then such person may petition the court of
22 conviction pursuant to this article for vacatur of such conviction.

23 (b) Upon receiving a served and filed motion under paragraph (a) of
24 this subdivision, the court shall presume the movant satisfies the
25 criteria in such paragraph (a) and shall grant the motion to vacate such
26 conviction unless the party opposing the motion proves, by clear and
27 convincing evidence, that the movant does not satisfy the criteria. If
28 the movant satisfies the criteria, the court shall grant the motion to
29 vacate the conviction: (i) if the conviction was by plea of guilty, on
30 grounds that such plea was not knowing, voluntary and intelligent owing
31 to ongoing consequences; and (ii) if the conviction was by verdict or
32 otherwise, on grounds that such conviction and sentence constitutes
33 cruel and unusual punishment under the state constitution owing to such
34 ongoing consequences; and may, if the petition meets the criteria in
35 subparagraph (i) of paragraph (a) of this subdivision, after affording
36 the parties an opportunity to be heard and present evidence, substitute,
37 unless it is not in the interests of justice to do so, a conviction for
38 an appropriate lesser offense under article two hundred twenty-two of
39 the penal law.

40 (c) In the event of any vacatur and/or substitution pursuant to this
41 subdivision, the office of court administration shall immediately notify
42 the state division of criminal justice services concerning such determi-
43 nation. Such notification to the division of criminal justice services
44 shall also direct that such agency notify all relevant police and law
45 enforcement agencies of their duty to destroy and/or mark records
46 related to such case in accordance with section 160.50 of this chapter
47 or, where conviction for a crime is substituted pursuant to this subdivi-
48 vision, update such agencies' records accordingly.

49 3. Under no circumstances may substitution under this section result
50 in the imposition of a term of imprisonment or sentencing term, obli-
51 gation or condition that is in any way either harsher than the original
52 sentence or harsher than the sentence authorized for any substituted
53 lesser offense.

54 4. (a) If the judge who originally sentenced the movant for such
55 offense is not reasonably available, then the presiding judge for such

1 court shall designate another judge authorized to act in the appropriate
2 jurisdiction to determine the petition or application.

3 (b) Unless requested by the movant, no hearing is necessary to grant
4 an application filed under subdivision two of this section.

5 (c) When a felony conviction is vacated pursuant to this section and a
6 lesser offense that is a misdemeanor or violation is substituted for
7 such conviction, such lesser offense shall be considered a misdemeanor
8 or violation, as the case may be, for all purposes. When a misdemeanor
9 conviction is vacated pursuant to this section and a lesser offense that
10 is a violation is substituted for such conviction, such lesser offense
11 shall be considered a violation for all purposes.

12 (d) Nothing in this section is intended to or shall diminish or abro-
13 gate any rights or remedies otherwise available to a defendant, peti-
14 tioner or applicant. Relief under this section is available notwith-
15 standing that the judgment was for a violation of former sections
16 221.05, 221.10, 221.15, 221.20, 221.35 or 221.40 of the penal law in
17 effect prior to the effective date of this paragraph and that the under-
18 lying action or proceeding has already been vacated, dismissed and
19 expunged.

20 (e) Nothing in this and related sections of law is intended to dimin-
21 ish or abrogate the finality of judgments in any case not falling within
22 the purview of this section.

23 (f) The provisions of this section shall be available, used and
24 applied in parallel fashion by the family court and the criminal courts
25 to juvenile delinquency adjudications, adolescent offender adjudications
26 and youthful offender adjudications.

27 (g) The chief administrator of the courts shall promulgate all neces-
28 sary rules and make available all necessary forms to enable the filing
29 of the petitions and applications provided in this section no later than
30 sixty days following the effective date of this section. All sentences
31 eligible for automatic vacatur, dismissal and expungement pursuant to
32 subdivision one of this section shall be identified and the required
33 entities notified within one year of the effective date of this section.

34 § 25. Paragraph (c) of subdivision 8 of section 700.05 of the criminal
35 procedure law, as amended by chapter 37 of the laws of 2014, is amended
36 to read as follows:

37 (c) Criminal possession of a controlled substance in the seventh
38 degree as defined in section 220.03 of the penal law, criminal
39 possession of a controlled substance in the fifth degree as defined in
40 section 220.06 of the penal law, criminal possession of a controlled
41 substance in the fourth degree as defined in section 220.09 of the penal
42 law, criminal possession of a controlled substance in the third degree
43 as defined in section 220.16 of the penal law, criminal possession of a
44 controlled substance in the second degree as defined in section 220.18
45 of the penal law, criminal possession of a controlled substance in the
46 first degree as defined in section 220.21 of the penal law, criminal
47 sale of a controlled substance in the fifth degree as defined in section
48 220.31 of the penal law, criminal sale of a controlled substance in the
49 fourth degree as defined in section 220.34 of the penal law, criminal
50 sale of a controlled substance in the third degree as defined in section
51 220.39 of the penal law, criminal sale of a controlled substance in the
52 second degree as defined in section 220.41 of the penal law, criminal
53 sale of a controlled substance in the first degree as defined in section
54 220.43 of the penal law, criminally possessing a hypodermic instrument
55 as defined in section 220.45 of the penal law, criminal sale of a
56 prescription for a controlled substance or a controlled substance by a

1 practitioner or pharmacist as defined in section 220.65 of the penal
2 law, criminal possession of methamphetamine manufacturing material in
3 the second degree as defined in section 220.70 of the penal law, crimi-
4 nal possession of methamphetamine manufacturing material in the first
5 degree as defined in section 220.71 of the penal law, criminal
6 possession of precursors of methamphetamine as defined in section 220.72
7 of the penal law, unlawful manufacture of methamphetamine in the third
8 degree as defined in section 220.73 of the penal law, unlawful manufac-
9 ture of methamphetamine in the second degree as defined in section
10 220.74 of the penal law, unlawful manufacture of methamphetamine in the
11 first degree as defined in section 220.75 of the penal law, unlawful
12 disposal of methamphetamine laboratory material as defined in section
13 220.76 of the penal law, operating as a major trafficker as defined in
14 section 220.77 of the penal law, [~~criminal possession of marihuana in
15 the first degree as defined in section 221.30 of the penal law, criminal
16 sale of marihuana in the first degree as defined in section 221.55 of
17 the penal law,~~] promoting gambling in the second degree as defined in
18 section 225.05 of the penal law, promoting gambling in the first degree
19 as defined in section 225.10 of the penal law, possession of gambling
20 records in the second degree as defined in section 225.15 of the penal
21 law, possession of gambling records in the first degree as defined in
22 section 225.20 of the penal law, and possession of a gambling device as
23 defined in section 225.30 of the penal law;

24 § 26. Paragraphs (b) and (c) of subdivision 4-b and subdivisions 6 and
25 9 of section 1310 of the civil practice law and rules, paragraphs (b)
26 and (c) of subdivision 4-b as added by chapter 655 of the laws of 1990
27 and subdivisions 6 and 9 as added by chapter 669 of the laws of 1984,
28 are amended to read as follows:

29 (b) on three or more occasions, engaging in conduct constituting a
30 violation of any of the felonies defined in section 220.09, 220.16,
31 220.18, 220.21, 220.31, 220.34, 220.39, 220.41[~~7~~] ~~or~~ 220.43 [~~or 221.55~~]
32 of the penal law, which violations do not constitute a single criminal
33 offense as defined in subdivision one of section 40.10 of the criminal
34 procedure law, or a single criminal transaction, as defined in paragraph
35 (a) of subdivision two of section 40.10 of the criminal procedure law,
36 and at least one of which resulted in a conviction of such offense, or
37 where the accusatory instrument charges one or more of such felonies,
38 conviction upon a plea of guilty to a felony for which such plea is
39 otherwise authorized by law; or

40 (c) a conviction of a person for a violation of section 220.09,
41 220.16, 220.34 or 220.39 of the penal law, [~~or a conviction of a crimi-
42 nal defendant for a violation of section 221.30 of the penal law,~~] or
43 where the accusatory instrument charges any such felony, conviction upon
44 a plea of guilty to a felony for which the plea is otherwise authorized
45 by law, together with evidence which: (i) provides substantial indicia
46 that the defendant used the real property to engage in a continual,
47 ongoing course of conduct involving the unlawful mixing, compounding,
48 manufacturing, warehousing, or packaging of controlled substances [~~or
49 where the conviction is for a violation of section 221.30 of the penal
50 law, marijuana,~~] as part of an illegal trade or business for gain; and
51 (ii) establishes, where the conviction is for possession of a controlled
52 substance [~~or where the conviction is for a violation of section 221.30
53 of the penal law, marijuana~~], that such possession was with the intent
54 to sell it.

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

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

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

13 13. "Serious offense" shall mean any felony involving the offenses
14 enumerated in the closing paragraph of this subdivision; a criminal
15 solicitation of or a conspiracy to commit or an attempt to commit or a
16 criminal facilitation of a felony involving the offenses enumerated in
17 the closing paragraph of this subdivision, which criminal solicitation,
18 conspiracy, attempt or criminal facilitation itself constitutes a felony
19 or any offense in any other jurisdiction which if committed in this
20 state would constitute a felony; any offense in any other jurisdiction
21 which if committed in this state would constitute a felony provided that
22 for the purposes of this article, none of the following shall be consid-
23 ered criminal convictions or reported as such: (i) a conviction for
24 which an executive pardon has been issued pursuant to the executive law;
25 (ii) a conviction which has been vacated and replaced by a youthful
26 offender finding pursuant to article seven hundred twenty of the crimi-
27 nal procedure law, or the applicable provisions of law of any other
28 jurisdiction; or (iii) a conviction the records of which have been
29 sealed pursuant to the applicable provisions of the laws of this state
30 or of any other jurisdiction; and (iv) a conviction for which other
31 evidence of successful rehabilitation to remove the disability has been
32 issued.

33 Felonies involving: assault, aggravated assault and reckless endanger-
34 ment pursuant to article one hundred twenty; vehicular manslaughter,
35 manslaughter and murder pursuant to article one hundred twenty-five; sex
36 offenses pursuant to article one hundred thirty; unlawful imprisonment,
37 kidnapping or coercion pursuant to article one hundred thirty-five;
38 criminal trespass and burglary pursuant to article one hundred forty;
39 criminal mischief, criminal tampering and tampering with a consumer
40 product pursuant to article one hundred forty-five; arson pursuant to
41 article one hundred fifty; larceny and offenses involving theft pursuant
42 to article one hundred fifty-five; offenses involving computers pursuant
43 to article one hundred fifty-six; robbery pursuant to article one
44 hundred sixty; criminal possession of stolen property pursuant to arti-
45 cle one hundred sixty-five; forgery and related offenses pursuant to
46 article one hundred seventy; involving false written statements pursuant
47 to article one hundred seventy-five; commercial bribing and commercial
48 bribe receiving pursuant to article one hundred eighty; criminal imper-
49 sonation and scheme to defraud pursuant to article one hundred ninety;
50 bribery involving public servants and related offenses pursuant to arti-
51 cle two hundred; perjury and related offenses pursuant to article two
52 hundred ten; tampering with a witness, intimidating a victim or witness
53 and tampering with physical evidence pursuant to article two hundred
54 fifteen; criminal possession of a controlled substance pursuant to
55 sections 220.06, 220.09, 220.16, 220.18 and 220.21; criminal sale of a
56 controlled substance pursuant to sections 220.31, 220.34, 220.39,

1 220.41, 220.43 and 220.44; criminal sale of [~~marijuana~~] cannabis pursu-
2 ant to sections [~~221.45, 221.50 and 221.55~~] 222.55, 222.60 and 222.65;
3 riot in the first degree, aggravated harassment in the first degree,
4 criminal nuisance in the first degree and falsely reporting an incident
5 in the second or first degree pursuant to article two hundred forty; and
6 crimes against public safety pursuant to article two hundred sixty-five
7 of the penal law.

8 § 28. Paragraph (f) of subdivision 2 of section 850 of the general
9 business law is REPEALED.

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

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

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

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

25 § 31. Paragraphs (b) and (c) of subdivision 7 of section 480.00 of the
26 penal law, paragraph (b) as amended by section 31 of part AAA of chapter
27 56 of the laws of 2009 and paragraph (c) as added by chapter 655 of the
28 laws of 1990, are amended to read as follows:

29 (b) three or more violations of any of the felonies defined in section
30 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41,
31 220.43[~~7~~] or 220.77[~~7~~, ~~or 221.55~~] of this chapter, which violations do
32 not constitute a single criminal offense as defined in subdivision one
33 of section 40.10 of the criminal procedure law, or a single criminal
34 transaction, as defined in paragraph (a) of subdivision two of section
35 40.10 of the criminal procedure law, and at least one of which resulted
36 in a conviction of such offense, or where the accusatory instrument
37 charges one or more of such felonies, conviction upon a plea of guilty
38 to a felony for which such plea is otherwise authorized by law; or

39 (c) a conviction of a person for a violation of section 220.09,
40 220.16, 220.34[~~7~~] or 220.39[~~7~~, ~~or 221.30~~] of this chapter, or where the
41 accusatory instrument charges any such felony, conviction upon a plea of
42 guilty to a felony for which the plea is otherwise authorized by law,
43 together with evidence which: (i) provides substantial indicia that the
44 defendant used the real property to engage in a continual, ongoing
45 course of conduct involving the unlawful mixing, compounding, manufac-
46 turing, warehousing, or packaging of controlled substances [~~or where the~~
47 ~~conviction is for a violation of section 221.30 of this chapter, mari-~~
48 ~~juana~~] as part of an illegal trade or business for gain; and (ii) estab-
49 lishes, where the conviction is for possession of a controlled substance
50 [~~or where the conviction is for a violation of section 221.30 of this~~
51 ~~chapter, marijuana~~], that such possession was with the intent to sell
52 it.

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

1 (c) The offenses referred to in subparagraph (i) of paragraph (b) of
 2 subdivision one and subparagraph (i) of paragraph (c) of subdivision two
 3 of this section that result in disqualification for a period of five
 4 years shall include a conviction under sections 100.10, 105.13, 115.05,
 5 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 121.12, 121.13,
 6 125.40, 125.45, 130.20, 130.25, 130.52, 130.55, 135.10, 135.55, 140.17,
 7 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09,
 8 220.16, 220.31, 220.34, 220.60, 220.65, [~~221.30, 221.50, 221.55,~~] subdi-
 9 vision two of section 222.50, subdivision two of section 222.55, 230.00,
 10 230.05, 230.06, 230.11, 230.12, 230.13, 230.19, 230.20, 235.05, 235.06,
 11 235.07, 235.21, 240.06, 245.00, 260.10, subdivision two of section
 12 260.20 and sections 260.25, 265.02, 265.03, 265.08, 265.09, 265.10,
 13 265.12, 265.35 of the penal law or an attempt to commit any of the afor-
 14 esaid offenses under section 110.00 of the penal law, or any similar
 15 offenses committed under a former section of the penal law, or any
 16 offenses committed under a former section of the penal law which would
 17 constitute violations of the aforesaid sections of the penal law, or any
 18 offenses committed outside this state which would constitute violations
 19 of the aforesaid sections of the penal law.

20 § 33. The opening paragraph of paragraph (a) of subdivision 2 of
 21 section 1194 of the vehicle and traffic law, as amended by chapter 196
 22 of the laws of 1996, is amended to read as follows:

23 When authorized. Any person who operates a motor vehicle in this state
 24 shall be deemed to have given consent to a chemical test of one or more
 25 of the following: breath, blood[~~7~~] or urine[~~7, or saliva,~~] for the
 26 purpose of determining the alcoholic and/or drug content, other than
 27 cannabis content including but not limited to tetrahydrocannabinol
 28 content, of the blood provided that such test is administered by or at
 29 the direction of a police officer with respect to a chemical test of
 30 breath, urine [~~or saliva~~] or, with respect to a chemical test of blood,
 31 at the direction of a police officer:

32 § 34. The article heading of article 20-B of the tax law, as added by
 33 chapter 90 of the laws of 2014, is amended to read as follows:

34 EXCISE TAX ON MEDICAL [~~MARIHUANA~~] CANNABIS

35 § 35. Subdivision 1 of section 171-a of the tax law, as amended by
 36 section 3 of part XX of chapter 59 of the laws of 2019, is amended to
 37 read as follows:

38 1. All taxes, interest, penalties and fees collected or received by
 39 the commissioner or the commissioner's duly authorized agent under arti-
 40 cles nine (except section one hundred eighty-two-a thereof and except as
 41 otherwise provided in section two hundred five thereof), nine-A,
 42 twelve-A (except as otherwise provided in section two hundred eighty-
 43 four-d thereof), thirteen, thirteen-A (except as otherwise provided in
 44 section three hundred twelve thereof), eighteen, nineteen, twenty
 45 (except as otherwise provided in section four hundred eighty-two there-
 46 of), twenty-B, twenty-C, twenty-D, twenty-one, twenty-two, twenty-four,
 47 twenty-six, twenty-eight (except as otherwise provided in section eleven
 48 hundred two or eleven hundred three thereof), twenty-eight-A, twenty-
 49 nine-B, thirty-one (except as otherwise provided in section fourteen
 50 hundred twenty-one thereof), thirty-three and thirty-three-A of this
 51 chapter shall be deposited daily in one account with such responsible
 52 banks, banking houses or trust companies as may be designated by the
 53 comptroller, to the credit of the comptroller. Such an account may be
 54 established in one or more of such depositories. Such deposits shall be
 55 kept separate and apart from all other money in the possession of the
 56 comptroller. The comptroller shall require adequate security from all

1 such depositories. Of the total revenue collected or received under such
2 articles of this chapter, the comptroller shall retain in the comp-
3 troller's hands such amount as the commissioner may determine to be
4 necessary for refunds or reimbursements under such articles of this
5 chapter out of which amount the comptroller shall pay any refunds or
6 reimbursements to which taxpayers shall be entitled under the provisions
7 of such articles of this chapter. The commissioner and the comptroller
8 shall maintain a system of accounts showing the amount of revenue
9 collected or received from each of the taxes imposed by such articles.
10 The comptroller, after reserving the amount to pay such refunds or
11 reimbursements, shall, on or before the tenth day of each month, pay
12 into the state treasury to the credit of the general fund all revenue
13 deposited under this section during the preceding calendar month and
14 remaining to the comptroller's credit on the last day of such preceding
15 month, (i) except that the comptroller shall pay to the state department
16 of social services that amount of overpayments of tax imposed by article
17 twenty-two of this chapter and the interest on such amount which is
18 certified to the comptroller by the commissioner as the amount to be
19 credited against past-due support pursuant to subdivision six of section
20 one hundred seventy-one-c of this article, (ii) and except that the
21 comptroller shall pay to the New York state higher education services
22 corporation and the state university of New York or the city university
23 of New York respectively that amount of overpayments of tax imposed by
24 article twenty-two of this chapter and the interest on such amount which
25 is certified to the comptroller by the commissioner as the amount to be
26 credited against the amount of defaults in repayment of guaranteed
27 student loans and state university loans or city university loans pursu-
28 ant to subdivision five of section one hundred seventy-one-d and subdivi-
29 sion six of section one hundred seventy-one-e of this article, (iii)
30 and except further that, notwithstanding any law, the comptroller shall
31 credit to the revenue arrearage account, pursuant to section
32 ninety-one-a of the state finance law, that amount of overpayment of tax
33 imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B
34 or thirty-three of this chapter, and any interest thereon, which is
35 certified to the comptroller by the commissioner as the amount to be
36 credited against a past-due legally enforceable debt owed to a state
37 agency pursuant to paragraph (a) of subdivision six of section one
38 hundred seventy-one-f of this article, provided, however, he shall cred-
39 it to the special offset fiduciary account, pursuant to section ninety-
40 one-c of the state finance law, any such amount creditable as a liabil-
41 ity as set forth in paragraph (b) of subdivision six of section one
42 hundred seventy-one-f of this article, (iv) and except further that the
43 comptroller shall pay to the city of New York that amount of overpayment
44 of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A,
45 thirty-B or thirty-three of this chapter and any interest thereon that
46 is certified to the comptroller by the commissioner as the amount to be
47 credited against city of New York tax warrant judgment debt pursuant to
48 section one hundred seventy-one-l of this article, (v) and except
49 further that the comptroller shall pay to a non-obligated spouse that
50 amount of overpayment of tax imposed by article twenty-two of this chap-
51 ter and the interest on such amount which has been credited pursuant to
52 section one hundred seventy-one-c, one hundred seventy-one-d, one
53 hundred seventy-one-e, one hundred seventy-one-f or one hundred seven-
54 ty-one-l of this article and which is certified to the comptroller by
55 the commissioner as the amount due such non-obligated spouse pursuant to
56 paragraph six of subsection (b) of section six hundred fifty-one of this

1 chapter; and (vi) the comptroller shall deduct a like amount which the
2 comptroller shall pay into the treasury to the credit of the general
3 fund from amounts subsequently payable to the department of social
4 services, the state university of New York, the city university of New
5 York, or the higher education services corporation, or the revenue
6 arrearage account or special offset fiduciary account pursuant to
7 section ninety-one-a or ninety-one-c of the state finance law, as the
8 case may be, whichever had been credited the amount originally withheld
9 from such overpayment, and (vii) with respect to amounts originally
10 withheld from such overpayment pursuant to section one hundred seventy-
11 one-1 of this article and paid to the city of New York, the comptroller
12 shall collect a like amount from the city of New York.

13 § 36. Intentionally omitted.

14 § 37. Section 490 of the tax law, as added by chapter 90 of the laws
15 of 2014, is amended to read as follows:

16 § 490. [~~Definitions~~] Excise tax on medical cannabis. 1. (a) [~~All~~
17 ~~definitions of terms applicable to title five A of article thirty-three~~
18 ~~of the public health law shall apply to this article.~~] For purposes of
19 this article, the terms "medical cannabis," "registered organization,"
20 "certified patient," and "designated caregiver" shall have the same
21 definitions as in section three of the cannabis law.

22 (b) As used in this section, where not otherwise specifically defined
23 and unless a different meaning is clearly required "gross receipt" means
24 the amount received in or by reason of any sale, conditional or other-
25 wise, of medical [~~marihuana~~] cannabis or in or by reason of the furnish-
26 ing of medical [~~marihuana~~] cannabis from the sale of medical [~~marihuana~~]
27 cannabis provided by a registered organization to a certified patient or
28 designated caregiver. Gross receipt is expressed in money, whether paid
29 in cash, credit or property of any kind or nature, and shall be deter-
30 mined without any deduction therefrom on account of the cost of the
31 service sold or the cost of materials, labor or services used or other
32 costs, interest or discount paid, or any other expenses whatsoever.
33 "Amount received" for the purpose of the definition of gross receipt, as
34 the term gross receipt is used throughout this article, means the amount
35 charged for the provision of medical [~~marihuana~~] cannabis.

36 2. There is hereby imposed an excise tax on the gross receipts from
37 the sale of medical [~~marihuana~~] cannabis by a registered organization to
38 a certified patient or designated caregiver, to be paid by the regis-
39 tered organization, at the rate of seven percent. The tax imposed by
40 this article shall be charged against and be paid by the registered
41 organization and shall not be added as a separate charge or line item on
42 any sales slip, invoice, receipt or other statement or memorandum of the
43 price given to the retail customer.

44 3. The commissioner may make, adopt and amend rules, regulations,
45 procedures and forms necessary for the proper administration of this
46 article.

47 4. Every registered organization that makes sales of medical [~~marihua-~~
48 ~~na~~] cannabis subject to the tax imposed by this article shall, on or
49 before the twentieth date of each month, file with the commissioner a
50 return on forms to be prescribed by the commissioner, showing its
51 receipts from the retail sale of medical [~~marihuana~~] cannabis during the
52 preceding calendar month and the amount of tax due thereon. Such returns
53 shall contain such further information as the commissioner may require.
54 Every registered organization required to file a return under this
55 section shall, at the time of filing such return, pay to the commission-
56 er the total amount of tax due on its retail sales of medical [~~marihua-~~

1 ~~na~~] cannabis for the period covered by such return. If a return is not
2 filed when due, the tax shall be due on the day on which the return is
3 required to be filed.

4 5. Whenever the commissioner shall determine that any moneys received
5 under the provisions of this article were paid in error, he may cause
6 the same to be refunded, with interest, in accordance with such rules
7 and regulations as he may prescribe, except that no interest shall be
8 allowed or paid if the amount thereof would be less than one dollar.
9 Such interest shall be at the overpayment rate set by the commissioner
10 pursuant to subdivision twenty-sixth of section one hundred seventy-one
11 of this chapter, or if no rate is set, at the rate of six percent per
12 annum, from the date when the tax, penalty or interest to be refunded
13 was paid to a date preceding the date of the refund check by not more
14 than thirty days. Provided, however, that for the purposes of this
15 subdivision, any tax paid before the last day prescribed for its payment
16 shall be deemed to have been paid on such last day. Such moneys received
17 under the provisions of this article which the commissioner shall deter-
18 mine were paid in error, may be refunded out of funds in the custody of
19 the comptroller to the credit of such taxes provided an application
20 therefor is filed with the commissioner within two years from the time
21 the erroneous payment was made.

22 6. The provisions of article twenty-seven of this chapter shall apply
23 to the tax imposed by this article in the same manner and with the same
24 force and effect as if the language of such article had been incorpo-
25 rated in full into this section and had expressly referred to the tax
26 imposed by this article, except to the extent that any provision of such
27 article is either inconsistent with a provision of this article or is
28 not relevant to this article.

29 7. All taxes, interest and penalties collected or received by the
30 commissioner under this article shall be deposited and disposed of
31 pursuant to the provisions of section one hundred seventy-one-a of this
32 chapter, provided that an amount equal to one hundred percent collected
33 under this article less any amount determined by the commissioner to be
34 reserved by the comptroller for refunds or reimbursements shall be paid
35 by the comptroller to the credit of the medical [~~marihuana~~] cannabis
36 trust fund established by section eighty-nine-h of the state finance
37 law.

38 8. A registered organization that dispenses medical [~~marihuana~~] canna-
39 bis shall provide to the department information on where the medical
40 [~~marihuana~~] cannabis was dispensed and where the medical [~~marihuana~~]
41 cannabis was manufactured. A registered organization that obtains [~~mari-~~
42 huana] cannabis from another registered organization shall obtain from
43 such registered organization information on where the medical [~~marihua-~~
44 na] cannabis was manufactured.

45 § 38. Section 491 of the tax law, as added by chapter 90 of the laws
46 of 2014, subdivision 1 as amended by section 1 of part II of chapter 60
47 of the laws of 2016, is amended to read as follows:

48 § 491. Returns to be secret. 1. Except in accordance with proper judi-
49 cial order or as in this section or otherwise provided by law, it shall
50 be unlawful for the commissioner, any officer or employee of the depart-
51 ment, or any officer or person who, pursuant to this section, is permit-
52 ted to inspect any return or report or to whom a copy, an abstract or a
53 portion of any return or report is furnished, or to whom any information
54 contained in any return or report is furnished, or any person engaged or
55 retained by such department on an independent contract basis or any
56 person who in any manner may acquire knowledge of the contents of a

1 return or report filed pursuant to this article to divulge or make known
2 in any manner the contents or any other information relating to the
3 business of a distributor, owner or other person contained in any return
4 or report required under this article. The officers charged with the
5 custody of such returns or reports shall not be required to produce any
6 of them or evidence of anything contained in them in any action or
7 proceeding in any court, except on behalf of the [~~state, the state~~
8 ~~department of health~~] cannabis control board, or the commissioner in an
9 action or proceeding under the provisions of this chapter or on behalf
10 of the state or the commissioner in any other action or proceeding
11 involving the collection of a tax due under this chapter to which the
12 state or the commissioner is a party or a claimant or on behalf of any
13 party to any action or proceeding under the provisions of this article,
14 when the returns or the reports or the facts shown thereby are directly
15 involved in such action or proceeding, or in an action or proceeding
16 relating to the regulation or taxation of medical [~~marihuana~~] cannabis
17 on behalf of officers to whom information shall have been supplied as
18 provided in subdivision two of this section, in any of which events the
19 court may require the production of, and may admit in evidence so much
20 of said returns or reports or of the facts shown thereby as are perti-
21 nent to the action or proceeding and no more. Nothing herein shall be
22 construed to prohibit the commissioner, in his or her discretion, from
23 allowing the inspection or delivery of a certified copy of any return or
24 report filed under this article or of any information contained in any
25 such return or report by or to a duly authorized officer or employee of
26 the [~~state department of health~~] cannabis control board; or by or to the
27 attorney general or other legal representatives of the state when an
28 action shall have been recommended or commenced pursuant to this chapter
29 in which such returns or reports or the facts shown thereby are directly
30 involved; or the inspection of the returns or reports required under
31 this article by the comptroller or duly designated officer or employee
32 of the state department of audit and control, for purposes of the audit
33 of a refund of any tax paid by a registered organization or other person
34 under this article; nor to prohibit the delivery to a registered organ-
35 ization, or a duly authorized representative of such registered organ-
36 ization, a certified copy of any return or report filed by such regis-
37 tered organization pursuant to this article, nor to prohibit the
38 publication of statistics so classified as to prevent the identification
39 of particular returns or reports and the items thereof. This section
40 shall also not be construed to prohibit the disclosure, for tax adminis-
41 tration purposes, to the division of the budget and the office of the
42 state comptroller, of information aggregated from the returns filed by
43 all the registered organizations making sales of, or manufacturing,
44 medical [~~marihuana~~] cannabis in a specified county, whether the number
45 of such registered organizations is one or more. Provided further that,
46 notwithstanding the provisions of this subdivision, the commissioner
47 may, in his or her discretion, permit the proper officer of any county
48 entitled to receive an allocation, following appropriation by the legis-
49 lature, pursuant to this article and section eighty-nine-h of the state
50 finance law, or the authorized representative of such officer, to
51 inspect any return filed under this article, or may furnish to such
52 officer or the officer's authorized representative an abstract of any
53 such return or supply such officer or such representative with informa-
54 tion concerning an item contained in any such return, or disclosed by
55 any investigation of tax liability under this article.

1 2. The commissioner, in his or her discretion and pursuant to such
 2 rules and regulations as he or she may adopt, may permit [~~the commis-~~
 3 ~~sioner of internal revenue of the United States, or~~] the appropriate
 4 officers of any other state which regulates or taxes medical [~~marihuana~~
 5 ~~cannabis~~, or the duly authorized representatives of such [~~commissioner~~
 6 ~~or of any such~~] officers, to inspect returns or reports made pursuant to
 7 this article, or may furnish to such [~~commissioner or~~] other officers,
 8 or duly authorized representatives, a copy of any such return or report
 9 or an abstract of the information therein contained, or any portion
 10 thereof, or may supply [~~such commissioner or~~] any such officers or such
 11 representatives with information relating to the business of a regis-
 12 tered organization making returns or reports hereunder. The commissioner
 13 may refuse to supply information pursuant to this subdivision [~~to the~~
 14 ~~commissioner of internal revenue of the United States or~~] to the offi-
 15 cers of any other state if the statutes [~~of the United States, or~~] of
 16 the state represented by such officers, do not grant substantially simi-
 17 lar privileges to the commissioner, but such refusal shall not be manda-
 18 tory. Information shall not be supplied to [~~the commissioner of internal~~
 19 ~~revenue of the United States or~~] the appropriate officers of any other
 20 state which regulates or taxes medical [~~marihuana~~ ~~cannabis~~, or the duly
 21 authorized representatives [~~of such commissioner or~~] of any of such
 22 officers, unless such [~~commissioner,~~] officer or other representatives
 23 shall agree not to divulge or make known in any manner the information
 24 so supplied, but such officers may transmit such information to their
 25 employees or legal representatives when necessary, who in turn shall be
 26 subject to the same restrictions as those hereby imposed upon such
 27 [~~commissioner,~~] officer or other representatives.

28 3. (a) Any officer or employee of the state who willfully violates the
 29 provisions of subdivision one or two of this section shall be dismissed
 30 from office and be incapable of holding any public office in this state
 31 for a period of five years thereafter.

32 (b) Cross-reference: For criminal penalties, see article thirty-seven
 33 of this chapter.

34 § 39. The tax law is amended by adding a new article 20-C to read as
 35 follows:

36 ARTICLE 20-C

37 TAX ON ADULT-USE CANNABIS PRODUCTS

38 Section 492. Definitions.

39 493. Tax on cannabis.

40 494. Registration and renewal.

41 495. Returns and payment of tax.

42 496. Returns to be kept secret.

43 § 492. Definitions. For purposes of this article, the following defi-
 44 initions shall apply:

45 (a) "Cannabis" shall have the same meaning as in section three of the
 46 cannabis law. For purposes of this article, cannabis does not include
 47 medical cannabis or cannabinoid hemp and hemp extract as defined in
 48 section three of the cannabis law.

49 (b) "Cannabis product" or "adult-use cannabis product" means a canna-
 50 bis product as defined in section three of the cannabis law. For
 51 purposes of this article, under no circumstances shall adult-use canna-
 52 bis product include medical cannabis or cannabinoid hemp and hemp
 53 extract as defined in section three of the cannabis law.

54 (c) "Person" means every individual, partnership, limited liability
 55 company, society, association, joint stock company, corporation, estate,

1 receiver, trustee, assignee, referee, and any other person acting in a
2 fiduciary or representative capacity, whether appointed by a court or
3 otherwise, and any combination of the foregoing.

4 (d) "Retail dispensary" means a dispensary licensed to sell adult-use
5 cannabis products pursuant to section seventy-two of the cannabis law.

6 (e) "Transfer" means to grant, convey, hand over, assign, sell,
7 exchange or barter, in any manner or by any means, with or without
8 consideration.

9 (f) "Sale" means any transfer of title, possession or both, exchange
10 or barter, rental, lease or license to use or consume, conditional or
11 otherwise, in any manner or by any means whatsoever for a consideration
12 or any agreement therefor.

13 § 493. Tax on cannabis. (a) There is hereby imposed a tax on the sale
14 or transfer of adult-use cannabis products by any person to a retail
15 dispensary at the rate of eighteen percent of the amount charged by
16 such person for adult-use cannabis products, which shall accrue at the
17 time of such sale or transfer. Where the retail dispensary is operated
18 by a person licensed under the cannabis law as a registered organiza-
19 tion, such tax shall be paid by the retail dispensary at the rate of
20 eighteen percent of the price charged to the retail customer and shall
21 accrue at the time of such sale.

22 (b) In addition to the taxes imposed by subdivision (a) of this
23 section, there is hereby imposed a tax on the sale or transfer of
24 adult-use cannabis products by any person to a retail dispensary at the
25 rate of one percent of the amount charged by such person for such
26 adult-use cannabis products, which shall accrue at the time of such sale
27 or transfer. The tax imposed by this subdivision shall be in trust for
28 and on account of a city having a population of one million or more, or
29 a county, other than a county wholly within such a city, in which the
30 retail dispensary is located. Where the retail dispensary is operated by
31 a person licensed under the cannabis law as a registered organization,
32 such tax shall be paid by the retail dispensary at the rate of one
33 percent of the price charged to the retail customer.

34 (c) In addition to the taxes imposed by subdivisions (a) and (b) of
35 this section, there is hereby imposed a tax on the sale or transfer of
36 adult-use cannabis products by any person to a retail dispensary at the
37 rate of three percent of the amount charged by such person for such
38 adult-use cannabis products, which shall accrue at the time of such sale
39 or transfer. The tax imposed by this subdivision shall be in trust for
40 and on account of the town, village, or city in which the retail dispen-
41 sary is located. Where the retail dispensary is operated by a person
42 licensed under the cannabis law as a registered organization, such tax
43 shall be paid by the retail dispensary at the rate of three percent of
44 the price charged to the retail customer.

45 (d) It shall be presumed that all adult-use cannabis products within
46 the state are subject to tax until the contrary is established, and the
47 burden of proof that the taxes imposed by subdivisions (a), (b) and (c)
48 of this section have been paid shall be upon the person in possession
49 thereof where such person holds any license under the cannabis law.
50 Every person holding a license under the cannabis law who possesses
51 adult-use cannabis products upon which such taxes have not been paid
52 shall be liable for the payment of such taxes, and the failure of such
53 person to produce to the commissioner or his or her authorized represen-
54 tative upon demand an invoice for any adult-use cannabis products in his
55 or her possession shall be presumptive evidence that the tax thereon has

1 not been paid and that such person is liable for the tax thereon, unless
2 evidence of such invoice or payment is later produced.

3 (e) Notwithstanding any other provision of law to the contrary, the
4 taxes imposed by article twenty of this chapter shall not apply to any
5 product subject to tax under this article.

6 § 494. Registration and renewal. (a) Every person to whom adult-use
7 cannabis products are sold or transferred, and every person licensed as
8 a microbusiness, cooperative or registered organization under the canna-
9 bis law must file with the commissioner a properly completed application
10 for a certificate of registration before engaging in business. In order
11 to apply for such certificate of registration, such person must first be
12 in possession of a valid license from the office of cannabis management.
13 An application for a certificate of registration must be submitted elec-
14 tronically, on a form prescribed by the commissioner, and must be accom-
15 panied by a non-refundable application fee of six hundred dollars. A
16 certificate of registration shall not be assignable or transferable and
17 shall be destroyed immediately upon such person ceasing to do business
18 as specified in such certificate, or in the event that such business
19 never commenced.

20 (b) The commissioner shall refuse to issue a certificate of registra-
21 tion to any applicant and shall revoke the certificate of registration
22 of any such person who does not possess a valid license from the office
23 of cannabis management. The commissioner may refuse to issue a certif-
24 icate of registration to any applicant where such applicant: (1) has a
25 past-due liability as that term is defined in section one hundred seven-
26 ty-one-v of this chapter; (2) has had a certificate of registration
27 under this article, a license from the office of cannabis management, or
28 any license or registration provided for in this chapter revoked within
29 one year from the date on which such application was filed; (3) has had
30 a certificate of registration under this article, a license from the
31 office of cannabis management, or any license or registration provided
32 for in this chapter suspended where the suspension is in effect on the
33 date the application is filed or ended less than one year from such
34 date; (4) has been convicted of a crime provided for in this chapter
35 within one year from the date on which such application was filed or the
36 certificate was issued as applicable; (5) willfully fails to file a
37 report or return required by this article; (6) willfully files, causes
38 to be filed, gives or causes to be given a report, return, certificate
39 or affidavit required by this article which is false; or (7) willfully
40 fails to collect or truthfully account for or pay over any tax imposed
41 by this article.

42 (c) A certificate of registration shall be valid for the period speci-
43 fied thereon, unless earlier suspended or revoked. Upon the expiration
44 of the term stated on a certificate of registration, such certificate
45 shall be null and void.

46 (d) Every holder of a certificate of registration must notify the
47 commissioner of changes to any of the information stated on the certif-
48 icate, or of changes to any information contained in the application for
49 the certificate of registration. Such notification must be made on or
50 before the last day of the month in which a change occurs and must be
51 made electronically on a form prescribed by the commissioner.

52 (e) Every holder of a certificate of registration under this article
53 shall be required to reapply prior to such certificate's expiration,
54 during a reapplication period established by the commissioner. Such
55 reapplication period shall not occur more frequently than every two
56 years. Such reapplication shall be subject to the same requirements and

1 conditions as an initial application, including grounds for refusal and
2 the payment of the application fee.

3 (f) Any person who is required to obtain a certificate of registration
4 under subdivision (a) of this section who possesses adult-use cannabis
5 products without such certificate shall be subject to a penalty of five
6 hundred dollars for each month or part thereof during which adult-use
7 cannabis products are possessed without such certificate, not to exceed
8 ten thousand dollars in the aggregate.

9 § 495. Returns and payment of tax. (a) 1. Every person to whom
10 adult-use cannabis products are sold or transferred, and every person
11 licensed as a microbusiness, cooperative or registered organization
12 under the cannabis law shall, on or before the twentieth day of the
13 month, file with the commissioner a return on forms to be prescribed by
14 the commissioner, the total amount of tax due thereon in the preceding
15 calendar month, and the total amount of tax due under subdivisions (a),
16 (b) and (c) of section four hundred ninety-three of this article on its
17 sales to a retail dispensary during the preceding calendar month, along
18 with such other information as the commissioner may require. Every
19 person required to file a return under this section shall, at the time
20 of filing such return, pay to the commissioner the total amount of tax
21 due for the period covered by such return. If a return is not filed when
22 due, the tax shall be due on the day on which the return is required to
23 be filed.

24 2. Every person to whom adult-use cannabis products are sold or trans-
25 ferred, and every person licensed as a microbusiness, cooperative or
26 registered organization under the cannabis law shall maintain complete
27 and accurate records in such form as the commissioner may require
28 including, but not limited to, such items as the geographic location of
29 every retail dispensary to which such person sold or transferred adult-
30 use cannabis products; and any other record or information required by
31 the commissioner. Such records must be preserved for a period of three
32 years after the filing of the return to which such records relate and
33 must be provided to the commissioner upon request.

34 (b) The provisions of article twenty-seven of this chapter shall apply
35 to the tax imposed by this article in the same manner and with the same
36 force and effect as if the language of such article had been incorpo-
37 rated in full into this section and had expressly referred to the tax
38 imposed by this article, except to the extent that any provision of such
39 article is either inconsistent with a provision of this article or is
40 not relevant to this article.

41 (c) 1. All taxes, interest, and penalties collected or received by the
42 commissioner under this article shall be deposited and disposed of
43 pursuant to the provisions of section one hundred seventy-one-a of this
44 chapter, provided that an amount equal to one hundred percent collected
45 under this article less any amount determined by the commissioner to be
46 reserved by the comptroller for refunds or reimbursements shall be paid
47 by the comptroller to the credit of the cannabis revenue fund estab-
48 lished by section ninety-nine-hh of the state finance law. Of the total
49 revenue collected or received under this article, the comptroller shall
50 retain such amount as the commissioner may determine to be necessary for
51 refunds. The commissioner is authorized and directed to deduct from the
52 registration fees under subdivision (a) of section four hundred ninety-
53 four of this article, before deposit into the cannabis revenue fund
54 designated by the comptroller, a reasonable amount necessary to effectuate
55 refunds of appropriations of the department to reimburse the depart-

1 ment for the costs incurred to administer, collect, and distribute the
2 taxes imposed by this article.

3 2. Notwithstanding the foregoing, the commissioner shall certify to
4 the comptroller the total amount of tax, penalty and interest received
5 by him or her on account of the tax imposed by subdivisions (b) and (c)
6 of section four hundred ninety-three of this article in trust for and on
7 account of each county and city having a population of one million or
8 more, other than a county wholly within such a city, and the town,
9 village or city in which a retail dispensary is located. On or before
10 the twelfth day of each month, the comptroller, after reserving such
11 fund, shall pay to the appropriate fiscal officer of each such county
12 and city and a designated officer of such town or village or city the
13 taxes, penalties and interest received and certified by the commissioner
14 for the preceding calendar month.

15 3. In addition to any other penalty provided in this article or other-
16 wise imposed by law: every person to whom adult-use cannabis products
17 are sold or transferred, and every person licensed as a microbusiness,
18 cooperative or registered organization under the cannabis law who fails
19 to maintain or make available to the commissioner the records required
20 by this section is subject to a penalty not to exceed five hundred
21 dollars for the first month or part thereof for which the failure
22 occurs. This penalty may not be imposed more than once for failures for
23 the same monthly period or part thereof. If the commissioner determines
24 that a failure to maintain or make available records in any month was
25 entirely due to reasonable cause and not to willful neglect, the commis-
26 sioner must remit the penalty for that month.

27 § 496. Returns to be kept secret. (a) Except in accordance with proper
28 judicial order or as in this section or otherwise provided by law, it
29 shall be unlawful for the commissioner, any officer or employee of the
30 department, or any officer or person who, pursuant to this section, is
31 permitted to inspect any return or report or to whom a copy, an abstract
32 or a portion of any return or report is furnished, or to whom any infor-
33 mation contained in any return or report is furnished, or any person who
34 in any manner may acquire knowledge of the contents of a return or
35 report filed pursuant to this article to divulge or make known in any
36 manner the content or any other information related to the business of
37 the wholesaler contained in any return or report required under this
38 article. The officers charged with the custody of such returns or
39 reports shall not be required to produce any of them or evidence of
40 anything contained in them in any action or proceeding in any court,
41 except on behalf of the state, the office of cannabis management, or the
42 commissioner in an action or proceeding involving the collection of tax
43 due under this chapter to which the state or the commissioner is a party
44 or a claimant or on behalf of any party to any action or proceeding
45 under the provisions of this article, when the returns or the reports or
46 the facts shown thereby are directly involved in such action or proceed-
47 ing, or in an action or proceeding related to the regulation or taxation
48 of adult-use cannabis products on behalf of officers to whom information
49 shall have been supplied as provided in this section, in any of which
50 events the courts may require the production of, and may admit in
51 evidence so much of said returns or reports or of the facts shown there-
52 by as are pertinent to the action or proceeding and no more. Nothing
53 herein shall be construed to prohibit the commissioner, in his or her
54 discretion, from allowing the inspection or delivery of a certified copy
55 of any return or report filed under this article or of any information
56 contained in any such return or report by or to a duly authorized offi-

1 cer or employee of the cannabis control board or by or to the attorney
2 general or other legal representatives of the state when an action shall
3 have been recommended or commenced pursuant to this chapter in which
4 such returns or reports or the facts shown thereby are directly
5 involved; or the inspection of the returns or reports required under
6 this article by the comptroller or duly designated officer or employee
7 of the state department of audit and control, for purposes of the audit
8 of a refund of any tax paid by the wholesaler under this article; nor to
9 prohibit the delivery to such person or a duly authorized representative
10 of such person, a certified copy of any return or report filed by such
11 person pursuant to this article, nor to prohibit the publication of
12 statistics so classified as to prevent the identification of particular
13 returns or reports and the items thereof. This section shall also not be
14 construed to prohibit the disclosure, for tax administration purposes,
15 to the division of the budget and the office of the state comptroller,
16 of information aggregated from the returns filed by all wholesalers
17 purchasing and selling such products in the state, whether the number of
18 such persons is one or more. Provided further that, notwithstanding the
19 provisions of this subdivision, the commissioner may in his or her
20 discretion, permit the proper officer of any county entitled to receive
21 any distribution of the monies received on account of the tax imposed by
22 subdivisions (b) and (c) of section four hundred ninety-three of this
23 article, or the authorized representative of such officer, to inspect
24 any return filed under this article, or may furnish to such officer or
25 the officer's authorized representative an abstract of any such return
26 or supply such officer or representative with information concerning an
27 item contained in any such return, or disclosed by any investigation of
28 tax liability under this article.

29 (b) The commissioner, in his or her discretion, may permit the appro-
30 priate officers of any other state that regulates or taxes cannabis or
31 the duly authorized representatives of such commissioner or of any such
32 officers, to inspect returns or reports made pursuant to this article,
33 or may furnish to the commissioner or other officer, or duly authorized
34 representatives, a copy of any such return or report or an abstract of
35 the information therein contained, or any portion thereof, or may supply
36 such commissioner or any such officers or such representatives with
37 information relating to the business of a wholesaler making returns or
38 reports hereunder solely for purposes of tax administration. The commis-
39 sioner may refuse to supply information pursuant to this subdivision to
40 the officers of any other state if the statutes of the state represented
41 by such officers do not grant substantially similar privileges to the
42 commissioner, but such refusal shall not be mandatory. Information shall
43 not be supplied to the appropriate officers of any state that regulates
44 or taxes cannabis, or the duly authorized representatives of such
45 commissioner or of any such officers, unless such commissioner, officer,
46 or other representatives shall agree not to divulge or make known in any
47 manner the information so supplied, but such officers may transmit such
48 information to their employees or legal representatives when necessary,
49 who in turn shall be subject to the same restrictions as those hereby
50 imposed upon such commissioner, officer or other representatives.

51 (c) 1. Any officer or employee of the state who willfully violates the
52 provisions of subdivision (a) or (b) of this section shall be dismissed
53 from office and be incapable of holding any public office in the state
54 for a period of five years thereafter.

55 2. For criminal penalties, see article thirty-seven of this chapter.

1 § 40. Subdivision (a) of section 1115 of the tax law is amended by
2 adding a new paragraph 3-b to read as follows:

3 (3-b) Adult-use cannabis products as defined by article twenty-C of
4 this chapter.

5 § 41. Section 12 of chapter 90 of the laws of 2014 amending the public
6 health law, the tax law, the state finance law, the general business
7 law, the penal law and the criminal procedure law relating to medical
8 use of marihuana, is amended to read as follows:

9 § 12. This act shall take effect immediately [~~and~~]; provided, however
10 that sections one, three, five, six, seven-a, eight, nine, ten and elev-
11 en of this act shall expire and be deemed repealed seven years after
12 such date; provided that the amendments to section 171-a of the tax law
13 made by section seven of this act shall take effect on the same date and
14 in the same manner as section 54 of part A of chapter 59 of the laws of
15 2014 takes effect and shall not expire and be deemed repealed; and
16 provided, further, that the amendments to subdivision 5 of section
17 410.91 of the criminal procedure law made by section eleven of this act
18 shall not affect the expiration and repeal of such section and shall
19 expire and be deemed repealed therewith.

20 § 42. The cannabis control board, in consultation with the division of
21 the budget, the department of taxation and finance, the department of
22 health, office of addiction services and supports, office of mental
23 health, New York state police and the division of criminal justice
24 services, shall conduct a study of the implementation of this act. Such
25 study shall examine all aspects of this act, including economic and
26 fiscal impacts, the impact on the public health and safety of New York
27 residents, the progress made in achieving social and economic justice
28 goals, and toward eliminating the illegal market for cannabis products
29 in New York. The board shall make recommendations regarding if the
30 changes to level of taxation of adult-use cannabis is appropriate, as
31 well as changes, if any, necessary to improve and protect the public
32 health and safety of New Yorkers. Such study shall be completed two
33 years after the effective date of this act and shall be presented to the
34 governor, the temporary president of the senate and the speaker of the
35 assembly, no later than October 1, 2022.

36 § 43. Section 102 of the alcoholic beverage control law is amended by
37 adding a new subdivision 8 to read as follows:

38 8. No alcoholic beverage retail licensee shall sell cannabis, as
39 defined in section three of the cannabis law, nor have or possess a
40 license or permit to sell cannabis, on the same premises where alcoholic
41 beverages are sold.

42 § 44. Subdivisions 1, 4, 5, 6, 7 and 13 of section 12-102 of the
43 general obligations law, as added by chapter 406 of the laws of 2000,
44 are amended to read as follows:

45 1. "Illegal drug" means any controlled substance [~~or marijuana~~] the
46 possession of which is an offense under the public health law or the
47 penal law.

48 4. "Grade one violation" means possession of one-quarter ounce or
49 more, but less than four ounces, or distribution of less than one ounce
50 of an illegal drug [~~other than marijuana, or possession of one pound or~~
51 ~~twenty-five plants or more, but less than four pounds or fifty plants,~~
52 ~~or distribution of less than one pound of marijuana~~].

53 5. "Grade two violation" means possession of four ounces or more, but
54 less than eight ounces, or distribution of one ounce or more, but less
55 than two ounces, of an illegal drug [~~other than marijuana, or possession~~

1 ~~of four pounds or more or fifty plants or distribution of more than one~~
2 ~~pound but less than ten pounds of marijuana~~].

3 6. "Grade three violation" means possession of eight ounces or more,
4 but less than sixteen ounces, or distribution of two ounces or more, but
5 less than four ounces, of a specified illegal drug [~~or possession of~~
6 ~~eight pounds or more or seventy five plants or more, but less than~~
7 ~~sixteen pounds or one hundred plants, or distribution of more than five~~
8 ~~pounds but less than ten pounds of marijuana~~].

9 7. "Grade four violation" means possession of sixteen ounces or more
10 or distribution of four ounces or more of a specified illegal drug [~~or~~
11 ~~possession of sixteen pounds or more or one hundred plants or more or~~
12 ~~distribution of ten pounds or more of marijuana~~].

13 13. "Drug trafficker" means a person convicted of a class A or class B
14 felony controlled substance [~~or marijuana offense~~] who, in connection
15 with the criminal conduct for which he or she stands convicted,
16 possessed, distributed, sold or conspired to sell a controlled substance
17 [~~or marijuana~~] which, by virtue of its quantity, the person's prominent
18 role in the enterprise responsible for the sale or distribution of such
19 controlled substance and other circumstances related to such criminal
20 conduct indicate that such person's criminal possession, sale or
21 conspiracy to sell such substance was not an isolated occurrence and was
22 part of an ongoing pattern of criminal activity from which such person
23 derived substantial income or resources and in which such person played
24 a leadership role.

25 § 45. Paragraph (g) of subdivision 1 of section 488 of the social
26 services law, as added by section 1 of part B of chapter 501 of the laws
27 of 2012, is amended to read as follows:

28 (g) "Unlawful use or administration of a controlled substance," which
29 shall mean any administration by a custodian to a service recipient of:
30 a controlled substance as defined by article thirty-three of the public
31 health law, without a prescription; or other medication not approved for
32 any use by the federal food and drug administration, except for the
33 administration of medical cannabis when such administration is in
34 accordance with article three of the cannabis law. It also shall include
35 a custodian unlawfully using or distributing a controlled substance as
36 defined by article thirty-three of the public health law, at the work-
37 place or while on duty.

38 § 46. Paragraphs (e) and (f) of subdivision 1 of section 490 of the
39 social services law, as added by section 1 of part B of chapter 501 of
40 the laws of 2012, are amended and a new paragraph (g) is added to read
41 as follows:

42 (e) information regarding individual reportable incidents, incident
43 patterns and trends, and patterns and trends in the reporting and
44 response to reportable incidents is shared, consistent with applicable
45 law, with the justice center, in the form and manner required by the
46 justice center and, for facilities or provider agencies that are not
47 state operated, with the applicable state oversight agency which shall
48 provide such information to the justice center; ~~and~~

49 (f) incident review committees are established; provided, however,
50 that the regulations may authorize an exemption from this requirement,
51 when appropriate, based on the size of the facility or provider agency
52 or other relevant factors. Such committees shall be composed of members
53 of the governing body of the facility or provider agency and other
54 persons identified by the director of the facility or provider agency,
55 including some members of the following: direct support staff, licensed
56 health care practitioners, service recipients and representatives of

1 family, consumer and other advocacy organizations, but not the director
 2 of the facility or provider agency. Such committee shall meet regularly
 3 to: (i) review the timeliness, thoroughness and appropriateness of the
 4 facility or provider agency's responses to reportable incidents; (ii)
 5 recommend additional opportunities for improvement to the director of
 6 the facility or provider agency, if appropriate; (iii) review incident
 7 trends and patterns concerning reportable incidents; and (iv) make
 8 recommendations to the director of the facility or provider agency to
 9 assist in reducing reportable incidents. Members of the committee shall
 10 be trained in confidentiality laws and regulations, and shall comply
 11 with section seventy-four of the public officers law[~~+~~]; and

12 (g) safe storage, administration, and diversion prevention policies
 13 regarding controlled substances and medical cannabis.

14 § 47. Sections 179.00, 179.05, 179.10, 179.11 and 179.15 of the penal
 15 law, as added by chapter 90 of the laws of 2014, are amended to read as
 16 follows:

17 § 179.00 Criminal diversion of medical [~~marihuana~~] cannabis; defi-
 18 nitions.

19 The following definitions are applicable to this article:

20 1. "Medical [~~marihuana~~] cannabis" means medical [~~marihuana~~] cannabis
 21 as defined in [~~subdivision eight of section thirty three hundred sixty~~
 22 ~~of the public health law~~] section three of the cannabis law.

23 2. "Certification" means a certification, made under section [~~thirty-~~
 24 ~~three hundred sixty one of the public health law~~] thirty of the cannabis
 25 law.

26 § 179.05 Criminal diversion of medical [~~marihuana~~] cannabis; limita-
 27 tions.

28 The provisions of this article shall not apply to:

29 1. a practitioner authorized to issue a certification who acted in
 30 good faith in the lawful course of his or her profession; or

31 2. a registered organization as that term is defined in [~~subdivision~~
 32 ~~nine of section thirty three hundred sixty of the public health law~~]
 33 section thirty-four of the cannabis law who acted in good faith in the
 34 lawful course of the practice of pharmacy; or

35 3. a person who acted in good faith seeking treatment for a medical
 36 condition or assisting another person to obtain treatment for a medical
 37 condition.

38 § 179.10 Criminal diversion of medical [~~marihuana~~] cannabis in the first
 39 degree.

40 A person is guilty of criminal diversion of medical [~~marihuana~~] canna-
 41 bis in the first degree when he or she is a practitioner, as that term
 42 is defined in [~~subdivision twelve of section thirty three hundred sixty~~
 43 ~~of the public health law~~] section three of the cannabis law, who issues
 44 a certification with knowledge of reasonable grounds to know that (i)
 45 the recipient has no medical need for it, or (ii) it is for a purpose
 46 other than to treat a [~~serious~~] condition as defined in [~~subdivision~~
 47 ~~seven of section thirty three hundred sixty of the public health law~~]
 48 section three of the cannabis law.

49 Criminal diversion of medical [~~marihuana~~] cannabis in the first degree
 50 is a class E felony.

51 § 179.11 Criminal diversion of medical [~~marihuana~~] cannabis in the
 52 second degree.

53 A person is guilty of criminal diversion of medical [~~marihuana~~] canna-
 54 bis in the second degree when he or she sells, trades, delivers, or
 55 otherwise provides medical [~~marihuana~~] cannabis to another with know-
 56 ledge or reasonable grounds to know that the recipient is not registered

1 under [~~title five A of article thirty three of the public health law~~
2 article three of the cannabis law.

3 Criminal diversion of medical [~~marihuana~~] cannabis in the second
4 degree is a class B misdemeanor.

5 § 179.15 Criminal retention of medical [~~marihuana~~] cannabis.

6 A person is guilty of criminal retention of medical [~~marihuana~~] canna-
7 bis when, being a certified patient or designated caregiver, as those
8 terms are defined in [~~subdivisions three and five of section thirty-~~
9 ~~three hundred sixty of the public health law, respectively~~] section
10 three of the cannabis law, he or she knowingly obtains, possesses,
11 stores or maintains an amount of [~~marihuana~~] cannabis in excess of the
12 amount he or she is authorized to possess under the provisions of [~~title~~
13 ~~five A of article thirty three of the public health law~~] article three
14 of the cannabis law.

15 Criminal retention of medical [~~marihuana is a class A misdemeanor~~]
16 cannabis shall be punishable as provided in section 222.25 of this chap-
17 ter.

18 § 48. Section 220.78 of the penal law, as added by chapter 154 of the
19 laws of 2011, is amended to read as follows:

20 § 220.78 Witness or victim of drug or alcohol overdose.

21 1. A person who, in good faith, seeks health care for someone who is
22 experiencing a drug or alcohol overdose or other life threatening
23 medical emergency shall not be charged or prosecuted for a controlled
24 substance offense under this article [~~two hundred twenty~~] or a [~~marihua-~~
25 ~~na~~] cannabis offense under article two hundred [~~twenty-one~~] twenty-two
26 of this title, other than an offense involving sale for consideration or
27 other benefit or gain, or charged or prosecuted for possession of alco-
28 hol by a person under age twenty-one years under section sixty-five-c of
29 the alcoholic beverage control law, or for possession of drug parapher-
30 nalia under article thirty-nine of the general business law, with
31 respect to any controlled substance, [~~marihuana~~] cannabis, alcohol or
32 paraphernalia that was obtained as a result of such seeking or receiving
33 of health care.

34 2. A person who is experiencing a drug or alcohol overdose or other
35 life threatening medical emergency and, in good faith, seeks health care
36 for himself or herself or is the subject of such a good faith request
37 for health care, shall not be charged or prosecuted for a controlled
38 substance offense under this article or a [~~marihuana~~] cannabis offense
39 under article two hundred [~~twenty-one~~] twenty-two of this title, other
40 than an offense involving sale for consideration or other benefit or
41 gain, or charged or prosecuted for possession of alcohol by a person
42 under age twenty-one years under section sixty-five-c of the alcoholic
43 beverage control law, or charged or prosecuted for possession of canna-
44 bis or concentrated cannabis by a person under the age of twenty-one
45 under section one hundred thirty-two of the cannabis law, or for
46 possession of drug paraphernalia under article thirty-nine of the gener-
47 al business law, with respect to any substance, [~~marihuana~~] cannabis,
48 alcohol or paraphernalia that was obtained as a result of such seeking
49 or receiving of health care.

50 3. Definitions. As used in this section the following terms shall have
51 the following meanings:

52 (a) "Drug or alcohol overdose" or "overdose" means an acute condition
53 including, but not limited to, physical illness, coma, mania, hysteria
54 or death, which is the result of consumption or use of a controlled
55 substance or alcohol and relates to an adverse reaction to or the quan-
56 tity of the controlled substance or alcohol or a substance with which

1 the controlled substance or alcohol was combined; provided that a
2 patient's condition shall be deemed to be a drug or alcohol overdose if
3 a prudent layperson, possessing an average knowledge of medicine and
4 health, could reasonably believe that the condition is in fact a drug or
5 alcohol overdose and (except as to death) requires health care.

6 (b) "Health care" means the professional services provided to a person
7 experiencing a drug or alcohol overdose by a health care professional
8 licensed, registered or certified under title eight of the education law
9 or article thirty of the public health law who, acting within his or her
10 lawful scope of practice, may provide diagnosis, treatment or emergency
11 services for a person experiencing a drug or alcohol overdose.

12 4. It shall be an affirmative defense to a criminal sale controlled
13 substance offense under this article or a criminal sale of [~~marihuana~~]
14 ~~cannabis~~ offense under article two hundred [~~twenty-one~~] ~~twenty-two~~ of
15 this title, not covered by subdivision one or two of this section, with
16 respect to any controlled substance or [~~marihuana~~] ~~cannabis~~ which was
17 obtained as a result of such seeking or receiving of health care, that:

18 (a) the defendant, in good faith, seeks health care for someone or for
19 him or herself who is experiencing a drug or alcohol overdose or other
20 life threatening medical emergency; and

21 (b) the defendant has no prior conviction for the commission or
22 attempted commission of a class A-I, A-II or B felony under this arti-
23 cle.

24 5. Nothing in this section shall be construed to bar the admissibility
25 of any evidence in connection with the investigation and prosecution of
26 a crime with regard to another defendant who does not independently
27 qualify for the bar to prosecution or for the affirmative defense; nor
28 with regard to other crimes committed by a person who otherwise quali-
29 fies under this section; nor shall anything in this section be construed
30 to bar any seizure pursuant to law, including but not limited to pursu-
31 ant to section thirty-three hundred eighty-seven of the public health
32 law.

33 6. The bar to prosecution described in subdivisions one and two of
34 this section shall not apply to the prosecution of a class A-I felony
35 under this article, and the affirmative defense described in subdivision
36 four of this section shall not apply to the prosecution of a class A-I
37 or A-II felony under this article.

38 § 49. Subdivision 1 of section 260.20 of the penal law, as amended by
39 chapter 362 of the laws of 1992, is amended as follows:

40 1. He knowingly permits a child less than eighteen years old to enter
41 or remain in or upon a place, premises or establishment where sexual
42 activity as defined by article one hundred thirty, two hundred thirty or
43 two hundred sixty-three of this [~~chapter~~] ~~part~~ or activity involving
44 controlled substances as defined by article two hundred twenty of this
45 [~~chapter or involving marihuana as defined by article two hundred twen-~~
46 ~~ty one of this chapter~~] ~~part~~ is maintained or conducted, and he knows or
47 has reason to know that such activity is being maintained or conducted;
48 or

49 § 50. Section 89-h of the state finance law, as added by chapter 90 of
50 the laws of 2014, is amended to read as follows:

51 § 89-h. Medical [~~marihuana~~] ~~cannabis~~ trust fund. 1. There is hereby
52 established in the joint custody of the state comptroller and the
53 commissioner of taxation and finance a special fund to be known as the
54 "medical [~~marihuana~~] ~~cannabis~~ trust fund."

55 2. The medical [~~marihuana~~] ~~cannabis~~ trust fund shall consist of all
56 moneys required to be deposited in the medical [~~marihuana~~] ~~cannabis~~

1 trust fund pursuant to the provisions of section four hundred ninety of
2 the tax law.

3 3. The moneys in the medical [~~marihuana~~] cannabis trust fund shall be
4 kept separate and shall not be commingled with any other moneys in the
5 custody of the commissioner of taxation and finance and the state comp-
6 troller.

7 4. The moneys of the medical [~~marihuana~~] cannabis trust fund, follow-
8 ing appropriation by the legislature, shall be allocated upon a certif-
9 icate of approval of availability by the director of the budget as
10 follows: (a) Twenty-two and five-tenths percent of the monies shall be
11 transferred to the counties in New York state in which the medical
12 [~~marihuana~~] cannabis was manufactured and allocated in proportion to the
13 gross sales originating from medical [~~marihuana~~] cannabis manufactured
14 in each such county; (b) twenty-two and five-tenths percent of the
15 moneys shall be transferred to the counties in New York state in which
16 the medical [~~marihuana~~] cannabis was dispensed and allocated in propor-
17 tion to the gross sales occurring in each such county; (c) five percent
18 of the monies shall be transferred to the office of [~~alcoholism and~~
19 ~~substance abuse services~~] addiction services and supports, which shall
20 use that revenue for additional drug abuse prevention, counseling and
21 treatment services; and (d) five percent of the revenue received by the
22 department shall be transferred to the division of criminal justice
23 services, which shall use that revenue for a program of discretionary
24 grants to state and local law enforcement agencies that demonstrate a
25 need relating to [~~title five A of article thirty three of the public~~
26 ~~health law~~] article three of the cannabis law; said grants could be used
27 for personnel costs of state and local law enforcement agencies. For
28 purposes of this subdivision, the city of New York shall be deemed to be
29 a county.

30 § 51. The state finance law is amended by adding three new sections
31 99-hh, 99-ii and 99-jj to read as follows:

32 § 99-hh. New York state cannabis revenue fund. 1. There is hereby
33 established in the joint custody of the state comptroller and the
34 commissioner of taxation and finance a special fund to be known as the
35 "New York state cannabis revenue fund".

36 2. Such fund shall consist of all revenues received by the department
37 of taxation and finance, pursuant to the provisions of article twenty-C
38 of the tax law and all other moneys appropriated thereto from any other
39 fund or source pursuant to law. Nothing contained in this section shall
40 prevent the state from receiving grants, gifts or bequests for the
41 purposes of the fund as defined in this section and depositing them into
42 the fund according to law.

43 3. The moneys in such fund shall be expended for the following
44 purposes:

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

49 (b) Reasonable costs incurred by the office of cannabis management and
50 the cannabis control board for implementing, administering, and enforc-
51 ing the marihuana regulation and taxation act.

52 (c) Actual and necessary costs incurred by the office of cannabis
53 management and the cannabis control board related to the administration
54 of incubators and other assistance to qualified social and economic
55 equity applicants including low and zero interest loans provided to such
56 applicants pursuant to section sixteen-ee of the urban development

1 corporation act. Such costs shall be paid out of revenues received,
2 including, but not limited to, from special one-time fees paid by regis-
3 tered organizations pursuant to section sixty-three of the cannabis law.

4 (d) Beginning with the two thousand twenty-one--two thousand twenty-
5 two fiscal year and continuing through the two thousand thirty--two
6 thousand thirty-one fiscal year, the commissioner of taxation and
7 finance shall annually disburse the following sums for the purposes of
8 data collection and reporting:

9 (i) Reasonable costs incurred by the office of cannabis management
10 policy to track and report data related to the licensing of cannabis
11 businesses, including the geographic location, structure, and function
12 of licensed cannabis businesses, and demographic data, including race,
13 ethnicity, and gender, of applicants and license holders. The cannabis
14 control board shall publish reports on its findings annually and shall
15 make the reports available to the public.

16 (ii) Reasonable costs incurred by the department of criminal justice
17 services to track and report data related to any infractions,
18 violations, or criminal convictions that occur under any of the remain-
19 ing cannabis statutes. The department of criminal justice services
20 shall publish reports on its findings annually and shall make the
21 reports available to the public.

22 (iii) Reasonable costs incurred by agencies of the state, including
23 the state university of New York to research and evaluate the implemen-
24 tation and effect of the cannabis law. No more than four percent of
25 these monies may be used for expenses related to administrative costs of
26 conducting such research, and to, if appropriate, make recommendations
27 to the legislature and governor regarding possible amendments to the
28 cannabis law. The recipients of these funds shall publish reports on
29 their findings at a minimum of every two years and shall make the
30 reports available to the public. The research funded pursuant to this
31 subdivision shall include but not necessarily be limited to:

32 (A) the impact on public health, including health costs associated
33 with cannabis use, as well as whether cannabis use is associated with an
34 increase or decrease in use of alcohol or other drugs;

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

37 (C) public safety issues related to cannabis use, including, but not
38 limited to studying the effectiveness of the packaging and labeling
39 requirements and advertising and marketing restrictions contained in the
40 act at preventing underage access to and use of cannabis and cannabis
41 products, and studying the health-related effects among users of varying
42 potency levels of cannabis and cannabis products;

43 (D) cannabis use rates, maladaptive use rates for adults and youth,
44 and diagnosis rates of cannabis-related substance use disorders;

45 (E) cannabis market prices, illicit market prices, tax structures and
46 rates, including an evaluation of how to best tax cannabis based on
47 potency, and the structure and function of licensed cannabis businesses;

48 (F) whether additional protections are needed to prevent unlawful
49 monopolies or anti-competitive behavior from occurring in the cannabis
50 industry and, if so, recommendations as to the most effective measures
51 for preventing such behavior;

52 (G) the economic impacts in the private and public sectors, including
53 but not necessarily limited to, job creation, workplace safety, reven-
54 ues, taxes generated for state and local budgets, and criminal justice
55 impacts, including, but not necessarily limited to, impacts on law
56 enforcement and public resources, short and long term consequences of

1 involvement in the criminal justice system, and state and local govern-
2 ment agency administrative costs and revenue;

3 (H) whether the regulatory agencies tasked with implementing and
4 enforcing the marihuana regulation and taxation act are doing so
5 consistent with the intent and purposes of the act, and whether differ-
6 ent agencies might do so more effectively; and

7 (I) any environmental impacts and hazards related to cannabis
8 production.

9 (e) Reasonable costs incurred by the state police to expand and
10 enhance the drug recognition expert training program and technologies
11 utilized in the process of maintaining road safety.

12 4. After the dispersal of moneys pursuant to subdivision three of this
13 section, the remaining moneys in the fund deposited during the prior
14 fiscal year shall be disbursed into the state lottery fund and two addi-
15 tional sub-funds created within the cannabis revenue fund known as the
16 drug treatment and public education fund and the community grants rein-
17 vestment fund, as follows:

18 (a) twenty-five percent shall be deposited in the state lottery fund
19 established by section ninety-two-c of this article; provided that such
20 moneys shall be distributed to the department of education in accordance
21 with subdivisions two and four of section ninety-two-c of this article
22 and shall not be utilized for the purposes of subdivision three of such
23 section. Monies allocated by this article may enhance, but shall not
24 supplant, existing dedicated funds to the department of education;

25 (b) twenty-five percent shall be deposited in the drug treatment and
26 public education fund established by section ninety-nine-ii of this
27 article; and

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

30 § 99-ii. New York state drug treatment and public education fund. 1.
31 There is hereby established in the joint custody of the state comp-
32 troller and the commissioner of taxation and finance a special fund to
33 be known as the "New York state drug treatment public education fund".

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

41 3. The moneys in such fund shall be expended to the commissioner of
42 the office of addiction services and supports and disbursed, in consul-
43 tation with the commissioner of the department of health and the commis-
44 sioner of education for the following purposes:

45 (a) To develop and implement a youth-focused public health education
46 and prevention campaign, including school-based prevention, early inter-
47 vention, and health care services and programs to reduce the risk of
48 cannabis and other substance use by school-aged children;

49 (b) To develop and implement a statewide public health campaign
50 focused on the health effects of cannabis and legal use, including an
51 ongoing education and prevention campaign that educates the general
52 public, including parents, consumers and retailers, on the legal use of
53 cannabis, the importance of preventing youth access, the importance of
54 safe storage and preventing secondhand cannabis smoke exposure, informa-
55 tion for pregnant or breastfeeding women, and the overconsumption of
56 edible cannabis products;

1 (c) To provide substance use disorder treatment programs for youth and
2 adults, with an emphasis on programs that are culturally and gender
3 competent, trauma-informed, evidence-based and provide a continuum of
4 care that includes screening and assessment (substance use disorder as
5 well as mental health), early intervention, active treatment, family
6 involvement, case management, overdose prevention, prevention of commu-
7 nicable diseases related to substance use, relapse management for
8 substance use and other co-occurring behavioral health disorders, voca-
9 tional services, literacy services, parenting classes, family therapy
10 and counseling services, medication-assisted treatments, psychiatric
11 medication and psychotherapy; and

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

14 4. On or before the first day of February each year, the commissioner
15 of the office of addiction services and supports shall provide a written
16 report to the temporary president of the senate, speaker of the assem-
17 bly, chair of the senate finance committee, chair of the assembly ways
18 and means committee, chair of the senate committee on alcoholism and
19 drug abuse, chair of the assembly alcoholism and drug abuse committee,
20 the state comptroller and the public. Such report shall detail how the
21 moneys of the fund were utilized during the preceding calendar year, and
22 shall include:

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

25 (b) recipients of awards from the fund;

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

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

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

32 5. Moneys shall be payable from the fund on the audit and warrant of
33 the comptroller on vouchers approved and certified by the commissioner
34 of addiction services and supports.

35 § 99-jj. New York state community grants reinvestment fund. 1. There
36 is hereby established in the joint custody of the state comptroller and
37 the commissioner of taxation and finance a special fund to be known as
38 the "New York state community grants reinvestment fund".

39 2. Such fund shall consist of all revenues received pursuant to the
40 provisions of section ninety-nine-hh of this article and all other
41 moneys appropriated thereto from any other fund or source pursuant to
42 law. Nothing contained in this section shall prevent the state from
43 receiving grants, gifts or bequests for the purposes of the fund as
44 defined in this section and depositing them into the fund according to
45 law.

46 3. The fund shall be governed and administered by an executive steer-
47 ing committee of fifteen members, including the chief equity officer of
48 the office of cannabis management, who shall be the chair, a represen-
49 tative from the office of children and family services, the department
50 of labor, the department of health, the division of housing and communi-
51 ty renewal, and the office of addiction services and supports appointed
52 by the governor; a representative of the education department appointed
53 by the board of regents; two members appointed by the temporary presi-
54 dent of the senate; two members appointed by the speaker of the assem-
55 bly; one member appointed by the minority leader of the senate; one
56 member appointed by the minority leader of the assembly; one member

1 appointed by the comptroller; and one member appointed by the attorney
2 general. Every effort shall be made to ensure a balanced and diverse
3 committee representing the regions and demographics of the state, which
4 shall have expertise in job placement, homelessness and housing, behav-
5 ioral health and substance use disorder treatment, and effective rehabi-
6 litative treatment for adults and juveniles, and shall include represen-
7 tatives of organizations serving communities impacted by past federal
8 and state drug policies.

9 4. The moneys in such fund shall be administered by the office of
10 cannabis management and allocated by the executive steering committee to
11 provide grants for qualified community-based nonprofit organizations and
12 approved local government entities for the purpose of reinvesting in
13 communities disproportionately affected by past federal and state drug
14 policies. Such grants shall be used, including but not limited to, to
15 support job placement, job skills services, adult education, mental
16 health treatment, substance use disorder treatment, housing, financial
17 literacy, community banking, nutrition services, services to address
18 adverse childhood experiences, afterschool and child care services,
19 system navigation services, legal services to address barriers to
20 reentry, including, but not limited to, providing representation and
21 related assistance with expungement, vacatur, substitution and resen-
22 tencing of marijuana-related convictions, and linkages to medical care,
23 women's health services and other community-based supportive services.
24 The grants from this program may also be used to further support the
25 social and economic equity program created by article four of the canna-
26 bis law and as established by the cannabis control board.

27 5. On or before the first day of February each year, the office of
28 cannabis management shall provide a written report to the temporary
29 president of the senate, speaker of the assembly, chair of the senate
30 finance committee, chair of the assembly ways and means committee, chair
31 of the senate committee on children and families, chair of the assembly
32 children and families committee, chair of the senate committee on labor,
33 chair of the assembly labor committee, chair of the senate committee on
34 health, chair of the assembly health committee, chair of the senate
35 committee on education, chair of the assembly education committee, the
36 state comptroller and the public. Such report shall detail how the
37 monies of the fund were utilized during the preceding calendar year, and
38 shall include:

39 (a) the amount of money available and dispersed from the fund and the
40 award process used for such disbursements;
41 (b) recipients of awards from the fund;
42 (c) the amount awarded to each recipient of an award from the fund;
43 (d) the purposes for which such awards were granted; and
44 (e) a summary financial plan for such monies which shall include esti-
45 mates of all receipts and all disbursements for the current and succeed-
46 ing fiscal years, along with the actual results from the prior fiscal
47 year.

48 6. Moneys shall be payable from the fund on the audit and warrant of
49 the comptroller on vouchers approved and certified by the office of
50 cannabis management.

51 § 52. Paragraphs (a), (b) and (c) of subdivision 3-a of section 390-b
52 of the social services law, as added by section 9 of part H of chapter
53 56 of the laws of 2019, are amended to read as follows:

54 (a) In relation to child day care programs and any enrolled legally-
55 exempt provider, when a clearance conducted pursuant to this section
56 reveals that any existing operator, director, caregiver, or person over

1 the age of eighteen who is not related in any way to all children for
2 whom child care services are or will be provided, that resides in a home
3 where child care is provided in a home setting where the child does not
4 reside has been convicted of a crime other than one set forth in subpara-
5 graph (iv) of paragraph (a) of subdivision three of this section, and
6 unless such crime is eligible for expungement pursuant to section 160.50
7 of the criminal procedure law, the office of children and family
8 services shall conduct a safety assessment of the program and take all
9 appropriate steps to protect the health and safety of the children in
10 the program, and may deny, limit, suspend, revoke or reject such
11 program's license or registration or terminate or reject such program's
12 enrollment, as applicable, unless the office of children and family
13 services, determines in its discretion, that continued operation by the
14 child day care program or enrolled legally-exempt provider will not in
15 any way jeopardize the health, safety or welfare of the children cared
16 for in the program or by the provider.

17 (b) In relation to child day care programs and any enrolled legally-
18 exempt provider, when a clearance conducted pursuant to this section
19 reveals that any existing employee or volunteer with the potential for
20 unsupervised contact with children has been convicted of a crime other
21 than one set forth in subparagraph (iv) of paragraph (a) of subdivision
22 three of this section, and unless such crime is eligible for expungement
23 pursuant to section 160.50 of the criminal procedure law, the office of
24 children of family services shall conduct a safety assessment of the
25 program and take all appropriate steps to protect the health and safety
26 of the children in the program. The office of children and family
27 services may direct the program or provider to terminate the employee or
28 volunteer based on such a conviction, consistent with article
29 twenty-three-A of the correction law.

30 (c) (i) In relation to any child day care programs and any enrolled
31 legally-exempt providers, where a clearance conducted pursuant to this
32 section reveals a conviction for a crime other than one set forth in
33 subparagraph (iv) of paragraph (a) of subdivision three of this section,
34 and unless such crime is eligible for expungement pursuant to section
35 160.50 of the criminal procedure law, for any prospective employee or
36 volunteer, the office of children and family services may direct that
37 such person not be hired, as applicable, based on such a conviction,
38 consistent with article twenty-three-A of the correction law.

39 (ii) In relation to any child day care program and any enrolled legal-
40 ly-exempt provider, when a clearance conducted pursuant to this section
41 reveals a conviction for a crime other than one set forth in subpara-
42 graph (iv) of paragraph (a) of subdivision three of this section, and
43 unless such crime is eligible for expungement pursuant to section 160.50
44 of the criminal procedure law, for any prospective caregiver seeking
45 enrollment, or applicant to be a director or operator, the office of
46 children and family services may deny the application or enrollment,
47 consistent with article twenty-three-A of the correction law.

48 § 53. Subparagraph 1 of paragraph (e) of subdivision 2 of section
49 378-a of the social services law, as amended by section 10 of part L of
50 chapter 56 of the laws of 2015, is amended to read as follows:

51 (1) Notwithstanding any other provision of law to the contrary, an
52 application for certification or approval of a prospective foster parent
53 or prospective adoptive parent shall be denied and, in the event of
54 death or incapacity of a relative guardian, an agreement to provide
55 payments to a prospective successor guardian pursuant to title ten of
56 this article shall not be approved pursuant to subparagraph (ii) of

1 paragraph (b) of subdivision five of section four hundred fifty-eight-b
2 of this article, as applicable, where a criminal history record of the
3 prospective foster parent, prospective adoptive parent or prospective
4 successor guardian, as applicable, reveals a conviction for:

5 (A) a felony conviction at any time involving: (i) child abuse or
6 neglect; (ii) spousal abuse; (iii) a crime against a child, including
7 child pornography; or (iv) a crime involving violence, including rape,
8 sexual assault, or homicide, other than a crime involving physical
9 assault or battery; or

10 (B) a felony conviction within the past five years for physical
11 assault, battery, or a drug-related offense, unless such offense is
12 eligible for expungement pursuant to section 160.50 of the criminal
13 procedure law; or

14 § 54. Paragraph (b) of subdivision 4 of section 132 of the social
15 services law, as added by section 23 of part B of chapter 436 of the
16 laws of 1997, is amended to read as follows:

17 (b) When the screening process indicates that there is reason to
18 believe that an applicant or recipient is abusing or dependent on alco-
19 hol or drugs, the social services district shall require a formal alco-
20 hol or substance abuse assessment, which may include drug testing, to be
21 performed by an alcohol and/or substance abuse professional credentialed
22 by the office of [~~alcoholism and substance abuse services~~] addiction
23 services and supports. Provided however, if the applicant or recipient
24 tests positive for the presence of cannabis, the positive result alone
25 shall not be sufficient to establish a dependence for purposes of
26 requiring an individual to participate in a treatment program pursuant
27 to paragraph (c) of this subdivision. The assessment may be performed
28 directly by the district or pursuant to contract with the district.

29 § 55. Subdivision 6 of section 422 of the social services law, as
30 amended by section 7 of part D of chapter 501 of the laws of 2012, is
31 amended to read as follows:

32 6. In all other cases, the record of the report to the statewide
33 central register shall be expunged ten years after the eighteenth birth-
34 day of the youngest child named in the report. In the case of a child in
35 residential care the record of the report to the statewide central
36 register shall be expunged ten years after the reported child's eigh-
37 teenth birthday. In any case and at any time, the commissioner of the
38 office of children and family services may amend any record upon good
39 cause shown and notice to the subjects of the report and other persons
40 named in the report. Provided however, any report indicated for
41 maltreatment based solely on the purchase, possession or consumption of
42 cannabis, without a showing that the child's physical, mental or
43 emotional condition was impaired or was in imminent danger of becoming
44 impaired established by a fair preponderance of the evidence shall imme-
45 diately be sealed upon a request pursuant to subdivision eight of this
46 section or section four hundred twenty-four-a of this title.

47 § 56. Intentionally omitted.

48 § 57. Subdivision (a) of section 712 of the family court act, as
49 amended by section 1 of part K of chapter 56 of the laws of 2019, is
50 amended to read as follows:

51 (a) "Person in need of supervision". A person less than eighteen years
52 of age: (i) who does not attend school in accordance with the provisions
53 of part one of article sixty-five of the education law; (ii) who is
54 incorrigible, ungovernable or habitually disobedient and beyond the
55 lawful control of a parent or other person legally responsible for such
56 child's care, or other lawful authority; (iii) who violates the

1 provisions of[~~+(1) section 221.05, or (2)~~ section 230.00 of the penal
2 law; (iv) or who appears to be a sexually exploited child as defined in
3 paragraph (a), (c) or (d) of subdivision one of section four hundred
4 forty-seven-a of the social services law, but only if the child consents
5 to the filing of a petition under this article.

6 § 58. Paragraph (iii) of subdivision (a) of section 1046 of the family
7 court act, as amended by chapter 984 of the laws of 1981, is amended to
8 read as follows:

9 (iii) proof that a person repeatedly misuses a drug or drugs or alco-
10 holic beverages, to the extent that it has or would ordinarily have the
11 effect of producing in the user thereof a substantial state of stupor,
12 unconsciousness, intoxication, hallucination, disorientation, or incom-
13 petence, or a substantial impairment of judgment, or a substantial
14 manifestation of irrationality, shall be prima facie evidence that a
15 child of or who is the legal responsibility of such person is a
16 neglected child except that such drug, or alcoholic beverage misuse
17 shall not be prima facie evidence of neglect when such person is volun-
18 tarily and regularly participating in a recognized rehabilitative
19 program. Provided however, the sole fact that an individual consumes
20 cannabis, without a separate finding that the child's physical mental or
21 emotional condition was impaired or is in imminent danger of becoming
22 impaired established by a fair preponderance of the evidence shall not
23 be sufficient to establish prima facie evidence of neglect; and

24 § 59. Section 1 of chapter 174 of the laws of 1968, constituting the
25 New York state urban development corporation act, is amended by adding a
26 new section 16-ee to read as follows:

27 § 16-ee. Loans to social and economic equity applicants. The corpo-
28 ration is authorized and directed, on the recommendation of the state
29 cannabis control board, to provide low interest or zero-interest loans
30 to qualified social and economic equity applicants as provided for in
31 article four of the cannabis law.

32 § 60. The division of state police shall, subject to available appro-
33 priations, increase the number of trained and certified drug recognition
34 experts within the state, and provide increased drug recognition aware-
35 ness training under its drug recognition program. The department of
36 health shall, subject to available appropriations, review available
37 technologies approved for utilization in the recognition of drug impair-
38 ment by operators of motor vehicles, with a focus on specific technology
39 to recognize acute impairment as compared to habitual cannabis usage and
40 submit a report on such technologies to the governor and the legislature
41 by March 1, 2021.

42 § 61. The commissioner of education shall, subject to available appro-
43 priations, establish a grant program to provide awards to school
44 districts and boards of cooperative educational services for the purpose
45 of establishing school-based programs for initiatives such as anti-vap-
46 ing programs, drug prevention and awareness programs, the use of liquid
47 cannabis in vaping products, and the over-consumption of edible products
48 that contain cannabis. Provided that such grants shall be awarded by the
49 commissioner of education to applicants based on factors including but
50 not limited to: (A) community and parental engagement; (B) the appli-
51 cant's program design to meet the specific needs of students; and (C)
52 proposal quality. Provided further, that such funds shall only be used
53 to supplement, and not supplant, current local expenditures of federal,
54 state or local funds. Provided further, that no district or board of
55 cooperative educational services shall receive a grant in excess of the
56 total actual grant expenditures incurred by the school district or board

1 of cooperative educational services in the current school year, as
2 approved by the commissioner of education.

3 § 62. The commissioner of the office of addiction services and
4 supports, in consultation with the commissioner of health and the
5 commissioner of education, shall, subject to available appropriations,
6 immediately to the extent possible execute the activities described in
7 subdivision 3 of section 99-ii of the state finance law, as added by
8 section fifty-one of this act.

9 § 63. Severability. If any provision or term of this act is for any
10 reason declared unconstitutional or invalid or ineffective by any compe-
11 tent jurisdiction, such decision shall not affect the validity of the
12 effectiveness of the remaining portions of this act or any part thereof.

13 § 64. This act shall take effect immediately; provided, however, that
14 sections six and six-a of this act shall take effect six months after
15 the full cannabis control board created by article two of the cannabis
16 law has been appointed and provided that the governor shall notify the
17 legislative bill drafting commission upon such full appointment in order
18 that the commission may maintain an accurate and timely effective data
19 base of the official text of the laws of the state of New York in furth-
20 erance of effectuating the provisions of section 44 of the legislative
21 law and section 70-b of the public officers law; provided, further that
22 the expungement of marihuana convictions under section 160.50 of the
23 criminal procedure law, added by the amendment in section seventeen of
24 this act, shall occur promptly and in any event no later than one year
25 after the effective date of this act; and provided, further, that
26 sections thirty-nine and forty of this act shall take effect April 1,
27 2021, and shall apply on and after such date to the sale or transfer of
28 adult-use cannabis products to a retail dispensary; provided, further,
29 that the amendments to article 179 of the penal law made by section
30 forty-seven of this act shall not affect the repeal of such article and
31 shall be deemed to be repealed therewith; provided, further, that the
32 amendments to section 89-h of the state finance law made by section
33 fifty of this act shall not affect the repeal of such section and shall
34 be deemed repealed therewith.