

# STATE OF NEW YORK

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S. 1509

A. 2009

## SENATE - ASSEMBLY

January 18, 2019

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IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means

AN ACT to amend part U of chapter 61 of the laws of 2011, amending the real property tax law and other laws relating to establishing standards for electronic tax administration, in relation to making permanent provisions relating to mandatory electronic filing of tax documents; and repealing certain provisions of the tax law and the administrative code of the city of New York relating thereto (Part A); to amend the economic development law, in relation to the employee training incentive program (Part B); to amend the tax law and the administrative code of the city of New York, in relation to including in the apportionment fraction receipts constituting net global intangible low-taxed income (Part C); to amend the tax law and the administrative code of the city of New York, in relation to the adjusted basis for property used to determine whether a manufacturer is a qualified New York manufacturer (Part D); to amend part MM of chapter 59 of the laws of 2014 amending the labor law and the tax law relating to the creation of the workers with disabilities tax credit program, in relation to extending the effectiveness thereof (Part E); to amend the tax law in relation to the inclusion in a decedent's New York gross estate any qualified terminable interest property for which a prior deduction was allowed and certain pre-death gifts (Part F); to amend the tax law, in relation to requiring marketplace providers to collect sales tax (Part G); to amend the tax law, in relation to eliminating the reduced tax rates under the sales and use tax with respect to certain gas and electric service; and to repeal certain provisions of the tax law and the administrative code of the city of New York related thereto (Part H); to amend the real property tax law, in relation to the determination and use of state equalization rates (Part I); to amend the real property tax law and local finance law, in relation to local option disaster assessment relief (Subpart A); to amend the real property tax law, in relation to authorizing agreements

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

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for assessment review services (Subpart B); to amend the real property tax law, in relation to the training of assessors and county directors of real property tax services (Subpart C); to amend the real property tax law, in relation to providing certain notifications electronically (Subpart D); to amend the real property tax law, in relation to the valuation and taxable status dates of special franchise property (Subpart E); and to amend the real property tax law, in relation to the reporting requirements of power plants (Subpart F) (Part J); to repeal section 3-d of the general municipal law, relating to certification of compliance with tax levy limit (Part K); to amend the tax law, in relation to creating an employer-provided child care credit (Part L); to amend the tax law, in relation to including gambling winnings in New York source income and requiring withholding thereon (Part M); to amend the tax law, in relation to the farm workforce retention credit (Part N); to amend the tax law, in relation to updating tax preparer penalties; to amend part N of chapter 61 of the laws of 2005, amending the tax law relating to certain transactions and related information and relating to the voluntary compliance initiative, in relation to eliminating the expiration thereof; and to repeal certain provisions of the tax law, relating to tax preparer penalties (Part O); to amend the tax law, in relation to extending the top personal income tax rate for five years (Part P); to amend the tax law and the administrative code of the city of New York, in relation to extending for five years the limitations on itemized deductions for individuals with incomes over one million dollars (Part Q); to amend the tax law, in relation to extending the clean heating fuel credit for three years (Part R); to repeal subdivision (e) of section 23 of part U of chapter 61 of the laws of 2011 amending the real property tax law and other laws relating to establishing standards for electronic tax administration (Part S); to amend the cooperative corporations law and the rural electric cooperative law, in relation to eliminating certain license fees (Part T); to amend the tax law, in relation to a credit for the rehabilitation of historic properties for state owned property leased to private entities (Part U); to amend the tax law, in relation to exempting from sales and use tax certain tangible personal property or services (Part V); to amend the mental hygiene law and the tax law, in relation to the creation and administration of a tax credit for employment of eligible individuals in recovery from a substance use disorder (Part W); to amend the tax law and the administrative code of the city of New York, in relation to excluding from entire net income certain contributions to the capital of a corporation (Part X); to amend the tax law, in relation to establishing a conditional tax on carried interest (Part Y); to amend the tax law, the administrative code of the city of New York, and chapter 369 of the laws of 2018 amending the tax law relating to unrelated business taxable income of a taxpayer, in relation to making technical corrections thereto (Part Z); to amend the real property tax law, in relation to tax exemptions for energy systems (Part AA); to amend the racing, pari-mutuel wagering and breeding law, in relation to employees of the state gaming commission (Part BB); to amend the racing, pari-mutuel wagering and breeding law, in relation to the thoroughbred and standardbred breeding funds (Part CC); to amend the racing, pari-mutuel wagering and breeding law, in relation to the office of the gaming inspector general; and to repeal title 9 of article 13 of the racing, pari-mutuel wagering and breeding law relating to the gaming inspector general (Subpart A); to amend the racing, pari-mutuel wager-

ing and breeding law, in relation to appointees to the thoroughbred breeding and development fund (Subpart B); to amend the public officers law and the racing, pari-mutuel wagering and breeding law, in relation to the Harry M. Zweig memorial fund (Subpart C); and to amend the tax law, in relation to the prize payment amounts and revenue distributions of lottery game sales, and use of unclaimed prize funds (Subpart D)(Part DD); to amend the tax law, in relation to commissions paid to the operator of a video lottery facility; to repeal certain provisions of such law relating thereto; and providing for the repeal of certain provisions upon expiration thereof (Part EE); to amend the racing, pari-mutuel wagering and breeding law, in relation to the deductibility of promotional credits (Part FF); to amend the racing, pari-mutuel wagering and breeding law, in relation to the operations of off-track betting corporations (Part GG); to amend the racing, pari-mutuel wagering and breeding law, in relation to licenses for simulcast facilities, sums relating to track simulcast, simulcast of out-of-state thoroughbred races, simulcasting of races run by out-of-state harness tracks and distributions of wagers; to amend chapter 281 of the laws of 1994 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and chapter 346 of the laws of 1990 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and the imposition of certain taxes, in relation to extending certain provisions thereof; and to amend the racing, pari-mutuel wagering and breeding law, in relation to extending certain provisions thereof (Part HH); to amend the racing, pari-mutuel wagering and breeding law, in relation to equine drug testing standards (Part II); to amend part EE of chapter 59 of the laws of 2018, amending the racing, pari-mutuel wagering and breeding law, relating to adjusting the franchise payment establishing an advisory committee to review the structure, operations and funding of equine drug testing and research, in relation to the date of delivery for recommendations; and to amend the racing, pari-mutuel wagering and breeding law, in relation to the advisory committee on equine drug testing, and equine lab testing provider restrictions removal (Part JJ); to amend the racing, pari-mutuel wagering and breeding law, in relation to state gaming commission occupational licenses (Part KK); to amend the real property tax law and the tax law, in relation to the determination of STAR tax savings (Part LL); to amend the tax law, in relation to cooperative housing corporation information returns (Part MM); to amend the tax law, in relation to making a technical correction to the enhanced real property tax circuit breaker credit (Part NN); to amend the tax law, in relation to mobile home reporting requirements (Part OO); to amend the real property tax law and the tax law, in relation to eligibility for STAR exemptions and credits (Part PP); to amend the real property tax law and the tax law, in relation to authorizing the disclosure of certain information to assessors (Part QQ); to amend the real property tax law and the tax law, in relation to the income limits for STAR benefits (Part RR); to amend the real property tax law, in relation to clarifying certain notices on school tax bills (Part SS); to amend the real property tax law and the tax law, in relation to making the STAR program more accessible to taxpayers (Part TT); to amend the public health law, in relation to increasing the purchasing age for tobacco products and electronic cigarettes from eighteen to twenty-one; prohibiting sales of tobacco products and electronic cigarettes in all pharmacies; prohibiting the acceptance of price reduction instruments

for both tobacco products and electronic cigarettes; prohibiting the display of tobacco products or electronic cigarettes in stores; clarifying that the department of health has the authority to promulgate regulations that restrict the sale or distribution of electronic cigarettes or electronic liquids that have a characterizing flavor, and the use of names for characterizing flavors; prohibiting smoking inside and on the grounds of all hospitals licensed or operated by the office of mental health; taxing electronic liquid; and requiring that electronic cigarettes be sold only through licensed vapor products retailers; to amend the general business law, in relation to the packaging of vapor products; to amend the tax law, in relation to imposing a supplemental tax on vapor products; to amend the state finance law, in relation to adding revenues from the supplemental tax on vapor products to the health care reform act resource fund; and repealing paragraph (e) of subdivision 1 of section 1399-cc of the public health law relating to the definitions of nicotine, electronic liquid and e-liquid (Part UU); relating to constituting a new 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 vehicle and traffic law, in relation to making technical changes regarding the definition of cannabis; to amend the penal law, in relation to the qualification of certain offenses involving cannabis and to exempt certain persons from prosecution for the use, consumption, display, production or distribution of cannabis; to amend the tax law, in relation to providing for the levying 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 and the vehicle and traffic law, in relation to making conforming changes; to repeal sections 221.10 and 221.30 of the penal law relating to the criminal possession and sale of cannabis; to amend chapter 90 of the laws of 2014 amending the public health law, the tax law, the state finance law, the general business law, the penal law and the criminal procedure law relating to medical use of marihuana, in relation to the effectiveness thereof; to repeal paragraph (f) of subdivision 2 of section 850 of the general business law relating to drug related paraphernalia; and making an appropriation therefor (Part VV); and to amend the tax law, in relation to imposing a special tax on passenger car rentals outside of the metropolitan commuter transportation district (Part WW)

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

1 Section 1. This act enacts into law major components of legislation  
2 which are necessary to implement the state fiscal plan for the 2019-2020  
3 state fiscal year. Each component is wholly contained within a Part  
4 identified as Parts A through WW. The effective date for each particular  
5 provision contained within such Part is set forth in the last section of  
6 such Part. Any provision in any section contained within a Part,  
7 including the effective date of the Part, which makes reference to a  
8 section "of this act", when used in connection with that particular

1 component, shall be deemed to mean and refer to the corresponding  
2 section of the Part in which it is found. Section three of this act sets  
3 forth the general effective date of this act.

4 PART A

5 Section 1. Paragraph 10 of subsection (g) of section 658 of the tax  
6 law is REPEALED.

7 § 2. Paragraph 10 of subdivision (g) of section 11-1758 of the admin-  
8 istrative code of the city of New York is REPEALED.

9 § 3. Paragraph 5 of subsection (u) of section 685 of the tax law is  
10 REPEALED.

11 § 4. Paragraph 5 of subdivision (t) of section 11-1785 of the adminis-  
12 trative code of the city of New York is REPEALED.

13 § 5. Section 23 of part U of chapter 61 of the laws of 2011, amending  
14 the real property tax law and other laws relating to establishing stand-  
15 ards for electronic tax administration, as amended by section 5 of part  
16 G of chapter 60 of the laws of 2016, is amended to read as follows:

17 § 23. This act shall take effect immediately; provided, however, that:

18 (a) the amendments to section 29 of the tax law made by section thir-  
19 teen of this act shall apply to tax documents filed or required to be  
20 filed on or after the sixtieth day after which this act shall have  
21 become a law ~~[and shall expire and be deemed repealed December 31,~~  
22 ~~2019]~~, provided however that the amendments to paragraph 4 of subdivi-  
23 sion (a) of section 29 of the tax law and paragraph 2 of subdivision (e)  
24 of section 29 of the tax law made by section thirteen of this act with  
25 regard to individual taxpayers shall take effect September 15, 2011 but  
26 only if the commissioner of taxation and finance has reported in the  
27 report required by section seventeen-b of this act that the percentage  
28 of individual taxpayers electronically filing their 2010 income tax  
29 returns is less than eighty-five percent; provided that the commissioner  
30 of taxation and finance shall notify the legislative bill drafting  
31 commission of the date of the issuance of such report in order that the  
32 commission may maintain an accurate and timely effective data base of  
33 the official text of the laws of the state of New York in furtherance of  
34 effectuating the provisions of section 44 of the legislative law and  
35 section 70-b of the public officers law;

36 (b) sections fourteen, fifteen, sixteen and seventeen of this act  
37 shall take effect September 15, 2011 but only if the commissioner of  
38 taxation and finance has reported in the report required by section  
39 seventeen-b of this act that the percentage of individual taxpayers  
40 electronically filing their 2010 income tax returns is less than eight-  
41 y-five percent; and

42 (c) sections fourteen-a and fifteen-a of this act shall take effect  
43 September 15, 2011 and expire and be deemed repealed December 31, 2012  
44 but shall take effect only if the commissioner of taxation and finance  
45 has reported in the report required by section seventeen-b of this act  
46 that the percentage of individual taxpayers electronically filing their  
47 2010 income tax returns is eighty-five percent or greater[+]

48 ~~(d) sections fourteen-b, fifteen-b, sixteen-a and seventeen-a of this~~  
49 ~~act shall take effect January 1, 2020 but only if the commissioner of~~  
50 ~~taxation and finance has reported in the report required by section~~  
51 ~~seventeen-b of this act that the percentage of individual taxpayers~~  
52 ~~electronically filing their 2010 income tax returns is less than eight-~~  
53 ~~y-five percent; and~~

~~(e) sections twenty one and twenty one a of this act shall expire and be deemed repealed December 31, 2019].~~

§ 6. This act shall take effect immediately.

#### PART B

Section 1. Subdivision 3 of section 441 of the economic development law, as amended by section 1 of part L of chapter 59 of the laws of 2017, is amended to read as follows:

3. "Eligible training" means (a) training provided by the business entity or an approved provider that is:

- (i) to upgrade, retrain or improve the productivity of employees;
- (ii) provided to employees in connection with a significant capital investment by a participating business entity;
- (iii) determined by the commissioner to satisfy a business need on the part of a participating business entity;
- (iv) not designed to train or upgrade skills as required by a federal or state entity;

(v) not training the completion of which may result in the awarding of a license or certificate required by law in order to perform a job function; and

(vi) not culturally focused training; or

(b) an internship program in advanced technology ~~[ex]~~, life sciences, software development or clean energy approved by the commissioner and provided by the business entity or an approved provider, on or after August first, two thousand fifteen, to provide employment and experience opportunities for current students, recent graduates, and recent members of the armed forces.

§ 2. Paragraph (b) of subdivision 1 of section 442 of the economic development law, as amended by section 2 of part L of chapter 59 of the laws of 2017, is amended to read as follows:

(b) The business entity must demonstrate that it is conducting eligible training or obtaining eligible training from an approved provider;

§ 3. Paragraph (a) of subdivision 2 of section 443 of the economic development law, as added by section 1 of part O of chapter 59 of the laws of 2015, is amended to read as follows:

(a) provide such documentation as the commissioner may require in order for the commissioner to determine that the business entity intends to conduct eligible training or procure eligible training for its employees from an approved provider;

§ 4. This act shall take effect immediately.

#### PART C

Section 1. Section 210-A of the tax law is amended by adding a new subdivision 5-a to read as follows:

5-a. Net global intangible low-taxed income. Notwithstanding any other provision of this section, net global intangible low-taxed income shall be included in the apportionment fraction as provided in this subdivision. Receipts constituting net global intangible low-taxed income shall not be included in the numerator of the apportionment fraction. Receipts constituting net global intangible low-taxed income shall be included in the denominator of the apportionment fraction. For purposes of this subdivision, the term "net global intangible low-taxed income" means the amount required to be included in the taxpayer's federal gross income pursuant to subsection (a) of section 951A of the

internal revenue code less the amount of the deduction allowed under clause (i) of section 250(a)(1)(B) of such code.

§ 2. Section 11-654.2 of the administrative code of the city of New York is amended by adding a new subdivision 5-a to read as follows:

5-a. Notwithstanding any other provision of this section, net global intangible low-taxed income shall be included in the receipts fraction as provided in this subdivision. Receipts constituting net global intangible low-taxed income shall not be included in the numerator of the receipts fraction. Receipts constituting net global intangible low-taxed income shall be included in the denominator of the receipts fraction. For purposes of this subdivision, the term "net global intangible low-taxed income" means the amount required to be included in the taxpayer's federal gross income pursuant to subsection (a) of section 951A of the internal revenue code less the amount of the deduction allowed under clause (i) of section 250(a)(1)(B) of such code.

§ 3. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2018.

PART D

Section 1. Subparagraph (vi) of paragraph (a) of subdivision 1 of section 210 of the tax law, as amended by section 11 of part T of chapter 59 of the laws of 2015, is amended to read as follows:

(vi) for taxable years beginning on or after January first, two thousand fourteen, the amount prescribed by this paragraph for a taxpayer ~~[which]~~ that is a qualified New York manufacturer, shall be computed at the rate of zero percent of the taxpayer's business income base. The term "manufacturer" shall mean a taxpayer ~~[which]~~ that during the taxable year is principally engaged in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture or commercial fishing. However, the generation and distribution of electricity, the distribution of natural gas, and the production of steam associated with the generation of electricity shall not be qualifying activities for a manufacturer under this subparagraph. Moreover, in the case of a combined report, the combined group shall be considered a "manufacturer" for purposes of this subparagraph only if the combined group during the taxable year is principally engaged in the activities set forth in this paragraph, or any combination thereof. A taxpayer or, in the case of a combined report, a combined group shall be "principally engaged" in activities described above if, during the taxable year, more than fifty percent of the gross receipts of the taxpayer or combined group, respectively, are derived from receipts from the sale of goods produced by such activities. In computing a combined group's gross receipts, intercorporate receipts shall be eliminated. A "qualified New York manufacturer" is a manufacturer ~~[which]~~ that has property in New York ~~[which]~~ that is described in clause (A) of subparagraph (i) of paragraph (b) of subdivision one of section two hundred ten-B of this article and either (I) the adjusted basis of such property for ~~[federal income]~~ New York state tax purposes at the close of the taxable year is at least one million dollars or (II) all of its real and personal property is located in New York. A taxpayer or, in the case of a combined report, a combined group, that does not satisfy the principally engaged test may be a qualified New York manufacturer if the taxpayer or the combined group employs during the taxable year at least two thousand five hundred employees in manufacturing in New York and the taxpayer or the combined



1 group has property in the state used in manufacturing, the adjusted  
2 basis of which for [~~federal income~~] New York state tax purposes at the  
3 close of the taxable year is at least one hundred million dollars.

4 § 2. Subparagraph 2 of paragraph (b) of subdivision 1 of section 210  
5 of the tax law, as amended by section 18 of part T of chapter 59 of the  
6 laws of 2015, is amended to read as follows:

7 (2) For purposes of subparagraph one of this paragraph, the term  
8 "manufacturer" shall mean a taxpayer [~~which~~] that during the taxable  
9 year is principally engaged in the production of goods by manufacturing,  
10 processing, assembling, refining, mining, extracting, farming, agricul-  
11 ture, horticulture, floriculture, viticulture or commercial fishing.  
12 Moreover, for purposes of computing the capital base in a combined  
13 report, the combined group shall be considered a "manufacturer" for  
14 purposes of this subparagraph only if the combined group during the  
15 taxable year is principally engaged in the activities set forth in this  
16 subparagraph, or any combination thereof. A taxpayer or, in the case of  
17 a combined report, a combined group shall be "principally engaged" in  
18 activities described above if, during the taxable year, more than fifty  
19 percent of the gross receipts of the taxpayer or combined group, respec-  
20 tively, are derived from receipts from the sale of goods produced by  
21 such activities. In computing a combined group's gross receipts, inter-  
22 corporate receipts shall be eliminated. A "qualified New York manufac-  
23 turer" is a manufacturer that has property in New York that is described  
24 in clause (A) of subparagraph (i) of paragraph (b) of subdivision one of  
25 section two hundred ten-B of this article and either (i) the adjusted  
26 basis of that property for [~~federal income~~] New York state tax purposes  
27 at the close of the taxable year is at least one million dollars or (ii)  
28 all of its real and personal property is located in New York. In addi-  
29 tion, a "qualified New York manufacturer" means a taxpayer that is  
30 defined as a qualified emerging technology company under paragraph (c)  
31 of subdivision one of section thirty-one hundred two-e of the public  
32 authorities law regardless of the ten million dollar limitation  
33 expressed in subparagraph one of such paragraph. A taxpayer or, in the  
34 case of a combined report, a combined group, that does not satisfy the  
35 principally engaged test may be a qualified New York manufacturer if the  
36 taxpayer or the combined group employs during the taxable year at least  
37 two thousand five hundred employees in manufacturing in New York and the  
38 taxpayer or the combined group has property in the state used in manu-  
39 facturing, the adjusted basis of which for [~~federal income~~] New York  
40 state tax purposes at the close of the taxable year is at least one  
41 hundred million dollars.

42 § 3. Clause (ii) of subparagraph 4 of paragraph (k) of subdivision 1  
43 of section 11-654 of the administrative code of the city of New York, as  
44 added by section 1 of part D of chapter 60 of the laws of 2015, is  
45 amended to read as follows:

46 (ii) A "qualified New York manufacturing corporation" is a manufactur-  
47 ing corporation that has property in the state [~~which~~] that is described  
48 in subparagraph five of this paragraph and either (A) the adjusted basis  
49 of such property for [~~federal income~~] New York state tax purposes at the  
50 close of the taxable year is at least one million dollars or (B) more  
51 than fifty [~~percentum~~] percent of its real and personal property is  
52 located in the state.

53 § 4. This act shall take effect immediately and shall apply to taxable  
54 years beginning on or after January 1, 2018.



Section 1. Section 5 of part MM of chapter 59 of the laws of 2014 amending the labor law and the tax law relating to the creation of the workers with disabilities tax credit program is amended to read as follows:

§ 5. This act shall take effect January 1, 2015, and shall apply to taxable years beginning on and after that date; provided, however, that this act shall expire and be deemed repealed January 1, ~~2020~~ 2023.

§ 2. This act shall take effect immediately.

PART F

Section 1. Paragraph 3 of subsection (a) of section 954 of the tax law, as amended by section 2 of part BB of chapter 59 of the laws of 2015, is amended to read as follows:

(3) Increased by the amount of any taxable gift under section 2503 of the internal revenue code not otherwise included in the decedent's federal gross estate, made during the three year period ending on the decedent's date of death, but not including any gift made: (A) when the decedent was not a resident of New York state; or (B) before April first, two thousand fourteen; or (C) that is real or tangible personal property having an actual situs outside New York state at the time the gift was made. Provided, however that this paragraph shall not apply to the estate of a ~~decedent~~ decedent dying on or after January first, two thousand ~~nineteen~~ twenty-six.

§ 2. Subsection (a) of section 954 of the tax law is amended by adding a new paragraph 4 to read as follows:

(4) Increased by the value of any property not otherwise already included in the decedent's federal gross estate in which the decedent had a qualifying income interest for life if a deduction was allowed on the return of the tax imposed by this article with respect to the transfer of such property to the decedent by reason of the application of paragraph (7) of subsection (b) of section 2056 of the internal revenue code, as made applicable to the tax imposed by this article by section nine hundred ninety-nine-a of this article, whether or not a federal estate tax return was required to be filed by the estate of the transferring spouse.

§ 3. Subsection (c) of section 955 of the tax law, as added by section 4 of part X of chapter 59 of the laws of 2014, is amended to read as follows:

(c) Qualified terminable interest property election.-- Except as otherwise provided in this subsection, the election referred to in paragraph (7) of subsection (b) of section 2056 of the internal revenue code shall not be allowed under this article unless such election was made with respect to the federal estate tax return required to be filed under the provisions of the internal revenue code. If such election was made for the purposes of the federal estate tax, then such election must also be made by the executor on the return of the tax imposed by this article. Where no federal estate tax return is required to be filed, the executor ~~may~~ must make the election referred to in such paragraph (7) with respect to the tax imposed by this article on the return of the tax imposed by this article. Any election made under this subsection shall be irrevocable.

§ 4. This act shall take effect immediately; provided however that section one of this act shall apply to estates of decedents dying on or after January 1, 2019 and sections two and three of this act shall apply to estates of decedents dying on or after April 1, 2019.

## PART G

Section 1. Section 1101 of the tax law is amended by adding a new subdivision (e) to read as follows:

(e) When used in this article for the purposes of the taxes imposed under subdivision (a) of section eleven hundred five of this article and by section eleven hundred ten of this article, the following terms shall mean:

(1) Marketplace provider. A person who, pursuant to an agreement with a marketplace seller, facilitates sales of tangible personal property by such marketplace seller or sellers. A person "facilitates a sale of tangible personal property" for purposes of this paragraph when the person meets both of the following conditions: (A) such person provides the forum in which, or by means of which, the sale takes place or the offer of sale is accepted, including a shop, store, or booth, an internet website, catalog, or similar forum; and (B) such person or an affiliate of such person collects the receipts paid by a customer to a marketplace seller for a sale of tangible personal property, or contracts with a third party to collect such receipts. For purposes of this paragraph, a "sale of tangible personal property" shall not include the rental of a passenger car as described in section eleven hundred sixty of this chapter but shall include a lease described in subdivision (i) of section eleven hundred eleven of this article. For purposes of this paragraph, persons are affiliated if one person has an ownership interest of more than five percent, whether direct or indirect, in another, or where an ownership interest of more than five percent, whether direct or indirect, is held in each of such persons by another person or by a group of other persons that are affiliated persons with respect to each other.

(2) Marketplace seller. Any person, whether or not such person is required to obtain a certificate of authority under section eleven hundred thirty-four of this article, who has an agreement with a marketplace provider under which the marketplace provider will facilitate sales of tangible personal property by such person within the meaning of paragraph one of this subdivision.

§ 2. Subdivision 1 of section 1131 of the tax law, as amended by section 1 of part X of chapter 59 of the laws of 2018, is amended to read as follows:

(1) "Persons required to collect tax" or "person required to collect any tax imposed by this article" shall include: every vendor of tangible personal property or services; every recipient of amusement charges; ~~and~~ every operator of a hotel; and every marketplace provider with respect to sales of tangible personal property it facilitates as described in paragraph one of subdivision (e) of section eleven hundred one of this article. Said terms shall also include any officer, director or employee of a corporation or of a dissolved corporation, any employee of a partnership, any employee or manager of a limited liability company, or any employee of an individual proprietorship who as such officer, director, employee or manager is under a duty to act for such corporation, partnership, limited liability company or individual proprietorship in complying with any requirement of this article, or has so acted; and any member of a partnership or limited liability company. Provided, however, that any person who is a vendor solely by reason of clause (D) or (E) of subparagraph (i) of paragraph (8) of subdivision (b) of section eleven hundred one of this article shall not be a "person required to collect any tax imposed by this article" until twenty days

1 after the date by which such person is required to file a certificate of  
2 registration pursuant to section eleven hundred thirty-four of this  
3 part.

4 § 3. Section 1132 of the tax law is amended by adding a new subdivi-  
5 sion (1) to read as follows:

6 (1)(1) A marketplace provider with respect to a sale of tangible  
7 personal property it facilitates: (A) shall have all the obligations and  
8 rights of a vendor under this article and article twenty-nine of this  
9 chapter and under any regulations adopted pursuant thereto, including,  
10 but not limited to, the duty to obtain a certificate of authority, to  
11 collect tax, file returns, remit tax, and the right to accept a certif-  
12 icate or other documentation from a customer substantiating an exemption  
13 or exclusion from tax, the right to receive the refund authorized by  
14 subdivision (e) of this section and the credit allowed by subdivision  
15 (f) of section eleven hundred thirty-seven of this part subject to the  
16 provisions of such subdivisions; and (B) shall keep such records and  
17 information and cooperate with the commissioner to ensure the proper  
18 collection and remittance of tax imposed, collected or required to be  
19 collected under this article and article twenty-nine of this chapter.

20 (2) A marketplace seller who is a vendor is relieved from the duty to  
21 collect tax in regard to a particular sale of tangible personal property  
22 subject to tax under subdivision (a) of section eleven hundred five of  
23 this article and shall not include the receipts from such sale in its  
24 taxable receipts for purposes of section eleven hundred thirty-six of  
25 this part if, in regard to such sale: (A) the marketplace seller can  
26 show that such sale was facilitated by a marketplace provider from whom  
27 such seller has received in good faith a properly completed certificate  
28 of collection in a form prescribed by the commissioner, certifying that  
29 the marketplace provider is registered to collect sales tax and will  
30 collect sales tax on all taxable sales of tangible personal property by  
31 the marketplace seller facilitated by the marketplace provider, and with  
32 such other information as the commissioner may prescribe; and (B) any  
33 failure of the marketplace provider to collect the proper amount of tax  
34 in regard to such sale was not the result of such marketplace seller  
35 providing the marketplace provider with incorrect information. This  
36 provision shall be administered in a manner consistent with subparagraph  
37 (i) of paragraph one of subdivision (c) of this section as if a certif-  
38 icate of collection were a resale or exemption certificate for purposes  
39 of such subparagraph, including with regard to the completeness of such  
40 certificate of collection and the timing of its acceptance by the  
41 marketplace seller. Provided that, with regard to any sales of tangible  
42 personal property by a marketplace seller that are facilitated by a  
43 marketplace provider who is affiliated with such marketplace seller  
44 within the meaning of paragraph one of subdivision (e) of section eleven  
45 hundred one of this article, the marketplace seller shall be deemed  
46 liable as a person under a duty to act for such marketplace provider for  
47 purposes of subdivision one of section eleven hundred thirty-one of this  
48 part.

49 (3) The commissioner may, in his or her discretion: (A) develop a  
50 standard provision, or approve a provision developed by a marketplace  
51 provider, in which the marketplace provider obligates itself to collect  
52 the tax on behalf of all the marketplace sellers for whom the market-  
53 place provider facilitates sales of tangible personal property, with  
54 respect to all sales that it facilitates for such sellers where delivery  
55 occurs in the state; and (B) provide by regulation or otherwise that the  
56 inclusion of such provision in the publicly-available agreement between

1 the marketplace provider and marketplace seller will have the same  
2 effect as a marketplace seller's acceptance of a certificate of  
3 collection from such marketplace provider under paragraph two of this  
4 subdivision.

5 § 4. Section 1133 of the tax law is amended by adding a new subdivi-  
6 sion (f) to read as follows:

7 (f) A marketplace provider is relieved of liability under this section  
8 for failure to collect the correct amount of tax to the extent that the  
9 marketplace provider can show that the error was due to incorrect infor-  
10 mation given to the marketplace provider by the marketplace seller.  
11 Provided, however, this subdivision shall not apply if the marketplace  
12 seller and marketplace provider are affiliated within the meaning of  
13 paragraph one of subdivision (e) of section eleven hundred one of this  
14 article.

15 § 5. Paragraph 4 of subdivision (a) of section 1136 of the tax law, as  
16 amended by section 46 of part K of chapter 61 of the laws of 2011, is  
17 amended to read as follows:

18 (4) The return of a vendor of tangible personal property or services  
19 shall show such vendor's receipts from sales and the number of gallons  
20 of any motor fuel or diesel motor fuel sold and also the aggregate value  
21 of tangible personal property and services and number of gallons of such  
22 fuels sold by the vendor, the use of which is subject to tax under this  
23 article, and the amount of tax payable thereon pursuant to the  
24 provisions of section eleven hundred thirty-seven of this part. The  
25 return of a recipient of amusement charges shall show all such charges  
26 and the amount of tax thereon, and the return of an operator required to  
27 collect tax on rents shall show all rents received or charged and the  
28 amount of tax thereon. The return of a marketplace seller shall exclude  
29 the receipts from a sale of tangible personal property facilitated by a  
30 marketplace provider if, in regard to such sale: (A) the marketplace  
31 seller has timely received in good faith a properly completed certif-  
32 icate of collection from the marketplace provider or the marketplace  
33 provider has included a provision approved by the commissioner in the  
34 publicly-available agreement between the marketplace provider and the  
35 marketplace seller as described in subdivision one of section eleven  
36 hundred thirty-two of this part, and (B) the information provided by the  
37 marketplace seller to the marketplace provider about such tangible  
38 personal property is accurate.

39 § 6. Section 1142 of the tax law is amended by adding a new subdivi-  
40 sion 15 to read as follows:

41 (15) To publish a list on the department's website of marketplace  
42 providers whose certificates of authority have been revoked and, if  
43 necessary to protect sales tax revenue, provide by regulation or other-  
44 wise that a marketplace seller who is a vendor will be relieved of the  
45 duty to collect tax for sales of tangible personal property facilitated  
46 by a marketplace provider only if, in addition to the conditions  
47 prescribed by paragraph two of subdivision (1) of section eleven hundred  
48 thirty-two of this part being met, such marketplace provider is not on  
49 such list at the commencement of the quarterly period covered thereby.

50 § 7. This act shall take effect immediately and shall apply to sales  
51 made on or after September 1, 2019.

Section 1. Subparagraph (A) of paragraph 1 of subdivision (b) of section 1105 of the tax law, as amended by section 9 of part S of chapter 85 of the laws of 2002, is amended to read as follows:

(A) gas, electricity, refrigeration and steam, and gas, electric, refrigeration and steam service of whatever nature, including the transportation, transmission or distribution of gas or electricity, even if sold separately;

§ 2. Section 1105-C of the tax law is REPEALED.

§ 3. Subparagraph (xi) of paragraph 4 of subdivision (a) of section 1210 of the tax law is REPEALED.

§ 4. Paragraph 8 of subdivision (b) of section 11-2001 of the administrative code of the city of New York is REPEALED.

§ 5. This act shall take effect June 1, 2019, and shall apply to sales made and services rendered on and after that date, whether or not under a prior contract.

#### PART I

Section 1. Subdivision 3 of section 1204 of the real property tax law, as added by chapter 115 of the laws of 2018, is amended to read as follows:

3. Where the tentative equalization rate is not within plus or minus five ~~[percentage points]~~ percent of the locally stated level of assessment, the assessor shall provide notice in writing to the local governing body of any affected town, city, village, county and school district of the difference between the locally stated level of assessment and the tentative equalization rate. Such notice shall be made within ten days of the receipt of the tentative equalization rate, or within ten days of the filing of the tentative assessment roll, whichever is later, and shall provide the difference in the indicated total full value estimates of the locally stated level of assessment and the tentative equalization rate for the taxable property within each affected town, city, village, county and school district, where applicable.

§ 2. The real property tax law is amended by adding a new section 1211 to read as follows:

§ 1211. Confirmation by commissioner of the locally stated level of assessment. Notwithstanding the foregoing provisions of this title, before the commissioner determines a tentative equalization rate for a city, town or village, he or she shall examine the accuracy of the locally stated level of assessment appearing on the tentative assessment roll. If the commissioner confirms the locally stated level of assessment, then as soon thereafter as is practicable, he or she shall establish and certify such locally stated level of assessment as the final equalization rate for such city, town or village in the manner provided by sections twelve hundred ten and twelve hundred twelve of this title. The provisions of sections twelve hundred four, twelve hundred six and twelve hundred eight of this title shall not apply in such cases, unless the commissioner finds that the final assessment roll differs from the tentative assessment roll to an extent that renders the locally stated level of assessment inaccurate, and rescinds the final equalization rate on that basis.

§ 3. Paragraph (d) of subdivision 1 of section 1314 of the real property tax law, as amended by chapter 158 of the laws of 2002, is amended to read as follows:

(d) (i) Such district superintendent shall also determine what proportion of any tax to be levied in such school district for school purposes



1 during the current school year shall be levied upon each part of a city  
2 or town included in such school district by dividing the sum of the full  
3 valuation of real property in such part of a city or town by the total  
4 of all such full valuations of real property in such school district.  
5 Provided, however, that prior to the levy of taxes, the governing body  
6 of the school district may adopt a resolution directing such proportions  
7 to be based upon the average full valuation of real property in each  
8 such city or town over either a three-year period, consisting of the  
9 current school year and the two prior school years, or over a five-year  
10 period, consisting of the current school year and the four prior school  
11 years. Once such a resolution has been adopted, the proportions for  
12 ensuing school years shall continue to be based upon the average full  
13 valuation of real property in each such city or town over the selected  
14 period, unless the resolution provides otherwise or is repealed.

15 (ii) Such proportions shall be expressed in the nearest exact ten  
16 thousandths and the school authorities of such school district shall  
17 levy such a proportion of any tax to be raised in the school district  
18 during the current school year upon each part of a city or town included  
19 in such school district as shall have been determined by the district  
20 superintendent. A new proportion shall be determined for each school  
21 year thereafter by the district superintendent in accordance with the  
22 provisions of this section by the use of the latest state equalization  
23 rates. In any such school district that is not within the jurisdiction  
24 of a district superintendent of schools, the duties which would other-  
25 wise be performed by the district superintendent under the provisions of  
26 this section, shall be performed by the school authorities of such  
27 district.

28 § 4. This act shall take effect immediately.

#### 29 PART J

30 Section 1. This Part enacts into law major components of legislation  
31 relating to the improvement of the administration of real property taxa-  
32 tion in accordance with the real property tax law and other laws relat-  
33 ing thereto. Each component is wholly contained within a Subpart identi-  
34 fied as Subparts A through F. The effective date for each particular  
35 provision contained within such Subpart is set forth in the last section  
36 of such Subpart. Any provision in any section contained within a  
37 Subpart, including the effective date of the Subpart, which makes a  
38 reference to a section "of this act", when used in connection with that  
39 particular component, shall be deemed to mean and refer to the corre-  
40 sponding section of the Subpart in which it is found. Section three of  
41 this Part sets forth the general effective date of this Part.

#### 42 SUBPART A

43 Section 1. The real property tax law is amended by adding a new  
44 section 497 to read as follows:

45 § 497. Assessment relief in state disaster emergencies. 1. Notwith-  
46 standing any provision of law to the contrary, during a state disaster  
47 emergency as defined by section twenty of the executive law, an eligible  
48 municipality may exercise the provisions of this section if its govern-  
49 ing body, by the sixtieth day following the date upon which the governor  
50 declares a state disaster emergency, passes a local law or ordinance, or  
51 in the case of a school district a resolution, adopting the provisions  
52 of this section. An eligible municipality may provide assessment relief



1 for real property that is impacted by the disaster that led to the  
2 declaration of the state disaster emergency, and that is located within  
3 such municipality, as provided in subparagraphs (i), (ii), (iii) or (iv)  
4 of paragraph (a) of subdivision three of this section only if its  
5 governing body specifically elects to do so as part of such local law,  
6 ordinance or resolution. A copy of any such local law, ordinance or  
7 resolution shall be filed with the commissioner within ten days after  
8 the adoption thereof.

9 2. Definitions. For the purposes of this section, the following terms  
10 shall have the following meanings:

11 a. "Eligible county" shall mean a county, other than a county wholly  
12 contained within a city, specifically referenced within a declaration by  
13 the governor of a state disaster emergency.

14 b. "Eligible municipality" shall mean a municipal corporation, as  
15 defined by subdivision ten of section one hundred two of this chapter,  
16 that is either: (i) an eligible county; or (ii) a city, town, village,  
17 special district, or school district that is wholly or partly contained  
18 within an eligible county.

19 c. "Impacted tax roll" shall mean the final assessment roll that  
20 satisfies both of the following conditions: (a) the roll is based upon a  
21 taxable status date occurring prior to a disaster that is the subject of  
22 a declaration by the governor of a state disaster emergency; and (b)  
23 taxes levied upon that roll by or on behalf of a participating muni-  
24 cipality are payable without interest on or after the date of the disas-  
25 ter.

26 d. "Participating municipality" shall mean an eligible municipality  
27 that has passed a local law, ordinance, or resolution to provide assess-  
28 ment relief to property owners within such eligible municipality pursu-  
29 ant to the provisions of this section.

30 e. "Total assessed value" shall mean the total assessed value of the  
31 parcel prior to any and all exemption adjustments.

32 f. "Improved value" shall mean the market value of the real property  
33 improvements excluding the land.

34 g. "Property" shall mean "real property", "property" or "land" as  
35 defined under paragraphs (a) through (g) of subdivision twelve of  
36 section one hundred two of this chapter.

37 3. Assessment relief for disaster victims in an eligible county. (a)  
38 Notwithstanding any provision of law to the contrary, where real proper-  
39 ty is impacted by a disaster that led to the declaration of a state  
40 disaster emergency, and such property is located within a participating  
41 municipality, assessment relief shall be granted as follows:

42 (i) If a participating municipality has elected to provide assessment  
43 relief for real property that lost at least ten percent but less than  
44 twenty percent of its improved value due to a disaster, the assessed  
45 value attributable to the improvements shall be reduced by fifteen  
46 percent for purposes of the participating municipality on the impacted  
47 tax roll.

48 (ii) If a participating municipality has elected to provide assessment  
49 relief for real property that lost at least twenty percent but less than  
50 thirty percent of its improved value due to a disaster, the assessed  
51 value attributable to the improvements shall be reduced by twenty-five  
52 percent for purposes of the participating municipality on the impacted  
53 tax roll.

54 (iii) If a participating municipality has elected to provide assess-  
55 ment relief for real property that lost at least thirty percent but less  
56 than forty percent of its improved value due to a disaster, the assessed

1 value attributable to the improvements shall be reduced by thirty-five  
2 percent for purposes of the participating municipality on the impacted  
3 tax roll.

4 (iv) If a participating municipality has elected to provide assessment  
5 relief for real property that lost at least forty percent but less than  
6 fifty percent of its improved value due to a disaster, the assessed  
7 value attributable to the improvements shall be reduced by forty-five  
8 percent for purposes of the participating municipality on the impacted  
9 tax roll.

10 (v) If the property lost at least fifty but less than sixty percent of  
11 its improved value due to a disaster, the assessed value attributable to  
12 the improvements shall be reduced by fifty-five percent for purposes of  
13 the participating municipality on the impacted tax roll.

14 (vi) If the property lost at least sixty but less than seventy percent  
15 of its improved value due to a disaster, the assessed value attributable  
16 to the improvements shall be reduced by sixty-five percent for purposes  
17 of the participating municipality on the impacted tax roll.

18 (vii) If the property lost at least seventy but less than eighty  
19 percent of its improved value due to a disaster, the assessed value  
20 attributable to the improvements shall be reduced by seventy-five  
21 percent for purposes of the participating municipality on the impacted  
22 tax roll.

23 (viii) If the property lost at least eighty but less than ninety  
24 percent of its improved value due to a disaster, the assessed value  
25 attributable to the improvements shall be reduced by eighty-five percent  
26 for purposes of the participating municipality on the impacted tax roll.

27 (ix) If the property lost at least ninety but less than one hundred  
28 percent of its improved value due to a disaster, the assessed value  
29 attributable to the improvements shall be reduced by ninety-five percent  
30 for purposes of the participating municipality on the impacted tax roll.

31 (x) If the property lost one hundred percent of its improved value due  
32 to a disaster, the assessed value attributable to the improvements shall  
33 be reduced by one hundred percent for purposes of the participating  
34 municipality on the impacted tax roll.

35 (xi) The percentage loss in improved value for this purpose shall be  
36 adopted by the assessor from a written finding of the Federal Emergency  
37 Management Agency or, where no such finding exists, shall be determined  
38 by the assessor in the manner provided by this section, subject to  
39 review by the board of assessment review.

40 (xii) Where the assessed value of a property is reduced pursuant to  
41 this section, the difference between the property's assessed value and  
42 its reduced assessed value shall be exempt from taxation. No reduction  
43 in assessed value shall be granted pursuant to this section except as  
44 specified above for such counties. No reduction in assessed value shall  
45 be granted pursuant to this section for purposes of any county, city,  
46 town, village or school district that has not adopted the provisions of  
47 this section.

48 (b) To receive such relief pursuant to this section, a property owner  
49 in a participating municipality shall submit a written request to the  
50 assessor on a form prescribed by the commissioner within one hundred  
51 twenty days following the date upon which the state disaster emergency  
52 was declared by the governor, provided, however, that such one hundred  
53 twenty day period may be extended to a total of up to one hundred eighty  
54 days by a local law, ordinance or resolution adopted by the governing  
55 body of the assessing unit. A copy of any such local law, ordinance or  
56 resolution shall be filed with the commissioner. Such request shall

1 attach any and all determinations by the Federal Emergency Management  
2 Agency, and any and all reports by an insurance adjuster, shall describe  
3 in reasonable detail the damage caused to the property by the disaster  
4 and the condition of the property following the disaster, and shall be  
5 accompanied by supporting documentation, if available.

6 (c) Upon receiving such a request, the assessor shall adopt the find-  
7 ing by the Federal Emergency Management Agency or, if such finding does  
8 not exist, the assessor shall make a finding as to whether the property  
9 lost at least fifty percent of its improved value or, if a participating  
10 municipality has elected to provide assessment relief for real property  
11 that lost a lesser percentage of improved value such lesser percentage  
12 of its improved value, as a result of a disaster. The assessor shall  
13 thereafter adopt or classify the percentage loss of improved value with-  
14 in one of the following ranges:

15 (i) At least ten percent but less than twenty percent, provided that  
16 this range shall only be applicable if a participating municipality has  
17 elected to provide assessment relief for losses within this range,

18 (ii) At least twenty percent but less than thirty percent, provided  
19 that this range shall only be applicable if a participating municipality  
20 has elected to provide assessment relief for losses within this range,

21 (iii) At least thirty percent but less than forty percent, provided  
22 that this range shall only be applicable if a participating municipality  
23 has elected to provide assessment relief for losses within this range,

24 (iv) At least forty percent but less than fifty percent, provided that  
25 this range shall only be applicable if a participating municipality has  
26 elected to provide assessment relief for losses within this range,

27 (v) At least fifty percent but less than sixty percent,

28 (vi) At least sixty percent but less than seventy percent,

29 (vii) At least seventy percent but less than eighty percent,

30 (viii) At least eighty percent but less than ninety percent,

31 (ix) At least ninety percent but less than one hundred percent, or

32 (x) One hundred percent.

33 (d) On or before the thirtieth day after the last date for the filing  
34 of requests for relief pursuant to this section, the assessor shall mail  
35 written notice of such findings to the property owner and participating  
36 municipality. The notice shall indicate that if the property owner is  
37 dissatisfied with these findings, he or she may file a complaint with  
38 the board of assessment review up until the date specified in such  
39 notice, which date shall be the twenty-first day after the last date for  
40 the mailing of such notices. If any complaints are so filed, such board  
41 shall reconvene upon ten days written notice to the property owner and  
42 assessor to hear and determine the complaint, and shall mail written  
43 notice of its determination to the assessor and property owner within  
44 fifteen days of such hearing. The provisions of article five of this  
45 chapter shall govern the review process to the extent practicable. For  
46 the purposes of this section only, the applicant may commence, within  
47 thirty days of mailing of a written determination, a proceeding under  
48 title one of article seven of this chapter or, if applicable, under  
49 title one-A of article seven of this chapter. Sections seven hundred  
50 twenty-seven and seven hundred thirty-nine of this chapter shall not  
51 apply.

52 (e) Where property has lost at least fifty percent of its improved  
53 value or, if a participating municipality has elected to provide assess-  
54 ment relief for real property that lost a lesser percentage of improved  
55 value such lesser percentage, due to a disaster, the assessed value  
56 attributable to the improvements on the property on the impacted assess-

1 ment roll shall be reduced by the appropriate percentage specified in  
2 paragraph (a) of this subdivision, provided that any exemptions that the  
3 property may be receiving shall be adjusted as necessary to account for  
4 such reduction in the total assessed value. To the extent the total  
5 assessed value of the property originally appearing on such roll exceeds  
6 the amount to which it should be reduced pursuant to this section, the  
7 excess shall be considered an error in essential fact as defined by  
8 subdivision three of section five hundred fifty of this chapter. The  
9 assessor shall thereupon be authorized and directed to correct the  
10 assessment roll accordingly or, if another person has custody or control  
11 of the assessment roll, to direct such person to make the appropriate  
12 corrections. If the correction is made after taxes are levied but before  
13 such taxes are paid, the collecting officer shall be authorized and  
14 directed to correct the applicant's tax bill accordingly. If the  
15 correction is made after taxes are paid, the authorities of each partic-  
16 ipating municipal corporation shall be authorized and directed to issue  
17 a refund in the amount of the excess taxes paid with regard to such  
18 participating municipal corporation.

19 (f) The rights contained in this section shall not otherwise diminish  
20 any other legally available right of any property owner or party who may  
21 otherwise lawfully challenge the valuation or assessment of any real  
22 property or improvements thereon. All remaining rights hereby remain  
23 and shall be available to the party to whom such rights would otherwise  
24 be available notwithstanding this section.

25 4. School districts held harmless. Each school district that is wholly  
26 or partially contained within an eligible county shall be held harmless  
27 by the state for any reduction in state aid that would have been paid as  
28 tax savings pursuant to section thirteen hundred six-a of this chapter  
29 incurred due to the provisions of this section.

30 5. Bonds authorized. Serial bonds and, in advance of such, bond antic-  
31 ipation notes are hereby authorized pursuant to subdivision thirty-  
32 three-e of paragraph a of section 11.00 of the local finance law,  
33 provided, however, that any federal community development block grant  
34 funding received by such participating municipality, in relation to loss  
35 of property tax funding, shall first be used to defease, upon maturity,  
36 the interest and principal of any such bond or note so outstanding.

37 § 2. Paragraph a of section 11.00 of the local finance law is amended  
38 by adding a new subdivision 33-e to read as follows:

39 33-e. Real property tax refunds and credits. Payments of exemptions,  
40 refunds, or credits for real property tax, sewer and water rents, rates  
41 and charges and all other real property taxes to be made by a munici-  
42 pality, school district or district corporation as a result of providing  
43 assessment relief in a state disaster emergency pursuant to section four  
44 hundred ninety-seven of the real property tax law, ten years.

45 § 3. This act shall take effect immediately.

46 SUBPART B

47 Section 1. Paragraph (b) of subdivision 1 of section 523 of the real  
48 property tax law, as amended by chapter 223 of the laws of 1987, is  
49 amended to read as follows:

50 (b) The board of assessment review shall consist of not less than  
51 three nor more than five members appointed by the legislative body of  
52 the local government or village or as provided by subdivision five of  
53 section fifteen hundred thirty-seven of this chapter, if applicable.  
54 Members shall have a knowledge of property values in the local govern-

1 ment or village. Neither the assessor nor any member of his or her staff  
2 may be appointed to the board of assessment review. A majority of such  
3 board shall consist of members who are not officers or employees of the  
4 local government or village.

5 § 2. Subdivision 1 of section 1537 of the real property tax law, as  
6 added by chapter 512 of the laws of 1993, is amended and a new subdivi-  
7 sion 5 is added to read as follows:

8 1. (a) An assessing unit and a county shall have the power to enter  
9 into, amend, cancel and terminate an agreement for appraisal services,  
10 exemption services, ~~[or]~~ assessment services, or assessment review  
11 services, in the manner provided by this section. Such an agreement  
12 shall be considered an agreement for the provision of a "joint service"  
13 for purposes of article five-G of the general municipal law, notwith-  
14 standing the fact that the county would not have the power to perform  
15 such services in the absence of such an agreement.

16 (b) Any such agreement shall be approved by both the assessing unit  
17 and the county, by a majority vote of the voting strength of each  
18 governing body.

19 (c) In the case of an assessing unit, no such agreement shall be  
20 submitted to the governing body for approval unless at least forty-five  
21 days prior to such submission, the governing body shall have adopted a  
22 resolution, subject to a permissive referendum, authorizing the assess-  
23 ing unit to negotiate such an agreement with the county; provided,  
24 however, that such prior authorization shall not be required for an  
25 agreement to amend, cancel or terminate an existing agreement pursuant  
26 to this section.

27 5. An agreement between an assessing unit and a county for assessment  
28 review services shall provide for the members of the board of assessment  
29 review of the assessing unit to be appointed by the legislative body of  
30 the county upon the recommendation of the county director of the real  
31 property tax services. Each member so appointed shall be a resident of  
32 the county but need not be a resident of the assessing unit. The board  
33 of assessment review as so constituted shall have the authority to  
34 receive, review and resolve petitions for assessment review filed in  
35 such assessing unit, and for the corrections of errors therein, to the  
36 full extent set forth in article five of this chapter.

37 § 3. Subdivision 1 of section 1408 of the real property tax law, as  
38 amended by chapter 473 of the laws of 1984, is amended to read as  
39 follows:

40 1. At the time and place and during the hours specified in the notice  
41 given pursuant to section fourteen hundred six of this chapter, the  
42 board of review shall meet to hear complaints relating to assessments  
43 brought before it. The board of trustees and assessors, or a committee  
44 of such board constituting at least a majority thereof and the assessors  
45 or a board of assessment review constituted pursuant to section five  
46 hundred twenty-three of this chapter, or as provided by subdivision five  
47 of section fifteen hundred thirty-seven of this chapter, if applicable,  
48 shall constitute the board of review.

49 § 4. This act shall take effect immediately.

50 SUBPART C

51 Section 1. Subdivision 4 of section 318 of the real property tax law,  
52 as amended by chapter 527 of the laws of 1997 and as further amended by  
53 subdivision (b) of section 1 of part W of chapter 56 of the laws of  
54 2010, is amended to read as follows:



4. Notwithstanding the provisions of this subdivision or any other law, the travel and other actual and necessary expenses incurred by an appointed or elected assessor, or by a person appointed assessor for a forthcoming term, or by an assessor-elect prior to the commencement of his or her term, in satisfactorily completing courses of training as required by this title or as approved by the commissioner, including continuing education courses prescribed by the commissioner which are satisfactorily completed by any elected assessor, shall be a state charge upon audit by the comptroller. Travel and other actual and necessary expenses incurred by an acting assessor who has been exercising the powers and duties of the assessor for a period of at least six months, in attending training courses no earlier than twelve months prior to the date when courses of training and education are required, shall also be a state charge upon audit by the comptroller. Candidates for certification as eligible for the position of assessor, other than assessors or assessors-elect, shall be charged for the cost of training materials and shall be responsible for all other costs incurred by them in connection with such training. Notwithstanding the foregoing provisions of this subdivision, if the provider of a training course has asked the commissioner to approve the course for credit only, so that attendees who successfully complete the course would be entitled to receive credit without having their expenses reimbursed by the state, and the commissioner has agreed to do so, the travel and other actual and necessary expenses incurred by such attendees shall not be a state charge.

§ 2. Paragraph f of subdivision 3 of section 1530 of the real property tax law, as amended by chapter 361 of the laws of 1986 and as further amended by subdivision (b) of section 1 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

f. Expenses in attending training courses. Notwithstanding the provisions of any other law, the travel and other actual and necessary expenses incurred by a director or a person appointed director for a forthcoming term in attending courses of training as required by this subdivision or as approved by the commissioner shall be a state charge upon audit by the comptroller. Notwithstanding the foregoing provisions of this paragraph, if the provider of a training course has asked the commissioner to approve the course for credit only, so that attendees who successfully complete the course would be entitled to receive credit without having their expenses reimbursed by the state, and the commissioner has agreed to do so, the travel and other actual and necessary expenses incurred by such attendees shall not be a state charge.

§ 3. This act shall take effect immediately.

#### SUBPART D

Section 1. Section 104 of the real property tax law, as added by section 1 of part U of chapter 61 of the laws of 2011, is amended to read as follows:

§ 104. Electronic real property tax administration. 1. Notwithstanding any provision of law to the contrary, the commissioner is hereby authorized to establish standards for electronic real property tax administration (E-RPT). Such standards shall set forth the terms and conditions under which the various tasks associated with real property tax administration may be executed electronically, dispensing with the need for paper documents. Such tasks shall include any or all of the following:

(a) The filing of exemption applications;

(b) The filing of petitions for administrative review of assessments;



(c) The filing of petitions for judicial review of assessments;  
(d) The filing of applications for administrative corrections of errors;  
(e) The issuance of statements of taxes;  
(f) The payment of taxes, subject to the provisions of sections five and five-b of the general municipal law;  
(g) The provision of receipts for the payment of taxes;  
(h) The issuance of taxpayer notices required by law, including sections five hundred eight, five hundred ten, five hundred ten-a, five hundred eleven, five hundred twenty-five and five hundred fifty-one-a through five hundred fifty-six-b of this chapter; and  
(i) The furnishing of notices and certificates under this chapter relating to state equalization rates, residential assessment ratios, special franchise assessments, railroad ceilings, taxable state lands, advisory appraisals, and the certification of assessors and county directors or real property tax services, subject to the provisions of subdivision five of this section.

2. Such standards shall be developed after consultation with local government officials, the office of court administration in the case of standards relating to petitions for judicial review of assessments, and the office of the state comptroller in the case of standards relating to payments or taxes and the issuance of receipts therefor.

3. (a) Taxpayers shall not be required to accept notices, statements of taxes, receipts for the payment of taxes, or other documents electronically unless they have so elected. Taxpayers who have not so elected shall be sent such communications in the manner otherwise provided by law.

(b) ~~Assessors and other municipal officials shall not be required to accept and respond to communications from the commissioner electronically.~~

~~(e)~~ The governing board of any municipal corporation may, by local law, ordinance or resolution, determine that it is in the public interest for such municipal corporation to provide electronic real property tax administration. Upon adoption of such local law, ordinance or resolution, such municipal corporation shall comply with standards set forth by the commissioner.

~~(d)~~ (c) The standards prescribed by the commissioner pursuant to this section relating to communications with taxpayers shall provide for the collection of electronic contact information, such as e-mail addresses and/or social network usernames, from taxpayers who have elected to receive electronic communications in accordance with the provisions of this section. Such information shall be exempt from public disclosure in accordance with section eighty-nine of the public officers law.

4. When a document has been transmitted electronically in accordance with the provisions of this section and the standards adopted by the commissioner hereunder, it shall be deemed to satisfy the applicable legal requirements to the same extent as if it had been mailed via the United States postal service.

5. (a) On and after January first, two thousand twenty, whenever the commissioner is obliged by law to mail a notice of the determination of a tentative state equalization rate, tentative special franchise assessment, tentative assessment ceiling or other tentative determination of the commissioner that is subject to administrative review, the commissioner shall be authorized to furnish the required notice by e-mail, or by causing it to be posted on the department's website, or both, at his

1 or her discretion. Notwithstanding any provision of law to the contrary,  
2 the commissioner shall not be required to furnish such notices by postal  
3 mail, except as provided by paragraphs (d) and (e) of this subdivision.

4 (b) When providing notice of a tentative determination by e-mail  
5 pursuant to this subdivision, the commissioner shall specify an e-mail  
6 address to which complaints regarding such tentative determination may  
7 be sent. A complaint that is sent to the commissioner by e-mail to the  
8 specified e-mail address by the date prescribed by law for the mailing  
9 of such complaints shall be deemed valid to the same extent as if it had  
10 been sent by postal mail.

11 (c) When a final determination is made in such a matter, notice of the  
12 final determination and any certificate relating thereto shall be  
13 furnished by e-mail or by a website posting, at the commissioner's  
14 discretion, and need not be provided by postal mail, except as provided  
15 by paragraphs (d) and (e) of this subdivision.

16 (d) If an assessor has advised the commissioner in writing that he or  
17 she prefers to receive the notices described in this subdivision by  
18 postal mail, the commissioner shall thereafter send such notices to that  
19 assessor by postal mail, and need not send such notices to that assessor  
20 by e-mail. The commissioner shall prescribe a form that assessors may  
21 use to advise the commissioner of their preference for postal mail.

22 (e) If the commissioner learns that an e-mail address to which a  
23 notice has been sent pursuant to this subdivision is not valid, and the  
24 commissioner cannot find a valid e-mail address for that party, the  
25 commissioner shall resend the notice to the party by postal mail. If the  
26 commissioner does not have a valid e-mail address for the party at the  
27 time the notice is initially required to be sent, the commissioner shall  
28 send the notice to that party by postal mail.

29 (f) On or before November thirtieth, two thousand nineteen, the  
30 commissioner shall send a notice by postal mail to assessors, to chief  
31 executive officers of assessing units, and to owners of special fran-  
32 chise property and railroad property, informing them of the provisions  
33 of this section. The notice to be sent to assessors shall include a  
34 copy of the form prescribed pursuant to paragraph (d) of this subdivi-  
35 sion.

36 (g) As used in this subdivision, the term "postal mail" shall mean  
37 mail that is physically delivered to the addressee by the United States  
38 postal service.

39 § 2. This act shall take effect immediately.

40 SUBPART E

41 Section 1. Subdivision 4 of section 302 of the real property tax law,  
42 as amended by chapter 348 of the laws of 2007, is amended to read as  
43 follows:

44 4. The taxable status of a special franchise shall be determined on  
45 the basis of its value and its ownership as of the first day of [~~July~~]  
46 January of the year preceding the year in which the assessment roll on  
47 which such property is to be assessed is completed and filed in the  
48 office of the city or town clerk, except that taxable status of such  
49 properties shall be determined on the basis of ownership as of the first  
50 day of [~~July~~] January of the second year preceding the date required by  
51 law for the filing of the final assessment roll for purposes of all  
52 village assessment rolls.

53 § 2. Subdivision 2 of section 606 of the real property tax law, as  
54 amended by chapter 743 of the laws of 2005 and as further amended by

subdivision (b) of section 1 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

2. In any assessing unit which has completed a revaluation since nineteen hundred fifty-three or which does not contain property that was assessed in nineteen hundred fifty-three, the commissioner shall determine the full value of such special franchise as of the ~~[valuation date of the assessing unit]~~ taxable status date specified by subdivision four of section three hundred two of this chapter. Such full value shall be determined by the commissioner for purposes of sections six hundred eight, six hundred fourteen and six hundred sixteen of this article. These full values shall be entered on the assessment roll at the level of assessment, which shall be the uniform percentage of value, as required by section five hundred two of this chapter, appearing on the tentative assessment roll upon which the assessment is entered. Whenever a final state equalization rate, or, in the case of a special assessing unit, a class equalization rate, is established that is different from a level of assessment applied pursuant to this paragraph, any public official having custody of that assessment roll is hereby authorized and directed to recompute these assessments to reflect that equalization rate, provided such final rate is established by the commissioner at least ten days prior to the date for levy of taxes against those assessments.

§ 3. This act shall take effect January 1, 2020.

#### SUBPART F

Section 1. The real property tax law is amended by adding a new section 575-a to read as follows:

§ 575-a. Electric generating facility annual reports. 1. Every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating or managing any electric generating facility in the state shall annually file with the commissioner, by April thirtieth, a report showing the inventory, revenue, and expenses associated therewith for the most recent fiscal year. Such report shall be in the form and manner prescribed by the commissioner.

2. When used in this section, "electric generating facility" shall mean any facility that generates electricity for sale, directly or indirectly, to the public, including the land upon which the facility is located, any equipment used in such generation, and equipment leading from the facility to the interconnection with the electric transmission system, but shall not include:

(a) any equipment in the electric transmission system; and

(b) any electric generating equipment owned or operated by a residential customer of an electric generating facility, including the land upon which the equipment is located, when located and used at his or her residence.

3. Every electric generating facility owner, operator, or manager failing to make the report required by this section, or failing to make any report required by the commissioner pursuant to this section within the time specified by it, shall forfeit to the people of the state the sum of ten thousand dollars for every such failure and the additional sum of one thousand dollars for each day that such failure continues.

§ 2. This act shall take effect January 1, 2020.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or subpart of this act shall be adjudged by any court of

competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or subpart thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately provided, however, that the applicable effective date of Subparts A through F of this Part shall be as specifically set forth in the last section of such Subparts.

#### PART K

Section 1. Section 3-d of the general municipal law, as added by section 2 of part E of chapter 59 of the laws of 2018, is REPEALED.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 12, 2018.

#### PART L

Section 1. The tax law is amended by adding a new section 44 to read as follows:

§ 44. Employer-provided child care credit. (a) General. A taxpayer subject to tax under article nine-A, twenty-two, or thirty-three of this chapter shall be allowed a credit against such tax in an amount equal to the portion of the credit that is allowed to the taxpayer under section 45F of the internal revenue code that is attributable to (i) qualified child care expenditures paid or incurred with respect to a qualified child care facility with a situs in the state, and to (ii) qualified child care resource and referral expenditures paid or incurred with respect to the taxpayer's employees working in the state. The credit allowable under this subdivision for any taxable year shall not exceed one hundred fifty thousand dollars. If the entity operating the qualified child care facility is a partnership or a New York S corporation, then such cap shall be applied at the entity level, so the aggregate credit allowed to all the partners or shareholders of such entity in a taxable year does not exceed one hundred fifty thousand dollars.

(b) Credit recapture. If there is a cessation of operation or change in ownership, as defined by section 45F of the internal revenue code relating to a qualified child care facility with a situs in the state, the taxpayer shall add back the applicable recapture percentage of the credit allowed under this section in accordance with the recapture provisions of section 45F of the internal revenue code, but the recapture amount shall be limited to the credit allowed under this section.

(c) Reporting requirements. A taxpayer that has claimed a credit under this section shall notify the commissioner of any cessation of operation, change in ownership, or agreement to assume recapture liability as such terms are defined by section 45F of the internal revenue code, in the form and manner prescribed by the commissioner.

(d) Definitions. The terms "qualified child care expenditures", "qualified child care facility", "qualified child care resource and referral expenditure", "cessation of operation", "change of ownership", and "applicable recapture percentage" shall have the same meanings as in section 45F of the internal revenue code.

(e) Cross-references. For application of the credit provided for in this section, see the following provisions of this chapter:

- (1) article 9-A: section 210-B, subdivision 53;  
(2) article 22: section 606(i), subsections (i) and (jjj);  
(3) article 33: section 1511, subdivision (dd).

§ 2. Section 210-B of the tax law is amended by adding a new subdivision 53 to read as follows:

53. Employer-provided child care credit. (a) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in section forty-four of this chapter, against the tax imposed by this article.

(b) Application of credit. The credit allowed under this subdivision for any taxable year may not reduce the tax due for such year to less than the amount prescribed in paragraph (d) of subdivision one of section two hundred ten of this article. However, if the amount of the credit allowed under this subdivision for any taxable year reduces the tax to such amount or if the taxpayer otherwise pays tax based on the fixed dollar minimum amount, any amount of credit thus not deductible in such taxable year will be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section one thousand eighty-six of this chapter. Provided, however, the provisions of subsection (c) of section one thousand eighty-eight of this chapter notwithstanding, no interest shall be paid thereon.

(c) Credit recapture. For provisions requiring recapture of credit, see section forty-four of this chapter.

§ 3. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xliv) to read as follows:

<u>(xliv) Employer-provided child</u>	<u>Amount of credit under subdivision</u>
<u>care credit (jjj)</u>	<u>fifty-three of section two hundred</u>
	<u>ten-B</u>

§ 4. Section 606 of the tax law is amended by adding a new subsection (jjj) to read as follows:

(jjj) Employer-provided child care credit. (1) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in section forty-four of this chapter, against the tax imposed by this article.

(2) Application of credit. If the amount of the credit allowed under this subsection for any taxable year exceeds the taxpayer's tax for such year, the excess will be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest will be paid thereon.

(3) Credit recapture. For provisions requiring recapture of credit, see section forty-four of this chapter.

§ 5. Section 1511 of the tax law is amended by adding a new subdivision (dd) to read as follows:

(dd) Employer-provided child care credit. (1) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in section forty-four of this chapter, against the tax imposed by this article.

(2) Application of credit. The credit allowed under this subdivision shall not reduce the tax due for such year to be less than the minimum fixed by paragraph four of subdivision (a) of section fifteen hundred two or section fifteen hundred two-a of this article, whichever is applicable. However, if the amount of the credit allowed under this subdivision for any taxable year reduces the taxpayer's tax to such amount, any amount of credit thus not deductible will be treated as an



1 overpayment of tax to be credited or refunded in accordance with the  
2 provisions of section one thousand eighty-six of this chapter.  
3 Provided, however, the provisions of subsection (c) of one thousand  
4 eighty-eight of this chapter notwithstanding, no interest shall be paid  
5 thereon.

6 (3) Credit recapture. For provisions requiring recapture of credit,  
7 see section forty-four of this chapter

8 § 6. This act shall take effect immediately and apply to years begin-  
9 ning on or after January 1, 2020.

10 PART M

11 Section 1. Paragraph 1 of subsection (b) of section 631 of the tax law  
12 is amended by adding a new subparagraph (D-1) to read as follows:

13 (D-1) gambling winnings in excess of five thousand dollars from wager-  
14 ing transactions within the state; or

15 § 2. Paragraph 2 of subsection (b) of section 671 of the tax law is  
16 amended by adding a new subparagraph (E) to read as follows:

17 (E) Any gambling winnings from a wagering transaction within this  
18 state, if the proceeds from the wager are subject to withholding under  
19 section three thousand four hundred two of the internal revenue code.

20 § 3. This act shall take effect immediately and shall apply to taxable  
21 years beginning on or after January 1, 2019; provided, however that the  
22 amendments to subsection (b) of section 671 of the tax law made by  
23 section two of this act shall not affect the expiration of such  
24 subsection and shall be deemed to expire therewith.

25 PART N

26 Section 1. Subdivision (c) of section 42 of the tax law, as added by  
27 section 1 of part RR of chapter 60 of the laws of 2016, is amended to  
28 read as follows:

29 (c) For purposes of this [~~subdivision~~] section, the term "eligible  
30 farmer" means a taxpayer whose federal gross income from farming as  
31 defined in subsection (n) of section six hundred six of this chapter for  
32 the taxable year is at least two-thirds of excess federal gross income.  
33 Excess federal gross income means the amount of federal gross income  
34 from all sources for the taxable year in excess of thirty thousand  
35 dollars. For [~~the~~] purposes of this [~~subdivision~~] section, payments from  
36 the state's farmland protection program, administered by the department  
37 of agriculture and markets, shall be included as federal gross income  
38 from farming for otherwise eligible farmers.

39 § 2. Section 42 of the tax law is amended by adding a new subdivision  
40 (d-1) to read as follows:

41 (d-1) Special rules. If more than fifty percent of such eligible farm-  
42 er's federal gross income from farming is from the sale of wine from a  
43 licensed farm winery as provided for in article six of the alcoholic  
44 beverage control law, or from the sale of cider from a licensed farm  
45 cidery as provided for in section fifty-eight-c of the alcoholic bever-  
46 age control law, then an eligible farm employee of such eligible farmer  
47 shall be included for purposes of calculating the amount of credit  
48 allowed under this section only if such eligible farm employee is  
49 employed by such eligible farmer on qualified agricultural property as  
50 defined in paragraph four of subsection (n) of section six hundred six  
51 of this chapter.



§ 3. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2019.

## PART O

Section 1. Section 12 of part N of chapter 61 of the laws of 2005, amending the tax law relating to certain transactions and related information and relating to the voluntary compliance initiative, as amended by section 1 of part M of chapter 60 of the laws of 2016, is amended to read as follows:

§ 12. This act shall take effect immediately; provided, however, that (i) section one of this act shall apply to all disclosure statements described in paragraph 1 of subdivision (a) of section 25 of the tax law, as added by section one of this act, that were required to be filed with the internal revenue service at any time with respect to "listed transactions" as described in such paragraph 1, and shall apply to all disclosure statements described in paragraph 1 of subdivision (a) of section 25 of the tax law, as added by section one of this act, that were required to be filed with the internal revenue service with respect to "reportable transactions" as described in such paragraph 1, other than "listed transactions", in which a taxpayer participated during any taxable year for which the statute of limitations for assessment has not expired as of the date this act shall take effect, and shall apply to returns or statements described in such paragraph 1 required to be filed by taxpayers (or persons as described in such paragraph) with the commissioner of taxation and finance on or after the sixtieth day after this act shall have become a law; and

(ii) sections two through four and seven through nine of this act shall apply to any tax liability for which the statute of limitations on assessment has not expired as of the date this act shall take effect[+ and

~~(iii) provided, further, that the provisions of this act, except section five of this act, shall expire and be deemed repealed July 1, 2019, provided, that, such expiration and repeal shall not affect any requirement imposed pursuant to this act].~~

§ 2. Subsection (aa) of section 685 of the tax law is REPEALED and a new subsection (aa) is added to read as follows:

(aa) Tax preparer penalty.-- (1) If a tax return preparer takes a position on any income tax return or credit claim form that either understates the tax liability or increases the claim for a refund, and the preparer knew, or reasonably should have known, that said position was not proper, and such position was not adequately disclosed on the return or in a statement attached to the return, such income tax preparer shall pay a penalty of between one hundred and one thousand dollars.

(2) If a tax return preparer takes a position on any income tax return or credit claim form that either understates the tax liability or increases the claim for a refund and the understatement of the tax liability or the increased claim for refund is due to the preparer's reckless or intentional disregard of the law, rules or regulations, such preparer shall pay a penalty of between five hundred and five thousand dollars. The amount of the penalty payable by any person by reason of this paragraph shall be reduced by the amount of the penalty paid by such person by reason of paragraph one of this subsection.

(3) For purposes of this subsection, the term "understatement of tax liability" means any understatement of the net amount payable with

1 respect to any tax imposed under this article or any overstatement of  
2 the net amount creditable or refundable with respect to any such tax.

3 (4) For purposes of this subsection, the term "tax return prepared"  
4 shall have the same meaning as defined in paragraph five of subsection  
5 (g) of section six hundred fifty-eight of this article.

6 (5) This subsection shall not apply if the penalty under subsection  
7 (r) of this section is imposed on the tax return preparer with respect  
8 to such understatement.

9 § 3. Subsection (u) of section 685 of the tax law is amended by adding  
10 three new paragraphs (1), (2), and (6) to read as follows:

11 (1) Failure to sign return or claim for refund. If a tax return  
12 preparer who is required pursuant to paragraph one of subsection (g) of  
13 section six hundred fifty-eight of this article to sign a return or  
14 claim for refund fails to comply with such requirement with respect to  
15 such return or claim for refund, the tax return preparer shall be  
16 subject to a penalty of two hundred fifty dollars for each such failure  
17 to sign, unless it is shown that such failure is due to reasonable cause  
18 and not due to willful neglect. The maximum penalty imposed under this  
19 paragraph on any tax return preparer with respect to returns filed  
20 during any calendar year by the tax return preparer must not exceed ten  
21 thousand dollars. Provided, however, that if a tax return preparer has  
22 been penalized under this paragraph for a preceding calendar year and  
23 again fails to sign his or her name on any return that requires the tax  
24 return preparer's signature during a subsequent calendar year, then the  
25 penalty under this paragraph for each failure will be five hundred  
26 dollars, and no annual cap will apply. This paragraph shall not apply if  
27 the penalty under paragraph three of subsection (g) of section thirty-  
28 two of this chapter is imposed on the tax return preparer with respect  
29 to such return or claim for refund.

30 (2) Failure to furnish identifying number. If a tax return preparer  
31 fails to include any identifying number required to be included on any  
32 return or claim for refund pursuant to paragraph two of subsection (g)  
33 of section six hundred fifty-eight of this article, the tax return  
34 preparer shall be subject to a penalty of one hundred dollars for each  
35 such failure, unless it is shown that such failure is due to reasonable  
36 cause and not willful neglect. The maximum penalty imposed under this  
37 paragraph on any tax return preparer with respect to returns filed  
38 during any calendar year must not exceed two thousand five hundred  
39 dollars; provided, however, that if a tax return preparer has been  
40 penalized under this paragraph for a preceding calendar year and again  
41 fails to include the identifying number on one or more returns during a  
42 subsequent calendar year, then the penalty under this paragraph for each  
43 failure will be two hundred fifty dollars, and no annual cap will apply.  
44 this paragraph shall not apply if the penalty under paragraph four of  
45 subsection (g) of section thirty-two of this chapter is imposed on the  
46 tax return preparer with respect to such return or claim for refund.

47 (6) For purposes of this subsection, the term "tax return preparer"  
48 shall have the same meaning as defined in paragraph five of subsection  
49 (g) of section six hundred fifty-eight of this article.

50 § 4. This act shall take effect immediately; provided, however, that  
51 the amendments to subsection (u) of section 685 of the tax law made by  
52 section three of this act shall apply to tax documents filed or required  
53 to be filed for taxable years beginning on or after January 1, 2019.

Section 1. Clauses (iii), (iv), (v), (vi) and (vii) of subparagraph (B) of paragraph 1 of subsection (a) of section 601 of the tax law, as added by section 1 of part R of chapter 59 of the laws of 2017, are amended to read as follows:

(iii) For taxable years beginning in two thousand twenty the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over \$17,150	4% of the New York taxable income
Over \$17,150 but not over \$23,600	\$686 plus 4.5% of excess over \$17,150
Over \$23,600 but not over \$27,900	\$976 plus 5.25% of excess over \$23,600
Over \$27,900 but not over \$43,000	\$1,202 plus 5.9% of excess over \$27,900
Over \$43,000 but not over \$161,550	\$2,093 plus 6.09% of excess over \$43,000
Over \$161,550 but not over \$323,200	\$9,313 plus 6.41% of excess over \$161,550
Over \$323,200 <u>but not over \$2,155,350</u>	\$19,674 plus 6.85% of excess over \$323,200
<u>Over \$2,155,350</u>	<u>\$145,177 plus 8.82% of excess over \$2,155,350</u>

(iv) For taxable years beginning in two thousand twenty-one the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over \$17,150	4% of the New York taxable income
Over \$17,150 but not over \$23,600	\$686 plus 4.5% of excess over \$17,150
Over \$23,600 but not over \$27,900	\$976 plus 5.25% of excess over \$23,600
Over \$27,900 but not over \$43,000	\$1,202 plus 5.9% of excess over \$27,900
Over \$43,000 but not over \$161,550	\$2,093 plus 5.97% of excess over \$43,000
Over \$161,550 but not over \$323,200	\$9,170 plus 6.33% of excess over \$161,550
Over \$323,200 <u>but not over \$2,155,350</u>	\$19,403 plus 6.85% of excess over \$323,200
<u>Over \$2,155,350</u>	<u>\$144,905 plus 8.82% of excess over \$2,155,350</u>

(v) For taxable years beginning in two thousand twenty-two the following rates shall apply:

If the New York taxable income is:	The tax is:
Not over \$17,150	4% of the New York taxable income
Over \$17,150 but not over \$23,600	\$686 plus 4.5% of excess over \$17,150
Over \$23,600 but not over \$27,900	\$976 plus 5.25% of excess over \$23,600
Over \$27,900 but not over \$161,550	\$1,202 plus 5.85% of excess over \$27,900
Over \$161,550 but not over \$323,200	\$9,021 plus 6.25% of excess over \$161,550
Over \$323,200 <u>but not over \$2,155,350</u>	\$19,124 plus 6.85% of excess over \$323,200
<u>Over \$2,155,350</u>	<u>\$144,626 plus 8.82% of excess over \$2,155,350</u>

(vi) For taxable years beginning in two thousand twenty-three the following rates shall apply:

If the New York taxable income is:

Not over \$17,150

Over \$17,150 but not over \$23,600

Over \$23,600 but not over \$27,900

Over \$27,900 but not over \$161,550

Over \$161,550 but not over \$323,200

Over \$323,200 but not over

\$2,155,350

Over \$2,155,350

The tax is:

4% of the New York taxable income

\$686 plus 4.5% of excess over

\$17,150

\$976 plus 5.25% of excess over

\$23,600

\$1,202 plus 5.73% of excess over

\$27,900

\$8,860 plus 6.17% of excess over

\$161,550

\$18,834 plus 6.85% of

excess over \$323,200

\$144,336 plus 8.82% of excess over

\$2,155,350

(vii) For taxable years beginning in two thousand twenty-four the following rates shall apply:

If the New York taxable income is:

Not over \$17,150

Over \$17,150 but not over \$23,600

Over \$23,600 but not over \$27,900

Over \$27,900 but not over \$161,550

Over \$161,550 but not over \$323,200

Over \$323,200 but not over

Over \$2,155,350

Over \$2,155,350

The tax is:

4% of the New York taxable income

\$686 plus 4.5% of excess over

\$17,150

\$976 plus 5.25% of excess over

\$23,600

\$1,202 plus 5.61% of excess over

\$27,900

\$8,700 plus 6.09% of excess over

\$161,550

\$18,544 plus 6.85% of

excess over \$323,200

\$144,047 plus 8.82% of excess over

\$2,155,350

§ 2. Clauses (iii), (iv), (v), (vi) and (vii) of subparagraph (B) of paragraph 1 of subsection (b) of section 601 of the tax law, as added by section 2 of part R of chapter 59 of the laws of 2017, are amended to read as follows:

(iii) For taxable years beginning in two thousand twenty the following rates shall apply:

If the New York taxable income is:

Not over \$12,800

Over \$12,800 but not over \$17,650

Over \$17,650 but not over \$20,900

Over \$20,900 but not over \$32,200

Over \$32,200 but not over \$107,650

Over \$107,650 but not over \$269,300

Over \$269,300 but not over

\$1,616,450

Over \$1,616,450

The tax is:

4% of the New York taxable income

\$512 plus 4.5% of excess over \$12,800

\$730 plus 5.25% of excess over

\$17,650

\$901 plus 5.9% of excess over \$20,900

\$1,568 plus 6.09% of excess over

\$32,200

\$6,162 plus 6.41% of excess over

\$107,650

\$16,524 plus 6.85% of

excess over \$269,300

\$108,804 plus 8.82% of excess over

\$1,616,450

(iv) For taxable years beginning in two thousand twenty-one the following rates shall apply:

1	If the New York taxable income is:	The tax is:
2	Not over \$12,800	4% of the New York taxable income
3	Over \$12,800 but not over \$17,650	\$512 plus 4.5% of excess over
4		\$12,800
5	Over \$17,650 but not over \$20,900	\$730 plus 5.25% of excess over
6		\$17,650
7	Over \$20,900 but not over \$32,200	\$901 plus 5.9% of excess over
8		\$20,900
9	Over \$32,200 but not over \$107,650	\$1,568 plus 5.97% of excess over
10		\$32,200
11	Over \$107,650 but not over \$269,300	\$6,072 plus 6.33% of excess over
12		\$107,650
13	Over \$269,300 <u>but not over</u>	\$16,304 plus 6.85% of
14	<u>\$1,616,450</u>	excess over \$269,300
15	<u>Over \$1,616,450</u>	<u>\$108,584 plus 8.82% of excess over</u>
16		<u>\$1,616,450</u>
17	(v) For taxable years beginning in two thousand twenty-two the follow-	
18	ing rates shall apply:	
19	If the New York taxable income is:	The tax is:
20	Not over \$12,800	4% of the New York taxable income
21	Over \$12,800 but not over \$17,650	\$512 plus 4.5% of excess over
22		\$12,800
23	Over \$17,650 but not over \$20,900	\$730 plus 5.25% of excess over
24		\$17,650
25	Over \$20,900 but not over \$107,650	\$901 plus 5.85% of excess over
26		\$20,900
27	Over \$107,650 but not over \$269,300	\$5,976 plus 6.25% of excess over
28		\$107,650
29	Over \$269,300 <u>but not over</u>	\$16,079 plus 6.85% of excess
30	<u>\$1,616,450</u>	over \$269,300
31	<u>Over \$1,616,450</u>	<u>\$108,359 plus 8.82% of excess over</u>
32		<u>\$1,616,450</u>
33	(vi) For taxable years beginning in two thousand twenty-three the	
34	following rates shall apply:	
35	If the New York taxable income is:	The tax is:
36	Not over \$12,800	4% of the New York taxable income
37	Over \$12,800 but not over \$17,650	\$512 plus 4.5% of excess over
38		\$12,800
39	Over \$17,650 but not over \$20,900	\$730 plus 5.25% of excess over
40		\$17,650
41	Over \$20,900 but not over \$107,650	\$901 plus 5.73% of excess over
42		\$20,900
43	Over \$107,650 but not over \$269,300	\$5,872 plus 6.17% of excess over
44		\$107,650
45	Over \$269,300 <u>but not over</u>	\$15,845 plus 6.85% of excess
46	<u>\$1,616,450</u>	over \$269,300
47	<u>Over \$1,616,450</u>	<u>\$108,125 plus 8.82% of excess over</u>
48		<u>\$1,616,450</u>
49	(vii) For taxable years beginning in two thousand twenty-four the	
50	following rates shall apply:	
51	If the New York taxable income is:	The tax is:
52	Not over \$12,800	4% of the New York taxable income
53	Over \$12,800 but not over \$17,650	\$512 plus 4.5% of excess over
54		\$12,800
55	Over \$17,650 but not over \$20,900	\$730 plus 5.25% of excess over

1		\$17,650
2	Over \$20,900 but not over \$107,650	\$901 plus 5.61% of excess over
3		\$20,900
4	Over \$107,650 but not over \$269,300	\$5,768 plus 6.09% of excess over
5		\$107,650
6	Over \$269,300 <u>but not over</u>	\$15,612 plus 6.85% of excess
7	<u>\$1,616,450</u>	over \$269,300
8	<u>Over \$1,616,450</u>	<u>\$107,892 plus 8.82% of excess over</u>
9		<u>\$1,616,450</u>

10 § 3. Clauses (iii), (iv), (v), (vi) and (vii) of subparagraph (B) of  
 11 paragraph 1 of subsection (c) of section 601 of the tax law, as added by  
 12 section 3 of part R of chapter 59 of the laws of 2017, is amended to  
 13 read as follows:

14 (iii) For taxable years beginning in two thousand twenty the following  
 15 rates shall apply:

16	If the New York taxable income is:	The tax is:
17	Not over \$8,500	4% of the New York taxable income
18	Over \$8,500 but not over \$11,700	\$340 plus 4.5% of excess over
19		\$8,500
20	Over \$11,700 but not over \$13,900	\$484 plus 5.25% of excess over
21		\$11,700
22	Over \$13,900 but not over \$21,400	\$600 plus 5.9% of excess over
23		\$13,900
24	Over \$21,400 but not over \$80,650	\$1,042 plus 6.09% of excess over
25		\$21,400
26	Over \$80,650 but not over \$215,400	\$4,650 plus 6.41% of excess over
27		\$80,650
28	Over \$215,400 <u>but not over</u>	\$13,288 plus 6.85% of excess
29	<u>\$1,077,550</u>	over \$215,400
30	<u>Over \$1,077,550</u>	<u>\$72,345 plus 8.82% of excess over</u>
31		<u>\$1,077,550</u>

32 (iv) For taxable years beginning in two thousand twenty-one the  
 33 following rates shall apply:

34	If the New York taxable income is:	The tax is:
35	Not over \$8,500	4% of the New York taxable income
36	Over \$8,500 but not over \$11,700	\$340 plus 4.5% of excess over
37		\$8,500
38	Over \$11,700 but not over \$13,900	\$484 plus 5.25% of excess over
39		\$11,700
40	Over \$13,900 but not over \$21,400	\$600 plus 5.9% of excess over
41		\$13,900
42	Over \$21,400 but not over \$80,650	\$1,042 plus 5.97% of excess over
43		\$21,400
44	Over \$80,650 but not over \$215,400	\$4,579 plus 6.33% of excess over
45		\$80,650
46	Over \$215,400 <u>but not over</u>	\$13,109 plus 6.85% of excess
47	<u>\$1,077,550</u>	over \$215,400
48	<u>Over \$1,077,550</u>	<u>\$72,166 plus 8.82% of excess over</u>
49		<u>\$1,077,550</u>

50 (v) For taxable years beginning in two thousand twenty-two the follow-  
 51 ing rates shall apply:

52	If the New York taxable income is:	The tax is:
53	Not over \$8,500	4% of the New York taxable income
54	Over \$8,500 but not over \$11,700	\$340 plus 4.5% of excess over
55		\$8,500
56	Over \$11,700 but not over \$13,900	\$484 plus 5.25% of excess over



1		\$11,700
2	Over \$13,900 but not over \$80,650	\$600 plus 5.85% of excess over
3		\$13,900
4	Over \$80,650 but not over \$215,400	\$4,504 plus 6.25% of excess over
5		\$80,650
6	Over \$215,400 <u>but not over</u>	\$12,926 plus 6.85% of excess
7	<u>\$1,077,550</u>	over \$215,400
8	<u>Over \$1,077,550</u>	<u>\$71,984 plus 8.82% of excess over</u>
9		<u>\$1,077,550</u>
10	(vi) For taxable years beginning in two thousand twenty-three the	
11	following rates shall apply:	
12	If the New York taxable income is:	The tax is:
13	Not over \$8,500	4% of the New York taxable income
14	Over \$8,500 but not over \$11,700	\$340 plus 4.5% of excess over
15		\$8,500
16	Over \$11,700 but not over \$13,900	\$484 plus 5.25% of excess over
17		\$11,700
18	Over \$13,900 but not over \$80,650	\$600 plus 5.73% of excess over
19		\$13,900
20	Over \$80,650 but not over \$215,400	\$4,424 plus 6.17% of excess over
21		\$80,650
22	Over \$215,400 <u>but not over</u>	\$12,738 plus 6.85% of excess
23	<u>\$1,077,550</u>	over \$215,400
24	<u>Over \$1,077,550</u>	<u>\$71,796 plus 8.82% of excess over</u>
25		<u>\$1,077,550</u>
26	(vii) For taxable years beginning in two thousand twenty-four the	
27	following rates shall apply:	
28	If the New York taxable income is:	The tax is:
29	Not over \$8,500	4% of the New York taxable income
30	Over \$8,500 but not over \$11,700	\$340 plus 4.5% of excess over
31		\$8,500
32	Over \$11,700 but not over \$13,900	\$484 plus 5.25% of excess over
33		\$11,700
34	Over \$13,900 but not over \$80,650	\$600 plus 5.61% of excess over
35		\$13,900
36	Over \$80,650 but not over \$215,400	\$4,344 plus 6.09% of excess over
37		\$80,650
38	Over \$215,400 <u>but not over</u>	\$12,550 plus 6.85% of excess
39	<u>\$1,077,550</u>	over \$215,400
40	<u>Over \$1,077,550</u>	<u>\$71,608 plus 8.82% of excess over</u>
41		<u>\$1,077,550</u>

§ 4. Subparagraph (D) of paragraph 1 of subsection (d-1) of section 601 of the tax law, as amended by section 4 of part R of chapter 59 of the laws of 2017, is amended to read as follows:

(D) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (a) of this section not subject to the 8.82 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in paragraph one of subsection (a) of this section less the sum of the tax table benefits in subparagraphs (A), (B) and (C) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over two million dollars and the denominator is fifty thousand dollars. This subparagraph shall apply only to taxable years beginning on or after

1 January first, two thousand twelve and before January first, two thou-  
2 sand [~~twenty~~] twenty-five.

3 § 5. Subparagraph (C) of paragraph 2 of subsection (d-1) of section  
4 601 of the tax law, as amended by section 5 of part R of chapter 59 of  
5 the laws of 2017, is amended to read as follows:

6 (C) The tax table benefit is the difference between (i) the amount of  
7 taxable income set forth in the tax table in paragraph one of subsection  
8 (b) of this section not subject to the 8.82 percent rate of tax for the  
9 taxable year multiplied by such rate and (ii) the dollar denominated tax  
10 for such amount of taxable income set forth in the tax table applicable  
11 to the taxable year in paragraph one of subsection (b) of this section  
12 less the sum of the tax table benefits in subparagraphs (A) and (B) of  
13 this paragraph. The fraction for this subparagraph is computed as  
14 follows: the numerator is the lesser of fifty thousand dollars or the  
15 excess of New York adjusted gross income for the taxable year over one  
16 million five hundred thousand dollars and the denominator is fifty thou-  
17 sand dollars. This subparagraph shall apply only to taxable years begin-  
18 ning on or after January first, two thousand twelve and before January  
19 first, two thousand [~~twenty~~] twenty-five.

20 § 6. Subparagraph (C) of paragraph 3 of subsection (d-1) of section  
21 601 of the tax law, as amended by section 6 of part R of chapter 59 of  
22 the laws of 2017, is amended to read as follows:

23 (C) The tax table benefit is the difference between (i) the amount of  
24 taxable income set forth in the tax table in paragraph one of subsection  
25 (c) of this section not subject to the 8.82 percent rate of tax for the  
26 taxable year multiplied by such rate and (ii) the dollar denominated tax  
27 for such amount of taxable income set forth in the tax table applicable  
28 to the taxable year in paragraph one of subsection (c) of this section  
29 less the sum of the tax table benefits in subparagraphs (A) and (B) of  
30 this paragraph. The fraction for this subparagraph is computed as  
31 follows: the numerator is the lesser of fifty thousand dollars or the  
32 excess of New York adjusted gross income for the taxable year over one  
33 million dollars and the denominator is fifty thousand dollars. This  
34 subparagraph shall apply only to taxable years beginning on or after  
35 January first, two thousand twelve and before January first, two thou-  
36 sand [~~twenty~~] twenty-five.

37 § 7. This act shall take effect immediately.

38 PART Q

39 Section 1. Subsection (g) of section 615 of the tax law, as amended by  
40 section 1 of part S of chapter 59 of the laws of 2017, is amended to  
41 read as follows:

42 (g) Notwithstanding subsection (a) of this section, the New York item-  
43 ized deduction for charitable contributions shall be the amount allowed  
44 under section one hundred seventy of the internal revenue code, as modi-  
45 fied by paragraph nine of subsection (c) of this section and as limited  
46 by this subsection. (1) With respect to an individual whose New York

47 adjusted gross income is over one million dollars and no more than ten  
48 million dollars, the New York itemized deduction shall be an amount  
49 equal to fifty percent of any charitable contribution deduction allowed  
50 under section one hundred seventy of the internal revenue code for taxa-  
51 ble years beginning after two thousand nine and before two thousand  
52 [~~twenty~~] twenty-five. With respect to an individual whose New York  
53 adjusted gross income is over one million dollars, the New York itemized  
54 deduction shall be an amount equal to fifty percent of any charitable

1 contribution deduction allowed under section one hundred seventy of the  
2 internal revenue code for taxable years beginning in two thousand nine  
3 or after two thousand [~~nineteen~~] twenty-four.

4 (2) With respect to an individual whose New York adjusted gross income  
5 is over ten million dollars, the New York itemized deduction shall be an  
6 amount equal to twenty-five percent of any charitable contribution  
7 deduction allowed under section one hundred seventy of the internal  
8 revenue code for taxable years beginning after two thousand nine and  
9 ending before two thousand [~~twenty~~] twenty-five.

10 § 2. Subdivision (g) of section 11-1715 of the administrative code of  
11 the city of New York, as amended by section 2 of part S of chapter 59 of  
12 the laws of 2017, is amended to read as follows:

13 (g) Notwithstanding subdivision (a) of this section, the city itemized  
14 deduction for charitable contributions shall be the amount allowed under  
15 section one hundred seventy of the internal revenue code, as limited by  
16 this subdivision.

17 (1) With respect to an individual whose New York  
18 adjusted gross income is over one million dollars but no more than ten  
19 million dollars, the New York itemized deduction shall be an amount  
20 equal to fifty percent of any charitable contribution deduction allowed  
21 under section one hundred seventy of the internal revenue code for taxa-  
22 ble years beginning after two thousand nine and before two thousand  
23 [~~twenty~~] twenty-five. With respect to an individual whose New York  
24 adjusted gross income is over one million dollars, the New York itemized  
25 deduction shall be an amount equal to fifty percent of any charitable  
26 contribution deduction allowed under section one hundred seventy of the  
27 internal revenue code for taxable years beginning in two thousand nine  
28 or after two thousand [~~nineteen~~] twenty-four.

29 (2) With respect to an individual whose New York adjusted gross income  
30 is over ten million dollars, the New York itemized deduction shall be an  
31 amount equal to twenty-five percent of any charitable contribution  
32 deduction allowed under section one hundred seventy of the internal  
33 revenue code for taxable years beginning after two thousand nine and  
34 ending before two thousand [~~twenty~~] twenty-five.

35 § 3. This act shall take effect immediately and shall apply to taxable  
years beginning on or after January 1, 2018.

## PART R

37 Section 1. Paragraph (a) of subdivision 25 of section 210-B of the tax  
38 law, as amended by chapter 315 of the laws of 2017, is amended to read  
39 as follows:

40 (a) General. A taxpayer shall be allowed a credit against the tax  
41 imposed by this article. Such credit, to be computed as hereinafter  
42 provided, shall be allowed for bioheating fuel, used for space heating  
43 or hot water production for residential purposes within this state  
44 purchased before January first, two thousand [~~twenty~~] twenty-three. Such  
45 credit shall be \$0.01 per percent of biodiesel per gallon of bioheating  
46 fuel, not to exceed twenty cents per gallon, purchased by such taxpayer.  
47 Provided, however, that on or after January first, two thousand seven-  
48 teen, this credit shall not apply to bioheating fuel that is less than  
49 six percent biodiesel per gallon of bioheating fuel.

50 § 2. Paragraph 1 of subdivision (mm) of section 606 of the tax law, as  
51 amended by chapter 315 of the laws of 2017, is amended to read as  
52 follows:

53 (1) A taxpayer shall be allowed a credit against the tax imposed by  
54 this article. Such credit, to be computed as hereinafter provided, shall

1 be allowed for bioheating fuel, used for space heating or hot water  
2 production for residential purposes within this state and purchased on  
3 or after July first, two thousand six and before July first, two thou-  
4 sand seven and on or after January first, two thousand eight and before  
5 January first, two thousand [~~twenty~~] twenty-three. Such credit shall be  
6 \$0.01 per percent of biodiesel per gallon of bioheating fuel, not to  
7 exceed twenty cents per gallon, purchased by such taxpayer. Provided,  
8 however, that on or after January first, two thousand seventeen, this  
9 credit shall not apply to bioheating fuel that is less than six percent  
10 biodiesel per gallon of bioheating fuel.

11 § 3. This act shall take effect immediately.

12 PART S

13 Section 1. Subdivision (e) of section 23 of the part U of chapter 61  
14 of the laws of 2011, amending the real property tax law and other laws  
15 relating to establishing standards for electronic tax administration is  
16 REPEALED.

17 § 2. This act shall take effect immediately.

18 PART T

19 Section 1. Subdivision 3 of section 77 of the cooperative corporations  
20 law, as amended by chapter 429 of the laws of 1992, is amended to read  
21 as follows:

22 3. Such annual fee shall be paid for each calendar year on the  
23 fifteenth day of March next succeeding the close of such calendar year  
24 but shall not be payable after January first, two thousand twenty;  
25 provided, however, that cooperative corporations described in subdivi-  
26 sion one of this section shall continue to not be subject to the fran-  
27 chise, license, and corporation taxes referenced in such subdivision.

28 § 2. Section 66 of the rural electric cooperative law, as amended by  
29 chapter 888 of the laws of 1983, is amended to read as follows:

30 § 66. License fee in lieu of all franchise, excise, income, corpo-  
31 ration and sales and compensating use taxes. Each cooperative and  
32 foreign corporation doing business in this state pursuant to this chap-  
33 ter shall pay annually, on or before the first day of July, to the state  
34 tax commission, a fee of ten dollars, but shall be exempt from all other  
35 franchise, excise, income, corporation and sales and compensating use  
36 taxes whatsoever. The exemption from the sales and compensating use  
37 taxes provided by this section shall not apply to the taxes imposed  
38 pursuant to section eleven hundred seven or eleven hundred eight of the  
39 tax law. Nothing contained in this section shall be deemed to exempt  
40 such corporations from collecting and paying over sales and compensating  
41 use taxes on retail sales of tangible personal property and services  
42 made by such corporations to purchasers required to pay such taxes  
43 imposed pursuant to article twenty-eight or authorized pursuant to the  
44 authority of article twenty-nine of the tax law. Such annual fee shall  
45 not be payable after January first, two thousand twenty.

46 § 3. This act shall take effect immediately.

47 PART U

48 Section 1. Paragraph (e) of subdivision 26 of section 210-B of the tax  
49 law, as amended by section 2 of part RR of chapter 59 of the laws of  
50 2018, is amended to read as follows:

(e) ~~[(e)]~~ Except in the case of a qualified rehabilitation project undertaken within a state park, state historic site, or other land owned by the state, that is under the jurisdiction of the office of parks, recreation and historic preservation, to be eligible for the credit allowable under this subdivision, the rehabilitation project shall be in whole or in part located within a census tract which is identified as being at or below one hundred percent of the state median family income as calculated as of April first of each year using the most recent five year estimate from the American community survey published by the United States Census bureau. If there is a change in the most recent five year estimate, a census tract that qualified for eligibility under this program before information about the change was released will remain eligible for a credit under this subdivision for an additional two calendar years.

§ 2. Paragraph 5 of subsection (oo) of section 606 of the tax law, as amended by section 1 of part RR of chapter 59 of the laws of 2018, is amended to read as follows:

(5) ~~[(5)]~~ Except in the case of a qualified rehabilitation project undertaken within a state park, state historic site, or other land owned by the state, that is under the jurisdiction of the office of parks, recreation and historic preservation, to be eligible for the credit allowable under this subsection the rehabilitation project shall be in whole or in part located within a census tract which is identified as being at or below one hundred percent of the state median family income as calculated as of April first of each year using the most recent five year estimate from the American community survey published by the United States Census bureau. If there is a change in the most recent five year estimate, a census tract that qualified for eligibility under this program before information about the change was released will remain eligible for a credit under this subsection for an additional two calendar years.

§ 3. Paragraph 5 of subdivision (y) of section 1511 of the tax law, as amended by section 3 of part RR of chapter 59 of the laws of 2018, is amended to read as follows:

(5) ~~[(5)]~~ Except in the case of a qualified rehabilitation project undertaken within a state park, state historic site, or other land owned by the state, that is under the jurisdiction of the office of parks, recreation and historic preservation, to be eligible for the credit allowable under this subdivision, the rehabilitation project shall be in whole or in part located within a census tract which is identified as being at or below one hundred percent of the state median family income as calculated as of April first of each year using the most recent five year estimate from the American community survey published by the United States Census bureau. If there is a change in the most recent five year estimate, a census tract that qualified for eligibility under this program before information about the change was released will remain eligible for a credit under this subdivision for an additional two calendar years.

§ 4. This act shall take effect immediately and apply to taxable years beginning on and after January 1, 2020.

#### PART V

Section 1. Subdivision (jj) of section 1115 of the tax law, as added by section 1 of part UU of chapter 59 of the laws of 2015, is amended to read as follows:



(jj) Tangible personal property or services otherwise taxable under this article sold to a related person shall not be subject to the taxes imposed by section eleven hundred five of this article or the compensating use tax imposed under section eleven hundred ten of this article where the purchaser can show that the following conditions have been met to the extent they are applicable: (1)(i) the vendor and the purchaser are referenced as either a "covered company" as described in section 243.2(f) or a "material entity" as described in section 243.2(1) of the Code of Federal Regulations in a resolution plan that has been submitted to an agency of the United States for the purpose of satisfying subparagraph 1 of paragraph (d) of section one hundred sixty-five of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act") or any successor law, or (ii) the vendor and the purchaser are separate legal entities pursuant to a divestiture directed pursuant to subparagraph 5 of paragraph (d) of section one hundred sixty-five of such act or any successor law; (2) the sale would not have occurred between such related entities were it not for such resolution plan or divestiture; and (3) in acquiring such property or services, the vendor did not claim an exemption from the tax imposed by this state or another state based on the vendor's intent to resell such services or property. A person is related to another person for purposes of this subdivision if the person bears a relationship to such person described in section two hundred sixty-seven of the internal revenue code. The exemption provided by this subdivision shall not apply to sales made, services rendered, or uses occurring after June thirtieth, two thousand ~~nineteen~~ twenty-one, except with respect to sales made, services rendered, or uses occurring pursuant to binding contracts entered into on or before such date; but in no case shall such exemption apply after June thirtieth, two thousand twenty-four.

§ 2. This act shall take effect immediately.

#### PART W

Section 1. The mental hygiene law is amended by adding a new section 32.38 to read as follows:

§ 32.38 Power to administer the recovery tax credit program.

(a) Authorization. The commissioner is authorized to establish and administer the recovery tax credit program to provide tax incentives to certified employers for employing eligible individuals in recovery from a substance use disorder in part-time and full-time positions in the state. The commissioner is authorized to allocate up to two million dollars of tax credits annually for the recovery tax credit program beginning in the year two thousand twenty.

(b) Definitions. 1. The term "certified employer" means an employer that has received a certificate of tax credit from the commissioner after the commissioner has determined that the employer:

(i) provides a recovery supportive environment evidenced by a formal working relationship with a local recovery community organization to provide support for employers including any necessary assistance in the hiring process of eligible individuals in recovery from a substance use disorder and training for employers or supervisors; and

(ii) fulfills the eligibility criteria set forth in this section and by the commissioner to participate in the recovery tax credit program established in this section.

2. The term "eligible individual" means an individual with a substance use disorder as that term is defined in section 1.03 of this chapter who

1 is in a state of wellness where there is an abatement of signs and symp-  
2 toms that characterize active addiction and has demonstrated to the  
3 qualified employer's satisfaction that he or she has completed a course  
4 of treatment for such substance use disorder.

5 (c) Application and approval process. 1. To participate in the program  
6 established by this section, an employer must, in a form prescribed by  
7 the commissioner, apply annually to the office by January fifteenth to  
8 claim credit based on eligible individuals employed during the preceding  
9 calendar year. As part of such application, an employer must:

10 (i) Agree to allow the department of taxation and finance to share its  
11 tax information with the office of alcoholism and substance abuse  
12 services. However, any information shared because of this agreement  
13 shall not be available for disclosure or inspection under the state  
14 freedom of information law.

15 (ii) Allow the office of alcoholism and substance abuse services and  
16 its agents access to all books and records the department may require to  
17 monitor compliance with program eligibility requirements.

18 (iii) Demonstrate that the employer has satisfied program eligibility  
19 requirements and provided all the information necessary, including the  
20 number of hours worked by any eligible individual, for the commissioner  
21 to compute an actual amount of credit allowed.

22 2. (i) After reviewing the application and finding it sufficient, the  
23 commissioner shall issue a certificate of tax credit by March thirty-  
24 first. Such certificate shall include, but not be limited to, the name  
25 and employer identification number of the certified employer, the amount  
26 of credit that the certified employer may claim, and any other informa-  
27 tion the commissioner of taxation and finance determines is necessary.

28 (ii) In determining the amount of credit that any employer may claim,  
29 the commissioner shall review all claims submitted for credit by employ-  
30 ers and, to the extent that the total amount claimed by employers  
31 exceeds the amount allocated for the program in that calendar year,  
32 shall issue credits on a pro-rata basis corresponding to each claimant's  
33 share of the total claimed amount.

34 (d) Eligibility. A certified employer shall be entitled to a tax cred-  
35 it equal to the product of one dollar and the number of hours worked by  
36 each eligible individual during such individual's period of eligibility.  
37 The credit shall not be allowed unless the eligible individual has  
38 worked in state for a minimum of five hundred hours for the certified  
39 employer, and the credit cannot exceed two thousand dollars per eligible  
40 individual employed by the certified employer in the state. The period  
41 of eligibility for each such employee starts on the day the employee is  
42 hired and ends on December thirty-first of the immediately succeeding  
43 calendar year or the last day of the employee's employment by the certi-  
44 fied employer, whichever comes first. If an employee has worked in  
45 excess of five hundred hours between the date of hiring and December  
46 thirty-first of that year, an employer can elect to compute and claim a  
47 credit for such employee in that year based on the hours worked by  
48 December thirty-first. Alternatively, the employer may elect to include  
49 such individual in the computation of the credit in the year immediately  
50 succeeding the year in which the employee was hired. In such case, the  
51 credit shall be computed on the basis of all hours worked by such eligi-  
52 ble individual from the date of hire to the earlier of the last day of  
53 employment or December thirty-first of the succeeding year. However, in  
54 no event may an employee generate credit for hours worked in excess of  
55 two thousand hours. An employer may claim credit only once with respect

1 to any eligible individual and may not aggregate hours of two or more  
2 employees to reach the minimum number of hours.

3 (e) Duties of the commissioner. The commissioner shall annually  
4 provide to the commissioner of the department of taxation and finance  
5 information about the program including, but not limited to, the number  
6 of certified employers then participating in the program, unique identi-  
7 fying information for each certified employer, the number of eligible  
8 individuals employed by each certified employer, unique identifying  
9 information for each eligible individual employed by the certified  
10 employers, the number of hours worked by such eligible individuals, the  
11 total dollar amount of claims for credit, and the dollar amount of cred-  
12 it granted to each certified employer.

13 (f) Certified employer's taxable year. If the certified employer's  
14 taxable year is a calendar year, the employer shall be entitled to claim  
15 the credit as shown on the certificate of tax credit on the calendar  
16 year return for which the certificate of tax credit was issued. If the  
17 certified employer's taxable year is a fiscal year, the employer shall  
18 be entitled to claim the credit as shown on the certificate of tax cred-  
19 it on the return for the fiscal year that includes the last day of the  
20 calendar year covered by the certificate of tax credit.

21 (g) Cross references. For application of the credit provided for in  
22 this section, see the following provisions of the tax law:

23 1. Article 9-A: Section 210-B, subdivision 53.

24 2. Article 22: Section 606, subsection (jjj).

25 3. Article 33: Section 1511, subdivision (dd).

26 § 2. Section 210-B of the tax law is amended by adding a new subdivi-  
27 sion 53 to read as follows:

28 53. Recovery tax credit. (a) Allowance of credit. A taxpayer that is a  
29 certified employer pursuant to section 32.38 of the mental hygiene law  
30 that has received a certificate of tax credit from the commissioner of  
31 the office of alcoholism and substance abuse services shall be allowed a  
32 credit against the tax imposed by this article equal to the amount shown  
33 on such certificate of tax credit. A taxpayer that is a partner in a  
34 partnership or member of a limited liability company that has been  
35 certified by the commissioner of the office of alcoholism and substance  
36 abuse services as a qualified employer pursuant to section 32.38 of the  
37 mental hygiene law shall be allowed its pro rata share of the credit  
38 earned by the partnership or limited liability company.

39 (b) Application of credit. The credit allowed under this subdivision  
40 for any taxable year may not reduce the tax due for that year to less  
41 than the amount prescribed in paragraph (d) of subdivision one of  
42 section two hundred ten of this article. However, if the amount of the  
43 credit allowed under this subdivision for any taxable year reduces the  
44 tax to that amount or if the taxpayer otherwise pays tax based on the  
45 fixed dollar minimum amount, any amount of credit not deductible in that  
46 taxable year will be treated as an overpayment of tax to be credited or  
47 refunded in accordance with the provisions of section one thousand  
48 eighty-six of this chapter. Provided, however, no interest will be paid  
49 thereon.

50 (c) Tax return requirement. The taxpayer shall be required to attach  
51 to its tax return, in the form prescribed by the commissioner, proof of  
52 receipt of its certificate of tax credit issued by the commissioner of  
53 the office of alcoholism and substance abuse services pursuant to  
54 section 32.38 of the mental hygiene law.

§ 3. Subparagraph (B) of paragraph 1 of subdivision (i) of section 606 of the tax law is amended by adding a new clause (xliv) to read as follows:

<u>(xliv) Recovery tax credit under</u>	<u>Amount of credit under</u>
<u>subsection (jjj)</u>	<u>subdivision fifty-three of</u>
	<u>section two hundred ten-B</u>

§ 4. Section 606 of the tax law is amended by adding a new subsection (jjj) to read as follows:

(jjj) Recovery tax credit. (1) Allowance of credit. A taxpayer that is a qualified employer pursuant to section 32.38 of the mental hygiene law that has received a certificate of tax credit from the commissioner of the office of alcoholism and substance abuse services shall be allowed a credit against the tax imposed by this article equal to the amount shown on such certificate of tax credit. A taxpayer that is a partner in a partnership, member of a limited liability company or shareholder in an S corporation that has been certified by the commissioner of the office of alcoholism and substance abuse services as a qualified employer pursuant to section 32.38 of the mental hygiene law shall be allowed its pro rata share of the credit earned by the partnership, limited liability company or S corporation.

(2) Overpayment. If the amount of the credit allowed under this subsection for any taxable year exceeds the taxpayer's tax for the taxable year, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, no interest will be paid thereon.

(3) Tax return requirement. The taxpayer shall be required to attach to its tax return, in the form prescribed by the commissioner, proof of receipt of its certificate of tax credit issued by the commissioner of the office of alcoholism and substance abuse services pursuant to section 32.38 of the mental hygiene law.

§ 5. Section 1511 of the tax law is amended by adding a new subdivision (dd) to read as follows:

(dd) Recovery tax credit. (1) Allowance of credit. A taxpayer that is a qualified employer pursuant to section 32.38 of the mental hygiene law that has received a certificate of tax credit from the commissioner of the office of alcoholism and substance abuse services shall be allowed a credit against the tax imposed by this article equal to the amount shown on such certificate of tax credit. A taxpayer that is a partner in a partnership or member of a limited liability company that has been certified by the commissioner of the office of alcoholism and substance abuse services as a qualified employer pursuant to section 32.38 of the mental hygiene law shall be allowed its pro rata share of the credit earned by the partnership or limited liability company.

(2) Application of credit. The credit allowed under this subdivision for any taxable year shall not reduce the tax due for such year to less than the minimum tax fixed by paragraph four of subdivision (a) of section fifteen hundred two of this article or by section fifteen hundred two-a of this article, whichever is applicable. However, if the amount of credit allowed under this subdivision for any taxable year reduces the tax to such amount, then any amount of credit thus not deductible in such taxable year shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section one thousand eighty-six of this chapter. Provided, however, the

1 provisions of subsection (c) of section one thousand eighty-eight of  
2 this chapter notwithstanding, no interest shall be paid thereon.

3 (3) Tax return requirement. The taxpayer shall be required to attach  
4 to its tax return in the form prescribed by the commissioner, proof of  
5 receipt of its certificate of tax credit issued by the commissioner of  
6 the office of alcoholism and substance abuse services pursuant to  
7 section 32.38 of the mental hygiene law.

8 § 6. This act shall take effect immediately and shall apply to taxable  
9 years beginning on and after January 1, 2020 and shall apply to those  
10 eligible individuals hired after this act shall take effect.

11 PART X

12 Section 1. Paragraph (a) of subdivision 9 of section 208 of the tax  
13 law is amended by adding a new subparagraph 20 to read as follows:

14 (20) Any amount excepted, for purposes of subsection (a) of section  
15 one hundred eighteen of the internal revenue code, from the term  
16 "contribution to the capital of the taxpayer" by paragraph two of  
17 subsection (b) of section one hundred eighteen of the internal revenue  
18 code.

19 § 2. Paragraph 1 of subdivision (b) of section 1503 of the tax law is  
20 amended by adding a new subparagraph (T) to read as follows:

21 (T) Any amount excepted, for purposes of subsection (a) of section one  
22 hundred eighteen of the internal revenue code, from the term "contrib-  
23 ution to the capital of the taxpayer" by paragraph two of subsection (b)  
24 of section one hundred eighteen of the internal revenue code.

25 § 3. Paragraph (a) of subdivision 8 of section 11-602 of the adminis-  
26 trative code of the city of New York is amended by adding a new subpara-  
27 graph 14 to read as follows:

28 (14) any amount excepted, for purposes of subsection (a) of section  
29 one hundred eighteen of the internal revenue code, from the term  
30 "contribution to the capital of the taxpayer" by paragraph two of  
31 subsection (b) of section one hundred eighteen of the internal revenue  
32 code.

33 § 4. This act shall take effect immediately and shall apply to taxable  
34 years beginning on or after January 1, 2018.

35 PART Y

36 Section 1. The tax law is amended by adding a new section 44 to read  
37 as follows:

38 § 44. Investment management services. (a) For purposes of this  
39 section, the term "investment management services" to a partnership, S  
40 corporation or entity includes (1) rendering investment advice regarding  
41 the purchase or sale of securities as defined in paragraph two of  
42 subsection (c) of section four hundred seventy-five of the internal  
43 revenue code without regard to the last sentence thereof, real estate  
44 held for rental or investment, interests in partnerships, commodities as  
45 defined in paragraph two of subsection (e) of section four hundred  
46 seventy-five of the internal revenue code, or options or derivative  
47 contracts with respect to any of the foregoing; (2) managing, acquiring,  
48 or disposing of any such asset; (3) arranging financing with respect to  
49 the acquisition of any such asset; and (4) related activities in support  
50 of any service described in paragraphs one, two, or three of this subdi-  
51 vision.



1 (b) Special rule for partnerships and S corporations. Notwithstanding  
2 any state or federal law to the contrary:

3 (1) where a partner performs investment management services for the  
4 partnership, the partner will not be treated as a partner for purposes  
5 of this chapter with respect to the amount of the partner's distributive  
6 share of income, gain, loss and deduction, including any guaranteed  
7 payments, that is in excess of the amount such distributive share would  
8 have been if the partner had performed no investment management services  
9 for the partnership. Instead, such excess amount shall be treated for  
10 purposes of article nine-A of this chapter as a business receipt for  
11 services and for purposes of article twenty-two of this chapter as  
12 income attributable to a trade, business, profession or occupation.  
13 Provided, however, the amount of the distributive share that would have  
14 been determined if the partner performed no investment management  
15 services shall not be less than zero.

16 (2) where a shareholder performs investment management services for  
17 the S corporation, the shareholder will not be treated as a shareholder  
18 for purposes of this chapter with respect to the amount of the share-  
19 holder's pro rata share of income, gain, loss and deduction that is in  
20 excess of the amount such pro rata share would have been if the share-  
21 holder had performed no investment management services. Instead, such  
22 excess amount shall be treated for purposes of article twenty-two of  
23 this chapter as income attributable to a trade, business, profession or  
24 occupation. Provided, however, the amount of the pro rata share that  
25 would have been determined if the shareholder performed no services  
26 shall not be less than zero.

27 (3) A partner or shareholder will not be deemed to be providing  
28 investment management services under this section if at least eighty  
29 percent of the average fair market value of the assets of the partner-  
30 ship or S corporation during the taxable year consist of real estate  
31 held for rental or investment.

32 (c) In addition to any other taxes or surcharges imposed pursuant to  
33 article nine-A or twenty-two of this chapter, any corporation, partner  
34 or shareholder providing investment management services shall be subject  
35 to an additional tax, referred to as the "carried interest fairness  
36 fee". Such carried interest fairness fee shall be equal to seventeen  
37 percent of the excess amount determined pursuant to subdivision (b) of  
38 this section; provided, however, (i) in the case of a corporation or  
39 shareholder of an S corporation providing such investment management  
40 services, such fee shall be equal to seventeen percent of the excess  
41 amount apportioned to the state by applying the corporation's or S  
42 corporation's apportionment factor determined under section two hundred  
43 ten-A of this chapter; (ii) in the case of a nonresident partner provid-  
44 ing such investment management services, such fee shall be equal to  
45 seventeen percent of the excess amount derived from New York sources as  
46 determined under section six hundred thirty-two of this chapter. Such  
47 carried interest fairness fee shall be administered in accordance with  
48 article nine-A or twenty-two of this chapter, as applicable, until such  
49 time as the commissioner of taxation and finance has notified the legis-  
50 lative bill drafting commission that federal legislation has been  
51 enacted that treats the provision of investment management services for  
52 federal tax purposes substantially the same as provided in this section.

53 § 2. Paragraph (a) of subdivision 6 of section 208 of the tax law, as  
54 amended by section 5 of part T of chapter 59 of the laws of 2015, is  
55 amended to read as follows:

(a) (i) The term "investment income" means income, including capital gains in excess of capital losses, from investment capital, to the extent included in computing entire net income, less, (A) in the discretion of the commissioner, any interest deductions allowable in computing entire net income which are directly or indirectly attributable to investment capital or investment income, and (B) any net capital gain included in federal taxable income that must be recharacterized as a business receipt pursuant to section forty-four of this chapter; provided, however, that in no case shall investment income exceed entire net income. (ii) If the amount of interest deductions subtracted under subparagraph (i) of this paragraph exceeds investment income, the excess of such amount over investment income must be added back to entire net income. (iii) If the taxpayer's investment income determined without regard to the interest deductions subtracted under subparagraph (i) of this paragraph comprises more than eight percent of the taxpayer's entire net income, investment income determined without regard to such interest deductions cannot exceed eight percent of the taxpayer's entire net income.

§ 3. Subsection (b) of section 617 of the tax law, as amended by chapter 606 of the laws of 1984, is amended to read as follows:

(b) Character of items. ~~[Each]~~ Except as provided in section forty-four of this chapter, each item of partnership and S corporation income, gain, loss, or deduction shall have the same character for a partner or shareholder under this article as for federal income tax purposes. Where an item is not characterized for federal income tax purposes, it shall have the same character for a partner or shareholder as if realized directly from the source from which realized by the partnership or S corporation or incurred in the same manner as incurred by the partnership or S corporation.

§ 4. Subsection (d) of section 631 of the tax law, as amended by chapter 28 of the laws of 1987, is amended to read as follows:

(d) Purchase and sale for own account.-- A nonresident, other than a dealer holding property primarily for sale to customers in the ordinary course of his or her trade or business or a partner or shareholder performing investment management services as described in section forty-four of this chapter, shall not be deemed to carry on a business, trade, profession or occupation in this state solely by reason of the purchase and sale of property or the purchase, sale or writing of stock option contracts, or both, for his own account.

§ 5. The opening paragraph of subsection (b) of section 632 of the tax law, as amended by chapter 28 of the laws of 1987, is amended to read as follows:

~~[In]~~ Except as otherwise provided in section forty-four of this chapter, in determining the sources of a nonresident partner's income, no effect shall be given to a provision in the partnership agreement which--

§ 6. For taxable years beginning on or after January 1, 2019 and before January 1, 2020, (i) no addition to tax under subsection (c) of section 685 or subsection (c) of section 1085 of the tax law shall be imposed with respect to any underpayment attributable to the amendments made by this act of any estimated taxes that are required to be paid prior to the effective date of this act, provided that the taxpayer timely made those payments; and (ii) the required installment of estimated tax described in clause (ii) of subparagraph (B) of paragraph 3 of subsection (c) of section 685 of the tax law, and the exception to addition for underpayment of estimated tax described in paragraph 1 or 2 of

1 subsection (d) of section 1085 of the tax law, in relation to the  
2 preceding year's return, shall be calculated as if the amendments made  
3 by this act had been in effect for that entire preceding year.

4 § 7. This act shall take effect upon the enactment into law by the  
5 states of Connecticut, New Jersey, Massachusetts and Pennsylvania of  
6 legislation having substantially the same effect as this act and the  
7 enactments by such states have taken effect in each state and shall  
8 apply for taxable years beginning on or after such date; provided,  
9 however, if the states of Connecticut, New Jersey, Massachusetts and  
10 Pennsylvania have already enacted such legislation, this act shall take  
11 effect immediately and shall apply for taxable years beginning on or  
12 after January 1, 2019; provided further that the commissioner of tax-  
13 ation and finance shall notify the legislative bill drafting commission  
14 upon the enactment of such legislation by the states of Connecticut, New  
15 Jersey, Massachusetts and Pennsylvania in order that such commission may  
16 maintain an accurate and timely effective data base of the official text  
17 of the laws of the state of New York in furtherance of effectuating the  
18 provisions of section 44 of the legislative law and section 70-b of the  
19 public officers law.

20 PART Z

21 Section 1. Paragraph 3 of subdivision (a) and paragraphs 2 and 5 of  
22 subdivision (c) of section 43 of the tax law, as added by section 7 of  
23 part K of chapter 59 of the laws of 2017, are amended to read as  
24 follows:

25 (3) The total amount of credit allowable to a qualified life sciences  
26 company, or, if the life sciences company is properly included or  
27 required to be included in a combined report, to the combined group,  
28 taken in the aggregate, shall not exceed five hundred thousand dollars  
29 in any taxable year. If the ~~[life sciences company]~~ taxpayer is a part-  
30 ner in a partnership that is a life sciences company or a shareholder of  
31 a New York S corporation that is a life sciences company, then the total  
32 amount of credit allowable shall be applied at the entity level, so that  
33 the total amount of credit allowable to all the partners or shareholders  
34 of each such entity, taken in the aggregate, does not exceed five  
35 hundred thousand dollars in any taxable year.

36 (2) "New business" means any business that qualifies as a new business  
37 under either paragraph (f) of subdivision one of section two hundred  
38 ten-B or paragraph ten of subsection ~~[one]~~ (a) of section six hundred  
39 six of this chapter.

40 (5) "Related person" means a related person as defined in subparagraph  
41 ~~[(e)]~~ (C) of paragraph three of subsection (b) of section 465 of the  
42 internal revenue code. For this purpose, a "related person" shall  
43 include an entity that would have qualified as a "related person" if it  
44 had not been dissolved, liquidated, merged with another entity or other-  
45 wise ceased to exist or operate.

46 § 2. Subdivision 5 of section 209 of the tax law, as amended by  
47 section 5 of part A of chapter 59 of the laws of 2014, is amended to  
48 read as follows:

49 5. For any taxable year of a real estate investment trust as defined  
50 in section eight hundred fifty-six of the internal revenue code in which  
51 such trust is subject to federal income taxation under section eight  
52 hundred fifty-seven of such code, such trust shall be subject to a tax  
53 computed under either paragraph (a) or (d) of subdivision one of section  
54 two hundred ten of this chapter, whichever is greater, and shall not be

1 subject to any tax under article thirty-three of this chapter except for  
2 a captive REIT required to file a combined return under subdivision (f)  
3 of section fifteen hundred fifteen of this chapter. In the case of such  
4 a real estate investment trust, including a captive REIT as defined in  
5 section two of this chapter, the term "entire net income" means "real  
6 estate investment trust taxable income" as defined in paragraph two of  
7 subdivision (b) of section eight hundred fifty-seven (as modified by  
8 section eight hundred fifty-eight) of the internal revenue code [~~plus~~  
9 ~~the amount taxable under paragraph three of subdivision (b) of section~~  
10 ~~eight hundred fifty-seven of such code~~], subject to the modifications  
11 required by subdivision nine of section two hundred eight of this arti-  
12 cle.

13 § 3. Paragraph (a) of subdivision 8 of section 211 of the tax law, as  
14 amended by chapter 760 of the laws of 1992, is amended to read as  
15 follows:

16 (a) Except in accordance with proper judicial order or as otherwise  
17 provided by law, it shall be unlawful for any tax commissioner, any  
18 officer or employee of the department [~~of taxation and finance~~], or any  
19 person who, pursuant to this section, is permitted to inspect any  
20 report, or to whom any information contained in any report is furnished,  
21 or any person engaged or retained by such department on an independent  
22 contract basis, or any person who in any manner may acquire knowledge of  
23 the contents of a report filed pursuant to this article, to divulge or  
24 make known in any manner the amount of income or any particulars set  
25 forth or disclosed in any report under this article. The officers  
26 charged with the custody of such reports shall not be required to  
27 produce any of them or evidence of anything contained in them in any  
28 action or proceeding in any court, except on behalf of the state or the  
29 commissioner in an action or proceeding under the provisions of this  
30 chapter or in any other action or proceeding involving the collection of  
31 a tax due under this chapter to which the state or the commissioner is a  
32 party or a claimant, or on behalf of any party to any action or proceed-  
33 ing under the provisions of this article when the reports or facts shown  
34 thereby are directly involved in such action or proceeding, in any of  
35 which events the court may require the production of, and may admit in  
36 evidence, so much of said reports or of the facts shown thereby as are  
37 pertinent to the action or proceeding, and no more. The commissioner  
38 may, nevertheless, publish a copy or a summary of any determination or  
39 decision rendered after the formal hearing provided for in section one  
40 thousand eighty-nine of this chapter. Nothing herein shall be construed  
41 to prohibit the delivery to a corporation or its duly authorized repre-  
42 sentative of a copy of any report filed by it, nor to prohibit the  
43 publication of statistics so classified as to prevent the identification  
44 of particular reports and the items thereof; or the publication of  
45 delinquent lists showing the names of taxpayers who have failed to pay  
46 their taxes at the time and in the manner provided by section two  
47 hundred thirteen of this chapter together with any relevant information  
48 which in the opinion of the commissioner may assist in the collection of  
49 such delinquent taxes; or the inspection by the attorney general or  
50 other legal representatives of the state of the report of any corpo-  
51 ration which shall bring action to set aside or review the tax based  
52 thereon, or against which an action or proceeding under this chapter has  
53 been recommended by the commissioner of taxation and finance or the  
54 attorney general or has been instituted; or the inspection of the  
55 reports of any corporation by the comptroller or duly designated officer  
56 or employee of the state department of audit and control, for purposes

1 of the audit of a refund of any tax paid by such corporation under this  
2 article~~[, and nothing in this chapter shall be construed to prohibit the~~  
3 ~~publication of the issuer's allocation percentage of any corporation, as~~  
4 ~~such term "issuer's allocation percentage" is defined in subparagraph~~  
5 ~~one of paragraph (b) of subdivision three of section two hundred ten of~~  
6 ~~this article].~~

7 § 4. Subdivision (a) of section 213-b of the tax law, as amended by  
8 section 10 of part Q of chapter 60 of the laws of 2016, is amended to  
9 read as follows:

10 (a) First installments for certain taxpayers.--In privilege periods of  
11 twelve months ending at any time during the calendar year nineteen  
12 hundred seventy and thereafter, every taxpayer subject to the tax  
13 imposed by section two hundred nine of this chapter must pay with the  
14 report required to be filed for the preceding privilege period, or with  
15 an application for extension of the time for filing the report, for  
16 taxable years beginning before January first, two thousand sixteen, and  
17 must pay on or before the fifteenth day of the third month of such priv-  
18 ilege periods, for taxable years beginning on or after January first,  
19 two thousand sixteen, an amount equal to (i) twenty-five percent of the  
20 second preceding year's tax if the second preceding year's tax exceeded  
21 one thousand dollars but was equal to or less than one hundred thousand  
22 dollars, or (ii) forty percent of the second preceding year's tax if the  
23 second preceding year's tax exceeded one hundred thousand dollars. If  
24 the second preceding year's tax under section two hundred nine of this  
25 chapter exceeded one thousand dollars and the taxpayer is subject to the  
26 tax surcharge imposed by section two hundred nine-B of this chapter, the  
27 taxpayer must also pay with the tax surcharge report required to be  
28 filed for the second preceding privilege period, or with an application  
29 for extension of the time for filing the report, for taxable years  
30 beginning before January first, two thousand sixteen, and must pay on or  
31 before the fifteenth day of the third month of such privilege periods,  
32 for taxable years beginning on or after January first, two thousand  
33 sixteen, an amount equal to (i) twenty-five percent of the tax surcharge  
34 imposed for the second preceding year if the second preceding year's tax  
35 was equal to or less than one hundred thousand dollars, or (ii) forty  
36 percent of the tax surcharge imposed for the second preceding year if  
37 the second preceding year's tax exceeded one hundred thousand dollars.  
38 Provided, however, that every taxpayer that is ~~[an]~~ a New York S corpo-  
39 ration must pay with the report required to be filed for the preceding  
40 privilege period, or with an application for extension of the time for  
41 filing the report, an amount equal to (i) twenty-five percent of the  
42 preceding year's tax if the preceding year's tax exceeded one thousand  
43 dollars but was equal to or less than one hundred thousand dollars, or  
44 (ii) forty percent of the preceding year's tax if the preceding year's  
45 tax exceeded one hundred thousand dollars. ~~[If the preceding year's tax~~  
46 ~~under section two hundred nine of this article exceeded one thousand~~  
47 ~~dollars and such taxpayer that is an S corporation is subject to the tax~~  
48 ~~surcharge imposed by section two hundred nine-B of this article, the~~  
49 ~~taxpayer must also pay with the tax surcharge report required to be~~  
50 ~~filed for the preceding privilege period, or with an application for~~  
51 ~~extension of the time for filing the report, an amount equal to (i)~~  
52 ~~twenty-five percent of the tax surcharge imposed for the preceding year~~  
53 ~~if the preceding year's tax was equal equal to or less than one hundred~~  
54 ~~thousand dollars, or (ii) forty percent of the tax surcharge imposed for~~  
55 ~~the preceding year if the preceding year's tax exceeded one hundred~~  
56 ~~thousand dollars.]~~



§ 5. Subdivision (e) of section 213-b of the tax law, as amended by chapter 166 of the laws of 1991, the subdivision heading as amended by section 10-b of part Q of chapter 60 of the laws of 2016, is amended to read as follows:

(e) Interest on certain installments based on the second preceding year's tax.--Notwithstanding the provisions of section one thousand eighty-eight of this chapter or of section sixteen of the state finance law, if an amount paid pursuant to subdivision (a) exceeds the tax or tax surcharge, respectively, shown on the report required to be filed by the taxpayer for the privilege period during which the amount was paid, interest shall be allowed and paid on the amount by which the amount so paid pursuant to such subdivision exceeds such tax or tax surcharge. In the case of amounts so paid pursuant to subdivision (a), such interest shall be allowed and paid at the overpayment rate set by the commissioner of taxation and finance pursuant to section one thousand ninety-six of this chapter, or if no rate is set, at the rate of six per centum per annum from the date of payment of the amount so paid pursuant to such subdivision to the fifteenth day of the ~~third~~ fourth month following the close of the taxable year, provided, however, that no interest shall be allowed or paid under this subdivision if the amount thereof is less than one dollar or if such interest becomes payable solely because of a carryback of a net operating loss in a subsequent privilege period.

§ 6. Subdivision (a) of section 1503 of the tax law, as amended by chapter 817 of the laws of 1987, is amended to read as follows:

(a) The entire net income of a taxpayer shall be its total net income from all sources which shall be presumably the same as the life insurance company taxable income (which shall include, in the case of a stock life insurance company ~~which~~ that has a balance, as determined as of the close of such company's last taxable year beginning before January first, two thousand eighteen, in an existing policyholders surplus account, as such term is defined in section 815 of the internal revenue code as such section was in effect for taxable years beginning before January first, two thousand eighteen, the amount of ~~[direct and indirect distributions during the taxable year to shareholders from such account]~~ one-eighth of such balance), taxable income of a partnership or taxable income, but not alternative minimum taxable income, as the case may be, which the taxpayer is required to report to the United States treasury department, for the taxable year or, in the case of a corporation exempt from federal income tax (other than the tax on unrelated business taxable income imposed under section 511 of the internal revenue code) but not exempt from tax under section fifteen hundred one, the taxable income which such taxpayer would have been required to report but for such exemption, except as hereinafter provided.

§ 7. Subparagraphs (A) and (B) of paragraph 1 of subdivision (d) of section 11-525 of the administrative code of the city of New York are amended to read as follows:

(A) The tax shown on the return of the taxpayer for the preceding taxable year or the second preceding taxable year, as applicable with respect to the taxpayer's declaration of estimated tax, if a return showing a liability for tax was filed by the taxpayer for ~~the~~ such preceding or second preceding taxable year and such preceding or second preceding year was a taxable year of twelve months, or

(B) An amount equal to the tax computed, at the rates applicable to the taxable year, but otherwise on the basis of the facts shown on the taxpayer's return for, and the law applicable to, the preceding taxable

1 year or the second preceding taxable year, as applicable with respect to  
2 the taxpayer's declaration of estimated tax, or

3 § 8. Paragraphs (a) and (b) of subdivision 4 of section 11-676 of the  
4 administrative code of the city of New York are amended to read as  
5 follows:

6 (a) The tax shown on the return of the taxpayer for the preceding  
7 taxable year or the second preceding taxable year, as applicable with  
8 respect to the taxpayer's declaration of estimated tax, if a return  
9 showing a liability for tax was filed by the taxpayer for [~~the~~] such  
10 preceding or second preceding taxable year and such preceding or second  
11 preceding year was a taxable year of twelve months, or

12 (b) An amount equal to the tax computed at the rates applicable to the  
13 taxable year, but otherwise on the basis of the facts shown on the  
14 return of the taxpayer for, and the law applicable to, the preceding  
15 taxable year or the second preceding taxable year, as applicable with  
16 respect to the taxpayer's declaration of estimated tax, or

17 § 9. Section 2 of chapter 369 of the laws of 2018 amending the tax law  
18 relating to unrelated business taxable income of a taxpayer, is amended  
19 to read as follows:

20 § 2. This act shall take effect immediately and shall apply to [~~taxa-~~  
21 ~~ble years beginning~~] amounts paid or incurred on and after January 1,  
22 2018.

23 § 10. This act shall take effect immediately, provided, however, that:

24 (i) section one of this act shall be deemed to have been in full force  
25 and effect on and after the effective date of part K of chapter 59 of  
26 the laws of 2017;

27 (ii) sections two and six of this act shall be deemed to have been in  
28 full force and effect on and after the effective date of part KK of  
29 chapter 59 of the laws of 2018; provided, however, that section six of  
30 this act shall apply to taxable years beginning on or after January 1,  
31 2018 through taxable years beginning on or before January 1, 2025;

32 (iii) section three of this act shall be deemed to have been in full  
33 force and effect on and after the effective date of part A of chapter 59  
34 of the laws of 2014;

35 (iv) sections four, five, seven and eight of this act shall be deemed  
36 to have been in full force and effect on and after the effective date of  
37 part Q of chapter 60 of the laws of 2016;

38 (v) section nine of this act shall be deemed to have been in full  
39 force and effect on and after the effective date of chapter 369 of the  
40 laws of 2018.

41 PART AA

42 Section 1. Section 487 of the real property tax law is amended by  
43 adding a new subdivision 10 to read as follows:

44 10. Notwithstanding the foregoing provisions of this section, on or  
45 after April first, two thousand nineteen, real property that comprises  
46 or includes a solar or wind energy system, farm waste energy system,  
47 microhydroelectric energy system, fuel cell electric generating system,  
48 microcombined heat and power generating equipment system, or electric  
49 energy storage system as such terms are defined in paragraphs (b), (f),  
50 (h), (j), (l) and (n) of subdivision one of this section (hereinafter,  
51 individually or collectively, "energy system"), shall be exempt from any  
52 taxation, special ad valorem levies, and special assessments to the  
53 extent provided in section four hundred ninety of this article, and the  
54 owner of such property shall not be subject to any requirement to enter

1 into a contract for payments in lieu of taxes in accordance with subdivi-  
2 vision nine of this section, if: (a) the energy system is installed on  
3 real property that is owned or controlled by the state of New York, a  
4 department or agency thereof, or a state authority as that term is  
5 defined by subdivision one of section two of the public authorities law;  
6 and (b) the state of New York, a department or agency thereof, or a  
7 state authority as that term is defined by subdivision one of section  
8 two of the public authorities law has agreed to purchase the energy  
9 produced by such energy system or the environmental credits or attri-  
10 butes created by virtue of the energy system's operation, in accordance  
11 with a written agreement with the owner or operator of such energy  
12 system. Such exemption shall be granted only upon application by the  
13 owner of the real property on a form prescribed by the commissioner,  
14 which application shall be filed with the assessor of the appropriate  
15 county, city, town or village on or before the taxable status date of  
16 such county, city, town or village.

17 § 2. This act shall take effect immediately.

18 PART BB

19 Section 1. Subdivision 1 of section 107 of the racing, pari-mutuel  
20 wagering and breeding law, as added by section 1 of part A of chapter 60  
21 of the laws of 2012, is amended as follows:

22 1. No person shall be appointed to or employed by the commission if,  
23 during the period commencing three years prior to appointment or employ-  
24 ment, ~~said~~ such person held any direct or indirect interest in, or  
25 employment by, any corporation, association or person engaged in gaming  
26 activity within the state. Prior to appointment or employment, each  
27 member, officer or employee of the commission shall swear or affirm that  
28 he or she possesses no interest in any corporation or association hold-  
29 ing a franchise, license, registration, certificate or permit issued by  
30 the commission. Thereafter, no member or officer of the commission shall  
31 hold any direct interest in or be employed by any applicant for or by  
32 any corporation, association or person holding a license, registration,  
33 franchise, certificate or permit issued by the commission for a period  
34 of four years commencing on the date his or her membership with the  
35 commission terminates. Further, no employee of the commission may  
36 acquire any direct or indirect interest in, or accept employment with,  
37 any applicant for or any person holding a license, registration, fran-  
38 chise, certificate or permit issued by the commission for a period of  
39 two years commencing at the termination of employment with the commis-  
40 sion. The commission may, by resolution adopted at a properly noticed  
41 public meeting, waive for good cause any of its pre-employment  
42 restrictions for a prospective employee.

43 § 2. This act shall take effect immediately.

44 PART CC

45 Section 1. Subdivision 2 of section 254 of the racing, pari-mutuel  
46 wagering and breeding law is amended by adding a new paragraph h to read  
47 as follows:

48 h. An amount as shall be determined by the fund to support and promote  
49 the ongoing care of retired horses, provided, however, that the fund  
50 shall not be required to make any allocation for such purposes.

§ 2. Subdivision 1 of section 332 of the racing, pari-mutuel wagering and breeding law is amended by adding a new paragraph j to read as follows:

j. An amount as shall be determined by the fund to support and promote the ongoing care of retired horses, provided, however, that the fund shall not be required to make any allocation for such purposes.

§ 3. This act shall take effect immediately.

#### PART DD

Section 1. This Part enacts into law legislation relating to the office of gaming inspector general, the thoroughbred breeding and development fund, the Harry M. Zweig memorial fund and prize payment amounts and revenue distributions of lottery game sales. Each component is wholly contained within a Subpart identified as Subparts A through D. The effective date for each particular provision contained within such Subpart is set forth in the last section of such Subpart. Any provision in any section contained within a Subpart, including the effective date of the Subpart, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Subpart in which it is found. Section three of this Part sets forth the general effective date of this Part.

#### SUBPART A

Section 1. Sections 1368, 1369, 1370, and 1371 of the racing, pari-mutuel wagering and breeding law are renumbered sections 130, 131, 132, and 133.

§ 2. Title 9 of article 13 of the racing, pari-mutuel wagering and breeding law is REPEALED.

§ 3. Section 130 of the racing, pari-mutuel wagering and breeding law, as added by chapter 174 of the laws of 2013 and as renumbered by section one of this act, is amended to read as follows:

§ 130. Establishment of the office of gaming inspector general. There is hereby created within the commission the office of gaming inspector general. The head of the office shall be the gaming inspector general who shall be appointed by the governor by and with the advice and consent of the senate. The gaming inspector general shall serve at the pleasure of the governor. The gaming inspector general shall report directly to the governor. The person appointed as gaming inspector general shall, upon his or her appointment, have not less than ten years professional experience in law, investigation, or auditing. The gaming inspector general shall be compensated within the limits of funds available therefor, provided, however, such salary shall be no less than the salaries of certain state officers holding the positions indicated in paragraph (a) of subdivision one of section one hundred sixty-nine of the executive law.

§ 4. The section heading, opening paragraph and subdivision 7 of section 131 of the racing, pari-mutuel wagering and breeding law, as added by chapter 174 of the laws of 2013 and such section as renumbered by section one of this act, are amended to read as follows:

~~[State gaming]~~ Gaming inspector general; functions and duties. The ~~[state]~~ gaming inspector general shall have the following duties and responsibilities:

7. establish programs for training commission officers and employees [regarding] in regard to the prevention and elimination of corruption, fraud, criminal activity, conflicts of interest or abuse in the commission.

§ 5. The opening paragraph of section 132 of the racing, pari-mutuel wagering and breeding law, as added by chapter 174 of the laws of 2013 and such section as renumbered by section one of this act, is amended to read as follows:

The [state] gaming inspector general shall have the power to:

§ 6. Section 133 of the racing, pari-mutuel wagering and breeding law, as added by chapter 174 of the laws of 2013 and as renumbered by section one of this act, is amended to read as follows:

§ 133. Responsibilities of the commission and its officers and employees. 1. Every commission officer or employee shall report promptly to the [state] gaming inspector general any information concerning corruption, fraud, criminal activity, conflicts of interest or abuse by another state officer or employee relating to his or her office or employment, or by a person having business dealings with the commission relating to those dealings. The knowing failure of any officer or employee to so report shall be cause for removal from office or employment or other appropriate penalty under this article. Any officer or employee who acts pursuant to this subdivision by reporting to the [state] gaming inspector general or other appropriate law enforcement official improper governmental action as defined in section seventy-five-b of the civil service law shall not be subject to dismissal, discipline or other adverse personnel action.

2. The commission chair shall advise the governor within ninety days of the issuance of a report by the [state] gaming inspector general as to the remedial action that the commission has taken in response to any recommendation for such action contained in such report.

§ 7. This act shall take effect immediately.

## SUBPART B

Section 1. Subdivision 1 of section 252 of the racing, pari-mutuel wagering and breeding law, as amended by section 11 of part A of chapter 60 of the laws of 2012, is amended to read as follows:

1. A corporation to be known as the New York state thoroughbred breeding and development fund corporation is hereby created. Such corporation shall be a body corporate and politic constituting a public benefit corporation. It shall be administered by a board of directors consisting of the chair of the state gaming commission or his or her designee, the commissioner of agriculture and markets, three members of the state gaming commission or other bona fide residents of the state who have a cogent interest in the thoroughbred breeding industry in the state as designated by the governor and six members appointed by the governor, all of whom are experienced or have been actively engaged in the breeding of thoroughbred horses in New York state, one, the president or the executive director of the statewide thoroughbred breeders association representing the majority of breeders of registered thoroughbreds in New York state, one upon the recommendation of the majority leader of the senate, one upon the recommendation of the speaker of the assembly, one upon the recommendation of the minority leader of the senate, and one upon the recommendation of the minority leader of the assembly. Two of the appointed members shall initially serve for a two year term, two of the appointed members shall initially serve for a three year term and



1 two of the appointed members shall initially serve for a four year term.  
2 All successors appointed members shall serve for a four year term. All  
3 members shall continue in office until their successors have been  
4 appointed and qualified. The governor shall designate the chair from  
5 among the sitting members who shall serve as such at the pleasure of the  
6 governor.

7 § 2. This act shall take effect immediately.

8 SUBPART C

9 Section 1. Subdivision 1 of section 17 of the public officers law is  
10 amended by adding a new paragraph (aa) to read as follows:

11 (aa) For the purposes of this section, the term "employee" shall  
12 include the members of the Harry M. Zweig memorial fund for equine  
13 research committee.

14 § 2. Section 703 of the racing, pari-mutuel wagering and breeding law  
15 is amended by adding a new subdivision 3 to read as follows:

16 3. Notwithstanding the provisions of section eleven of the state  
17 finance law and any other inconsistent provision of law, the fund may  
18 acquire property by the acceptance of conditional gifts, grants, devises  
19 or bequests given in furtherance of the mission of the fund.

20 § 3. This act shall take effect immediately.

21 SUBPART D

22 Section 1. Paragraph 2 of subdivision a of section 1612 of the tax  
23 law, as amended by chapter 174 of the laws of 2013, is amended to read  
24 as follows:

25 (2) [~~sixty-five~~] sixty-four and one-fourth percent of the total amount  
26 for which tickets have been sold for the "Instant Cash" game in which  
27 the participant purchases a preprinted ticket on which dollar amounts or  
28 symbols are concealed on the face or the back of such ticket, provided  
29 however up to five new games may be offered during the fiscal year,  
30 [~~seventy-five~~] seventy-four and one-fourth percent of the total amount  
31 for which tickets have been sold for such five games in which the  
32 participant purchases a preprinted ticket on which dollar amounts or  
33 symbols are concealed on the face or the back of such ticket; or

34 § 2. The opening paragraph of paragraph 1 of subdivision b of section  
35 1612 of the tax law, as amended by chapter 174 of the laws of 2013, is  
36 amended to read as follows:

37 Notwithstanding section one hundred twenty-one of the state finance  
38 law, on or before the twentieth day of each month, the [~~division~~]  
39 commission shall pay into the state treasury, to the credit of the state  
40 lottery fund created by section ninety-two-c of the state finance law,  
41 not less than forty-five percent of the total amount for which tickets  
42 have been sold for games defined in paragraph five of subdivision a of  
43 this section during the preceeding month, not less than [~~forty-five~~]  
44 thirty-five percent of the total amount for which tickets have be sold  
45 for games defined in paragraph four of subdivision a of this section  
46 during the preceding month, not less than [~~thirty-five~~] thirty percent  
47 of the total amount for which tickets have been sold for games defined  
48 in paragraph three of subdivision a of this section during the preceding  
49 month, not less than twenty and three-fourths percent of the total  
50 amount for which tickets have been sold for games defined in paragraph  
51 two of subdivision a of this section during the preceding month,  
52 provided however that for games with a prize payout of [~~seventy-five~~]



1 seventy-four and one-fourth percent of the total amount for which tick-  
2 ets have been sold, the [~~division~~] commission shall pay not less than  
3 ten and three-fourths percent of sales into the state treasury and not  
4 less than twenty-five percent of the total amount for which tickets have  
5 been sold for games defined in paragraph one of subdivision a of this  
6 section during the preceding month; and the balance of the total revenue  
7 after payout for prizes for games known as "video lottery gaming,"  
8 including any joint, multi-jurisdiction, and out-of-state video lottery  
9 gaming,

10 § 3. Subdivision a of section 1614 of the tax law, as amended by chap-  
11 ter 170 of the laws of 1994, is amended to read as follows:

12 a. No prize claim shall be valid if submitted to the [~~division~~]  
13 commission following the expiration of a one-year time period from the  
14 date of the drawing or from the close of the game in which a prize was  
15 won, and the person otherwise entitled to such prize shall forfeit any  
16 claim or entitlement to such prize moneys. Unclaimed prize money, plus  
17 interest earned thereon, shall be retained in the lottery prize account  
18 to be used for payment of special [~~lotto~~] or supplemental [~~lotto~~] prizes  
19 offered pursuant to the plan or plans specified in this article, [~~or~~]  
20 and for promotional purposes to supplement [~~other~~] games on an occa-  
21 sional basis [~~not to exceed sixteen weeks within any twelve month period~~  
22 ~~pursuant to the plan or plans specified in this article~~].

23 In the event that the director proposes to change any plan for the use  
24 of unclaimed prize funds or in the event the director intends to use  
25 funds in a game other than the game from which such unclaimed prize  
26 funds were derived, the director of the budget, the chairperson of the  
27 senate finance committee, and the chairperson of the assembly ways and  
28 means committee shall be notified in writing separately detailing the  
29 proposed changes to any plan prior to the implementation of the changes.

30 § 4. This act shall take effect immediately.

31 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-  
32 sion, section or subpart of this act shall be adjudged by any court of  
33 competent jurisdiction to be invalid, such judgment shall not affect,  
34 impair, or invalidate the remainder thereof, but shall be confined in  
35 its operation to the clause, sentence, paragraph, subdivision, section  
36 or subpart thereof directly involved in the controversy in which such  
37 judgment shall have been rendered. It is hereby declared to be the  
38 intent of the legislature that this act would have been enacted even if  
39 such invalid provisions had not been included herein.

40 § 3. This act shall take effect immediately provided, however, that  
41 the applicable effective date of Subparts A through D of this Part shall  
42 be as specifically set forth in the last section of such Subparts.

#### 43 PART EE

44 Section 1. Subparagraphs (ii) and (iii) of paragraph 1 of subdivision  
45 b of section 1612 of the tax law are REPEALED and two new subparagraphs  
46 (ii) and (iii) are added to read as follows:

47 (ii) less a vendor's fee the amount of which is to be paid for serving  
48 as a lottery agent to the track operator of a vendor track or the opera-  
49 tor of any other video lottery gaming facility authorized pursuant to  
50 section sixteen hundred seventeen-a of this article. The amount of the  
51 vendor's fee shall be calculated as follows:

52 (A) when a vendor track is located within development zone one as  
53 defined by section thirteen hundred ten of the racing, pari-mutuel  
54 wagering and breeding law, at a rate of thirty-nine and one-half percent

1 of the total revenue wagered at the vendor track after payout for prizes  
2 pursuant to this chapter;

3 (B) when a vendor track is located within zone two as defined by  
4 section thirteen hundred ten of the racing, pari-mutuel wagering and  
5 breeding law, the rate of the total revenue wagered at the vendor track  
6 after payout for prizes pursuant to this chapter shall be as follows:

7 (1) forty-three and one-half percent for a vendor track located more  
8 than fifteen miles but less than fifty miles from a destination resort  
9 gaming facility authorized pursuant to article thirteen of the racing,  
10 pari-mutuel wagering and breeding law;

11 (2) forty-nine percent for a vendor tack located within fifteen miles  
12 of a destination resort gaming facility authorized pursuant to article  
13 thirteen of the racing, pari-mutuel wagering and breeding law;

14 (3) fifty-one percent for vendor track located more than fifteen miles  
15 but less than fifty miles from a Native American class III gaming facil-  
16 ity as defined in 25 U.S.C. §2703(8);

17 (4) fifty-six percent for a vendor track located within fifteen miles  
18 of a Native American class III gaming facility as defined in 25 U.S.C  
19 §2703(8);

20 (B-1) Notwithstanding subparagraph (B) of this paragraph, for the  
21 period commencing on April first, two thousand nineteen and ending on  
22 March thirty-first, two thousand twenty, for a vendor track that is  
23 located within Ontario County, such vendor fee shall be thirty-seven and  
24 one-half percent of the total revenue wagered at the vendor track after  
25 payout for prizes pursuant to this chapter;

26 (B-2) Notwithstanding subparagraph (B) of this paragraph, for the  
27 period commencing on April first, two thousand nineteen and ending on  
28 March thirty-first two thousand twenty, for a vendor track that is  
29 located within Saratoga County, such vendor fee shall be thirty-nine and  
30 one-half percent of the total revenue wagered at the vendor track after  
31 payout for prizes pursuant to this chapter;

32 (C) when a video lottery facility is located at Aqueduct racetrack, at  
33 a rate of fifty percent of the total revenue wagered at the video  
34 lottery gaming facility after payout for prizes pursuant to this chap-  
35 ter;

36 (D) when a video lottery gaming facility is located in either Nassau  
37 or Suffolk counties and is operated by a corporation established pursu-  
38 ant to section five hundred two of the racing, pari-mutuel wagering and  
39 breeding law, at a rate of forty-five percent of the total revenue  
40 wagered at the video lottery gaming facility after payout for prizes  
41 pursuant to this chapter.

42 (iii) less any additional vendor's fees. Additional vendor's fees  
43 shall be calculated as follows:

44 (A) For a vendor track that is located within Sullivan County, within  
45 development zone two as defined by section thirteen hundred ten of the  
46 racing, pari-mutuel wagering and breeding law, such additional vendor  
47 fee shall be fifteen and one-tenth percent of the total revenue wagered  
48 at the vendor track after payout for prizes pursuant to this chapter;

49 (B) For a vendor track that is located within Ontario County, within  
50 development zone two as defined by section thirteen hundred ten of the  
51 racing, pari-mutuel wagering and breeding law, such additional vendor  
52 fee shall be ten percent of the total revenue wagered at the vendor  
53 track after payout for prizes pursuant to this chapter;

54 (C) For a vendor track that is located within Saratoga County, within  
55 development zone two as defined by section thirteen hundred ten of the  
56 racing, pari-mutuel wagering and breeding law, such additional vendor

1 fee shall be ten percent of the total revenue wagered at the vendor  
2 track after payout for prizes pursuant to this chapter;

3 (D) for a vendor track that is located within Oneida county, within  
4 fifteen miles of a Native American class III gaming facility, such addi-  
5 tional vendor fee shall be six and four-tenths percent of the total  
6 revenue wagered at the vendor after payout for prizes pursuant to this  
7 chapter. The vendor track shall forfeit this additional vendor fee for  
8 any time period that the vendor track does not maintain at least ninety  
9 percent of full-time equivalent employees as they employed in the year  
10 two thousand sixteen.

11 § 2. Subdivision b of section 1612 of the tax law is amended by adding  
12 three new paragraphs 1-a, 1-b, and 1-c to read as follows:

13 1-a. (i) Notwithstanding any provision of law to the contrary, any  
14 operators of a vendor track or the operators of any other video lottery  
15 gaming facility eligible to receive a capital award as of December thir-  
16 ty-first, two thousand eighteen shall deposit from their vendor fee into  
17 a segregated account an amount equal to four percent of the first  
18 sixty-two million five hundred thousand dollars of revenue wagered at  
19 the vendor track after payout for prizes pursuant to this chapter to be  
20 used exclusively for capital investments, except for Aqueduct, which  
21 shall deposit into a segregated account an amount equal to one percent  
22 of all revenue wagered at the video lottery gaming facility after payout  
23 for prizes pursuant to this chapter until the earlier of the designation  
24 of one thousand video lottery devices as hosted pursuant to paragraph  
25 four of subdivision a of section sixteen hundred seventeen-a of this  
26 article or April first, two thousand nineteen, when at such time four  
27 percent of all revenue wagered at the video lottery gaming facility  
28 after payout for prizes pursuant to this chapter shall be deposited into  
29 a segregated account for capital investments.

30 (ii) Vendor tracks and video lottery gaming facilities shall be  
31 permitted to withdraw funds for projects approved by the commission to  
32 improve the facilities of the vendor track or video lottery gaming  
33 facility which enhance or maintain the video lottery gaming facility  
34 including, but not limited to hotels, other lodging facilities, enter-  
35 tainment facilities, retail facilities, dining facilities, events  
36 arenas, parking garages and other improvements and amenities customary  
37 to a gaming facility, provided, however, the vendor tracks and video  
38 lottery gaming facilities shall be permitted to withdraw funds for unre-  
39 imbursed capital awards approved prior to the effective date of this  
40 subparagraph.

41 (iii) Any proceeds from the divestiture of any assets acquired through  
42 these capital funds or any prior capital award must be deposited into  
43 this segregated account, provided that if the vendor track or video  
44 lottery gaming facility ceases use of such asset for gaming purposes or  
45 transfers the asset to a related party, such vendor track or video  
46 lottery gaming facility shall deposit an amount equal to the fair market  
47 value of that asset into the account.

48 (iv) In the event a vendor track or video lottery gaming facility  
49 ceases gaming operations, any balance in the account along with an  
50 amount equal to the value of all remaining assets acquired through this  
51 fund or prior capital awards shall be returned to the state for deposit  
52 into the state lottery fund for education aid, except for Aqueduct,  
53 which shall return to the state for deposit into the state lottery fund  
54 for education aid all amounts in excess of the amount needed to fund a  
55 project pursuant to an agreement with the operator to construct an  
56 expansion of the facility, hotel, and convention and exhibition space

1 requiring a minimum capital investment of three hundred million dollars  
2 and any subsequent amendments to such agreement.

3 (v) The comptroller or his legally authorized representative is  
4 authorized to audit any and all expenditures made out of these segre-  
5 gated capital accounts.

6 (vi) Notwithstanding subparagraphs (i) through (v) of this paragraph,  
7 a vendor track located in Ontario county may withdraw up to two million  
8 dollars from this account for the purpose of constructing a turf course  
9 at the vendor track.

10 (vii) Any balance remaining in the capital award account of a vendor  
11 track or operator or any other video lottery gaming facility as of March  
12 thirty-first, two thousand nineteen shall be transferred for deposit  
13 into a segregated account established by this subparagraph.

14 1-b. Notwithstanding any provision of law to the contrary, free play  
15 allowance credits authorized by the division pursuant to subdivision i  
16 of section sixteen hundred seventeen-a of this article shall not be  
17 included in the calculation of the total amount wagered on video lottery  
18 games, the total amount wagered after payout of prizes, the vendor fees  
19 payable to the operators of video lottery gaming facilities, fees paya-  
20 ble to the division's video lottery gaming equipment contractors, or  
21 racing support payments.

22 1-c. Notwithstanding any provision of law to the contrary, the opera-  
23 tor of a vendor track or the operator of any other video lottery gaming  
24 facility shall fund a marketing and promotion program out of the  
25 vendor's fee. Each operator shall submit an annual marketing plan for  
26 the review and approval of the commission and any other required docu-  
27 ments detailing promotional activities as prescribed by the commission.  
28 The commission shall have the right to reject any advertisement or  
29 promotion that does not properly represent the mission or interests of  
30 the lottery or its programs.

31 § 3. This act shall take effect immediately; provided, however, claus-  
32 es (A), (B) and (C) of subparagraph (iii) of paragraph 1 of subdivision  
33 b of section 1612 of the tax law as added by section one of this act  
34 shall take effect April 1, 2020 and shall expire and be deemed repealed  
35 on March 31, 2023; and provided, however, clause (D) of subparagraph  
36 (iii) of paragraph 1 of subdivision b of section 1612 of the tax law as  
37 added by section one of this act shall take effect June 30, 2019 and  
38 shall expire and be deemed repealed March 31, 2023.

39 PART FF

40 Section 1. Subdivision 25 of section 1301 of the racing, pari-mutuel  
41 wagering and breeding law, as added by chapter 174 of the laws of 2013,  
42 is amended to read as follows:

43 25. "Gross gaming revenue". The total of all sums actually received by  
44 a gaming facility licensee from gaming operations less the total of all  
45 sums paid out as winnings to patrons; provided, however, that the total  
46 of all sums paid out as winnings to patrons shall not include the cash  
47 equivalent value of any merchandise or thing of value included in a  
48 jackpot or payout[~~, provided further, that the issuance to or wagering~~  
49 ~~by patrons of a gaming facility of any promotional gaming credit shall~~  
50 ~~not be taxable for the purposes of determining gross revenue].~~

51 § 2. Section 1351 of the racing, pari-mutuel wagering and breeding law  
52 is amended by adding a new subdivision 2 to read as follows:

53 2. Permissible deductions. (a) A gaming facility may deduct from gross  
54 gaming revenue the amount of approved promotional gaming credits issued

1 to and wagered by patrons of such gaming facility. The amount of  
2 approved promotional credits shall be calculated as follows:

3 (1) for the period commencing on April first, two thousand eighteen  
4 and ending on March thirty-first, two thousand twenty, an aggregate  
5 maximum amount equal to nineteen percent of the base taxable gross  
6 gaming revenue amount during the specified period;

7 (2) for the period commencing on April first, two thousand twenty and  
8 ending on March thirty-first, two thousand twenty-three, a maximum  
9 amount equal to nineteen percent of the base taxable gross gaming reven-  
10 ue amount for each fiscal year during the specified period; and

11 (3) for the period commencing on April first, two thousand twenty-  
12 three and thereafter, a maximum amount equal to fifteen percent of the  
13 base taxable gross gaming revenue amount for each fiscal year during the  
14 specified period.

15 (b) For purposes of paragraph (a) of this subdivision, "base taxable  
16 gross gaming revenue amount" means that portion of gross gaming revenue  
17 not attributable to deductible promotional credit.

18 (c) Any tax due on promotional credits deducted during the fiscal year  
19 in excess of the allowable deduction shall be paid within thirty days  
20 from the end of the fiscal year.

21 (d) Only promotional credits that are issued pursuant to a written  
22 plan approved by the commission as designed to increase revenue at the  
23 facility may be eligible for such deduction. The commission, in conjunc-  
24 tion with the director of the budget, may suspend approval of any plan  
25 whenever they jointly determine that the use of the promotional credits  
26 under such plan is not effective in increasing the amount of revenue  
27 earned.

28 § 3. This act shall take effect immediately.

29 PART GG

30 Section 1. Subdivision 12 of section 502 of the racing, pari-mutuel  
31 wagering and breeding law is amended to read as follows:

32 12. a. The board of directors shall hold an annual meeting and meet  
33 not less than quarterly.

34 b. Each board member shall receive, not less than seven days in  
35 advance of a meeting, documentation necessary to ensure knowledgeable  
36 and engaged participation. Such documentation shall include material  
37 relevant to each agenda item including background information of  
38 discussion items, resolutions to be considered and associated documents,  
39 a monthly financial statement which shall include an updated cash flow  
40 statement and aged payable listing of industry payables, financial  
41 statements, management reports, committee reports and compliance items.

42 c. Staff of the corporation shall annually submit to the board for  
43 approval a financial plan accompanied by expenditure, revenue and cash  
44 flow projections. The plan shall contain projection of revenues and  
45 expenditures based on reasonable and appropriate assumptions and methods  
46 of estimations, and shall provide that operations will be conducted  
47 within the cash resources available. The financial plan shall also  
48 include information regarding projected employment levels, collective  
49 bargaining agreements and other actions relating to employee costs,  
50 capital construction and such other matters as the board may direct.

51 d. Staff of the corporation shall prepare and submit to the board on a  
52 quarterly basis a report of summarized budget data depicting overall  
53 trends, by major category within funds, of actual revenues and budget  
54 expenditures for the entire budget rather than individual line items, as



1 well as updated quarterly cash flow projections of receipts and  
2 disbursements. Such reports shall compare revenue estimates and appro-  
3 priations as set forth in such budget and in the quarterly revenue and  
4 expenditure projections submitted therewith, with the actual revenues  
5 and expenditures made to date. Such reports shall also compare actual  
6 receipts and disbursements with the estimates contained in the cash flow  
7 projections, together with variances and their explanation. All quarter-  
8 ly reports shall be accompanied by recommendations from the president  
9 setting forth any remedial action necessary to resolve any unfavorable  
10 budget variance including the overestimation of revenues and the under-  
11 estimation of appropriations. These reports shall be completed within  
12 thirty days after the end of each quarter and shall be submitted to the  
13 board by the corporation comptroller.

14 e. Revenue estimates and the financial plan shall be regularly reexam-  
15 ined by the board and staff and shall provide a modified financial plan  
16 in such detail and within such time periods as the board may require. In  
17 the event of reductions in such revenue estimates, the board shall  
18 consider and approve such adjustments in revenue estimates and  
19 reductions in total expenditures as may be necessary to conform to such  
20 revised revenue estimates or aggregate expenditure limitations.

21 § 2. Section 503 of the racing, pari-mutuel wagering and breeding law  
22 is amended by adding a new subdivision 15 to read as follows:

23 15. Notwithstanding any inconsistent provision of law, a regional  
24 off-track betting corporation may, pursuant to a written plan and agree-  
25 ment with another regional off-track betting corporation approved by the  
26 commission, assume the off-track betting operations authorized by arti-  
27 cle five-A of this chapter of the other regional off-track betting  
28 corporation. During the duration of any such agreement, the regions of  
29 any regional off-track betting corporations, as defined by section five  
30 hundred nineteen of this chapter shall be deemed combined, provided,  
31 however, the combining of such regions shall not impact the authori-  
32 zation of a regional off-track betting corporation relinquishing off-  
33 track betting operations to be incorporated, exercise other powers, or  
34 to conduct any other activities permitted or authorized by law.

35 § 3. Subdivision 2-a of section 1009 of the racing, pari-mutuel wager-  
36 ing and breeding law, is amended by adding a new paragraph (c) to read  
37 as follows:

38 (c) The board may authorize a special demonstration project to be  
39 located in any facility licensed pursuant to article thirteen of this  
40 chapter. Notwithstanding the provisions of paragraph (a) of subdivision  
41 five of this section, an admission fee shall not be required for a  
42 demonstration project authorized in this paragraph. Provided however, on  
43 any day when a regional harness track conducts a live race meeting, a  
44 demonstration facility within that region shall predominantly display  
45 the live video of such regional harness track.

46 § 4. This act shall take effect immediately.

47 PART HH

48 Section 1. Paragraph (a) of subdivision 1 of section 1003 of the  
49 racing, pari-mutuel wagering and breeding law, as amended by section 1  
50 of part GG of chapter 59 of the laws of 2018, is amended to read as  
51 follows:

52 (a) Any racing association or corporation or regional off-track  
53 betting corporation, authorized to conduct pari-mutuel wagering under  
54 this chapter, desiring to display the simulcast of horse races on which

1 pari-mutuel betting shall be permitted in the manner and subject to the  
2 conditions provided for in this article may apply to the commission for  
3 a license so to do. Applications for licenses shall be in such form as  
4 may be prescribed by the commission and shall contain such information  
5 or other material or evidence as the commission may require. No license  
6 shall be issued by the commission authorizing the simulcast transmission  
7 of thoroughbred races from a track located in Suffolk county. The fee  
8 for such licenses shall be five hundred dollars per simulcast facility  
9 and for account wagering licensees that do not operate either a simul-  
10 cast facility that is open to the public within the state of New York or  
11 a licensed racetrack within the state, twenty thousand dollars per year  
12 payable by the licensee to the commission for deposit into the general  
13 fund. Except as provided in this section, the commission shall not  
14 approve any application to conduct simulcasting into individual or group  
15 residences, homes or other areas for the purposes of or in connection  
16 with pari-mutuel wagering. The commission may approve simulcasting into  
17 residences, homes or other areas to be conducted jointly by one or more  
18 regional off-track betting corporations and one or more of the follow-  
19 ing: a franchised corporation, thoroughbred racing corporation or a  
20 harness racing corporation or association; provided (i) the simulcasting  
21 consists only of those races on which pari-mutuel betting is authorized  
22 by this chapter at one or more simulcast facilities for each of the  
23 contracting off-track betting corporations which shall include wagers  
24 made in accordance with section one thousand fifteen, one thousand  
25 sixteen and one thousand seventeen of this article; provided further  
26 that the contract provisions or other simulcast arrangements for such  
27 simulcast facility shall be no less favorable than those in effect on  
28 January first, two thousand five; (ii) that each off-track betting  
29 corporation having within its geographic boundaries such residences,  
30 homes or other areas technically capable of receiving the simulcast  
31 signal shall be a contracting party; (iii) the distribution of revenues  
32 shall be subject to contractual agreement of the parties except that  
33 statutory payments to non-contracting parties, if any, may not be  
34 reduced; provided, however, that nothing herein to the contrary shall  
35 prevent a track from televising its races on an irregular basis primari-  
36 ly for promotional or marketing purposes as found by the commission. For  
37 purposes of this paragraph, the provisions of section one thousand thir-  
38 teen of this article shall not apply. Any agreement authorizing an  
39 in-home simulcasting experiment commencing prior to May fifteenth, nine-  
40 teen hundred ninety-five, may, and all its terms, be extended until June  
41 thirtieth, two thousand [~~nineteen~~ twenty-four]; provided, however, that  
42 any party to such agreement may elect to terminate such agreement upon  
43 conveying written notice to all other parties of such agreement at least  
44 forty-five days prior to the effective date of the termination, via  
45 registered mail. Any party to an agreement receiving such notice of an  
46 intent to terminate, may request the commission to mediate between the  
47 parties new terms and conditions in a replacement agreement between the  
48 parties as will permit continuation of an in-home experiment until June  
49 thirtieth, two thousand [~~nineteen~~ twenty-four]; and (iv) no in-home  
50 simulcasting in the thoroughbred special betting district shall occur  
51 without the approval of the regional thoroughbred track.

52 § 2. Subparagraph (iii) of paragraph d of subdivision 3 of section  
53 1007 of the racing, pari-mutuel wagering and breeding law, as amended by  
54 section 2 of part GG of chapter 59 of the laws of 2018, is amended to  
55 read as follows:

(iii) Of the sums retained by a receiving track located in Westchester county on races received from a franchised corporation, for the period commencing January first, two thousand eight and continuing through June thirtieth, two thousand ~~[nineteen]~~ twenty-four, the amount used exclusively for purses to be awarded at races conducted by such receiving track shall be computed as follows: of the sums so retained, two and one-half percent of the total pools. Such amount shall be increased or decreased in the amount of fifty percent of the difference in total commissions determined by comparing the total commissions available after July twenty-first, nineteen hundred ninety-five to the total commissions that would have been available to such track prior to July twenty-first, nineteen hundred ninety-five.

§ 3. The opening paragraph of subdivision 1 of section 1014 of the racing, pari-mutuel wagering and breeding law, as amended by section 3 of part GG of chapter 59 of the laws of 2018, is amended to read as follows:

The provisions of this section shall govern the simulcasting of races conducted at thoroughbred tracks located in another state or country on any day during which a franchised corporation is conducting a race meeting in Saratoga county at Saratoga thoroughbred racetrack until June thirtieth, two thousand ~~[nineteen]~~ twenty-four and on any day regardless of whether or not a franchised corporation is conducting a race meeting in Saratoga county at Saratoga thoroughbred racetrack after June thirtieth, two thousand ~~[nineteen]~~ twenty-four. On any day on which a franchised corporation has not scheduled a racing program but a thoroughbred racing corporation located within the state is conducting racing, every off-track betting corporation branch office and every simulcasting facility licensed in accordance with section one thousand seven (that ~~[have]~~ has entered into a written agreement with such facility's representative horsemen's organization, as approved by the commission), one thousand eight, or one thousand nine of this article shall be authorized to accept wagers and display the live simulcast signal from thoroughbred tracks located in another state or foreign country subject to the following provisions:

§ 4. Subdivision 1 of section 1015 of the racing, pari-mutuel wagering and breeding law, as amended by section 4 of part GG of chapter 59 of the laws of 2018, is amended to read as follows:

1. The provisions of this section shall govern the simulcasting of races conducted at harness tracks located in another state or country during the period July first, nineteen hundred ninety-four through June thirtieth, two thousand ~~[nineteen]~~ twenty-four. This section shall supersede all inconsistent provisions of this chapter.

§ 5. The opening paragraph of subdivision 1 of section 1016 of the racing, pari-mutuel wagering and breeding law, as amended by section 5 of part GG of chapter 59 of the laws of 2018, is amended to read as follows:

The provisions of this section shall govern the simulcasting of races conducted at thoroughbred tracks located in another state or country on any day during which a franchised corporation is not conducting a race meeting in Saratoga county at Saratoga thoroughbred racetrack until June thirtieth, two thousand ~~[nineteen]~~ twenty-four. Every off-track betting corporation branch office and every simulcasting facility licensed in accordance with section one thousand seven that have entered into a written agreement with such facility's representative horsemen's organization as approved by the commission, one thousand eight or one thousand nine of this article shall be authorized to accept wagers and

1 display the live full-card simulcast signal of thoroughbred tracks  
2 (which may include quarter horse or mixed meetings provided that all  
3 such wagering on such races shall be construed to be thoroughbred races)  
4 located in another state or foreign country, subject to the following  
5 provisions; provided, however, no such written agreement shall be  
6 required of a franchised corporation licensed in accordance with section  
7 one thousand seven of this article:

8 § 6. The opening paragraph of section 1018 of the racing, pari-mutuel  
9 wagering and breeding law, as amended by section 6 of part GG of chapter  
10 59 of the laws of 2018, is amended to read as follows:

11 Notwithstanding any other provision of this chapter, for the period  
12 July twenty-fifth, two thousand one through September eighth, two thou-  
13 sand [~~eighteen~~] ~~twenty-three~~, when a franchised corporation is conduct-  
14 ing a race meeting within the state at Saratoga Race Course, every off-  
15 track betting corporation branch office and every simulcasting facility  
16 licensed in accordance with section one thousand seven (that has entered  
17 into a written agreement with such facility's representative horsemen's  
18 organization as approved by the commission), one thousand eight or one  
19 thousand nine of this article shall be authorized to accept wagers and  
20 display the live simulcast signal from thoroughbred tracks located in  
21 another state, provided that such facility shall accept wagers on races  
22 run at all in-state thoroughbred tracks which are conducting racing  
23 programs subject to the following provisions; provided, however, no such  
24 written agreement shall be required of a franchised corporation licensed  
25 in accordance with section one thousand seven of this article.

26 § 7. Section 32 of chapter 281 of the laws of 1994, amending the  
27 racing, pari-mutuel wagering and breeding law and other laws relating to  
28 simulcasting, as amended by section 7 of part GG of chapter 59 of the  
29 laws of 2018, is amended to read as follows:

30 § 32. This act shall take effect immediately and the pari-mutuel tax  
31 reductions in section six of this act shall expire and be deemed  
32 repealed on July 1, [~~2019~~] ~~2024~~; provided, however, that nothing  
33 contained herein shall be deemed to affect the application, qualifica-  
34 tion, expiration, or repeal of any provision of law amended by any  
35 section of this act, and such provisions shall be applied or qualified  
36 or shall expire or be deemed repealed in the same manner, to the same  
37 extent and on the same date as the case may be as otherwise provided by  
38 law; provided further, however, that sections twenty-three and twenty-  
39 five of this act shall remain in full force and effect only until May 1,  
40 1997 and at such time shall be deemed to be repealed.

41 § 8. Section 54 of chapter 346 of the laws of 1990, amending the  
42 racing, pari-mutuel wagering and breeding law and other laws relating to  
43 simulcasting and the imposition of certain taxes, as amended by section  
44 8 of part GG of chapter 59 of the laws of 2018, is amended to read as  
45 follows:

46 § 54. This act shall take effect immediately; provided, however,  
47 sections three through twelve of this act shall take effect on January  
48 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breed-  
49 ing law, as added by section thirty-eight of this act, shall expire and  
50 be deemed repealed on July 1, [~~2019~~] ~~2024~~; and section eighteen of this  
51 act shall take effect on July 1, 2008 and sections fifty-one and fifty-  
52 two of this act shall take effect as of the same date as chapter 772 of  
53 the laws of 1989 took effect.

54 § 9. Paragraph (a) of subdivision 1 of section 238 of the racing,  
55 pari-mutuel wagering and breeding law, as amended by section 9 of part  
56 GG of chapter 59 of the laws of 2018, is amended to read as follows:

(a) The franchised corporation authorized under this chapter to conduct pari-mutuel betting at a race meeting or races run thereat shall distribute all sums deposited in any pari-mutuel pool to the holders of winning tickets therein, provided such tickets be presented for payment before April first of the year following the year of their purchase, less an amount which shall be established and retained by such franchised corporation of between twelve to seventeen per centum of the total deposits in pools resulting from on-track regular bets, and fourteen to twenty-one per centum of the total deposits in pools resulting from on-track multiple bets and fifteen to twenty-five per centum of the total deposits in pools resulting from on-track exotic bets and fifteen to thirty-six per centum of the total deposits in pools resulting from on-track super exotic bets, plus the breaks. The retention rate to be established is subject to the prior approval of the gaming commission.

Such rate may not be changed more than once per calendar quarter to be effective on the first day of the calendar quarter. "Exotic bets" and "multiple bets" shall have the meanings set forth in section five hundred nineteen of this chapter. "Super exotic bets" shall have the meaning set forth in section three hundred one of this chapter. For purposes of this section, a "pick six bet" shall mean a single bet or wager on the outcomes of six races. The breaks are hereby defined as the odd cents over any multiple of five for payoffs greater than one dollar five cents but less than five dollars, over any multiple of ten for payoffs greater than five dollars but less than twenty-five dollars, over any multiple of twenty-five for payoffs greater than twenty-five dollars but less than two hundred fifty dollars, or over any multiple of fifty for payoffs over two hundred fifty dollars. Out of the amount so retained there shall be paid by such franchised corporation to the commissioner of taxation and finance, as a reasonable tax by the state for the privilege of conducting pari-mutuel betting on the races run at the race meetings held by such franchised corporation, the following percentages of the total pool for regular and multiple bets five per centum of regular bets and four per centum of multiple bets plus twenty per centum of the breaks; for exotic wagers seven and one-half per centum plus twenty per centum of the breaks, and for super exotic bets seven and one-half per centum plus fifty per centum of the breaks.

For the period June first, nineteen hundred ninety-five through September ninth, nineteen hundred ninety-nine, such tax on regular wagers shall be three per centum and such tax on multiple wagers shall be two and one-half per centum, plus twenty per centum of the breaks. For the period September tenth, nineteen hundred ninety-nine through March thirty-first, two thousand one, such tax on all wagers shall be two and six-tenths per centum and for the period April first, two thousand one through December thirty-first, two thousand ~~nineteen~~ twenty-four, such tax on all wagers shall be one and six-tenths per centum, plus, in each such period, twenty per centum of the breaks. Payment to the New York state thoroughbred breeding and development fund by such franchised corporation shall be one-half of one per centum of total daily on-track pari-mutuel pools resulting from regular, multiple and exotic bets and three per centum of super exotic bets provided, however, that for the period September tenth, nineteen hundred ninety-nine through March thirty-first, two thousand one, such payment shall be six-tenths of one per centum of regular, multiple and exotic pools and for the period April first, two thousand one through December thirty-first, two thousand ~~nineteen~~ twenty-four, such payment shall be seven-tenths of one per centum of such pools.



§ 10. This act shall take effect immediately.

PART II

Section 1. The racing, pari-mutuel wagering and breeding law is amended by adding a new article XI-A to read as follows:

ARTICLE XI-A  
INTERSTATE COMPACT ON ANTI-DOPING  
AND DRUG TESTING STANDARDS

Section 1113. Purposes.

1114. Definitions.

1115. Composition and meetings of compact commission.

1116. Operation of compact commission.

1117. General powers and duties.

1118. Other powers and duties.

1119. Compact rule making.

1120. Status and relationship to member states.

1121. Rights and responsibilities of member states.

1122. Enforcement of compact.

1123. Legal actions against compact.

1124. Restrictions on authority.

1125. Construction, savings and severability.

§ 1113. Purposes. The purposes of the compact are:

a. To enable member states to act jointly and cooperatively to create more uniform, effective, and efficient breed specific rules and regulations relating to the permitted and prohibited use of drugs and medications for the health and welfare of the horse and the integrity of racing, and testing for such substances, in or affecting a member state; and

b. To authorize the New York state gaming commission to participate in the compact.

§ 1114. Definitions. For the purposes of this article, the following terms shall have the following meanings:

a. "Compact commission" means the organization of delegates from the member states that is authorized and empowered by the compact to carry out the purposes of the compact;

b. "Compact rule" means a rule or regulation adopted by a member state regulating the permitted and prohibited use of drugs and medications for the health and welfare of the horse and the integrity of racing, and testing for such substances, in live pari-mutuel horse racing that occurs in or affects such states;

c. "Delegate" means the chairperson of the member state racing commission or similar regulatory body in a state, or such person's designee, who represents the member state, as a voting member of the compact commission and anyone who is serving as such person's alternate;

d. "Equine drug rule" means a rule or regulation that relates to the administration of drugs, medications, or other substances to a horse that may participate in live horse racing with pari-mutuel wagering including, but not limited to, the regulation of the permissible use of such substances to ensure the integrity of racing and the health, safety and welfare of race horses, appropriate sanctions for rule violations, and quality laboratory testing programs to detect such substances in the bodily system of a race horse;

e. "Live racing" means live horse racing with pari-mutuel wagering;

f. "Member state" means each state that has enacted the compact;

1 g. "National industry stakeholder" means a non-governmental organiza-  
2 tion that from a national perspective significantly represents one or  
3 more categories of participants in live racing and pari-mutuel wagering;

4 h. "Participants in live racing" means all persons who participate in,  
5 operate, provide industry services for, or are involved with live racing  
6 with pari-mutuel wagering;

7 i. "State" means each of the several states of the United States, the  
8 District of Columbia, the Commonwealth of Puerto Rico, and each territo-  
9 ry or possession of the United States; and

10 j. "State racing commission" means the state racing commission, or its  
11 equivalent, in each member state. Where a member state has more than  
12 one, it shall mean all such racing commissions, or their equivalents.

13 § 1115. Composition and meetings of compact commission. The member  
14 states shall create and participate in a compact commission as follows:

15 a. The compact shall come into force when enacted by any two eligible  
16 states, and shall thereafter become effective as to any other member  
17 state that enacts the compact. Any state that has adopted or authorized  
18 pari-mutuel wagering or live horse racing shall be eligible to become a  
19 party to the compact. A compact rule shall not become effective in a new  
20 member state based merely upon it entering the compact.

21 b. The member states hereby create the interstate anti-doping and drug  
22 testing standards compact commission, a body corporate and an interstate  
23 governmental entity of the member states, to coordinate the rule making  
24 actions of each member state racing commission through a compact commis-  
25 sion.

26 c. The compact commission shall consist of one delegate, the chair-  
27 person of the state racing commission or such person's designee, from  
28 each member state. When a delegate is not present to perform any duty in  
29 the compact commission, a designated alternate may serve. The person who  
30 represents a member state in the compact commission shall serve and  
31 perform such duties without compensation or remuneration; provided, that  
32 subject to the availability of budgeted funds, each may be reimbursed  
33 for ordinary and necessary costs and expenses. The designation of a  
34 delegate, including the alternate, shall be effective when written  
35 notice has been provided to the compact commission. The delegate,  
36 including the alternate, must be a member or employee of the state  
37 racing commission.

38 d. The compact delegate from each state shall participate as an agent  
39 of the state racing commission. Each delegate shall have the assistance  
40 of the state racing commission in regard to all decision making and  
41 actions of the state in and through the compact commission.

42 e. Each member state, by its delegate, shall be entitled to one vote  
43 in the compact commission. A majority vote of the total number of deleg-  
44 ates shall be required to propose a compact rule, receive and distribute  
45 any funds, and to adopt, amend, or rescind the by-laws. A compact rule  
46 shall take effect in and for each member state when adopted by a super  
47 majority vote of eighty percent of the total number of member states.  
48 Other compact actions shall require a majority vote of the delegates who  
49 are meeting.

50 f. Meetings and votes of the compact commission may be conducted in  
51 person or by telephone or other electronic communication. Meetings may  
52 be called by the chairperson of the compact commission or by any two  
53 delegates. Reasonable notice of each meeting shall be provided to all  
54 delegates serving in the compact commission.

55 g. No action may be taken at a compact commission meeting unless there  
56 is a quorum, which is either a majority of the delegates in the compact

1 commission, or where applicable, all the delegates from any member  
2 states who propose or are voting affirmatively to adopt a compact rule.

3 h. Once effective, the compact shall continue in force and remain  
4 binding according to its terms upon each member state; provided that, a  
5 member state may withdraw from the compact by repealing the statute that  
6 enacted the compact into law. The racing commission of a withdrawing  
7 state shall give written notice of such withdrawal to the compact chair-  
8 person, who shall notify the member state racing commissions. A with-  
9 drawing state shall remain responsible for any unfulfilled obligations  
10 and liabilities. The effective date of withdrawal from the compact shall  
11 be the effective date of the repeal.

12 § 1116. Operation of compact commission. The compact commission is  
13 hereby granted, so that it may be an effective means to pursue and  
14 achieve the purposes of each member state in the compact, the power and  
15 duty:

16 a. to adopt, amend, and rescind by-laws to govern its conduct, as may  
17 be necessary or appropriate to carry out the purposes of the compact; to  
18 publish them in a convenient form; and to file a copy of them with the  
19 state racing commission of each member state;

20 b. to elect annually from among the delegates, including alternates, a  
21 chairperson, vice-chairperson, and treasurer with such authority and  
22 duties as may be specified in the by-laws;

23 c. to establish and appoint committees which it deems necessary for  
24 the carrying out of its functions, including advisory committees which  
25 shall be comprised of national industry stakeholders and organizations  
26 and such other persons as may be designated in accordance with the  
27 by-laws, to obtain their timely and meaningful input into the compact  
28 rule making processes;

29 d. to establish an executive committee, with membership established in  
30 the by-laws, which shall oversee the day-to-day activities of compact  
31 administration and management by the executive director and staff; hire  
32 and fire as may be necessary after consultation with the compact commis-  
33 sion; administer and enforce compliance with the provisions, by-laws,  
34 and rules of the compact; and perform such other duties as the by-laws  
35 may establish;

36 e. to create, appoint, and abolish all those offices, employments, and  
37 positions, including an executive director, useful to fulfill its  
38 purposes;

39 f. to delegate day-to-day management and administration of its duties,  
40 as needed, to an executive director and support staff; and

41 g. to adopt an annual budget sufficient to provide for the payment of  
42 the reasonable expenses of its establishment, organization, and ongoing  
43 activities; provided, that the budget shall be funded by only voluntary  
44 contributions.

45 § 1117. General powers and duties. To allow each member state, as and  
46 when it chooses, to achieve the purpose of the compact through joint and  
47 cooperative action, the member states are hereby granted the power and  
48 duty, by and through the compact commission:

49 a. to act jointly and cooperatively to create a more equitable and  
50 uniform pari-mutuel racing and wagering interstate regulatory framework  
51 by the adoption of standardized rules for the permitted and prohibited  
52 use of drugs and medications for the health, and welfare of the horse  
53 and the integrity of racing, including rules governing the use of drugs  
54 and medications and drug testing;

55 b. to collaborate with national industry stakeholders and industry  
56 organizations, including the Association of Racing Commissioners Inter-

1 national, Inc. and the Racing Medication and Testing Consortium, in the  
2 design and implementation of compact rules in a manner that serves the  
3 best interests of racing; and

4 c. to propose and adopt breed specific compact equine drugs and medi-  
5 cations rules for the health, and welfare of the horse, including rules  
6 governing the permitted and prohibited use of drugs and medications and  
7 drug testing, which shall have the force and effect of state rules or  
8 regulations in the member states, to govern live pari-mutuel horse  
9 racing.

10 § 1118. Other powers and duties. The compact commission may exercise  
11 such incidental powers and duties as may be necessary and proper for it  
12 to function in a useful manner, including but not limited to the power  
13 and duty:

14 a. to enter into contracts and agreements with governmental agencies  
15 and other persons, including officers and employees of a member state,  
16 to provide personal services for its activities and such other services  
17 as may be necessary;

18 b. to borrow, accept, and contract for the services of personnel from  
19 any state, federal, or other governmental agency, or from any other  
20 person or entity;

21 c. to receive information from and to provide information to each  
22 member state racing commission, including its officers and staff, on  
23 such terms and conditions as may be established in the by-laws;

24 d. to acquire, hold, and dispose of any real or personal property by  
25 gift, grant, purchase, lease, license, and similar means and to receive  
26 additional funds through gifts, grants, and appropriations;

27 e. when authorized by a compact rule, to conduct hearings and render  
28 reports and advisory decisions and orders; and

29 f. to establish in the by-laws the requirements that shall describe  
30 and govern its duties to conduct open or public meetings and to provide  
31 public access to compact records and information.

32 § 1119. Compact rule making. In the exercise of its rule making  
33 authority, the compact commission shall:

34 a. engage in formal rule making pursuant to a process that substan-  
35 tially conforms to the Model State Administrative Procedure Act of 1981  
36 as amended, as may be appropriate to the actions and operations of the  
37 compact commission;

38 b. gather information and engage in discussions with advisory commit-  
39 tees, national industry stakeholders, and others, including an opportu-  
40 nity for industry organizations to submit input to member state racing  
41 commissions on the state level, to foster, promote and conduct a colla-  
42 borative approach in the design and advancement of compact rules in a  
43 manner that serves the best interests of racing and as established in  
44 the by-laws;

45 c. direct the publication in each member state of each equine drug  
46 rule proposed by the compact commission, conduct a review of public  
47 comments received by each member state racing commission and the compact  
48 commission in response to the publication of its rule making proposals,  
49 consult with national industry stakeholders and participants in live  
50 racing with regard to such process and any revisions to the compact rule  
51 proposal, and meet upon the completion of the public comment period to  
52 conduct a vote on the adoption of the proposed compact rule as a state  
53 rule in the member states; and

54 d. have a standing committee that reviews at least quarterly the  
55 participation in and value of compact rules and, when it determines that  
56 a revision is appropriate or when requested to by any member state,

1 submits a revising proposed compact rule. To the extent a revision would  
2 only add or remove a member state or states from where a compact rule  
3 has been adopted, the vote required by this section shall be required of  
4 only such state or states. The standing committee shall gather informa-  
5 tion and engage in discussions with national industry stakeholders, who  
6 may also directly recommend a compact rule proposal or revision to the  
7 compact committee.

8 § 1120. Status and relationship to member states. a. The compact  
9 commission, as an interstate governmental entity, shall be exempt from  
10 all taxation in and by the member states.

11 b. The compact commission shall not pledge the credit of any member  
12 state except by and with the appropriate legal authority of that state.

13 c. Each member state shall reimburse or otherwise pay the expenses of  
14 its delegate, including any alternate, in the compact commission.

15 d. No member state, except as provided in section eleven hundred twenty-three of this article, shall be held liable for the debts or other  
16 financial obligations incurred by the compact commission.

17 e. No member state shall have, while it participates in the compact  
18 commission, any claim to or ownership of any property held by or vested  
19 in the compact commission or to any compact commission funds held pursu-  
20 ant to the compact except for state license or other fees or moneys  
21 collected by the compact commission as its agent.

22 f. The compact dissolves upon the date of the withdrawal of the member  
23 state that reduces membership in the compact to one state. Upon dissol-  
24 ution, the compact becomes null and void and shall be of no further  
25 force or effect, although equine drug rules adopted through the compact  
26 shall remain state rules in each member state that had adopted them, and  
27 the business and affairs of the compact shall be concluded and any  
28 surplus funds shall be distributed to the former member states in  
29 accordance with the by-laws.

30 § 1121. Rights and responsibilities of member states. a. Each member  
31 state in the compact shall accept the decisions, duly applicable to it,  
32 of the compact commission in regard to compact rules and rule making.

33 b. The compact shall not be construed to diminish or limit the powers  
34 and responsibilities of the member state racing commission or similar  
35 regulatory body, or to invalidate any action it has previously taken,  
36 except to the extent it has, by its compact delegate, expressed its  
37 consent to a specific rule or other action of the compact commission.  
38 The compact delegate from each state shall serve as the agent of the  
39 state racing commission and shall possess substantial knowledge and  
40 experience as a regulator or participant in the horse racing industry.

41 § 1122. Enforcement of compact. a. The compact commission shall have  
42 standing to intervene in any legal action that pertains to the subject  
43 matter of the compact and might affect its powers, duties, or actions.

44 b. The courts and executive in each member state shall enforce the  
45 compact and take all actions necessary and appropriate to effectuate its  
46 purposes and intent. Compact provisions, by-laws, and rules shall be  
47 received by all judges, departments, agencies, bodies, and officers of  
48 each member state and its political subdivisions as evidence of them.

49 § 1123. Legal actions against compact. a. Any person may commence a  
50 claim, action, or proceeding against the compact commission in state  
51 court for damages. The compact commission shall have the benefit of the  
52 same limits of liability, defenses, rights to indemnity and defense by  
53 the state, and other legal rights and defenses for non-compact matters  
54 of the state racing commission in the state. All legal rights and  
55



1 defenses that arise from the compact shall also be available to the  
2 compact commission.

3 b. A compact delegate, alternate, or other member or employee of a  
4 state racing commission who undertakes compact activities or duties does  
5 so in the course of business of their state racing commission, and shall  
6 have the benefit of the same limits of liability, defenses, rights to  
7 indemnity and defense by the state, and other legal rights and defenses  
8 for non-compact matters of state employees in their state. The executive  
9 director and other employees of the compact commission shall have the  
10 benefit of these same legal rights and defenses of state employees in  
11 the member state in which they are primarily employed. All legal rights  
12 and defenses that arise from the compact shall also be available to  
13 them.

14 c. Each member state shall be liable for and pay judgments filed  
15 against the compact commission to the extent related to its partic-  
16 ipation in the compact. Where liability arises from action undertaken  
17 jointly with other member states, the liability shall be divided equally  
18 among the states for whom the applicable action or omission of the exec-  
19 utive director or other employees of the compact commission was under-  
20 taken; and no member state shall contribute to or pay, or be jointly or  
21 severally or otherwise liable for, any part of any judgment beyond its  
22 share as determined in accordance with this section.

23 § 1124. Restrictions on authority. a. New York substantive state laws  
24 applicable to pari-mutuel horse racing and wagering shall remain in full  
25 force and effect.

26 b. Compact rules shall not preclude subsequent rulemaking in New York  
27 state on the same or related matter. The most recently adopted rule  
28 shall thereby become the governing law.

29 c. New York state shall not participate in or apply this interstate  
30 compact to any aspect of standardbred racing.

31 § 1125. Construction, savings and severability. a. The compact shall  
32 be liberally construed so as to effectuate its purposes. The provisions  
33 of the compact shall be severable and if any phrase, clause, sentence,  
34 or provision of the compact is declared to be contrary to the constitu-  
35 tion of the United States or of any member state, or the applicability  
36 of the compact to any government, agency, person, or circumstance is  
37 held invalid, the validity of the remainder of the compact and its  
38 applicability to any government, agency, person, or circumstance shall  
39 not be affected. If all or some portion of the compact is held to be  
40 contrary to the constitution of any member state, the compact shall  
41 remain in full force and effect as to the remaining member states and in  
42 full force and effect as to the state affected as to all severable  
43 matters.

44 b. In the event of any allegation, finding, or ruling against the  
45 compact or its procedures or actions, provided that a member state has  
46 followed the compact's stated procedures, any rule it purported to adopt  
47 using the procedures of this statute shall constitute a duly adopted and  
48 valid state rule.

49 § 2. This act shall take effect immediately.

50 PART JJ

51 Section 1. Section 2 of part EE of chapter 59 of the laws of 2018,  
52 amending the racing, pari-mutuel wagering and breeding law, relating to  
53 adjusting the franchise payment establishing an advisory committee to

1 review the structure, operations and funding of equine drug testing and  
2 research, is amended to read as follows:

3 § 2. An advisory committee shall be established within the New York  
4 gaming commission comprised of individuals with demonstrated interest in  
5 the performance of thoroughbred and standardbred race horses to review  
6 the present structure, operations and funding of equine drug testing and  
7 research conducted pursuant to article nine of the racing, pari-mutuel  
8 wagering and breeding law. Members of the committee, who shall be  
9 appointed by the governor, shall include but not be limited to a desig-  
10 nee at the recommendation of each licensed or franchised thoroughbred  
11 and standardbred racetrack, a designee at the recommendation of each  
12 operating regional off-track betting corporation, a designee at the  
13 recommendation of each recognized horsemen's organization at licensed or  
14 franchised thoroughbred and standardbred racetracks, a designee at the  
15 recommendation of both Morrisville State College and the Cornell Univer-  
16 sity School of Veterinary Medicine, and two designees each at the recom-  
17 mendation of the speaker of the assembly and temporary president of the  
18 senate. The governor shall designate the chair from among the members  
19 who shall serve as such at the pleasure of the governor. State agencies  
20 shall cooperate with and assist the committee in the fulfillment of its  
21 duties and may render informational, non-personnel services to the  
22 committee within their respective functions as the committee may reason-  
23 ably request. Recommendations shall be delivered to the temporary presi-  
24 dent of the senate, speaker of the assembly and governor by December 1,  
25 ~~[2018]~~ 2019 regarding the future of such research, testing and funding.  
26 Members of the board shall not be considered policymakers.

27 § 2. Subdivision 1 of section 902 of the racing, pari-mutuel wagering  
28 and breeding law, as amended by chapter 15 of the laws of 2010, is  
29 amended to read as follows:

30 1. In order to assure the public's confidence and continue the high  
31 degree of integrity in racing at the pari-mutuel betting tracks, equine  
32 drug testing at race meetings shall be conducted by a ~~[state college~~  
33 ~~within this state with an approved equine science program]~~ suitable  
34 laboratory, as the gaming commission may determine in its discretion.  
35 The ~~[state racing and wagering board]~~ gaming commission shall promulgate  
36 any rules and regulations necessary to implement the provisions of this  
37 section, including administrative penalties of loss of purse money,  
38 fines, or denial, suspension~~[r]~~ or revocation of a license for racing  
39 drugged horses.

40 § 3. This act shall take effect immediately.

41 PART KK

42 Section 1. The racing, pari-mutuel wagering and breeding law is  
43 amended by adding a new section 104-a to read as follows:

44 § 104-a. Registration to engage in gaming activity. Notwithstanding  
45 any provision of law to the contrary, the commission may require any  
46 person, corporation or association intending to engage in any gaming  
47 activity regulated by the commission to submit a primary registration to  
48 the commission.

49 1. For the purposes of this section, when a person is required to  
50 submit a registration, any and all licenses, registrations, certif-  
51 icates, permits or approvals issued to such person as required under  
52 this chapter or under article thirty-four of the tax law shall be  
53 considered sub-registrations or sub-licenses to the aforementioned

1 registration. No individual shall engage in any gaming activity without  
2 a valid sub-registration or sub-license authorizing such activity.

3 2. The primary registration to engage in gaming activities shall sole-  
4 ly be an informational return containing such information the commission  
5 deems applicable to all sub-registrations or sub-licenses. The commis-  
6 sion shall require separate applications for all sub-registrations or  
7 sub-licenses containing all supplemental information that the commission  
8 deems necessary.

9 All commission determinations shall be made on an applicant's sub-re-  
10 gistration or sub-license and not on the primary registration. Any  
11 information obtained for or contained in the primary registration and  
12 all associated sub-registrations or sub-licenses may be used in any  
13 subsequent licensing and registration determinations.

14 3. Pursuant to the commission's authority granted by subdivisions  
15 thirteen and fourteen of section one hundred four of this article, the  
16 commission may require a background investigation and a criminal history  
17 record search for any primary or sub-registration or sub-license sought.  
18 The commission shall have the right to request new information upon  
19 submission of any new sub-registration or sub-license application.

20 For the purposes of this section, upon an initial sub-registration or  
21 sub-license application and any subsequent sub-applications as may be  
22 required by the commission, each applicant shall submit to the commis-  
23 sion the applicant's name, address, fingerprints and written consent for  
24 criminal history information as defined in paragraph (c) of subdivision  
25 one of section eight hundred forty-five-b of the executive law, to be  
26 performed. The commission is hereby authorized to exchange fingerprint  
27 data with and receive criminal history record information from the state  
28 division of criminal justice services and the federal bureau of investi-  
29 gation consistent with applicable state and federal laws, rules and  
30 regulations. The applicant shall pay the fee for such criminal history  
31 information as established pursuant to article thirty-five of the execu-  
32 tive law. The state division of criminal justice services shall promptly  
33 notify the commission in the event a current or prospective licensee,  
34 who was the subject of such criminal history information pursuant to  
35 this section, is arrested for a crime or offense in this state after the  
36 date the check was performed.

37 4. Primary registrations shall expire five years from the date of  
38 submission, provided, however, any sub-registration or sub-license shall  
39 continue through its expiration. Notwithstanding this provision, the  
40 commission may suspend any sub-registration or sub-license that has an  
41 expired primary registration until such primary registration is renewed.  
42 The commission shall establish a schedule to register any individual or  
43 entity who possessed a sub-registration or sub-license prior to the  
44 implementation of this section.

45 5. The commission shall promulgate rules and regulations to implement  
46 the provisions of this section and ensure that all licensing and regis-  
47 tration requirements of this chapter and article thirty-four of the tax  
48 law are adequately addressed in the implementation.

49 § 2. Section 1301 of the racing, pari-mutuel wagering and breeding law  
50 is amended by adding a new subdivision 31-a to read as follows:

51 31-a. "Non-gaming employee". Any natural person, not otherwise  
52 included in the definition of casino key employee or gaming employee,  
53 who is employed by a gaming facility licensee, or a holding or interme-  
54 diary company of a gaming facility licensee, and performs services and  
55 duties upon the premises of a gaming facility, whose duties do not  
56 relate to the operation of gaming activities, and who is not regularly

1 required to work in restricted areas such that registration of a non-  
2 gaming employee is appropriate.

3 § 3. Paragraph (c) of subdivision 1 of section 1318 of the racing,  
4 pari-mutuel wagering and breeding law, as added by chapter 174 of the  
5 laws of 2013, is amended to read as follows:

6 (c) the conviction of the applicant, or of any person required to be  
7 qualified under this article as a condition of a license, of any offense  
8 in any jurisdiction which is or would be a [~~felony or other~~] crime  
9 involving public integrity, embezzlement, theft, fraud, [~~or~~] perjury,  
10 represents a significant threat to public safety, or would otherwise  
11 pose a threat to the effective regulation of casino gaming;

12 § 4. Subdivision 4 of section 1322 of the racing, pari-mutuel wagering  
13 and breeding law, as added by chapter 174 of the laws of 2013, is  
14 amended to read as follows:

15 4. All applicants, licensees, registrants, and any other person who  
16 shall be qualified pursuant to this article shall have the continuing  
17 duty to provide any assistance or information required by the commis-  
18 sion, and to cooperate in any inquiry, investigation or hearing  
19 conducted by the commission. If, upon issuance of a formal request to  
20 answer or produce information, evidence or testimony, any applicant,  
21 licensee, registrant, or any other person who shall be qualified pursu-  
22 ant to this article refuses to comply, the application, license, regis-  
23 tration or qualification of such person may be suspended, denied or  
24 revoked.

25 § 5. Subdivision 3 of section 1323 of the racing, pari-mutuel wagering  
26 and breeding law, as added by chapter 174 of the laws of 2013, is  
27 amended to read as follows:

28 3. The commission shall deny a casino key employee license to any  
29 applicant who is disqualified on the basis of the criteria contained in  
30 section [~~one-thousand-three~~] thirteen hundred eighteen of this [~~title~~]  
31 article, subject to notice and hearing. Provided that, no casino key  
32 employee license shall be denied or revoked on the basis of a conviction  
33 of any of the offenses enumerated in this article as disqualification  
34 criteria or the commission of any act or acts which would constitute any  
35 offense under section thirteen hundred eighteen of this article,  
36 provided that the applicant has affirmatively demonstrated the appli-  
37 cant's rehabilitation, pursuant to article twenty-three-A of the  
38 correction law.

39 § 6. Subdivision 4 of section 1323 of the racing, pari-mutuel wagering  
40 and breeding law, as added by chapter 174 of the laws of 2013, is  
41 amended to read as follows:

42 4. Upon [~~receipt of such criminal history information~~] determination  
43 that an applicant is disqualified on the basis of the applicant's crimi-  
44 nal history, the commission shall provide such applicant with a copy of  
45 such criminal history information, together with a copy of article twen-  
46 ty-three-A of the correction law, and inform such applicant of his or  
47 her right to seek correction of any incorrect information contained in  
48 such criminal history information pursuant to regulations and procedures  
49 established by the division of criminal justice services. Except as  
50 otherwise provided by law, such criminal history information shall be  
51 confidential and any person who willfully permits the release of such  
52 confidential criminal history information to persons not permitted to  
53 receive such information shall be guilty of a misdemeanor.

54 § 7. Section 1324 of the racing, pari-mutuel wagering and breeding  
55 law, as added by chapter 174 of the laws of 2013, is amended to read as  
56 follows:

§ 1324. Gaming and non-gaming employee registration. 1. No person may commence employment as a gaming or non-gaming employee unless such person has a valid registration [~~on file with the~~] issued by the commission, which registration shall be prepared and filed in accordance with the regulations promulgated hereunder.

2. A gaming or non-gaming employee registrant shall produce such information as the commission by regulation may require. [~~Subsequent to the registration of a gaming employee, the executive director may~~] The commission may deny, revoke, suspend, limit, or otherwise restrict the registration upon a finding that the registrant is disqualified on the basis of the criteria contained in section [~~one thousand three~~] thirteen hundred eighteen of this [~~title~~] article. If a gaming or non-gaming employee registrant has not been employed in any position within a gaming facility for a period of three years, the registration of that gaming or non-gaming employee shall lapse.

3. No gaming or non-gaming employee registration shall be denied or revoked on the basis of a [~~misdemeanor~~] conviction of any of the offenses enumerated in this article as disqualification criteria or the commission of any act or acts which would constitute any offense under section [~~one thousand three~~] thirteen hundred eighteen of this [~~title~~] article, provided that the registrant has affirmatively demonstrated the registrant's rehabilitation, pursuant to article twenty-three-A of the correction law.

4. For the purposes of this section, each gaming or non-gaming registrant shall submit to the commission the registrant's name, address, fingerprints and written consent for a criminal history information to be performed. The commission is hereby authorized to exchange fingerprint data with and receive criminal history information as defined in paragraph (c) of subdivision one of section eight hundred forty-five-b of the executive law from the state division of criminal justice services and the federal bureau of investigation consistent with applicable state and federal laws, rules and regulations. The registrant shall pay the fee for such criminal history information as established pursuant to article thirty-five of the executive law. The state division of criminal justice services shall promptly notify the commission in the event a current or prospective licensee or registrant, who was the subject of a criminal history information pursuant to this section, is arrested for a crime or offense in this state after the date the check was performed.

5. Upon [~~receipt of such criminal history information~~] determination that an applicant is disqualified on the basis of the applicant's criminal history, the [~~Commission~~] commission shall provide such applicant with a copy of such criminal history information, together with a copy of article twenty-three-A of the correction law, and inform such applicant of his or her right to seek correction of any incorrect information contained in such criminal history information pursuant to regulations and procedures established by the division of criminal justice services. Except as otherwise provided by law, such criminal history information shall be confidential and any person who willfully permits the release of such confidential criminal history information to persons not permitted to receive such information shall be guilty of a misdemeanor.

6. Each applicant for a gaming registration shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the applicant's good character, honesty and integrity. Such information shall include data pertaining to character, reputation, criminal history information and prior associations



1 with gaming operations in any capacity, position, or employment in a  
2 jurisdiction that permits such activity.

3 § 8. Section 1325 of the racing, pari-mutuel wagering and breeding  
4 law, as added by chapter 174 of the laws of 2013, is amended to read as  
5 follows:

6 § 1325. Approval, denial and renewal of employee licenses and regis-  
7 trations. 1. Upon the filing of an application for a casino key employee  
8 license or gaming employee registration required by this article and  
9 after submission of such supplemental information as the commission may  
10 require, the commission shall conduct or cause to be conducted such  
11 investigation into the qualification of the applicant, and the commis-  
12 sion shall conduct such hearings concerning the qualification of the  
13 applicant, in accordance with its regulations, as may be necessary to  
14 determine qualification for such license or registration. Upon the  
15 filing of an application for a non-gaming employee registration, and  
16 after submission of such supplemental information as the commission may  
17 require, the commission may, in its discretion, conduct or cause to be  
18 conducted an investigation into the qualification of such applicant.

19 2. After such investigation, the commission may either deny the appli-  
20 cation or grant a license or registration to an applicant whom it deter-  
21 mines to be qualified to hold such license or registration. The granting  
22 of any such license or registration shall apply only to the job title  
23 included in the application and to its associated duties. The commission  
24 may, upon request and at its sole discretion, allow transfer of the  
25 license or registration to another job title upon determination that the  
26 original application would have been satisfactory had it been submitted  
27 for the new title.

28 3. The commission shall have the authority to deny any application  
29 pursuant to the provisions of this article following notice and opportu-  
30 nity for hearing.

31 4. When the commission grants [~~an application~~] a license or registra-  
32 tion, the commission may limit or place such restrictions thereupon as  
33 it may deem necessary in the public interest.

34 5. After an application for a casino key employee license is submit-  
35 ted, final action of the commission shall be taken within ninety days  
36 after completion of all hearings and investigations and the receipt of  
37 all information required by the commission.

38 6. Licenses and registrations of casino key employees and gaming and  
39 non-gaming employees issued pursuant to this article shall remain valid  
40 for five years unless suspended, revoked or voided pursuant to law. Such  
41 licenses and registrations may be renewed by the holder thereof upon  
42 application, on a form prescribed by the commission, and payment of the  
43 applicable fee. Notwithstanding the [~~forgoing~~] foregoing, if a gaming or  
44 non-gaming employee registrant has not been employed in any position  
45 within a gaming facility for a period of three years, the registration  
46 of that gaming or non-gaming employee shall lapse.

47 7. Subsequent to the issuance of a license or registration, the  
48 commission may suspend, revoke, or limit the license or registration  
49 upon a finding that an applicant is no longer qualified to hold such  
50 license or registration in accordance with this article, or as it may  
51 deem necessary to protect the public interest, following notice and an  
52 opportunity for a hearing. The commission may temporarily suspend a  
53 license or registration pending any investigation, prosecution, or hear-  
54 ing if it is deemed necessary to do so to protect the integrity of  
55 gaming activities.

1 8. The commission shall establish by regulation appropriate fees to be  
2 paid upon the filing of the required applications. Such fees shall be  
3 deposited into the commercial gaming revenue fund.

4 § 9. Subdivision 3 of section 1326 of the racing, pari-mutuel wagering  
5 and breeding law, as added by chapter 174 of the laws of 2013, is  
6 amended to read as follows:

7 3. Vendors providing goods and services to gaming facility licensees  
8 or applicants ancillary to gaming, including vendors with access to the  
9 player database or sensitive player information, vendors with heightened  
10 security access or information, and junket enterprises shall be required  
11 to be licensed as an ancillary casino vendor enterprise and shall comply  
12 with the standards for casino vendor license applicants. The commission  
13 may also require any vendor regularly conducting over two hundred fifty  
14 thousand dollars of business with a gaming licensee or applicant within  
15 a twelve-month period or one hundred thousand dollars of business within  
16 a three-month period to be licensed as an ancillary gaming vendor.

17 § 10. Subdivision 4 of section 1326 of the racing, pari-mutuel wager-  
18 ing and breeding law, as added by chapter 174 of the laws of 2013, is  
19 amended to read as follows:

20 4. Each casino vendor enterprise required to be licensed pursuant to  
21 subdivision one of this section, as well as its owners; management and  
22 supervisory personnel ~~[, and employees if such employees have responsi-~~  
23 ~~bility for services to a gaming facility applicant or licensee,]~~ must  
24 qualify under the standards, except residency, established for quali-  
25 fication of a casino key employee under this article. Employees of such  
26 vendors that have responsibility for services to a gaming facility  
27 applicant or licensee must qualify under the standards established for  
28 qualification of a gaming employee registration under this article.

29 Each ancillary casino vendor enterprise required to be licensed pursu-  
30 ant to subdivision three of this section, as well as its owners; manage-  
31 ment; supervisory personnel and employees that have responsibility for  
32 services to a gaming facility applicant or licensee must qualify under  
33 the standards established for qualification of a gaming employee regis-  
34 tration under this article.

35 § 11. Subdivision 5 of section 1326 of the racing, pari-mutuel wager-  
36 ing and breeding law, as added by chapter 174 of the laws of 2013, is  
37 amended to read as follows:

38 5. Any vendor that offers goods or services to a gaming facility  
39 applicant or licensee in excess of twenty-five thousand dollars within a  
40 twelve-month period that is not included in subdivision one ~~[ex]~~, two or  
41 three of this section including, but not limited to site contractors and  
42 subcontractors, shopkeepers located within the facility, gaming schools  
43 that possess slot machines for the purpose of instruction, ~~[and any~~  
44 ~~non-supervisory employee of a junket enterprise licensed under subdivi-~~  
45 ~~sion three of this section]~~ vending machine providers, linen suppliers,  
46 garbage handlers, maintenance companies, limousine services, and food  
47 purveyors, shall be required to register with the commission in accord-  
48 ance with the regulations promulgated under this article.

49 Prior to conducting business with any vendor not included in subdivi-  
50 sion one or two of this section, which is providing business worth less  
51 than the thresholds provided in this subdivision, a gaming facility  
52 applicant or licensee shall notify the commission of the intended trans-  
53 action, along with any history of transactions with such vendor, to  
54 allow for verification that the licensing requirements of this section  
55 do not apply.

All employees of a vendor registered pursuant to this section that provide services upon the premises of a gaming facility are required to be registered as and meet the standards of a non-gaming employee.

Notwithstanding the provisions aforementioned, the executive director may, consistent with the public interest and the policies of this article, direct that individual vendors registered pursuant to this subdivision be required to apply for either a casino vendor enterprise license pursuant to subdivision one of this section, or an ancillary vendor industry enterprise license pursuant to subdivision three of this section, as directed by the commission. The executive director may also order that any enterprise licensed as or required to be licensed as an ancillary casino vendor enterprise pursuant to subdivision three of this section be required to apply for a casino vendor enterprise license pursuant to subdivision one of this section. The executive director may also, in his or her discretion, order that an independent software contractor not otherwise required to be registered be either registered as a vendor pursuant to this subdivision or be licensed pursuant to either subdivision one or three of this section.

~~[Each ancillary casino vendor enterprise required to be licensed pursuant to subdivision three of this section, as well as its owners, management and supervisory personnel, and employees if such employees have responsibility for services to a gaming facility applicant or licensee, shall establish their good character, honesty and integrity by clear and convincing evidence and shall provide such financial information as may be required by the commission. Any enterprise required to be licensed as an ancillary casino vendor enterprise pursuant to this section shall be permitted to transact business with a gaming facility licensee upon filing of the appropriate vendor registration form and application for such licensure.]~~

§ 12. Subdivision 6 of section 1326 of the racing, pari-mutuel wagering and breeding law, as added by chapter 174 of the laws of 2013, is amended to read as follows:

6. Any applicant, licensee or qualifier of a casino vendor enterprise license or of an ancillary casino vendor enterprise license under subdivision one of this section, and any vendor registrant under subdivision five of this section shall be disqualified in accordance with the criteria contained in section ~~[one thousand three]~~ thirteen hundred eighteen of this article, except that no such ~~[ancillary casino vendor enterprise license under subdivision three of this section or vendor registration under subdivision five of this section]~~ applicant, licensee or qualifier shall be denied or revoked if such ~~[vendor registrant]~~ applicant, licensee or qualifier can affirmatively demonstrate rehabilitation pursuant to article twenty-three-A of the correction law.

§ 13. Section 1326 of the racing, pari-mutuel wagering and breeding law is amended by adding a new subdivision 11 to read as follows:

11. Notwithstanding the preceding subdivisions, the executive director may, in his or her discretion, waive any of the requirements of this section when a gaming facility applicant or licensee can demonstrate that the business relationship with any individual vendor will be limited in scope and duration and that the public interest and the policies of this article would not be diminished by such waiver. In requesting such waiver, the gaming facility applicant or licensee shall provide any and all information needed to make such determination and any and all information needed as a condition of such waiver. The executive director may revoke any such waiver at any time upon a determination that the circumstances upon which such waiver was granted have changed.

§ 14. This act shall take effect immediately.

PART LL

Section 1. Subparagraph (i) of paragraph (a) of subdivision 2 of section 1306-a of the real property tax law, as amended by section 6 of part N of chapter 58 of the laws of 2011, is amended to read as follows:

(i) The tax savings for each parcel receiving the exemption authorized by section four hundred twenty-five of this chapter shall be computed by subtracting the amount actually levied against the parcel from the amount that would have been levied if not for the exemption, provided however, that ~~[beginning with]~~ for the two thousand eleven-two thousand twelve through two thousand eighteen-two thousand nineteen school ~~[year]~~ years, the tax savings applicable to any "portion" (which as used herein shall mean that part of an assessing unit located within a school district) shall not exceed the tax savings applicable to that portion in the prior school year multiplied by one hundred two percent, with the result rounded to the nearest dollar; and provided further that beginning with the two thousand nineteen-two thousand twenty school year: (A) for purposes of the exemption authorized by section four hundred twenty-five of this chapter, the tax savings applicable to any portion shall not exceed the tax savings for the prior year, and (B) for purposes of the credit authorized by subsection (eee) of section six hundred six of the tax law, the tax savings applicable to any portion shall not exceed the tax savings applicable to that portion in the prior school year multiplied by one hundred two percent, with the result rounded to the nearest dollar. The tax savings attributable to the basic and enhanced exemptions shall be calculated separately. It shall be the responsibility of the commissioner to calculate tax savings limitations for purposes of this subdivision.

§ 2. Subparagraph (G) of paragraph 1 of subsection (eee) of section 606 of the tax law, as amended by section 8 of part A of chapter 73 of the laws of 2016, is amended to read as follows:

(G) "STAR tax savings" means the tax savings attributable to the STAR exemption within a portion of a school district, as determined by the commissioner pursuant to subdivision two of section thirteen hundred six-a of the real property tax law for purposes of the credit authorized by this subsection.

§ 3. This act shall take effect immediately.

PART MM

Section 1. Section 1405-B of the tax law is amended by adding a new subdivision (c) to read as follows:

(c) The information contained within information returns filed under subdivision (b) of this section may be provided by the commissioner to local assessors for use in real property tax administration, and such information shall not be subject to the secrecy provisions set forth in section fourteen hundred eighteen of this chapter, provided, however, that the commissioner shall not disclose social security numbers or employer identification numbers.

§ 2. This act shall take effect January 1, 2020.

PART NN

Section 1. Paragraph 3 of subsection (e-1) of section 606 of the tax law, as added by section 2 of part K of chapter 59 of the laws of 2014, is amended as follows:

(3) Determination of credit. For taxable years after two thousand thirteen ~~and prior to two thousand sixteen~~, the amount of the credit allowable under this subsection shall be determined as follows:

If household gross income for the taxable year is:	Excess real property taxes are the excess of real property tax equivalent or the excess of qualifying real property taxes over the following percentage of household gross income:	The credit amount is the following percentage of excess property taxes:
--	--	---

Less than \$100,000	4	4.5
\$100,000 to less than \$150,000	5	3.0
\$150,000 to less than \$200,000	6	1.5

Notwithstanding the foregoing provisions, the maximum credit determined under this subparagraph may not exceed five hundred dollars.

§ 2. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2016; provided, however, that the amendments to subsection (e-1) of section 606 of the tax law made by section one of this act shall not affect the repeal of such subsection and shall be deemed to be repealed therewith.

#### PART 00

Section 1. Subdivision v of section 233 of the real property law, as amended by chapter 566 of the laws of 1996, is amended to read as follows:

v. 1. On and after April first, nineteen hundred eighty-nine, the commissioner of housing and community renewal shall have the power and duty to enforce and ensure compliance with the provisions of this section. However, the commissioner shall not have the power or duty to enforce manufactured home park rules and regulations established under subdivision f of this section.

2. On or before January first, nineteen hundred eighty-nine, each manufactured home park owner or operator shall file a registration statement with the commissioner and shall thereafter file an annual registration statement on or before January first of each succeeding year. The commissioner, by regulation, shall provide that such registration statement shall include only the names of all persons owning an interest in the park, the names of all tenants of the park, all services provided by the park owner to the tenants and a copy of all current manufactured home park rules and regulations. The reporting of such information to the commissioner of taxation and finance pursuant to subparagraph (B) of paragraph six of subsection (eee) of section six hundred six of the tax law shall be deemed to satisfy the requirements of this paragraph.

3. Whenever there shall be a violation of this section, an application may be made by the commissioner of housing and community renewal in the name of the people of the state of New York to a court or justice having



1 jurisdiction by a special proceeding to issue an injunction, and upon  
2 notice to the defendant of not less than five days, to enjoin and  
3 restrain the continuance of such violation; and if it shall appear to  
4 the satisfaction of the court or justice that the defendant has, in  
5 fact, violated this section, an injunction may be issued by such court  
6 or justice, enjoining and restraining any further violation and with  
7 respect to this subdivision, directing the filing of a registration  
8 statement. In any such proceeding, the court may make allowances to the  
9 commissioner of housing and community renewal of a sum not exceeding two  
10 thousand dollars against each defendant, and direct restitution. When-  
11 ever the court shall determine that a violation of this section has  
12 occurred, the court may impose a civil penalty of not more than one  
13 thousand five hundred dollars for each violation. Such penalty shall be  
14 deposited in the manufactured home cooperative fund, created pursuant to  
15 section fifty-nine-h of the private housing finance law. In connection  
16 with any such proposed application, the commissioner of housing and  
17 community renewal is authorized to take proof and make a determination  
18 of the relevant facts and to issue subpoenas in accordance with the  
19 civil practice law and rules. The provisions of this subdivision shall  
20 not impair the rights granted under subdivision u of this section.

21 § 2. Subparagraph (B) of paragraph 6 of subsection (eee) of section  
22 606 of the tax law, as amended by section 8 of part A of chapter 73 of  
23 the laws of 2016, is amended to read as follows:

24 (B) (i) In the case of property consisting of a mobile home that is  
25 described in paragraph (1) of subdivision two of section four hundred  
26 twenty-five of the real property tax law, the amount of the credit  
27 allowable with respect to such mobile home shall be equal to the basic  
28 STAR tax savings for the school district portion, or the enhanced STAR  
29 tax savings for the school district portion, whichever is applicable,  
30 that would be applied to a separately assessed parcel in the school  
31 district portion with a taxable assessed value equal to twenty thousand  
32 dollars multiplied by the latest state equalization rate or special  
33 equalization rate for the assessing unit in which the mobile home is  
34 located. Provided, however, that if the commissioner is in possession of  
35 information, including but not limited to assessment records, that  
36 demonstrates to the commissioner's satisfaction that the taxpayer's  
37 mobile home is worth more than twenty thousand dollars, or if the  
38 taxpayer provides the commissioner with such information, the taxpayer's  
39 credit shall be increased accordingly, but in no case shall the credit  
40 exceed the basic STAR tax savings or enhanced STAR tax savings, whichev-  
41 er is applicable, for the school district portion.

42 (ii) The commissioner may implement an electronic system for the  
43 reporting of information by owners and operators of manufactured home  
44 parks, as defined by section two hundred thirty-three of the real prop-  
45 erty law. Upon the implementation of such a system, each such owner and  
46 operator shall file quarterly electronic statements with the commission-  
47 er no later than twenty-one days after the end of each calendar quarter.  
48 Such statement shall require reporting of names of all persons owning an  
49 interest in the park, the services provided by the park owner to the  
50 tenants, the names and addresses of all tenants of the park, whether the  
51 tenant leases or owns the home, and such additional information as the  
52 commissioner may deem necessary for the proper administration of the  
53 STAR exemption established pursuant to section four hundred twenty-five  
54 of the real property tax law and the STAR credit and any other property  
55 tax-based credit established pursuant to this section. In the case of a  
56 registration statement for the first calendar quarter of a year, such

1 statement shall also include a copy of all current manufactured home  
2 park rules and regulations. The commissioner shall provide the commis-  
3 sioner of housing and community renewal with the information contained  
4 in each quarterly report no later than thirty days after the receipt  
5 thereof.

6 § 3. This act shall take effect immediately.

7 PART PP

8 Section 1. Subparagraph (iv) of paragraph (b) of subdivision 4 of  
9 section 425 of the real property tax law, as amended by section 2 of  
10 part B of chapter 59 of the laws of 2018, is amended to read as follows:

11 (iv) (A) Effective with applications for the enhanced exemption on  
12 final assessment rolls to be completed in two thousand nineteen, the  
13 application form shall indicate that all owners of the property and any  
14 owners' spouses residing on the premises must have their income eligi-  
15 bility verified annually by the department and must furnish their  
16 taxpayer identification numbers in order to facilitate matching with  
17 records of the department. The income eligibility of such persons shall  
18 be verified annually by the department, and the assessor shall not  
19 request income documentation from them. All applicants for the enhanced  
20 exemption and all assessing units shall be required to participate in  
21 this program, which shall be known as the STAR income verification  
22 program.

23 (B) Effective with final assessment rolls to be completed in two thou-  
24 sand twenty, the commissioner shall also annually verify the eligibility  
25 of such persons for the enhanced exemption on the basis of age and resi-  
26 dency as well as income.

27 (C) Where the commissioner finds that the enhanced exemption should be  
28 replaced with a basic exemption because [~~the income limitation applica-~~  
29 ~~ble to the enhanced exemption has been exceeded~~] the property is only  
30 eligible for a basic exemption, he or she shall provide the property  
31 owners with notice and an opportunity to submit to the commissioner  
32 evidence to the contrary. Where the commissioner finds that the enhanced  
33 exemption should be removed or denied without being replaced with a  
34 basic exemption because [~~the income limitation applicable to the basic~~  
35 ~~exemption has also been exceeded~~] the property is not eligible for  
36 either exemption, he or she shall provide the property owners with  
37 notice and an opportunity to submit to the commissioner evidence to the  
38 contrary. In either case, if the owners fail to respond to such notice  
39 within forty-five days from the mailing thereof, or if their response  
40 does not show to the commissioner's satisfaction that the property is  
41 eligible for the exemption claimed, the commissioner shall direct the  
42 assessor or other person having custody or control of the assessment  
43 roll or tax roll to either replace the enhanced exemption with a basic  
44 exemption, or to remove or deny the enhanced exemption without replacing  
45 it with a basic exemption, as appropriate. The commissioner shall  
46 further direct such person to correct the roll accordingly. Such a  
47 directive shall be binding upon the assessor or other person having  
48 custody or control of the assessment roll or tax roll, and shall be  
49 implemented by such person without the need for further documentation or  
50 approval.

51 [~~(C)~~] (D) Notwithstanding any provision of law to the contrary,  
52 neither an assessor nor a board of assessment review has the authority  
53 to consider an objection to the replacement or removal or denial of an  
54 exemption pursuant to this subdivision, nor may such an action be

1 reviewed in a proceeding to review an assessment pursuant to title one  
2 or one-A of article seven of this chapter. Such an action may only be  
3 challenged before the department. If a taxpayer is dissatisfied with the  
4 department's final determination, the taxpayer may appeal that determi-  
5 nation to the state board of real property tax services in a form and  
6 manner to be prescribed by the commissioner. Such appeal shall be filed  
7 within forty-five days from the issuance of the department's final  
8 determination. If dissatisfied with the state board's determination, the  
9 taxpayer may seek judicial review thereof pursuant to article seventy-  
10 eight of the civil practice law and rules. The taxpayer shall otherwise  
11 have no right to challenge such final determination in a court action,  
12 administrative proceeding or any other form of legal recourse against  
13 the commissioner, the department, the state board of real property tax  
14 services, the assessor or other person having custody or control of the  
15 assessment roll or tax roll regarding such action.

16 § 2. Paragraph (c) of subdivision 13 of section 425 of the real prop-  
17 erty tax law, as amended by section 1 of part J of chapter 57 of the  
18 laws of 2013, is amended, and a new paragraph (f) is added to read as  
19 follows:

20 (c) Additional consequences. A penalty tax may be imposed pursuant to  
21 this subdivision whether or not the improper exemption has been revoked  
22 in the manner provided by this section. In addition, a person or persons  
23 who are found to have made a material misstatement shall be disqualified  
24 from further exemption pursuant to this section, and from the credit  
25 authorized by subsection (eee) of section six hundred six of the tax  
26 law, for a period of [~~five years if such misstatement appears on an~~  
27 ~~application filed prior to October first, two thousand thirteen, and~~  
28 ~~six years [if such misstatement appears on an application filed there-~~  
29 ~~after]~~. In addition, such person or persons may be subject to prose-  
30 cution pursuant to the penal law.

31 (f) Assessor notification. The assessor shall inform the commissioner  
32 whenever a person or persons is found to have made a material misstate-  
33 ment on an application for the exemption authorized by this section.

34 § 3. Paragraph (13) of subsection (eee) of section 606 of the tax law  
35 is amended by adding a new subparagraph (E) to read as follows:

36 (E) A taxpayer who is found to have made a material misstatement on an  
37 application for the credit authorized by this section shall be disquali-  
38 fied from receiving such credit for six years. As used herein, the term  
39 "material misstatement" shall have the same meaning as set forth in  
40 paragraph (a) of subdivision thirteen of section four hundred twenty-  
41 five of the real property tax law.

42 § 4. Subparagraph (E) of paragraph (10) of subsection (eee) of section  
43 606 of the tax law, as amended by section 8 of part A of chapter 73 of  
44 the laws of 2016, is amended to read as follows:

45 (E) If the commissioner determines after issuing an advance payment  
46 that it was issued in an excessive amount or to an ineligible or incor-  
47 rect party, the commissioner shall be empowered to utilize any of the  
48 procedures for collection, levy and lien of personal income tax set  
49 forth in this article, any other relevant procedures referenced within  
50 the provisions of this article, and any other law as may be applicable,  
51 to recoup the improperly issued amount; provided that in the event such  
52 party was determined to be ineligible on the basis that his or her  
53 primary residence received the STAR exemption in the associated fiscal  
54 year, the improperly issued credit amount shall be deemed a clerical  
55 error and shall be paid upon notice and demand without the issuance of a

notice of deficiency and shall be assessed, collected and paid in the same manner as taxes.

§ 5. This act shall take effect immediately.

#### PART QQ

Section 1. Section 425 of the real property tax law is amended by adding a new subdivision 17 to read as follows:

17. Certain disclosures authorized. (a) Notwithstanding any provision of law to the contrary, when the commissioner has determined that the owner or owners of a parcel of real property are ineligible for either the STAR exemption authorized by this section or the STAR credit authorized by subsection (eee) of section six hundred six of the tax law, the commissioner may disclose the names of such owner or owners to the assessor of the assessing unit in which the property is located. In addition:

(i) Where the commissioner has found that the STAR exemption or credit could not be granted because the income of the owner or owners is above the applicable limit, the commissioner may so advise the assessor, but shall not disclose the amount of income of any such owner or owners.

(ii) Where the commissioner has found that the STAR exemption or credit could not be granted because the property is not the primary residence of one or more of the owners thereof, or that the owner's spouse is receiving a STAR exemption or STAR credit on another residence or a comparable benefit on a residence in another state, the commissioner may so advise the assessor. The commissioner may further advise the assessor of the facts supporting that determination, including the location or locations of the property owner's other residence or residences, if any.

(iii) Where the commissioner has found that the enhanced STAR exemption or credit could not be granted because the owner or owners do not meet the applicable age requirement, the commissioner may so advise the assessor, and may further advise the assessor of their birth dates if known.

(iv) Where the commissioner has found that the enhanced STAR exemption or credit could not be granted because the owner or owners failed to enroll in the income verification program or failed to submit the income worksheet required thereunder, the commissioner may so advise the assessor.

(b) Information disclosed to an assessor pursuant to this subdivision shall be used only for purposes of real property tax administration. It shall be deemed confidential otherwise, and shall not be subject to the provisions of article six of the public officers law.

§ 2. Section 467 of the real property tax law is amended by adding a new subdivision 11 to read as follows:

11. (a) Notwithstanding any provision of law to the contrary, upon the request of an assessor, the commissioner may disclose to the assessor the names and addresses of the owners of property in that assessor's assessing unit who are receiving the enhanced STAR exemption or enhanced STAR credit and whose federal adjusted gross income is less than the uppermost amount specified by subparagraph three of paragraph (b) of subdivision one of this section (represented therein as M + \$8,400). Such amount shall be determined without regard to any local options that the municipal corporation may or may not have exercised in relation to increasing or decreasing the maximum income eligibility level authorized by this section, provided that the amount so determined for a city with a population of one million or more shall take into account the distinct

1 maximum income eligibility level established for such city by paragraph  
2 (a) of subdivision three of this section. In no case shall the commis-  
3 sioner disclose to an assessor the amount of an owner's federal adjusted  
4 gross income.

5 (b) The assessor may use the information contained in such a report to  
6 contact those owners who are not already receiving the exemption author-  
7 ized by this section and to suggest that they consider applying for it.  
8 Provided, however, that nothing contained herein shall be construed as  
9 enabling any person or persons to qualify for the exemption authorized  
10 by this section on the basis of their federal adjusted gross income,  
11 rather than on the basis of their income as determined pursuant to the  
12 provisions of paragraph (a) of subdivision three of this section.

13 (c) Information disclosed to an assessor pursuant to this subdivision  
14 shall be used only for purposes of real property tax administration. It  
15 shall be deemed confidential otherwise, and shall not be subject to the  
16 provisions of article six of the public officers law.

17 § 3. Section 1532 of the real property tax law is amended by adding a  
18 new subdivision 5 to read as follows:

19 5. Information regarding decedents provided by the commissioner to a  
20 county director of real property tax services pursuant to subsection (c)  
21 of section six hundred fifty-one of the tax law shall be used only for  
22 purposes of real property tax administration. The contents of the report  
23 may be shared with the assessor and tax collecting officer of the munic-  
24 ipal corporation in which the decedent's former residence is located,  
25 and with the enforcing officer if such residence is subject to delin-  
26 quent taxes. The information shall be deemed confidential otherwise, and  
27 shall not be subject to the provisions of article six of the public  
28 officers law.

29 § 4. Subsection (c) of section 651 of the tax law, as amended by chap-  
30 ter 783 of the laws of 1962, is amended to read as follows:

31 (c) Decedents. The return for any deceased individual shall be made  
32 and filed by his executor, administrator, or other person charged with  
33 his property. If a final return of a decedent is for a fractional part  
34 of a year, the due date of such return shall be the fifteenth day of the  
35 fourth month following the close of the twelve-month period which began  
36 with the first day of such fractional part of the year. Notwithstanding  
37 any provision of law to the contrary, when a return has been filed for a  
38 decedent, the commissioner may disclose the decedent's name, address,  
39 and the date of death to the director of real property tax services of  
40 the county in which the address reported on such return is located.

41 § 5. This act shall take effect immediately.

42 PART RR

43 Section 1. Paragraph (b-1) of subdivision 3 of section 425 of the real  
44 property tax law, as added by section 1 of part FF of chapter 57 of the  
45 laws of 2010, is amended to read as follows:

46 (b-1) Income. For final assessment rolls to be used for the levy of  
47 taxes for the two thousand eleven-two thousand twelve through two thou-  
48 sand eighteen-two thousand nineteen school [~~year and thereafter~~] years,  
49 the parcel's affiliated income may be no greater than five hundred thou-  
50 sand dollars, as determined by the commissioner [~~of taxation and~~  
51 ~~finance~~] pursuant to subdivision fourteen of this section or section one  
52 hundred seventy-one-u of the tax law, in order to be eligible for the  
53 basic exemption authorized by this section. Beginning with the two thou-  
54 sand nineteen-two thousand twenty school year, for purposes of the



exemption authorized by this section, the parcel's affiliated income may be no greater than two hundred fifty thousand dollars, as so determined.

As used herein, the term "affiliated income" shall mean the combined income of all of the owners of the parcel who resided primarily thereon on the applicable taxable status date, and of any owners' spouses residing primarily thereon. For exemptions on final assessment rolls to be used for the levy of taxes for the two thousand eleven-two thousand twelve school year, affiliated income shall be determined based upon the parties' incomes for the income tax year ending in two thousand nine. In each subsequent school year, the applicable income tax year shall be advanced by one year. The term "income" as used herein shall have the same meaning as in subdivision four of this section.

§ 2. Subparagraph (A) of paragraph 3 of subsection (eee) of section 606 of the tax law, as added by section 8 of part A of chapter 73 of the laws of 2016, is amended to read as follows:

(A) Beginning with taxable years after two thousand fifteen, a basic STAR credit shall be available to a qualified taxpayer if the affiliated income of the parcel that serves as the taxpayer's primary residence is less than or equal to five hundred thousand dollars. The income limit established for the basic STAR exemption by paragraph (b-1) of subdivision three of section four hundred twenty-five of the real property tax law shall not be taken into account when determining eligibility for the basic STAR credit.

§ 3. This act shall take effect immediately.

#### PART SS

Section 1. Subdivision 6 of section 1306-a of the real property tax law, as amended by section 3 of part TT of chapter 59 of the laws of 2017, is amended to read as follows:

6. When the commissioner determines, at least twenty days prior to the levy of school district taxes, that an advance credit of the personal income tax credit authorized by subsection (eee) of section six hundred six of the tax law will be provided to the owners of a parcel in that school district, he or she shall so notify the assessor, the county director of real property tax services, and the authorities of the school district, who shall cause a statement to be placed on the tax bill for the parcel in substantially the following form: "An estimated STAR check has been or will be mailed to you [~~upon issuance~~] by the NYS Tax Department. Any overpayment or underpayment can be reconciled on your next tax return or STAR credit check."

Notwithstanding any provision of law to the contrary, in the event that the parcel in question had been granted a STAR exemption on the assessment roll upon which school district taxes are to be levied, such exemption shall be deemed null and void, shall be removed from the assessment roll, and shall be disregarded when the parcel's tax liability is determined. The assessor or other local official or officials having custody and control of the data file used to generate school district tax rolls and tax bills shall be authorized and directed to change such file as necessary to enable the school district authorities to discharge the duties imposed upon them by this subdivision.

§ 2. This act shall take effect immediately.

#### PART TT

1 Section 1. Paragraph (a-2) of subdivision 6 of section 425 of the real  
2 property tax law, as added by section 1 of part D of chapter 60 of the  
3 laws of 2016, is amended to read as follows:

4 (a-2) Notwithstanding any provision of law to the contrary, where [~~a~~  
5 ~~renewal~~] an application for the "enhanced" STAR exemption authorized by  
6 subdivision four of this section has not been filed on or before the  
7 taxable status date, and the owner believes that good cause existed for  
8 the failure to file the [~~renewal~~] application by that date, the owner  
9 may, no later than the last day for paying school taxes without incur-  
10 ring interest or penalty, submit a written request to the commissioner  
11 asking him or her to extend the filing deadline and grant the exemption.  
12 Such request shall contain an explanation of why the deadline was  
13 missed, and shall be accompanied by [~~a renewal~~] an application, reflect-  
14 ing the facts and circumstances as they existed on the taxable status  
15 date. After consulting with the assessor, the commissioner may extend  
16 the filing deadline and grant the exemption if the commissioner is  
17 satisfied that (i) good cause existed for the failure to file the  
18 [~~renewal~~] application by the taxable status date, and that (ii) the  
19 applicant is otherwise entitled to the exemption. The commissioner shall  
20 mail notice of his or her determination to such owner and the assessor.  
21 If the determination states that the commissioner has granted the  
22 exemption, the assessor shall thereupon be authorized and directed to  
23 correct the assessment roll accordingly, or, if another person has  
24 custody or control of the assessment roll, to direct that person to make  
25 the appropriate corrections. If the correction is not made before school  
26 taxes are levied, the [~~failure to take the exemption into account in the~~  
27 ~~computation of the tax shall be deemed a "clerical error" for purposes~~  
28 ~~of title three of article five of this chapter, and shall be corrected~~  
29 ~~accordingly~~] school district authorities shall be authorized and  
30 directed to take account of the fact that the commissioner has granted  
31 the exemption by correcting the applicant's tax bill and/or issuing a  
32 refund accordingly.

33 § 2. Paragraph (d) of subdivision 2 of section 496 of the real proper-  
34 ty tax law, as added by section 3 of part A of chapter 60 of the laws of  
35 2016, is amended to read as follows:

36 (d) If the applicant is renouncing a STAR exemption in order to quali-  
37 fy for the personal income tax credit authorized by subsection (eee) of  
38 section six hundred six of the tax law, and no other exemptions are  
39 being renounced on the same application, or if the applicant is renounc-  
40 ing a STAR exemption before school taxes have been levied on the assess-  
41 ment roll upon which that exemption appears, no processing fee shall be  
42 applicable.

43 § 3. Paragraph (a) of subdivision 2 of section 496 of the real proper-  
44 ty tax law, as amended by section 3 of part A of chapter 60 of the laws  
45 of 2016, is amended to read as follows:

46 (a) For each assessment roll on which the renounced exemption appears,  
47 the assessed value that was exempted shall be multiplied by the tax rate  
48 or rates that were applied to that assessment roll, or in the case of a  
49 renounced STAR exemption, the tax savings calculated pursuant to subdivi-  
50 vision two of section thirteen hundred six-a of this chapter. Interest  
51 shall then be added to each such product at the rate prescribed by  
52 section nine hundred twenty-four-a of this chapter or such other law as  
53 may be applicable for each month or portion thereon since the levy of  
54 taxes upon such assessment roll.

§ 4. Paragraph 5 of subsection (eee) of section 606 of the tax law, as amended by section 8 of part A of chapter 73 of the laws of 2016, is amended to read as follows:

(5) Disqualification. A taxpayer shall not qualify for the credit authorized by this subsection if the parcel that serves as the taxpayer's primary residence received the STAR exemption on the assessment roll upon which school district taxes for the associated fiscal year ~~[where]~~ were levied. Provided, however, that the taxpayer may remove this disqualification by renouncing the exemption ~~[and making any required payments]~~ by December thirty-first of the taxable year, as provided by subdivision sixteen of section four hundred twenty-five of the real property tax law, and making any required payments within the time frame prescribed by section four hundred ninety-six of the real property tax law.

§ 5. This act shall take effect immediately.

#### PART UU

Section 1. The article heading of article 13-F of the public health law, as amended by chapter 448 of the laws of 2012, is amended to read as follows:

REGULATION OF TOBACCO PRODUCTS,  
VAPOR PRODUCTS, ELECTRONIC CIGARETTES,  
HERBAL CIGARETTES AND SMOKING  
PARAPHERNALIA; DISTRIBUTION TO ~~[MINORS]~~ PERSONS UNDER THE  
AGE OF TWENTY-ONE

§ 2. Subdivisions 1 and 4 of section 1399-aa of the public health law, subdivision 1 as amended by chapter 13 of the laws of 2003, and subdivision 4 as added by chapter 799 of the laws of 1992, are amended and six new subdivisions 14, 15, 16, 17, 18 and 19 are added to read as follows:

1. "Enforcement officer" means the enforcement officer designated pursuant to article thirteen-E of this chapter to enforce such article and hold hearings pursuant thereto; provided that in a city with a population of more than one million it shall also mean an officer or employee or any agency of such city that is authorized to enforce any local law of such city related to the regulation of the sale of tobacco products to ~~[minors]~~ persons under the age of twenty-one.

4. "Private club" means an organization with no more than an insignificant portion of its membership comprised of people under the age of ~~[eighteen]~~ twenty-one years that regularly receives dues and/or payments from its members for the use of space, facilities and services.

14. "Price reduction instrument" means any coupon, voucher, rebate, card, paper, note, form, statement, ticket, image, or other issue, whether in paper, digital, or any other form, used for commercial purposes to receive an article, product, service, or accommodation without charge or at a discounted price.

15. "Dealer" means a dealer, as defined in section four hundred seventy of the tax law or a vapor products dealer as defined in section eleven hundred eighty of the tax law.

16. "Vapor product" means any noncombustible liquid or gel, regardless of the presence of nicotine therein, that is manufactured into a finished product for use in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, vaping pen, hookah pen or other similar device. "Vapor product" shall not include any product approved by the United States food and drug administration as a drug or medical

1 device, or manufactured and dispensed pursuant to title five-A of arti-  
2 cle thirty-three of the public health law.

3 17. "Tobacco and vapor products menu" means a booklet, pamphlet, or  
4 other listing of tobacco products, herbal cigarettes, vapor products,  
5 and electronic cigarettes offered for sale by the dealer and the price  
6 of such products. The tobacco and vapor products menu may contain  
7 pictures of and advertisements for tobacco products, herbal cigarettes,  
8 vapor products and electronic cigarettes.

9 18. "Menu cover page" means the front cover of a tobacco and vapor  
10 products menu or, if there is no front cover, the first page of a tobac-  
11 co and vapor products menu.

12 19. "Characterizing flavor" means a distinguishable taste or aroma,  
13 other than the taste or aroma of tobacco or menthol, imparted either  
14 prior to or during consumption of a tobacco product, electronic ciga-  
15 rettes and vapor products or component thereof, including, but not  
16 limited to, tastes or aromas relating to any fruit, chocolate, vanilla,  
17 honey, candy, cocoa, dessert, alcoholic beverage, herb or spice.

18 § 3. Section 1399-bb of the public health law, as amended by chapter  
19 508 of the laws of 2000, the section heading and subdivisions 4 and 5 as  
20 amended by chapter 4 of the laws of 2018 and subdivision 2 as amended by  
21 chapter 13 of the laws of 2003, is amended to read as follows:

22 § 1399-bb. Distribution of tobacco products, vapor products, electron-  
23 ic cigarettes or herbal cigarettes without charge. 1. No person engaged  
24 in the business of selling or otherwise distributing tobacco products,  
25 vapor products, electronic cigarettes or herbal cigarettes for commer-  
26 cial purposes, or any agent or employee of such person, shall knowingly,  
27 in furtherance of such business:

28 (a) distribute without charge any tobacco products or herbal ciga-  
29 rettes to any individual, provided that the distribution of a package  
30 containing tobacco products or herbal cigarettes in violation of this  
31 subdivision shall constitute a single violation without regard to the  
32 number of items in the package; or

33 (b) distribute [~~coupons~~] price reduction instruments which are redeem-  
34 able for tobacco products [~~or~~], herbal cigarettes, vapor products, or  
35 electronic cigarettes to any individual, provided that this subdivision  
36 shall not apply to coupons contained in newspapers, magazines or other  
37 types of publications, coupons obtained through the purchase of tobacco  
38 products [~~or~~], herbal cigarettes, vapor products, or electronic ciga-  
39 rettes or obtained at locations which sell tobacco products [~~or~~], herbal  
40 cigarettes, vapor products, or electronic cigarettes provided that such  
41 distribution is confined to a designated area or to coupons sent through  
42 the mail.

43 1-a. No person engaged in the business of selling or otherwise  
44 distributing tobacco products, herbal cigarettes, vapor products, or  
45 electronic cigarettes for commercial purposes, or any agent or employee  
46 of such person, shall knowingly, in furtherance of such business:

47 (a) honor or accept a price reduction instrument in any transaction  
48 related to the sale of tobacco products, herbal cigarettes, vapor  
49 products, or electronic cigarettes to a consumer;

50 (b) sell or offer for sale tobacco products, herbal cigarettes, vapor  
51 products, or electronic cigarettes to a consumer through any multi-pack-  
52 age discount or otherwise provide to a consumer any tobacco products,  
53 herbal cigarettes, vapor products, electronic cigarettes for less than  
54 the listed price in exchange for the purchase of any other tobacco  
55 products, herbal cigarettes, vapor products, or electronic cigarettes by  
56 the consumer;

(c) sell, offer for sale, or otherwise provide any product other than tobacco products, herbal cigarettes, vapor products, or electronic cigarettes to a consumer for less than the listed price in exchange for the purchase of tobacco products, herbal cigarettes, vapor products, or electronic cigarettes by the consumer; or

(d) sell, offer for sale, or otherwise provide tobacco products, herbal cigarettes, vapor products, or electronic cigarettes to a consumer for less than the listed price.

2. The prohibitions contained in subdivision one of this section shall not apply to the following locations:

(a) private social functions when seating arrangements are under the control of the sponsor of the function and not the owner, operator, manager or person in charge of such indoor area;

(b) conventions and trade shows; provided that the distribution is confined to designated areas generally accessible only to persons over the age of ~~[eighteen]~~ twenty-one;

(c) events sponsored by tobacco ~~[or]~~, herbal cigarette, vapor products, or electronic cigarette manufacturers provided that the distribution is confined to designated areas generally accessible only to persons over the age of ~~[eighteen]~~ twenty-one;

(d) bars as defined in subdivision one of section thirteen hundred ninety-nine-n of this chapter;

(e) tobacco businesses as defined in subdivision eight of section thirteen hundred ninety-nine-aa of this article;

(f) factories as defined in subdivision nine of section thirteen hundred ninety-nine-aa of this article and construction sites; provided that the distribution is confined to designated areas generally accessible only to persons over the age of ~~[eighteen]~~ twenty-one.

3. No person shall distribute tobacco products ~~[or]~~, herbal cigarettes, vapor products, or electronic cigarettes at the locations set forth in paragraphs (b), (c) and (f) of subdivision two of this section unless such person gives five days written notice to the enforcement officer.

4. No person engaged in the business of selling or otherwise distributing vapor products or electronic cigarettes for commercial purposes, or any agent or employee of such person, shall knowingly, in furtherance of such business, distribute without charge any vapor products or electronic cigarettes to any individual under ~~[eighteen]~~ twenty-one years of age.

5. The distribution of tobacco products or herbal cigarettes pursuant to subdivision two of this section or the distribution without charge of vapor products or electronic cigarettes shall be made only to an individual who demonstrates, through (a) a driver's license or ~~[other photographic]~~ non-driver's identification card issued by ~~[a government entity or educational institution]~~ the commissioner of motor vehicles, the federal government, any United States territory, commonwealth or possession, the District of Columbia, a state government within the United States or a provincial government of the dominion of Canada, or (b) a valid passport issued by the United States government or any other country, or (c) an identification card issued by the armed forces of the United States, indicating that the individual is at least ~~[eighteen]~~ twenty-one years of age. Such identification need not be required of any individual who reasonably appears to be at least ~~[twenty-five]~~ thirty years of age; provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of a tobacco product, vapor product, electronic cigarette or herbal cigarette or the distrib-



1 ution without charge of vapor products or electronic cigarettes to an  
2 individual under twenty-one years of age.

3 § 4. The opening paragraph of section 1399-cc of the public health  
4 law, as amended by chapter 542 of the laws of 2014, is amended to read  
5 as follows:

6 Sale of tobacco products, herbal cigarettes, [~~liquid-nicotine~~] vapor  
7 products, electronic cigarettes, shisha, rolling papers or smoking  
8 paraphernalia to [~~minors~~] persons under the age of twenty-one is prohib-  
9 ited.

10 § 5. Paragraph (e) of subdivision 1 of section 1399-cc of the public  
11 health law is REPEALED.

12 § 6. Subdivisions 2, 3, 4 and 7 of section 1399-cc of the public  
13 health law, as amended by chapter 542 of the laws of 2014, are amended  
14 to read as follows:

15 2. Any person operating a place of business wherein tobacco products,  
16 herbal cigarettes, [~~liquid-nicotine~~] vapor products, shisha or electron-  
17 ic cigarettes, are sold or offered for sale is prohibited from selling  
18 such products, herbal cigarettes, [~~liquid-nicotine~~] vapor products,  
19 shisha, electronic cigarettes or smoking paraphernalia to individuals  
20 under [~~eighteen~~] twenty-one years of age, and shall post in a conspicu-  
21 ous place a sign upon which there shall be imprinted the following  
22 statement, "SALE OF CIGARETTES, CIGARS, CHEWING TOBACCO, POWDERED TOBAC-  
23 CO, SHISHA OR OTHER TOBACCO PRODUCTS, HERBAL CIGARETTES, [~~LIQUID-NICO-~~  
24 ~~TINE~~] VAPOR PRODUCTS, ELECTRONIC CIGARETTES, ROLLING PAPERS OR SMOKING  
25 PARAPHERNALIA, TO PERSONS UNDER [~~EIGHTEEN~~] TWENTY-ONE YEARS OF AGE IS  
26 PROHIBITED BY LAW." Such sign shall be printed on a white card in red  
27 letters at least one-half inch in height.

28 3. Sale of tobacco products, herbal cigarettes, [~~liquid-nicotine~~]  
29 vapor products, shisha or electronic cigarettes in such places, other  
30 than by a vending machine, shall be made only to an individual who  
31 demonstrates, through (a) a valid driver's license or non-driver's iden-  
32 tification card issued by the commissioner of motor vehicles, the feder-  
33 al government, any United States territory, commonwealth or possession,  
34 the District of Columbia, a state government within the United States or  
35 a provincial government of the dominion of Canada, or (b) a valid pass-  
36 port issued by the United States government or any other country, or (c)  
37 an identification card issued by the armed forces of the United States,  
38 indicating that the individual is at least [~~eighteen~~] twenty-one years  
39 of age. Such identification need not be required of any individual who  
40 reasonably appears to be at least [~~twenty-five~~] thirty years of age,  
41 provided, however, that such appearance shall not constitute a defense  
42 in any proceeding alleging the sale of a tobacco product, herbal ciga-  
43 rettes, [~~liquid-nicotine~~] vapor products, shisha or electronic ciga-  
44 rettes to an individual under [~~eighteen~~] twenty-one years of age.

45 4. (a) Any person operating a place of business wherein tobacco  
46 products, herbal cigarettes, [~~liquid-nicotine~~] vapor products, shisha or  
47 electronic cigarettes are sold or offered for sale may perform a trans-  
48 action scan as a precondition for such purchases.

49 (b) In any instance where the information deciphered by the trans-  
50 action scan fails to match the information printed on the driver's  
51 license or non-driver identification card, or if the transaction scan  
52 indicates that the information is false or fraudulent, the attempted  
53 transaction shall be denied.

54 (c) In any proceeding pursuant to section thirteen hundred ninety-  
55 nine-ee of this article, it shall be an affirmative defense that such  
56 person had produced a driver's license or non-driver identification card

1 apparently issued by a governmental entity, successfully completed that  
2 transaction scan, and that the tobacco product, herbal cigarettes or  
3 ~~[liquid nicotine]~~ vapor products had been sold, delivered or given to  
4 such person in reasonable reliance upon such identification and trans-  
5 action scan. In evaluating the applicability of such affirmative defense  
6 the commissioner shall take into consideration any written policy  
7 adopted and implemented by the seller to effectuate the provisions of  
8 this chapter. Use of a transaction scan shall not excuse any person  
9 operating a place of business wherein tobacco products, herbal ciga-  
10 rettes, ~~[liquid nicotine]~~ vapor products, shisha or electronic ciga-  
11 rettes are sold, or the agent or employee of such person, from the exer-  
12 cise of reasonable diligence otherwise required by this chapter.  
13 Notwithstanding the above provisions, any such affirmative defense shall  
14 not be applicable in any civil or criminal proceeding, or in any other  
15 forum.

16 7. (a) No person operating a place of business wherein tobacco  
17 products, herbal cigarettes, ~~[liquid nicotine]~~ vapor products, shisha or  
18 electronic cigarettes are sold or offered for sale shall sell, permit to  
19 be sold, offer for sale or display for sale any tobacco product, herbal  
20 cigarettes, ~~[liquid nicotine]~~ vapor products, shisha or electronic ciga-  
21 rettes in any manner, unless such products and cigarettes are stored for  
22 sale ~~[(a)]~~ (i) behind a counter in an area accessible only to the  
23 personnel of such business, or ~~[(b)]~~ (ii) in a locked container;  
24 provided, however, such restriction shall not apply to tobacco busi-  
25 nesses, as defined in subdivision eight of section thirteen hundred  
26 ninety-nine-aa of this article, and to places to which admission is  
27 restricted to persons ~~[eighteen]~~ twenty-one years of age or older.

28 (b) In addition to the requirements set forth in paragraph (a) of this  
29 subdivision, no dealer shall permit the display of any tobacco product,  
30 herbal cigarette, vapor product, or electronic cigarette in a manner  
31 that permits a consumer to view any such item prior to purchase. Except  
32 as provided for in paragraph (c) of this subdivision is not violated if:

33 (i) at the direct request of a customer at least twenty-one years of  
34 age, such a customer handles the item, packaged or otherwise, to inspect  
35 the product prior to purchase; or

36 (ii) such items are temporarily visible during restocking, the sale of  
37 such items, or the carriage of such items into or out of the premises.

38 (c) No dealer shall display or permit the display of any tobacco prod-  
39 uct, herbal cigarette, vapor product, or electronic cigarette for any  
40 longer than necessary to complete the purposes identified in subpara-  
41 graphs (i) and (ii) of paragraph (b) of this subdivision.

42 (d) No dealer shall store any tobacco and vapor products menu in a  
43 location where it is visible to customers or accessible to customers  
44 without the assistance of the dealer. The menu shall also contain menu  
45 cover page that shall prevent the inadvertent viewing of promotional or  
46 other material contained within the tobacco and vapor products menu.

47 (e) No dealer shall provide any tobacco and vapor products menu or any  
48 tobacco product, herbal cigarette, vapor product, or electronic ciga-  
49 rette to any individual who has not demonstrated, through identification  
50 which meets the requirements of subdivision three of this section, that  
51 the individual is at least twenty-one years of age. Such identification  
52 need not be required of any individual who reasonably appears to be over  
53 the age of thirty, provided, however, that such appearance shall not  
54 constitute a defense in any proceeding alleging the sale of such item to  
55 an individual under twenty-one years of age. It shall be an affirmative  
56 defense to a violation of this paragraph that the dealer successfully

1 performed a transaction scan of an individual's identification and that  
2 a tobacco and vapor products menu, tobacco product, herbal cigarette,  
3 vapor product, or electronic cigarette was provided to such individual  
4 in reasonable reliance upon such identification and transaction scan.

5 (f) After a customer has completed viewing a tobacco and vapor  
6 products menu, the dealer shall immediately return the tobacco and vapor  
7 products menu to its storage location.

8 (g) Unless required otherwise by regulation of the department, the  
9 menu cover page of the tobacco and vapor products menu shall be blank or  
10 contain only the words "Tobacco and Vapor Products Menu" and shall not  
11 contain any advertising or other promotional material.

12 (h) The commissioner may issue rules and regulations governing the use  
13 of the tobacco and vapor products menu and menu cover page.

14 (i) Paragraphs (a) through (g) of this subdivision shall not apply to  
15 a place of business to which admission is restricted solely to persons  
16 twenty-one years of age or older.

17 (j) Nothing herein shall be construed to restrict the authority of any  
18 county, city, town, or village to enact, adopt, promulgate and enforce  
19 additional local laws, ordinances, regulations or other measures which  
20 are in addition to or more stringent than either of the provisions of  
21 this article.

22 § 7. Section 1399-dd of the public health law, as amended by chapter  
23 448 of the laws of 2012, is amended to read as follows:

24 § 1399-dd. Sale of tobacco products, herbal cigarettes, vapor  
25 products, or electronic cigarettes in vending machines. No person, firm,  
26 partnership, company or corporation shall operate a vending machine  
27 which dispenses tobacco products, herbal cigarettes, vapor products, or  
28 electronic cigarettes unless such machine is located: (a) in a bar as  
29 defined in subdivision one of section thirteen hundred ninety-nine-n of  
30 this chapter, or the bar area of a food service establishment with a  
31 valid, on-premises full liquor license; (b) in a private club; (c) in a  
32 tobacco business as defined in subdivision eight of section thirteen  
33 hundred ninety-nine-aa of this article; or (d) in a place of employment  
34 which has an insignificant portion of its regular workforce comprised of  
35 people under the age of [~~eighteen~~] twenty-one years and only in such  
36 locations that are not accessible to the general public; provided,  
37 however, that in such locations the vending machine is located in plain  
38 view and under the direct supervision and control of the person in  
39 charge of the location or his or her designated agent or employee.

40 § 8. Section 1399-ee of the public health law, as amended by chapter  
41 162 of the laws of 2002, is amended to read as follows:

42 § 1399-ee. Hearings; penalties. 1. Hearings with respect to violation  
43 of this article shall be conducted in the same manner as hearings  
44 conducted under article thirteen-E of this chapter.

45 2. If the enforcement officer determines after a hearing that a  
46 violation of this article has occurred, he or she shall impose a civil  
47 penalty of a minimum of three hundred dollars, but not to exceed one  
48 thousand dollars for a first violation, and a minimum of five hundred  
49 dollars, but not to exceed one thousand five hundred dollars for each  
50 subsequent violation, unless a different penalty is otherwise provided  
51 in this article. The enforcement officer shall advise the [~~retail~~] deal-  
52 er that upon the accumulation of three or more points pursuant to this  
53 section the [~~department~~] commissioner of taxation and finance shall  
54 suspend the dealer's registration. If the enforcement officer determines  
55 after a hearing that a [~~retail~~] dealer was selling tobacco products,  
56 vapor products, or electronic cigarettes while their registration was

1 suspended or permanently revoked pursuant to subdivision three or four  
2 of this section, he or she shall impose a civil penalty of twenty-five  
3 hundred dollars.

4 3. (a) Imposition of points. If the enforcement officer determines,  
5 after a hearing, that the [~~retail~~] dealer violated subdivision [~~one~~] two  
6 of section thirteen hundred ninety-nine-cc of this article with respect  
7 to a prohibited sale to a [~~minor~~] person under the age of twenty-one, he  
8 or she shall, in addition to imposing any other penalty required or  
9 permitted pursuant to this section, assign two points to the [~~retail~~]  
10 dealer's record where the individual who committed the violation did not  
11 hold a certificate of completion from a state certified tobacco sales  
12 training program and one point where the [~~retail~~] dealer demonstrates  
13 that the person who committed the violation held a certificate of  
14 completion from a state certified tobacco sales training program.

15 (b) Revocation. If the enforcement officer determines, after a hear-  
16 ing, that a [~~retail~~] dealer has violated this article four times within  
17 a three year time frame he or she shall, in addition to imposing any  
18 other penalty required or permitted by this section, direct the commis-  
19 sioner of taxation and finance to revoke the dealer's registration for  
20 one year.

21 (c) Duration of points. Points assigned to a [~~retail~~] dealer's record  
22 shall be assessed for a period of thirty-six months beginning on the  
23 first day of the month following the assignment of points.

24 (d) Reinspection. Any [~~retail~~] dealer who is assigned points pursuant  
25 to paragraph (a) of this subdivision shall be reinspected at least two  
26 times a year by the enforcement officer until points assessed are  
27 removed from the [~~retail~~] dealer's record.

28 (e) Suspension. If the department determines that a [~~retail~~] dealer  
29 has accumulated three points or more, the department shall direct the  
30 commissioner of taxation and finance to suspend such dealer's registra-  
31 tion for six months. The three points serving as the basis for a suspen-  
32 sion shall be erased upon the completion of the six month penalty.

33 (f) Surcharge. A fifty dollar surcharge to be assessed for every  
34 violation will be made available to enforcement officers and shall be  
35 used solely for compliance checks to be conducted to determine compli-  
36 ance with this section.

37 4. (a) If the enforcement officer determines, after a hearing, that a  
38 [~~retail~~] dealer has violated this article while their registration was  
39 suspended pursuant to subdivision three of this section, he or she  
40 shall, in addition to imposing any other penalty required or permitted  
41 by this section, direct the commissioner of taxation and finance to  
42 permanently revoke the dealer's registration and not permit the dealer  
43 to obtain a new registration.

44 (b) If the enforcement officer determines, after a hearing, that a  
45 vending machine operator has violated this article three times within a  
46 two year period, or four or more times cumulatively he or she shall, in  
47 addition to imposing any other penalty required or permitted by this  
48 section, direct the commissioner of taxation and finance to suspend the  
49 vendor's registration for one year and not permit the vendor to obtain a  
50 new registration for such period.

51 5. The department shall publish a notification of the name and address  
52 of any [~~retailer~~] dealer violating the provisions of this section and  
53 indicate the number of times the dealer has violated the provisions of  
54 this section. The notification shall be published in a newspaper of  
55 general circulation in the locality in which the [~~retailer~~] dealer is  
56 located.

6. (a) In any proceeding pursuant to subdivision three of this section to assign points to a [retail] dealer's record, the [retail] dealer shall be assigned one point instead of two points where the [retail] dealer demonstrates that the person who committed the violation of section thirteen hundred ninety-nine-cc of this article held a valid certificate of completion from a state certified tobacco sales training program.

(b) A state certified tobacco sales training program shall include instruction in the following elements:

(1) the health effects of tobacco use, especially at a young age;

(2) the legal purchase age and the additional requirements of section thirteen hundred ninety-nine-cc of this article;

(3) legal forms of identification and the key features thereof;

(4) reliance upon legal forms of identification and the right to refuse sales when acting in good faith;

(5) means of identifying fraudulent identification of attempted under-age purchasers;

(6) techniques used to refuse a sale;

(7) the penalties arising out of unlawful sales to underage individuals; and

(8) the significant disciplinary action or loss of employment that may be imposed by the [retail] dealer for a violation of the law or a deviation from the policies of the [retail] dealer in respect to compliance with such law.

(c) A tobacco sales training program may be given and administered by a [retail] dealer duly registered under section four hundred eighty-a of the tax law which operates five or more registered locations, by a trade association whose members are registered as [retail] dealers, by national and regional franchisors who have granted at least five franchises in the state to persons who are registered as such [retail] dealers by a cooperative corporation with five or more members who are registered as [retail] dealers and are operating in this state, and by a wholesaler supplying fifty or more [retail] dealers. A person or entity administering such training program shall issue certificates of completion to persons successfully completing such a training program. Such certificates shall be prima facie evidence of the completion of such a training program by the person named therein.

(d) A certificate of completion may be issued for a period of three years, however such certificate shall be invalidated by a change in employment.

(e) Entities authorized pursuant to paragraph (c) of this subdivision to give and administer a tobacco sales training program may submit a proposed curriculum, a facsimile of any training aids and materials, and a list of training locations to the department for review. Training aids may include the use of video, computer based instruction, printed materials and other formats deemed acceptable to the department. The department shall certify programs which provide instruction in the elements set forth in paragraph (b) of this subdivision in a clear and meaningful fashion. Programs approved by the department shall be certified for a period of three years at which time an entity may reapply for certification. A non-refundable fee in the amount of three hundred dollars shall be paid to the department with each application.

§ 9. Section 1399-hh of the public health law, as added by chapter 433 of the laws of 1997, is amended to read as follows:

§ 1399-hh. Tobacco vapor product and electronic cigarette enforcement. The commissioner shall develop, plan and implement a comprehensive



1 program to reduce the prevalence of tobacco vapor product and electronic  
2 cigarette use, particularly among persons less than [~~eighteen~~] twenty-  
3 one years of age. This program shall include, but not be limited to,  
4 support for enforcement of article thirteen-F of this chapter.

5 1. An enforcement officer, as defined in section thirteen hundred  
6 ninety-nine-t of this chapter, may annually, on such dates as shall be  
7 fixed by the commissioner, submit an application for such monies as are  
8 made available for such purpose. Such application shall be in such form  
9 as prescribed by the commissioner and shall include, but not be limited  
10 to, plans regarding random spot checks, including the number and types  
11 of compliance checks that will be conducted, and other activities to  
12 determine compliance with this article. Each such plan shall include an  
13 agreement to report to the commissioner: the names and addresses of  
14 [~~tobacco retailers and vendors~~] dealers determined to be unlicensed, if  
15 any; the number of complaints filed against licensed [~~tobacco retail~~  
16 ~~outlets~~] dealers; and the names of [~~tobacco retailers and vendors~~] deal-  
17 ers who have paid fines, or have been otherwise penalized, due to  
18 enforcement actions.

19 2. The commissioner shall distribute such monies as are made avail-  
20 able for such purpose to enforcement officers and, in so doing, consider  
21 the number of retail locations registered to sell tobacco products with-  
22 in the jurisdiction of the enforcement officer and the level of proposed  
23 activities.

24 3. Monies made available to enforcement officers pursuant to this  
25 section shall only be used for local tobacco, herbal cigarette, vapor  
26 products and electronic cigarette enforcement activities approved by the  
27 commissioner.

28 § 10. Paragraph (b) of subdivision 2 of section 1399-ll of the public  
29 health law, as added by chapter 518 of the laws of 2000, is amended to  
30 read as follows:

31 (b) Any person operating a tobacco business wherein bidis is sold or  
32 offered for sale is prohibited from selling such bidis to individuals  
33 under [~~eighteen~~] twenty-one years of age, and shall post in a conspicu-  
34 ous place a sign upon which there shall be imprinted the following  
35 statement, "SALE OF BIDIS TO PERSONS UNDER [~~EIGHTEEN~~] TWENTY-ONE YEARS  
36 OF AGE IS PROHIBITED BY LAW." Such sign shall be printed on a white  
37 card in red letters at least one-half inch in height.

38 § 11. Subdivision 1 and paragraph (b) of subdivision 2 of section  
39 1399-mm of the public health law, as added by chapter 549 of the laws of  
40 2003, are amended to read as follows:

41 1. No person shall knowingly sell or provide gutka to any other person  
42 under [~~eighteen~~] twenty-one years of age. No other provision of law  
43 authorizing the sale of tobacco products, other than subdivision two of  
44 this section, shall authorize the sale of gutka. Any person who  
45 violates the provisions of this subdivision shall be subject to a civil  
46 penalty of not more than five hundred dollars.

47 (b) Any person operating a tobacco business wherein gutka is sold or  
48 offered for sale is prohibited from selling such gutka to individuals  
49 under [~~eighteen~~] twenty-one years of age, and shall post in a conspicu-  
50 ous place a sign upon which there shall be imprinted the following  
51 statement, "SALE OF GUTKA TO PERSONS UNDER [~~EIGHTEEN~~] TWENTY-ONE YEARS  
52 OF AGE IS PROHIBITED BY LAW." Such sign shall be printed on a white  
53 card in red letters at least one-half inch in height.

54 § 12. The public health law is amended by adding a new section  
55 1399-mm-1 to read as follows:

§ 1399-mm-1. Sale in pharmacies. No tobacco products, herbal cigarettes, vapor products, or electronic cigarettes shall be sold in a pharmacy or in a retail establishment that contains a pharmacy operated as a department as defined in paragraph f of subdivision two of section sixty-eight hundred eight of the education law.

§ 13. The public health law is amended by adding a new section 1399-mm-2 to read as follows:

§ 1399-mm-2. Electronic cigarette and vapor products; characterizing flavors. The commissioner is authorized to promulgate regulations governing the sale and distribution of electronic cigarettes or vapor products. Such regulations may, to the extent deemed necessary for the protection of public health, prohibit or restrict: (i) the selling, offering for sale, possessing with intent to sell or offering for sale, or distributing of refills, cartridges, or other components of electronic cigarettes or vapor products that imparts a characterizing flavor; or (ii) the use of trademarks, names or descriptions of characterizing flavors that are clearly intended to appeal to minors.

§ 14. Paragraph n of subdivision 1 of section 1399-o of the public health law, as amended by chapter 335 of the laws of 2017, is amended to read as follows:

n. general hospitals and residential health care facilities as defined in article twenty-eight of this chapter, hospitals and residential facilities licensed by or operated by the office of mental health pursuant to the mental hygiene law, and other health care facilities licensed by the state in which persons reside; provided, however, that the provisions of this subdivision shall not prohibit smoking [~~and vaping~~] by patients in separate enclosed rooms of residential health care facilities, adult care facilities established or certified under title two of article seven of the social services law, [~~community mental health residences established under section 41.44 of the mental hygiene law~~], or facilities where day treatment programs are provided, which are designated as smoking [~~and vaping~~] rooms for patients of such facilities or programs;

§ 15. Subdivision 2 of section 1399-o of the public health law is amended by adding a new paragraph c to read as follows:

c. on the grounds of hospitals licensed by or operated by the office of mental health pursuant to the mental hygiene law.

§ 16. Section 399-gg of the general business law, as added by chapter 542 of the laws of 2014, is amended to read as follows:

§ 399-gg. Packaging of [~~electronic liquid~~] vapor products. 1. No person, firm or corporation shall sell or offer for sale any [~~electronic liquid~~] vapor products, as defined in [~~paragraph (e) of~~] subdivision [~~one~~] sixteen of section [~~thirteen hundred ninety-nine-cc~~] thirteen hundred ninety-nine-aa of the public health law, unless the [~~electronic liquid~~] vapor products is sold or offered for sale in a child resistant bottle which is designed to prevent accidental exposure of children to [~~electronic liquids~~] vapor products.

2. Any violation of this section shall be punishable by a civil penalty not to exceed one thousand dollars.

§ 17. The tax law is amended by adding a new article 28-C to read as follows:

#### ARTICLE 28-C

#### SUPPLEMENTAL TAX ON VAPOR PRODUCTS

Section 1180. Definitions.

1 1181. Imposition of tax.

2 1182. Imposition of compensating use tax.

3 1183. Vapor products dealer registration and renewal.

4 1184. Administrative provisions.

5 1185. Criminal penalties.

6 1186. Deposit and disposition of revenue.

7 § 1180. Definitions. For the purposes of the taxes imposed by this  
8 article, the following terms shall mean:

9 (a) "Vapor product" means any noncombustible liquid or gel, regardless  
10 of the presence of nicotine therein, that is manufactured in to a  
11 finished product for use in an electronic cigarette, electronic cigar,  
12 electronic cigarillo, electronic pipe, vaping pen, hookah pen or other  
13 similar device. "Vapor product" shall not include any product approved  
14 by the United States food and drug administration as a drug or medical  
15 device, or manufactured and dispensed pursuant to title five-A of arti-  
16 cle thirty-three of the public health law.

17 (b) "Vapor products dealer" means a person licensed by the commission-  
18 er to sell vapor products in this state.

19 § 1181. Imposition of Tax. In addition to any other tax imposed by  
20 this chapter or other law, there is hereby imposed a tax of twenty  
21 percent on receipts from the retail sale of vapor products sold in this  
22 state. The tax imposed on the purchaser and collected by the vapor  
23 products dealer as defined in subdivision (b) of section eleven hundred  
24 eighty of this article, in trust for and on account of the state.

25 § 1182. Imposition of compensating use tax. (a) Except to the extent  
26 that vapor products have already been or will be subject to the tax  
27 imposed by section eleven hundred eighty-one of this article, or are  
28 otherwise exempt under this article, there is hereby imposed a use tax  
29 on every use of vapor products by resident of this state.

30 (b) The tax imposed by this section shall be at the rate of twenty  
31 percent of (1) the consideration given or contracted to be given for  
32 such vapor product purchased at retail; (2) the price at which items of  
33 the same kind of vapor products are sold by a manufacturer of such vapor  
34 products in the regular course of his or her business.

35 (c) The tax due pursuant to this section shall be paid and reported no  
36 later than twenty days after such use on a form prescribed by the  
37 commissioner.

38 § 1183. Vapor products dealer registration and renewal. (a) Every  
39 person who intends to sell vapor products in this state must receive  
40 from the commissioner a certificate of registration prior to engaging in  
41 business. Such person must electronically submit a properly completed  
42 application for a certificate of registration for each location at which  
43 vapor products will be sold in this state, on a form prescribed by the  
44 commissioner, and shall be accompanied by a non-refundable application  
45 fee of three hundred dollars.

46 (b) A vapor products dealer certificate of registration shall be  
47 valid for the calendar year for which it is issued unless earlier  
48 suspended or revoked. Upon the expiration of the term stated on the  
49 certificate of registration, such certificate shall be null and void. A  
50 certificate of registration shall not be assignable or transferable and  
51 shall be destroyed immediately upon the vapor products dealer ceasing to  
52 do business as specified in such certificate or in the event that such  
53 business never commenced.

54 (c) Every vapor product dealer shall publicly display a vapor products  
55 dealer certificate of registration in each place of business in this  
56 state where vapor products are sold at retail. A vapor products dealer

1 who has no regular place of business shall publicly display such valid  
2 certificate on each of its carts, stands, trucks or other merchandising  
3 devices through which it sells vapor products.

4 (d) (1) The commissioner shall refuse to issue a certificate of regis-  
5 tration to any applicant who does not possess a valid certificate of  
6 authority under section eleven hundred thirty-four of this chapter. In  
7 addition, the commissioner may refuse to issue a certificate of regis-  
8 tration, or suspend, cancel or revoke a certificate of registration  
9 issued to any person who: (A) has a past-due liability as that term is  
10 defined in section one hundred seventy-one-v of this chapter; (B) has  
11 had a certificate of registration under this article or any license or  
12 registration provided for in this chapter revoked within one year from  
13 the date on which such application was filed; (C) has been convicted of  
14 a crime provided for in this chapter within one year from the date on  
15 which such application was filed; (D) willfully fails to file a report  
16 or return required by this article; (E) willfully files, causes to be  
17 filed, gives or causes to be given a report, return, certificate or  
18 affidavit required by this article which is false; (F) willfully fails  
19 to collect or truthfully account for or pay over any tax imposed by this  
20 article; or (G) whose place of business is at the same premises as that  
21 of a person whose vapor produces dealer registration has been revoked  
22 and where such revocation is still in effect, unless the applicant or  
23 vapor products dealer provides the commissioner with adequate documenta-  
24 tion demonstrating that such applicant or vapor products dealer acquired  
25 the premises or business through an arm's length transaction as defined  
26 in paragraph (e) of subdivision one of section four hundred eighty-a of  
27 this chapter.

28 (2) In addition to the grounds provided in paragraph one of this  
29 subdivision, the commissioner shall refuse to issue a certificate of  
30 registration and shall cancel or suspend a certificate of registration  
31 as directed by an enforcement officer pursuant to article thirteen-F of  
32 the public health law. Notwithstanding any provision of law to the  
33 contrary, an applicant whose application for a certificate of registra-  
34 tion is refused or a vapor products dealer whose registration is  
35 cancelled or suspended under this paragraph shall have no right to a  
36 hearing under this chapter and shall have no right to commence a court  
37 action or proceeding or to any other legal recourse against the commis-  
38 sioner with respect to such refusal, suspension or cancellation;  
39 provided, however, that nothing herein shall be construed to deny a  
40 vapor products dealer a hearing under article thirteen-F of the public  
41 health law or to prohibit vapor products dealers from commencing a court  
42 action or proceeding against an enforcement officer as defined in  
43 section thirteen hundred ninety-nine-aa of the public health law.

44 (e) If a vapor products dealer is suspended, cancelled or revoked and  
45 such vapor products dealer sells vapor products through more than one  
46 place of business in this state, the vapor products dealer's certificate  
47 of registration issued to that place of business, cart, stand, truck or  
48 other merchandising device, where such violation occurred, shall be  
49 suspended, revoked or cancelled. Provided, however, upon a vapor  
50 products dealer's third suspension, cancellation or revocation within a  
51 five-year period for any one or more businesses owned or operated by the  
52 vapor products dealer, such suspension, cancellation, or revocation of  
53 the vapor products dealer's certificate of registration shall apply to  
54 all places of business where he or she sells vapor products in this  
55 state.

1     (f) Every holder of a certificate of registration must notify the  
2 commissioner of changes to any of the information stated on the certifi-  
3 cate or changes to any information contained in the application for the  
4 certificate of authority. Such notification must be made on or before  
5 the last day of the month in which a change occurs and must be made  
6 electronically on a form prescribed by the commissioner.

7     (g) Every vapor products dealer who holds a certificate of registra-  
8 tion under this article shall be required to reapply for a certificate  
9 of registration for the following calendar year on or before the twenti-  
10 eth day of September and such reapplication shall be subject to the same  
11 requirements and conditions, including grounds for refusal, as an  
12 initial registration under this article, including but not limited to  
13 the payment of the three hundred dollar application fee for each retail  
14 location.

15     (h) In addition to any other penalty imposed by this chapter, any  
16 vapor products dealer who violates the provisions of this section, (1)  
17 for a first violation is liable for a civil fine not less than five  
18 thousand dollars but not to exceed twenty-five thousand dollars and such  
19 certificate of registration may be suspended for a period of not more  
20 than six months; and (2) for a second or subsequent violation within  
21 three years following a prior violation of this section, is liable for a  
22 civil fine not less than ten thousand dollars but not to exceed thirty-  
23 five thousand dollars and such certificate of registration may be  
24 suspended for a period of up to thirty-six months; or (3) for a third  
25 violation within a period of five years, its vapor products certificate  
26 or certificates of registration issued to each place of business owned  
27 or operated by the vapor products dealer in this state, shall be revoked  
28 for a period of up to five years.

29     § 1184. Administrative provisions. (a) Except as otherwise provided  
30 for in this article, the taxes imposed by this article shall be adminis-  
31 tered and collected in a like manner as and jointly with the taxes  
32 imposed by sections eleven hundred five and eleven hundred ten of this  
33 chapter. In addition, except as otherwise provided in this article, all  
34 of the provisions of article twenty-eight of this chapter (except  
35 sections eleven hundred seven, eleven hundred eight, eleven hundred  
36 nine, and eleven hundred forty-eight) relating to or applicable to the  
37 administration, collection and review of the taxes imposed by such  
38 sections eleven hundred five and eleven hundred ten, including, but not  
39 limited to, the provisions relating to definitions, returns, exemptions,  
40 penalties, tax secrecy, personal liability for the tax, and collection  
41 of tax from the customer, shall apply to the taxes imposed by this arti-  
42 cle so far as such provisions can be made applicable to the taxes  
43 imposed by this article with such limitations as set forth in this arti-  
44 cle and such modifications as may be necessary in order to adapt such  
45 language to the taxes so imposed. Such provisions shall apply with the  
46 same force and effect as if the language of those provisions had been  
47 set forth in full in this article except to the extent that any  
48 provision is either inconsistent with a provision of this article or is  
49 not relevant to the taxes imposed by this article.

50     (b) Notwithstanding the provisions of subdivision (a) of this section,  
51 the exemptions provided in paragraph ten of subdivision (a) of section  
52 eleven hundred fifteen of this chapter, and the provisions of section  
53 eleven hundred sixteen, except those provided in paragraphs one, two,  
54 three and six of subdivision (a) of such section, shall not apply to the  
55 taxes imposed by this article.



1 (c) Notwithstanding the provisions of this section or section eleven  
2 hundred forty-six of this chapter, the commissioner may, in his or her  
3 discretion, permit the commissioner of health or his or her authorized  
4 representative to inspect any return related to the tax imposed by this  
5 article and may furnish to the commissioner of health any such return  
6 or supply him or her with information concerning an item contained in  
7 any such return, or disclosed by any investigation of a liability under  
8 this article.

9 § 1185. Criminal penalties. The criminal penalties in sections eigh-  
10 teen hundred one through eighteen hundred seven and eighteen hundred  
11 seventeen of this chapter shall apply to this article with the same  
12 force and effect as if the language of those provisions had been set  
13 forth in full in this article except to the extent that any provision is  
14 either inconsistent with a provision of this article or is not relevant  
15 to the taxes imposed by this article.

16 § 1186. Deposit and disposition of revenue. The taxes, interest, and  
17 penalties imposed by this article and collected or received by the  
18 commissioner shall be deposited daily with such responsible banks, bank-  
19 ing houses or trust companies, as may be designated by the comptroller,  
20 to the credit of the comptroller in trust for the tobacco control and  
21 insurance initiatives pool established by section ninety-two-dd of the  
22 state finance law and distributed by the commissioner of health in  
23 accordance with section twenty-eight hundred seven-v of the public  
24 health law. Such deposits will be kept separate and apart from all other  
25 money in the possession of the comptroller. The comptroller shall  
26 require adequate security from all such depositories. Of the total  
27 revenue collected or received under this article, the comptroller shall  
28 retain such amount as the commissioner may determine to be necessary for  
29 refunds under this article. Provided, however that the commissioner is  
30 authorized and directed to deduct from the amounts he or she receives  
31 from the registration fees under section eleven hundred eighty-three of  
32 this article, before deposit into the tobacco control and insurance  
33 initiatives pool, a reasonable amount necessary to effectuate refunds of  
34 appropriations of the department to reimburse the department for the  
35 costs incurred to administer, collect and distribute the taxes imposed  
36 by this article.

37 § 18. Subsection (a) of section 92-dd of the state finance law, as  
38 amended by section 3 of part T of chapter 61 of the laws of 2011, is  
39 amended to read as follows:

40 (a) On and after April first, two thousand five, such fund shall  
41 consist of the revenues heretofore and hereafter collected or required  
42 to be deposited pursuant to paragraph (a) of subdivision eighteen of  
43 section twenty-eight hundred seven-c, and sections twenty-eight hundred  
44 seven-j, twenty-eight hundred seven-s and twenty-eight hundred seven-t  
45 of the public health law, subdivision (b) of section four hundred eight-  
46 y-two and section eleven hundred eighty-six of the tax law and required  
47 to be credited to the tobacco control and insurance initiatives pool,  
48 subparagraph (O) of paragraph four of subsection (j) of section four  
49 thousand three hundred one of the insurance law, section twenty-seven of  
50 part A of chapter one of the laws of two thousand two and all other  
51 moneys credited or transferred thereto from any other fund or source  
52 pursuant to law.

53 § 19. Severability clause. If any clause, sentence, paragraph, subdi-  
54 vision, section or part of this act shall be adjudged by any court of  
55 competent jurisdiction to be invalid, such judgment shall not affect,  
56 impair, or invalidate the remainder thereof, but shall be confined in

1 its operation to the clause, sentence, paragraph, subdivision, section  
2 or part thereof directly involved in the controversy in which such judg-  
3 ment shall have been rendered. It is hereby declared to be the intent of  
4 the legislature that this act would have been enacted even if such  
5 invalid provisions had not been included herein.

6 § 20. This act shall take effect on the one hundred eightieth day  
7 after it shall have become a law; provided, however that section seven-  
8 teen of this act shall take effect on the first day of a quarterly peri-  
9 od described in subdivision (b) of section 1136 of the tax law next  
10 commencing at least one hundred eighty days after this act shall become  
11 a law, and shall apply to sales and uses of vapor products on or after  
12 such date.

13 PART VV

14 Section 1. This act shall be known and may be cited as the "Cannabis  
15 Regulation and Taxation Act".

16 § 2. A new chapter 7-A of the consolidated laws is added, to read as  
17 follows:

18 CHAPTER 7-A OF THE CONSOLIDATED LAWS

19 CANNABIS LAW

20 ARTICLE 1

21 SHORT TITLE; POLICY OF STATE AND PURPOSE OF CHAPTER;

22 DEFINITIONS

23 Section 1. Short title.

24 2. Policy of state and purpose of chapter.

25 3. Definitions.

26 § 1. Short Title. This chapter shall be known and may be cited and  
27 referred to as the "cannabis law".

28 § 2. Policy of state and purpose of chapter. It is hereby declared as  
29 policy of the state of New York that it is necessary to properly regu-  
30 late and control the cultivation, processing, manufacture, wholesale,  
31 and retail production, distribution, transportation, and sale of canna-  
32 bis, cannabis related products, medical cannabis, and hemp cannabis  
33 within the state of New York, for the purposes of fostering and promot-  
34 ing temperance in their consumption, to properly protect the public  
35 health, safety, and welfare, and to promote social equality. It is here-  
36 by declared that such policy will best be carried out by empowering the  
37 state office of cannabis management and its executive director, to  
38 determine whether public convenience and advantage will be promoted by  
39 the issuance of registrations, licenses and/or permits granting the  
40 privilege to produce, distribute, transport, sell, or traffic in canna-  
41 bis, medical cannabis, or hemp cannabis, to increase or decrease in the  
42 number thereof and the location of premises registered, licensed, or  
43 permitted thereby, subject only to the right of judicial review herein-  
44 after provided for. It is the purpose of this chapter to carry out that  
45 policy in the public interest. The restrictions, regulations, and  
46 provisions contained in this chapter are enacted by the legislature for  
47 the protection of the health, safety, and welfare of the people of the  
48 state.

49 § 3. Definitions. Whenever used in this chapter, unless otherwise  
50 expressly stated or unless the context or subject matter requires a

different meaning, the following terms shall have the representative meanings hereinafter set forth or indicated:

1. "Applicant" means a for-profit entity or not-for-profit corporation and includes: board members, officers, managers, owners, partners, principal stakeholders and members who submit an application to become a registered organization, licensee or permittee.

2. "Bona fide cannabis retailer association" shall mean an association of retailers holding licenses under this chapter, organized under the non-profit or not-for-profit laws of this state.

3. "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.

4. "Concentrated cannabis" means: (a) the separated resin, whether crude or purified, obtained from a plant of the genus cannabis; or (b) a material, preparation, mixture, compound or other substance which contains more than 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.

5. "Cannabis consumer" means a person, twenty-one years of age or older, who purchases cannabis or cannabis products for personal use by persons twenty-one years of age or older, but not for resale to others.

6. "Adult-use cannabis processor" means a person licensed by the office to purchase cannabis and concentrated cannabis from cannabis cultivators, to process cannabis, concentrated cannabis, and cannabis infused products, package and label cannabis, concentrated cannabis and cannabis infused products for sale in retail outlets, and sell cannabis, concentrated cannabis and cannabis infused products at wholesale to licensed adult-use cannabis distributors.

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

8. "Adult-use cannabis retail dispenser" means a person licensed by the executive director to purchase cannabis, concentrated cannabis, and cannabis-infused products from cannabis processors and cannabis distributors, and sell cannabis, concentrated cannabis and cannabis-infused products in a retail outlet.

9. "Certified medical use" means the acquisition, possession, use, or transportation of medical cannabis by a certified patient, or the acquisition, possession, delivery, transportation or administration of medical cannabis by a designated caregiver or designated caregiver facility, for use as part of the treatment of the patient's serious condition, as authorized in a certification under this chapter including enabling the patient to tolerate treatment for the serious condition.

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

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

12. "Certification" means a certification, made under this chapter.

13. "Cultivation" shall include, but not be limited to, the planting, growing, cloning, harvesting, drying, curing, grading and trimming of cannabis.

1 14. "Executive director" means the executive director of the office of  
2 cannabis management.

3 15. "Convicted" and "conviction" include and mean a finding of guilt  
4 resulting from a plea of guilty, the decision of a court or magistrate  
5 or the verdict of a jury, irrespective of the pronouncement of judgment  
6 or the suspension thereof.

7 16. "Designated caregiver" means an individual designated by a certi-  
8 fied patient in a registry application. A certified patient may desig-  
9 nate up to five designated caregivers.

10 17. "Designated caregiver facility" means a general hospital or resi-  
11 dential health care facility operating pursuant to article twenty-eight  
12 of the public health law; an adult care facility operating pursuant to  
13 title two of article seven of the social services law; a community  
14 mental health residence established pursuant to section 41.44 of the  
15 mental hygiene law; a hospital operating pursuant to section 7.17 of the  
16 mental hygiene law; a mental hygiene facility operating pursuant to  
17 article thirty-one of the mental hygiene law; an inpatient or residen-  
18 tial treatment program certified pursuant to article thirty-two of the  
19 mental hygiene law; a residential facility for the care and treatment of  
20 persons with developmental disabilities operating pursuant to article  
21 sixteen of the mental hygiene law; a residential treatment facility for  
22 children and youth operating pursuant to article thirty-one of the  
23 mental hygiene law; a private or public school; research institution  
24 with an internal review board; or any other facility as determined by  
25 the executive director in regulation; that registers with the office of  
26 cannabis management to assist one or more certified patients with the  
27 acquisition, possession, delivery, transportation or administration of  
28 medical cannabis.

29 18. "Felony" means any criminal offense classified as a felony under  
30 the laws of this state or any criminal offense committed in any other  
31 state, district, or territory of the United States and classified as a  
32 felony therein which if committed within this state, would constitute a  
33 felony in this state.

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

38 20. "Government agency" means any office, division, board, bureau,  
39 commission, office, agency, authority or public corporation of the state  
40 or federal government or a county, city, town or village government  
41 within the state.

42 21. "Industrial hemp" means the plant *Cannabis sativa* L. and any part  
43 of such plant, including the seeds thereof and all derivatives,  
44 extracts, cannabinoids, isomers, acids, salts, and salts of isomers,  
45 whether growing or not, with a delta-9 tetrahydrocannabinol concen-  
46 tration of not more than three-tenths of one percent on a dry weight  
47 basis, used or intended for an industrial purpose or those food and/or  
48 food ingredients that are generally recognized as safe, as further  
49 defined and regulated in the agriculture and markets law.

50 22. "Hemp cannabis" means the plant *Cannabis sativa* L. and any part of  
51 such plant, including the seeds thereof and all derivatives, extracts,  
52 cannabinoids, isomers, acids, salts, and salts of isomers, whether grow-  
53 ing or not, with a delta-9 tetrahydrocannabinol concentration of not  
54 more than an amount determined by the office in regulation, used or  
55 intended for human or animal consumption or use for its cannabinoid  
56 content, as determined by the executive director in regulation. Hemp

1 cannabis excludes industrial hemp used or intended exclusively for an  
2 industrial purpose and those food and/or food ingredients that are  
3 generally recognized as safe, as governed by the Agriculture and Markets  
4 Law, and shall not be regulated as "hemp" or "hemp cannabis" within the  
5 meaning of this section.

6 23. "Cannabinoid grower" means a person licensed by the office, and in  
7 compliance with article twenty-nine of the agriculture and markets law,  
8 to acquire, possess, cultivate, and sell hemp cannabis for its cannabi-  
9 noid content.

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

15 25. "Individual dose" means a single measure of raw cannabis, medical  
16 cannabis or non-infused concentrate or medical concentrate.

17 26. "Labor peace agreement" means an agreement between an entity and a  
18 labor organization that, at a minimum, protects the state's proprietary  
19 interests by prohibiting labor organizations and members from engaging  
20 in picketing, work stoppages, boycotts, and any other economic interfer-  
21 ence with the registered organization or licensee's business.

22 27. "License" means a license issued pursuant to this chapter.

23 28. "Medical cannabis" means cannabis as defined in subdivision three  
24 of this section, intended for a certified medical use, as determined by  
25 the executive director in consultation with the commissioner of health.

26 30. "Office" or "office of cannabis management" means the New York  
27 state office of cannabis management.

28 31. "Permit" means a permit issued pursuant to this chapter.

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

31 33. "Person" means individual, institution, corporation, government or  
32 governmental subdivision or agency, business trust, estate, trust, part-  
33 nership or association, or any other legal entity.

34 34. "Practitioner" means a practitioner who: (i) is authorized to  
35 prescribe controlled substances within the state, (ii) by training or  
36 experience is qualified to treat a serious condition as defined in  
37 subdivision forty-four of this section; and (iii) completes, at a mini-  
38 mum, a two-hour course as determined by the executive director in regu-  
39 lation; provided however, the executive director may revoke a practi-  
40 tioner's ability to certify patients for cause.

41 35. "Processing" includes, but is not limited to, blending, extract-  
42 ing, infusing, packaging, labeling, branding and otherwise making or  
43 preparing cannabis products. Processing shall not include the culti-  
44 vation of cannabis.

45 36. "Public place" means a public place as defined in regulation by  
46 the executive director.

47 37. "Registered organization" means an organization registered under  
48 article three of this chapter.

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

52 39. "Registry identification card" means a document that identifies a  
53 certified patient or designated caregiver, as provided under section  
54 thirty-two of this chapter.

55 40. "Retail sale" or "sale at retail" means a sale to a consumer or to  
56 any person for any purpose other than for resale.



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

42. "Sale" means any transfer, exchange or barter in any manner or by any means whatsoever, and includes and means all sales made by any person, whether principal, proprietor, agent, servant or employee of any cannabis product.

43. "To sell" includes to solicit or receive an order for, to keep or expose for sale, and to keep with intent to sell and shall include the transportation or delivery of any cannabis product in the state.

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

45. "Traffic in" includes to cultivate, process, manufacture, distribute or sell any cannabis, cannabis product, medical cannabis or hemp at wholesale or retail.

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

47. "Wholesale sale" or "sale at wholesale" means a sale to any person for purposes of resale.

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

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

## ARTICLE 2

### NEW YORK STATE OFFICE OF CANNABIS MANAGEMENT

Section 9. Establishment of an office of cannabis management.

10. Executive director.

11. Executive director's authority.

12. Rulemaking authority.

13. State cannabis advisory board.

14. Disposition of moneys received for license fees.

15. Legal presumptions.

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

17. Formal hearings; notice and procedure.

18. Ethics, transparency and accountability.

19. Public health management campaign.

§ 9. Establishment of an office of cannabis management. Pursuant to a chapter of the laws of two thousand nineteen which added this chapter, there is hereby established, within the division of alcoholic beverage control, an independent office of cannabis management, which shall have exclusive jurisdiction to exercise the powers and duties provided by

1 this chapter. The office shall exercise its authority by and through an  
2 executive director.

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

8 § 11. Functions, powers and duties of the office and executive direc-  
9 tor. The office of cannabis management, by and through its executive  
10 director, shall have the following powers and duties:

11 1. To issue or refuse to issue any registration, license or permit  
12 provided for in this chapter.

13 2. To limit, or not to limit, in the executive director's discretion,  
14 the number of registrations, licenses and permits of each class to be  
15 issued within the state or any political subdivision thereof, and in  
16 connection therewith to prohibit the acceptance of applications for such  
17 classes which have been so limited.

18 3. To revoke, cancel or suspend for cause any registration, license,  
19 or permit issued under this chapter and/or to impose a civil penalty for  
20 cause against any holder of a registration, license, or permit issued  
21 pursuant to this chapter. Any civil penalty so imposed shall be in addi-  
22 tion to and separate and apart from the terms and provisions of the bond  
23 required pursuant to section thirty-six of this chapter.

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

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

36 6. To limit or prohibit, at any time of public emergency and without  
37 previous notice or advertisement, the cultivation, processing, distrib-  
38 ution or sale of any or all cannabis products, medical cannabis or hemp  
39 cannabis, for and during the period of such emergency.

40 7. To appoint any necessary directors, deputies, counsels, assistants,  
41 investigators, and other employees within the limits provided by appro-  
42 priation. Investigators so employed by the office shall be deemed to be  
43 peace officers for the purpose of enforcing the provisions of the canna-  
44 bis control law or judgements or orders obtained for violation thereof,  
45 with all the powers set forth in section 2.20 of the criminal procedure  
46 law.

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

51 9. To inspect or provide for the inspection at any time of any prem-  
52 ises where cannabis or hemp cannabis is cultivated, processed, stored,  
53 distributed or sold.

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

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

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

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

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

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

16. To issue and administer low interest or zero-interest loans to qualified social equity applicants provided the office has sufficient funds available for such purposes.

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

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

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

2. The office shall have the power to promulgate any and all necessary rules and regulations governing the production, processing, transportation, distribution, and sale of medical cannabis, recreational cannabis, and hemp cannabis, including but not limited to the registration of organizations authorized to traffic in medical cannabis, the licensing and/or permitting of adult-use cannabis cultivators, processors, cooperatives, distributors, and retail dispensaries, and the licensing of cannabinoid growers and extractors, including, but not limited to:

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

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

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

(d) methods of producing, processing, and packaging cannabis, medical cannabis, cannabis-infused products, and concentrated cannabis; conditions of sanitation, and standards of ingredients, quality, and identity

1 of cannabis products cultivated, processed, packaged, or sold by regis-  
2 tered organizations and licensees;

3 (e) security requirements for adult-use cannabis retail dispensaries  
4 and premises where cannabis products, including medical cannabis, are  
5 cultivated, produced, processed, or stored, and safety protocols for  
6 registered organizations, licensees and their employees; and

7 (f) hearing procedures and additional causes for cancellation, revoca-  
8 tion, and/or civil penalties against any person registered, licensed, or  
9 permitted by the authority.

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

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

14 (b) prevent the revenue from the sale of cannabis from going to crimi-  
15 nal enterprises, gangs, and cartels;

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

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

20 (e) prevent violence and the use of firearms in the cultivation and  
21 distribution of cannabis;

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

24 (g) prevent the growing of cannabis on public lands and the attendant  
25 public safety and environmental dangers posed by cannabis production on  
26 public lands; and

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

28 4. The office, in consultation with the department of agriculture and  
29 markets and the department of environmental conservation, shall promul-  
30 gate necessary rules and regulations governing the safe production of  
31 cannabis, including environmental and energy standards and restrictions  
32 on the use of pesticides.

33 § 13. State cannabis advisory board. 1. The executive director shall  
34 have the authority to establish within the office a state cannabis advi-  
35 sory board, which may advise the office on cannabis cultivation, proc-  
36 essing, distribution, transport, testing and sale and consider all  
37 matters submitted to it by the executive director.

38 2. The executive director of the office shall serve as the chairperson  
39 of the board. The vice chairperson shall be elected from among the  
40 members of the board by the members of such board, and shall represent  
41 the board in the absence of the chairperson at all official board func-  
42 tions.

43 3. The members of the board shall receive no compensation for their  
44 services but shall be allowed their actual and necessary expenses  
45 incurred in the performance of their duties as board members.

46 4. The executive director shall be authorized to promulgate regu-  
47 lations establishing the number of members on the board, the term of the  
48 board members and any other terms or conditions regarding the state  
49 cannabis advisory board.

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

54 1. The office shall charge each registered organization, licensee and  
55 permittee a registration, licensure or permit fee, and renewal fee, as

1 applicable. The fees may vary depending upon the nature and scope of  
2 the different registration, licensure and permit activities.

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

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

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

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

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

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

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

32 4. Nothing in this section shall be construed to alter or repeal any  
33 existing provision of law declaring such violations to be misdemeanors  
34 or felonies or prescribing the penalty therefor.

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

41 6. It shall be the duty of the attorney general upon the request of  
42 the executive director to bring an action for an injunction against any  
43 person who violates, disobeys or disregards any term or provision of  
44 this chapter or of any lawful notice, order or regulation pursuant ther-  
45 eto; provided, however, that the executive director shall furnish the  
46 attorney general with such material, evidentiary matter or proof as may  
47 be requested by the attorney general for the prosecution of such an  
48 action.

49 7. It is the purpose of this section to provide additional and cumula-  
50 tive remedies, and nothing herein contained shall abridge or alter  
51 rights of action or remedies now or hereafter existing, nor shall any  
52 provision of this section, nor any action done by virtue of this  
53 section, be construed as estopping the state, persons or municipalities  
54 in the exercising of their respective rights.

55 § 17. Formal hearings; notice and procedure. 1. The executive direc-  
56 tor, or any person designated by him or her for this purpose, may issue



1 subpoenas and administer oaths in connection with any hearing or inves-  
2 tigation under or pursuant to this chapter, and it shall be the duty of  
3 the executive director and any persons designated by him or her for such  
4 purpose to issue subpoenas at the request of and upon behalf of the  
5 respondent.

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

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

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

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

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

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

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

37 § 18. Ethics, transparency and accountability. No member of the  
38 office or any officer, deputy, assistant, inspector or employee thereof  
39 shall have any interest, direct or indirect, either proprietary or by  
40 means of any loan, mortgage or lien, or in any other manner, in or on  
41 any premises where cannabis, medical cannabis or hemp is cultivated,  
42 processed, distributed or sold; nor shall he or she have any interest,  
43 direct or indirect, in any business wholly or partially devoted to the  
44 cultivation, processing, distribution, sale, transportation or storage  
45 of cannabis, medical cannabis or hemp, or own any stock in any corpo-  
46 ration which has any interest, proprietary or otherwise, direct or indi-  
47 rect, in any premises where cannabis, medical cannabis or hemp is culti-  
48 vated, processed, distributed or sold, or in any business wholly or  
49 partially devoted to the cultivation, processing, distribution, sale,  
50 transportation or storage of cannabis, medical cannabis or hemp, or  
51 receive any commission or profit whatsoever, direct or indirect, from  
52 any person applying for or receiving any license or permit provided for  
53 in this chapter, or hold any other elected or appointed public office in  
54 the state or in any political subdivision. Anyone who violates any of  
55 the provisions of this section shall be removed or shall divulge him or  
56 herself of such direct or indirect interests.

§ 19. Public health campaign. The office, in consultation with the commissioners of the department of health, office of alcoholism and substance abuse services and office of mental health, shall develop and implement a comprehensive public health campaign regarding adult-use cannabis.

ARTICLE 3  
MEDICAL CANNABIS

Section 30. Certification of patients.

31. Lawful medical use.
32. Registry identification cards.
33. Registration as a designated caregiver facility.
34. Registered organizations.
35. Registering of registered organizations.
36. Expedited registration of registered organizations.
37. Reports of registered organizations.
38. Evaluation; research programs; report by office.
39. Cannabis research license.
40. Registered organizations and adult-use cannabis.
41. Home cultivation of medical cannabis.
42. Relation to other laws.
43. Protections for the medical use of cannabis.
44. Regulations.
45. Suspend; terminate.
46. Pricing.
47. Severability.

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

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

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

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

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

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

3. In making a certification, the practitioner may consider the form of medical cannabis the patient should consume, including the method of consumption and any particular strain, variety, and quantity or percent-

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

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

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

14 6. No practitioner shall issue a certification under this section for  
15 himself or herself.

16 7. A registry identification card based on a certification shall  
17 expire one year after the date the certification is signed by the prac-  
18 titioner.

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

36 § 31. Lawful medical use. 1. The possession, acquisition, use, deliv-  
37 ery, transfer, transportation, or administration of medical cannabis by  
38 a certified patient, designated caregiver or designated caregiver facil-  
39 ity, for certified medical use, shall be lawful under this article  
40 provided that:

41 (a) the cannabis that may be possessed by a certified patient shall  
42 not exceed a sixty-day supply of the dosage as determined by the practi-  
43 tioner, consistent with any guidance and regulations issued by the exec-  
44 utive director, provided that during the last seven days of any sixty-  
45 day period, the certified patient may also possess up to such amount for  
46 the next sixty-day period;

47 (b) the cannabis that may be possessed by designated caregivers does  
48 not exceed the quantities referred to in paragraph (a) of this subdivi-  
49 sion for each certified patient for whom the caregiver possesses a valid  
50 registry identification card, up to five certified patients;

51 (c) the cannabis that may be possessed by designated caregiver facili-  
52 ties does not exceed the quantities referred to in paragraph (a) of this  
53 subdivision for each certified patient under the care or treatment of  
54 the facility;

55 (d) the form or forms of medical cannabis that may be possessed by the  
56 certified patient, designated caregiver or designated caregiver facility

1 pursuant to a certification shall be in compliance with any recommenda-  
2 tion or limitation by the practitioner as to the form or forms of  
3 medical cannabis or dosage for the certified patient in the certif-  
4 ication; and

5 (e) the medical cannabis shall be kept in the original package in  
6 which it was dispensed under this article, except for the portion  
7 removed for immediate consumption for certified medical use by the  
8 certified patient.

9 2. Notwithstanding subdivision one of this section:

10 (a) possession of medical cannabis shall not be lawful under this  
11 article if it is smoked or grown in a public place, regardless of the  
12 form of medical cannabis stated in the patient's certification.

13 (b) a person possessing medical cannabis under this chapter shall  
14 possess his or her registry identification card at all times when in  
15 immediate possession of medical cannabis.

16 § 32. Registry identification cards. 1. Upon approval of the certif-  
17 ication, the office shall issue registry identification cards for certi-  
18 fied patients and designated caregivers. A registry identification card  
19 shall expire as provided in this article or as otherwise provided in  
20 this section. The office shall begin issuing registry identification  
21 cards as soon as practicable after the certifications required by this  
22 chapter are granted. The office may specify a form for a registry appli-  
23 cation, in which case the office shall provide the form on request,  
24 reproductions of the form may be used, and the form shall be available  
25 for downloading from the office's website.

26 2. To obtain, amend or renew a registry identification card, a certi-  
27 fied patient or designated caregiver shall file a registry application  
28 with the office, unless otherwise exempted by the executive director in  
29 regulation. The registry application or renewal application shall  
30 include:

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

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

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

35 (iii) the date of the certification;

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

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

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

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

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

48 (ix) other individual identifying information required by the office;

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

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

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

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

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

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

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

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

6 (a) The application for a registry identification card shall be made  
7 by an appropriate person over eighteen years of age. The application  
8 shall state facts demonstrating that the person is appropriate.

9 (b) The designated caregiver shall be: (i) a parent or legal guardian  
10 of the certified patient; (ii) a person designated by a parent or legal  
11 guardian; (iii) a designated caregiver facility; or (iv) an appropriate  
12 person approved by the office upon a sufficient showing that no parent  
13 or legal guardian is appropriate or available.

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

19 5. No person may be a designated caregiver for more than five certi-  
20 fied patients at one time.

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

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

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

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

40 10. A registry identification card shall:

41 (a) contain the name of the certified patient or the designated care-  
42 giver as the case may be;

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

45 (c) contain a registry identification number for the certified patient  
46 or designated caregiver, as the case may be and a registry identifica-  
47 tion number;

48 (d) contain a photograph of the individual to whom the registry iden-  
49 tification card is being issued, which shall be obtained by the office  
50 in a manner specified by the executive director in regulations;  
51 provided, however, that if the office requires certified patients to  
52 submit photographs for this purpose, there shall be a reasonable accom-  
53 modation of certified patients who are confined to their homes due to  
54 their medical conditions and may therefore have difficulty procuring  
55 photographs;

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

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

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

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

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

18 13. The office shall maintain a confidential list of the persons to  
19 whom it has issued registry identification cards. Individual identifying  
20 information obtained by the office under this article shall be confiden-  
21 tial and exempt from disclosure under article six of the public officers  
22 law. Notwithstanding this subdivision, the office may notify any appro-  
23 priate law enforcement agency of information relating to any violation  
24 or suspected violation of this article.

25 14. The office shall verify to law enforcement personnel in an appro-  
26 priate case whether a registry identification card is valid.

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

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

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

37 (b) operating certificate or license number where appropriate;

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

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

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

44 (f) any other information that may be required by the executive direc-  
45 tor.

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

51 3. The office shall approve, deny or determine incomplete or inaccu-  
52 rate an initial or renewal application within thirty days of receipt of  
53 the application. If the application is approved within the 30-day peri-  
54 od, the office shall issue a registration as soon as is reasonably prac-  
55 ticable.



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

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

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

14 2. The acquiring, possession, manufacture, sale, delivery, transport-  
15 ing, distributing or dispensing of medical cannabis by a registered  
16 organization under this article in accordance with its registration  
17 under this article or a renewal thereof shall be lawful under this chap-  
18 ter.

19 3. Each registered organization shall contract with an independent  
20 laboratory permitted by the office to test the medical cannabis produced  
21 by the registered organization. The executive director shall approve the  
22 laboratory used by the registered organization and may require that the  
23 registered organization use a particular testing laboratory.

24 4. (a) A registered organization may lawfully, in good faith, sell,  
25 deliver, distribute or dispense medical cannabis to a certified patient  
26 or designated caregiver upon presentation to the registered organization  
27 of a valid registry identification card for that certified patient or  
28 designated caregiver. When presented with the registry identification  
29 card, the registered organization shall provide to the certified patient  
30 or designated caregiver a receipt, which shall state: the name, address,  
31 and registry identification number of the registered organization; the  
32 name and registry identification number of the certified patient and the  
33 designated caregiver, if any; the date the cannabis was sold; any recom-  
34 mendation or limitation by the practitioner as to the form or forms of  
35 medical cannabis or dosage for the certified patient; and the form and  
36 the quantity of medical cannabis sold. The registered organization shall  
37 retain a copy of the registry identification card and the receipt for  
38 six years.

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

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

51 (b) When dispensing medical cannabis to a certified patient or desig-  
52 nated caregiver, the registered organization: (i) shall not dispense an  
53 amount greater than a sixty-day supply to a certified patient until the  
54 certified patient has exhausted all but a seven day supply provided  
55 pursuant to a previously issued certification; and (ii) shall verify the

1 information in subparagraph (i) of this paragraph by consulting the  
2 prescription monitoring program registry under this article.

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

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

- 12 (a) methods for administering medical cannabis in individual doses,
- 13 (b) any potential dangers stemming from the use of medical cannabis,
- 14 (c) how to recognize what may be problematic usage of medical cannabis  
15 and obtain appropriate services or treatment for problematic usage, and
- 16 (d) other information as determined by the executive director.

17 7. Registered organizations shall not be managed by or employ anyone  
18 who has been convicted of any felony other than for the sale or  
19 possession of drugs, narcotics, or controlled substances, and provided  
20 that this subdivision only applies to (a) managers or employees who come  
21 into contact with or handle medical cannabis, and (b) a conviction less  
22 than ten years, not counting time spent in incarceration, prior to being  
23 employed, for which the person has not received a certificate of relief  
24 from disabilities or a certificate of good conduct under article twenty-  
25 three of the correction law.

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

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

35 10. A registered organization shall determine the quality, safety, and  
36 clinical strength of medical cannabis manufactured or dispensed by the  
37 registered organization, and shall provide documentation of that quali-  
38 ty, safety and clinical strength to the office and to any person or  
39 entity to which the medical cannabis is sold or dispensed.

40 11. A registered organization shall be deemed to be a "health care  
41 provider" for the purposes of article two-D of article two of the public  
42 health law.

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

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

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

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

10 (ii) that the applicant:

11 (A) is of good moral character;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (E) the affordability medical cannabis products offered by the regis-  
15 tered organization;

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

18 (vii) the applicant has entered into a labor peace agreement with a  
19 bona fide labor organization that is actively engaged in representing or  
20 attempting to represent the applicant's employees; and

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

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

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

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

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

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

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

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

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

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

52 5. (a) An application for the renewal of any registration issued  
53 under this section shall be filed with the office not more than six  
54 months nor less than four months prior to the expiration thereof. A  
55 late-filed application for the renewal of a registration may, in the

1 discretion of the executive director, be treated as an application for  
2 an initial license.

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

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

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

11 (A) each incident or alleged incident involving the theft, loss, or  
12 possible diversion of cannabis manufactured or distributed by the appli-  
13 cant; and

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

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

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

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

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

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

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

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

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

52 7. The office may suspend or terminate the registration of a regis-  
53 tered organization, on grounds and using procedures under this article  
54 relating to a license, to the extent consistent with this article. The  
55 authority shall suspend or terminate the registration in the event that  
56 a registered organization violates or terminates the applicable labor

1 peace agreement. Conduct in compliance with this article which may  
2 violate conflicting federal law, shall not be grounds to suspend or  
3 terminate a registration.

4 8. The office shall begin issuing registrations for registered organ-  
5 izations as soon as practicable after the certifications required by  
6 this article are given.

7 9. The executive director shall register at least ten registered  
8 organizations that manufacture medical cannabis with no more than four  
9 dispensing sites wholly owned and operated by such registered organiza-  
10 tion. The executive director shall ensure that such registered organiza-  
11 tions and dispensing sites are geographically distributed across the  
12 state. The executive director may register additional registered organ-  
13 izations.

14 § 36. Expedited registration of registered organizations. 1. There is  
15 hereby established in the office an emergency medical cannabis access  
16 program, referred to in this section as the "program", under this  
17 section. The purpose of the program is to expedite the availability of  
18 medical cannabis to avoid suffering and loss of life, during the period  
19 before full implementation of and production under this article, espe-  
20 cially in the case of patients whose serious condition is progressive  
21 and degenerative or is such that delay in the patient's medical use of  
22 cannabis poses a serious risk to the patient's life or health. The  
23 executive director shall implement the program as expeditiously as prac-  
24 ticable, including by emergency regulation.

25 2. For the purposes of this section, and for specified limited times,  
26 the executive director may waive or modify the requirements of this  
27 article relating to registered organizations, consistent with the legis-  
28 lative intent and purpose of this article and this section. Where an  
29 entity seeking to be a registered organization under the program oper-  
30 ates in a jurisdiction other than the state of New York, under licensure  
31 or other governmental recognition of that jurisdiction, and the laws of  
32 that jurisdiction are acceptable to the executive director as consistent  
33 with the legislative intent and purpose of this article and this  
34 section, then the executive director may accept that licensure or recog-  
35 nition as wholly or partially satisfying the requirements of this arti-  
36 cle, for purposes of the registration and operation of the registered  
37 organization under the program and this section.

38 3. In considering an application for registration as a registered  
39 organization under this section, the executive director shall give pref-  
40 erence to the following:

41 (a) an applicant that is currently producing or providing or has a  
42 history of producing or providing medical cannabis in another jurisdic-  
43 tion in full compliance with the laws of the jurisdiction;

44 (b) an applicant that is able and qualified to both produce, distrib-  
45 ute, and dispense medical cannabis to patients expeditiously; and

46 (c) an applicant that proposes a location or locations for dispensing  
47 by the registered organization, which ensure, to the greatest extent  
48 possible, that certified patients have access to a registered organiza-  
49 tion.

50 4. The executive director may make regulations under this section:

51 (a) limiting registered organizations registered under this section;  
52 or

53 (b) limiting the allowable levels of cannabidiol and tetrahydrocanna-  
54 binol that may be contained in medical cannabis authorized under this  
55 article, based on therapeutics and patient safety.



1 5. A registered organization under this section may apply under this  
2 article to receive or renew registration.

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

8 2. The executive director shall, by regulation, require each regis-  
9 tered organization to adopt and maintain security, tracking, record  
10 keeping, record retention and surveillance systems, relating to all  
11 medical cannabis at every stage of acquiring, possession, manufacture,  
12 sale, delivery, transporting, distributing, or dispensing by the regis-  
13 tered organization, subject to regulations of the executive director.

14 § 38. Evaluation; research programs; report by office. 1. The execu-  
15 tive director may provide for the analysis and evaluation of the opera-  
16 tion of this title. The executive director may enter into agreements  
17 with one or more persons, not-for-profit corporations or other organiza-  
18 tions, for the performance of an evaluation of the implementation and  
19 effectiveness of this title.

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

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

28 § 39. Cannabis research license. 1. The executive director shall  
29 establish a cannabis research license that permits a licensee to  
30 produce, process, purchase and possess cannabis for the following limit-  
31 ed research purposes:

- 32 (a) to test chemical potency and composition levels;  
33 (b) to conduct clinical investigations of cannabis-derived drug  
34 products;  
35 (c) to conduct research on the efficacy and safety of administering  
36 cannabis as part of medical treatment; and  
37 (d) to conduct genomic or agricultural research.

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

- 45 (a) project quality, study design, value, and impact;  
46 (b) whether the applicant has the appropriate personnel, expertise,  
47 facilities and infrastructure, funding, and human, animal, or other  
48 approvals in place to successfully conduct the project; and

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

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

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

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

7 (a) application requirements;

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

10 (c) conditions for license revocation;

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

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

15 (f) licensee reporting requirements;

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

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

20 6. A cannabis research license issued pursuant to this section must be  
21 issued in the name of the applicant, specify the location at which the  
22 cannabis researcher intends to operate, which must be within the state  
23 of New York, and the holder thereof may not allow any other person to  
24 use the license.

25 7. The application fee for a cannabis research license shall be deter-  
26 mined by the executive director on an annual basis.

27 8. Each cannabis research licensee shall issue an annual report to the  
28 office. The office shall review such report and make a determination as  
29 to whether the research project continues to meet the research quali-  
30 fications under this section.

31 § 40. Registered organizations and adult-use cannabis. 1. The execu-  
32 tive director shall have the authority to grant some or all of the  
33 registered organizations previously registered with the department of  
34 health and currently registered and in good standing with the office,  
35 the ability to be licensed to cultivate, process, distribute and sell  
36 adult-use cannabis and cannabis products, pursuant to any fees, rules or  
37 conditions prescribed by the executive director in regulation, but  
38 exempt from the restrictions on licensed adult-use cultivators, process-  
39 ors, and distributors from having any ownership interest in a licensed  
40 adult-use retail dispensary pursuant to article four of this chapter.

41 2. The office shall have the authority to hold a competitive bidding  
42 process, including an auction, to determine the registered  
43 organization(s) authorized to be licensed to cultivate, process,  
44 distribute and sell adult-use cannabis and to collect the fees generated  
45 from such auction to administer incubators and low or zero-interest  
46 loans to qualified social equity applicants. The timing and manner in  
47 which registered organizations may be granted such authority shall be  
48 determined by the executive director in regulation.

49 3. Alternatively, registered organizations may apply for licensure as  
50 an adult-use cannabis cultivator, adult-use cannabis processor, and  
51 adult-use cannabis distributor, or apply for licensure as an adult-use  
52 cannabis retail dispensary, subject to all of the restrictions and limi-  
53 tations set forth in article four of this chapter.

54 § 41. Home cultivation of medical cannabis. 1. Certified patients and  
55 their designated caregiver(s) twenty-one years of age or older may apply  
56 for registration with the office to grow, possess or transport no more

1 than four cannabis plants per certified patient with no more than eight  
2 cannabis plants per household.

3 2. All medical cannabis cultivated at home must be grown in an  
4 enclosed, locked space, not open or viewable to the public. Such homeg-  
5 rown medical cannabis must only be for use by the certified patient and  
6 may not be distributed, sold, or gifted.

7 3. The executive director shall develop rules and regulations govern-  
8 ing this section.

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

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

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

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

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

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

40 (b) The name, contact information, and other information relating to  
41 practitioners registered with the office under this article shall be  
42 public information and shall be maintained by the executive director on  
43 the office's website accessible to the public in searchable form. Howev-  
44 er, if a practitioner notifies the office in writing that he or she does  
45 not want his or her name and other information disclosed, that practi-  
46 tioner's name and other information shall thereafter not be public  
47 information or maintained on the office's website, unless the practi-  
48 tioner cancels the request.

49 § 44. Regulations. The executive director shall make regulations to  
50 implement this article.

51 § 45. Suspend; terminate. Based upon the recommendation of the execu-  
52 tive director and/or the superintendent of state police that there is a  
53 risk to the public health or safety, the governor may immediately termi-  
54 nate all licenses issued to registered organizations.

55 § 46. Pricing. 1. Every sale of medical cannabis shall be at or below  
56 the price approved by the executive director. Every charge made or

1 demanded for medical cannabis not in accordance with the price approved  
2 by the executive director, is prohibited.

3 2. The executive director is hereby authorized to set the per dose  
4 price of each form of medical cannabis sold by any registered organiza-  
5 tion. In reviewing the per dose price of each form of medical cannabis,  
6 the executive director may consider the fixed and variable costs of  
7 producing the form of cannabis and any other factor the executive direc-  
8 tor, in his or her discretion, deems relevant in reviewing the per dose  
9 price of each form of medical cannabis.

10 § 47. Severability. If any clause, sentence, paragraph, section or  
11 part of this article shall be adjudged by any court of competent juris-  
12 diction to be invalid, the judgment shall not affect, impair, or invali-  
13 date the remainder thereof, but shall be confined in its operation to  
14 the clause, sentence, paragraph, section or part thereof directly  
15 involved in the controversy in which the judgment shall have been  
16 rendered.

17 ARTICLE 4  
18 ADULT-USE CANNABIS

19 Section 60. Licenses issued.

20 61. License application.

21 62. Information to be requested in applications for licenses.

22 63. Fees.

23 64. Selection criteria.

24 65. Limitations of licensure; duration.

25 66. License renewal.

26 67. Amendments; changes in ownership and organizational struc-  
27 ture.

28 68. Adult-use cultivator license.

29 69. Adult-use processor license.

30 70. Adult-use cooperative license.

31 71. Adult-use distributor license.

32 72. Adult-use retail dispensary license.

33 73. Notification to municipalities of adult-use retail dispen-  
34 sary.

35 74. On-site consumption license; provisions governing on-site  
36 consumption licenses.

37 75. Record keeping and tracking.

38 76. Inspections and ongoing requirements.

39 77. Adult-use cultivators, processors or distributors not to be  
40 interested in retail dispensaries.

41 78. Packaging and labeling of adult-use cannabis products.

42 79. Laboratory testing.

43 80. Provisions governing the cultivation and processing of  
44 adult-use cannabis.

45 81. Provisions governing the distribution of adult-use cannabis.

46 82. Provisions governing adult-use cannabis retail dispensaries.

47 83. Adult-use cannabis advertising.

48 84. Minority, women-owned businesses and disadvantaged farmers;  
49 incubator program.

50 85. Collective bargaining.

51 86. Regulations.

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

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

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

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

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

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

33 2. The executive director is authorized to adopt regulations, includ-  
34 ing by emergency rule, establishing information which must be included  
35 on an application for licensure under this article. Such information may  
36 include, but is not limited to: information about the applicant's iden-  
37 tity, including racial and ethnic diversity; ownership and investment  
38 information, including the corporate structure; evidence of good moral  
39 character, including the submission of fingerprints by the applicant to  
40 the division of criminal justice services; information about the prem-  
41 ises to be licensed; financial statements; and any other information  
42 prescribed by in regulation.

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

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

51 5. If there be any change, after the filing of the application or the  
52 granting of a license, in any of the facts required to be set forth in  
53 such application, a supplemental statement giving notice of such change,  
54 cost and source of money involved in the change, duly verified, shall be  
55 filed with the office within ten days after such change. Failure to do

1 so shall, if willful and deliberate, be cause for revocation of the  
2 license.

3 6. In giving any notice, or taking any action in reference to a regis-  
4 tered organization or licensee of a licensed premises, the office may  
5 rely upon the information furnished in such application and in any  
6 supplemental statement connected therewith, and such information may be  
7 presumed to be correct, and shall be binding upon a registered organiza-  
8 tions, licensee or licensed premises as if correct. All information  
9 required to be furnished in such application or supplemental statements  
10 shall be deemed material in any prosecution for perjury, any proceeding  
11 to revoke, cancel or suspend any license, and in the office's determi-  
12 nation to approve or deny the license.

13 7. The office may, in its discretion, waive the submission of any  
14 category of information described in this section for any category of  
15 license or permit, provided that it shall not be permitted to waive the  
16 requirement for submission of any such category of information solely  
17 for an individual applicant or applicants.

18 § 63. Fees. 1. The office shall have the authority to charge appli-  
19 cants for licensure under this article a non-refundable application fee  
20 and/or to auction licenses to bidders determined by the office to be  
21 qualified for such licensure based on the selection criteria in section  
22 sixty-four of this article. Such fee may be based on the type of licen-  
23 sure sought, cultivation and/or production volume, or any other factors  
24 deemed reasonable and appropriate by the office to achieve the policy  
25 and purpose of this chapter.

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

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

36 (a) the applicant will be able to maintain effective control against  
37 the illegal diversion of cannabis;

38 (b) the applicant will be able to comply with all applicable state  
39 laws and regulations;

40 (c) the applicant and its officers are ready, willing, and able to  
41 properly carry on the activities for which a license is sought;

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

45 (e) it is in the public interest that such license be granted, taking  
46 into consideration, but not limited to, the following criteria:

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

49 (ii) the number, classes, and character of other licenses in proximity  
50 to the location and in the particular municipality or subdivision there-  
51 of;

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

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



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

3 (vi) the history of violations under the alcoholic beverage control  
4 law or the cannabis law at the location, as well as any pattern of  
5 violations under the alcoholic beverage control law or the cannabis law,  
6 and reported criminal activity at the proposed premises;

7 (vii) the effect on the production, price and availability of cannabis  
8 and cannabis products; and

9 (viii) any other factors specified by law or regulation that are rele-  
10 vant to determine that granting a license would promote public conven-  
11 ience and advantage and the public interest of the community;

12 (f) the applicant and its managing officers are of good moral charac-  
13 ter and do not have an ownership or controlling interest in more  
14 licenses or permits than allowed by this chapter;

15 (g) the applicant has entered into a labor peace agreement with a  
16 bona-fide labor organization that is actively engaged in representing or  
17 attempting to represent the applicant's employees. In evaluating appli-  
18 cations from entities with twenty-five or more employees, the office  
19 shall give priority to applicants that are a party to a collective  
20 bargaining agreement with a bona-fide labor organization in New York or  
21 in another state, or uses union labor to construct its licensed facili-  
22 ty;

23 (h) the applicant will contribute to communities and people dispropor-  
24 tionately harmed by cannabis law enforcement;

25 (i) if the application is for an adult-use cultivator license, the  
26 environmental impact of the facility to be licensed; and

27 (j) the applicant satisfies any other conditions as determined by the  
28 executive director.

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

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

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

37 2. No person shall sell, deliver, or give away or cause or permit or  
38 procure to be sold, delivered or given away any cannabis to any person,  
39 actually or apparently, under the age of twenty-one years, any visibly  
40 intoxicated person, or any habitually intoxicated person known to be  
41 such by the person authorized to manufacture, traffic, or sell any  
42 cannabis.

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

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

48 § 66. License renewal. 1. Each license, issued pursuant to this arti-  
49 cle, may be renewed upon application therefore by the licensee and the  
50 payment of the fee for such license as prescribed by this article. In  
51 the case of applications for renewals, the office may dispense with the  
52 requirements of such statements as it deems unnecessary in view of those  
53 contained in the application made for the original license, but in any  
54 event the submission of photographs of the licensed premises shall be  
55 dispensed with, provided the applicant for such renewal shall file a  
56 statement with the office to the effect that there has been no alter-

1 ation of such premises since the original license was issued. The office  
2 may make such rules as it deems necessary, not inconsistent with this  
3 chapter, regarding applications for renewals of licenses and permits and  
4 the time for making the same.

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

10 3. The office shall provide an application for renewal of a license  
11 issued under this article not less than ninety days prior to the expira-  
12 tion of the current license.

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

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

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

- 19 (a) the name and address of the licensee;  
20 (b) the activities permitted by the license;  
21 (c) the land, buildings and facilities that may be used for the  
22 licensed activities of the licensee;  
23 (d) a unique license number issued by the office to the licensee; and  
24 (e) such other information as the executive director shall deem neces-  
25 sary to assure compliance with this chapter.

26 2. Upon application of a licensee to the office, a license may be  
27 amended to allow the licensee to relocate within the state, to add or  
28 delete licensed activities or facilities, or to amend the ownership or  
29 organizational structure of the entity that is the licensee. The fee for  
30 such amendment shall be two hundred fifty dollars.

31 3. A license shall become void by a change in ownership, substantial  
32 corporate change or location without prior written approval of the exec-  
33 utive director. The executive director may promulgate regulations allow-  
34 ing for certain types of changes in ownership without the need for prior  
35 written approval.

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

38 (a) for a corporation, a change of eighty percent or more of the offi-  
39 cers and/or directors, or a transfer of eighty percent or more of stock  
40 of such corporation, or an existing stockholder obtaining eighty percent  
41 or more of the stock of such corporation; or

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

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

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

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

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

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

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

16 7. The executive director shall have the authority to issue microbusi-  
17 ness cultivator licenses, allowing microbusiness licensees to cultivate,  
18 process, and distribute adult-use cannabis direct to licensed cannabis  
19 retailers, under a single license. The executive director shall estab-  
20 lish through regulation a production limit of total cannabis cultivated,  
21 processed and/or distributed annually for microbusiness cultivator  
22 licenses.

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

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

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

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

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

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

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

50 (i) be comprised of residents of the state of New York as a limited  
51 liability company or limited liability partnership under the laws of the  
52 state, or an appropriate business structure as determined by the execu-  
53 tive director;

54 (ii) at least one member of the cooperative must have filed a Federal  
55 Schedule F (Form 1040) for three of the past five years; and

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

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

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

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

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

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

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

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

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

2. No person may have a direct or indirect financial or controlling interest in more than three retail dispensary licenses issued pursuant to this chapter. This restriction shall not prohibit a registered organization, authorized pursuant to section forty of this chapter, from being granted licensure by the office to sell adult-use cannabis at locations previously registered by the department of health and in operation as of April first, two thousand nineteen; subject to any conditions, limitations or restrictions established by the office.

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

4. No retail license shall be granted for any premises, unless the applicant shall be the owner thereof, or shall be in possession of said premises under a lease, management agreement or other agreement giving the applicant control over the premises, in writing, for a term not less than the license period.

5. No premises shall be licensed to sell cannabis products, unless said premises shall be located in a store, the principal entrance to

1 which shall be from the street level and located on a public thorough-  
2 fare in premises which may be occupied, operated or conducted for busi-  
3 ness, trade or industry or on an arcade or sub-surface thoroughfare  
4 leading to a railroad terminal.

5 6. No cannabis retail license shall be granted for any premises where  
6 a licensee would not be allowed to sell at retail for consumption of  
7 alcohol off the premises based on its proximity to a building occupied  
8 exclusively as a school, church, synagogue or other place of worship  
9 pursuant to the provisions of section one hundred five of the alcohol  
10 beverage control law.

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

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

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

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

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

29 4. A municipality may express an opinion for or against the granting  
30 of such application. Any such opinion shall be deemed part of the record  
31 upon which the office makes its determination to grant or deny the  
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 office shall require such notification to be on a standardized  
38 form that can be obtained on the internet or from the office 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 § 74. On-site consumption license; provisions governing on-site  
5 consumption licenses. 1. No licensed adult-use cannabis retail dispen-  
6 sary shall be granted a cannabis on-site consumption license for any  
7 premises, unless the applicant shall be the owner thereof, or shall be  
8 in possession of said premises under a lease, in writing, for a term not  
9 less than the license period except, however, that such license may  
10 thereafter be renewed without the requirement of a lease as provided in  
11 this section. This subdivision shall not apply to premises leased from  
12 government agencies, as defined under subdivision twenty of section  
13 three of this chapter; provided, however, that the appropriate adminis-  
14 trator of such government agency provides some form of written documen-  
15 tation regarding the terms of occupancy under which the applicant is  
16 leasing said premises from the government agency for presentation to the  
17 office at the time of the license application. Such documentation shall  
18 include the terms of occupancy between the applicant and the government  
19 agency, including, but not limited to, any short-term leasing agreements  
20 or written occupancy agreements.

21 2. No adult-use cannabis retail dispensary shall be granted a cannabis  
22 on-site consumption license for any premises where a license would not  
23 be allowed to sell at retail for consumption of alcohol on the premises  
24 based on its proximity to a building occupied exclusively as a school,  
25 church, synagogue or other place of worship pursuant to the provisions  
26 of section one hundred five of the alcoholic beverage control law.

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

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

33 (b) the number, classes, and character of other licenses in proximity  
34 to the location and in the particular municipality or subdivision there-  
35 of;

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

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

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

42 (f) the history of violations under the alcoholic beverage control law  
43 or this chapter at the location, as well as any pattern of violations  
44 under the alcoholic beverage control law or this chapter, and reported  
45 criminal activity at the proposed premises; and

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

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

54 5. No adult-use cannabis on-site consumption licensee shall keep upon  
55 the licensed premises any adult-use cannabis products except those  
56 purchased from a licensed distributor, microbusiness cultivator or



1 registered organization authorized to sell adult-use cannabis, and only  
2 in containers approved by the office. Such containers shall have affixed  
3 thereto such labels as may be required by the rules of the office. No  
4 cannabis retail licensee for on-site consumption shall reuse, refill,  
5 tamper with, adulterate, dilute or fortify the contents of any container  
6 of cannabis products as received from the manufacturer or distributor.

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

11 7. Except where a permit to do so is obtained pursuant to section  
12 405.10 of the penal law, no cannabis on-site consumption licensee shall  
13 suffer, permit, or promote an event on its premises wherein any person  
14 shall use, explode, or cause to explode, any fireworks or other pyro-  
15 technics in a building as defined in paragraph e of subdivision one of  
16 section 405.10 of the penal law, that is covered by such license or  
17 possess such fireworks or pyrotechnics for such purpose. In addition to  
18 any other penalty provided by law, a violation of this subdivision shall  
19 constitute an adequate ground for instituting a proceeding to suspend,  
20 cancel, or revoke the license of the violator in accordance with the  
21 applicable procedures specified in this chapter; provided however, if  
22 more than one licensee is participating in a single event, upon approval  
23 by the office, only one licensee must obtain such permit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 § 78. Packaging and labeling of adult-use cannabis products. 1. The  
21 office is hereby authorized to promulgate rules and regulations govern-  
22 ing the packaging and labeling of cannabis products, sold or possessed  
23 for sale in New York state.

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

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

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

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

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

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

38 4. Such rules and regulations shall establish methods and procedures  
39 for determining serving sizes for cannabis-infused products, active  
40 cannabis concentration per serving size, and number of servings per  
41 container. Such regulations shall also require a nutritional fact panel  
42 that incorporates data regarding serving sizes and potency thereof.

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

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

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

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

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

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

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

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

19 2. No cultivator or processor of adult-use cannabis shall sell, or  
20 agree to sell or deliver in the state any cannabis products, as the case  
21 may be, except in sealed containers containing quantities in accordance  
22 with size standards pursuant to rules adopted by the office. Such  
23 containers shall have affixed thereto such labels as may be required by  
24 the rules of the office.

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

30 4. Cultivators of adult-use cannabis shall only use pesticides that  
31 are registered by the department of environmental conservation or that  
32 specifically meet the United States environmental protection agency  
33 registration exemption criteria for minimum risk pesticides, and only in  
34 compliance with regulations, standards and guidelines issued by the  
35 department of environmental conservation.

36 5. No cultivator or processor of adult-use cannabis shall transport  
37 cannabis products in any vehicle owned and operated or hired and oper-  
38 ated by such cultivator or processor, unless there shall be attached to  
39 or inscribed upon both sides of such vehicle a sign, showing the name  
40 and address of the licensee, together with the following inscription:  
41 "New York State Cannabis Cultivator (or Processor) License No. \_\_\_\_" in  
42 uniform letters not less than three and one-half inches in height. In  
43 lieu of such sign a cultivator or processor may have in the cab of such  
44 vehicle a photostatic copy of its current license issued by the office,  
45 and such copy duly authenticated by the office.

46 6. No cultivator or processor of adult-use cannabis shall deliver any  
47 cannabis products, except in vehicles owned and operated by such culti-  
48 vator, processor, or hired and operated by such cultivator or processor  
49 from a trucking or transportation company registered with the office,  
50 and shall only make deliveries at the licensed premises of the purchas-  
51 er.

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

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

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

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

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

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

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

38 4. No distributor shall furnish or cause to be furnished to any licen-  
39 see, any exterior or interior sign, printed, painted, electric or other-  
40 wise, unless authorized by the office.

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

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

49 7. Each distributor shall keep and maintain upon the licensed prem-  
50 ises, adequate books and records to demonstrate the distributor's actual  
51 cost of doing business, using accounting standards and methods regularly  
52 employed in the determination of costs for the purpose of federal income  
53 tax reporting, for the total operation of the licensee. Such books,  
54 records and invoices shall be kept for a period of five years and shall  
55 be available for inspection by any authorized representative of the

1 office for use in determining the maximum markup allowed in regulation  
2 pursuant to subdivision six of this section.

3 § 82. Provisions governing adult-use cannabis retail dispensaries. 1.  
4 No cannabis retail licensee shall sell, deliver, or give away or cause  
5 or permit or procure to be sold, delivered or given away any cannabis to  
6 any person, actually or apparently, under the age of twenty-one years,  
7 any visibly intoxicated person, or any habitually intoxicated person  
8 known to be such by the person authorized to sell, deliver, or give away  
9 any cannabis.

10 2. No cannabis retail licensee shall sell more than one ounce of  
11 cannabis per cannabis consumer per day; nor more than five grams of  
12 cannabis concentrate per cannabis consumer per day.

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

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

19 5. No cannabis retail licensee shall sell or deliver any cannabis  
20 products to any person with knowledge of, or with reasonable cause to  
21 believe, that the person to whom such cannabis products are being sold,  
22 has acquired the same for the purpose of peddling them from place to  
23 place, or of selling or giving them away in violation of the provisions  
24 of this chapter or in violation of the rules and regulations of the  
25 office.

26 6. All premises licensed under this section shall be subject to  
27 inspection by any peace officer described in subdivision four of section  
28 2.10 of the criminal procedure law acting pursuant to his or her special  
29 duties, or police officer or any duly authorized representative of the  
30 office, during the hours when the said premises are open for the trans-  
31 action of business.

32 7. No cannabis retail licensee shall be interested, directly or indi-  
33 rectly, in any cultivator, processor or distributor licensed pursuant to  
34 this article, by stock ownership, interlocking directors, mortgage or  
35 lien on any personal or real property or by any other means. Any lien,  
36 mortgage or other interest or estate, however, now held by such retailer  
37 on or in the personal or real property of such manufacturer or distribu-  
38 tor, which mortgage, lien, interest or estate was acquired on or before  
39 December thirty-first, two thousand eighteen, shall not be included  
40 within the provisions of this subdivision; provided, however, the burden  
41 of establishing the time of the accrual of the interest comprehended by  
42 this subdivision, shall be upon the person who claims to be entitled to  
43 the protection and exemption afforded hereby.

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

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

52 10. No person licensed to sell cannabis products at retail, shall  
53 allow or permit any gambling, or offer any gambling on the licensed  
54 premises, or allow or permit illicit drug activity on the licensed prem-  
55 ises. The use of the licensed premises or any part thereof for the sale



1 of lottery tickets, when duly authorized and lawfully conducted thereon,  
2 shall not constitute gambling within the meaning of this subdivision.

3 11. If an employee of a cannabis retail licensee suspects that a  
4 cannabis consumer may be abusing cannabis, such an employee shall have a  
5 duty to encourage such cannabis consumer to seek the help of a regis-  
6 tered practitioner and become a certified patient. Cannabis retail  
7 licensees shall develop standard operating procedures and written mate-  
8 rials for employees to utilize when consulting consumers for purposes of  
9 this subdivision.

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

18 § 83. Adult-use cannabis advertising. 1. The office is hereby author-  
19 ized to promulgate rules and regulations governing the advertising of  
20 licensed adult-use cannabis cultivators, processors, cooperatives,  
21 distributors, retailers, and any cannabis related products or services.

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

- 24 (a) is false, deceptive, or misleading;
- 25 (b) promotes overconsumption;
- 26 (c) depicts consumption by children or other minors;
- 27 (d) is designed in any way to appeal to children or other minors;
- 28 (e) is within two hundred feet of the perimeter of a school grounds,  
29 playground, child care center, public park, or library;
- 30 (f) is in public transit vehicles and stations;
- 31 (g) is in the form of an unsolicited internet pop-up;
- 32 (h) is on publicly owned or operated property; or
- 33 (i) makes medical claims or promotes adult-use cannabis for a medical  
34 or wellness purpose.

35 3. The office shall promulgate explicit rules prohibiting all market-  
36 ing strategies and implementation including, but not limited to, brand-  
37 ing, packaging, labeling, location of cannabis retailers, and advertise-  
38 ments that are designed to:

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

41 4. The office shall promulgate explicit rules requiring that:

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

48 § 84. Minority, women-owned businesses and disadvantaged farmers;  
49 incubator program. 1. The office shall implement a social and economic  
50 equity plan and actively promote racial, ethnic, and gender diversity  
51 when issuing licenses for adult-use cannabis related activities, includ-  
52 ing by prioritizing consideration of applications by applicants who  
53 qualify as a minority and women-owned business or disadvantaged farmers.  
54 Such qualifications shall be determined by the office in regulation.

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

- 4     (a) minority-owned businesses;
- 5     (b) women-owned businesses;
- 6     (c) minority and women-owned businesses, as defined in subdivision  
7 five of this section; and
- 8     (d) disadvantaged farmers, as defined in subdivision five of this  
9 section.

10    3. The social and economic equity plan shall consider additional  
11 criteria in its licensing determinations. Under the social and economic  
12 equity plan, extra weight shall be given to applications that demon-  
13 strate that an applicant:

- 14     (a) is a member of a community group that has been disproportionately  
15 impacted by the enforcement of cannabis prohibition;
- 16     (b) has an income lower than eighty percent of the median income of  
17 the county in which the applicant resides; and
- 18     (c) was convicted of a cannabis-related offense prior to the effective  
19 date of this chapter.

20    4. The office shall also create an incubator program to provide direct  
21 support to social and economic equity applicants after they have been  
22 granted licenses. The program shall provide direct support in the form  
23 of counseling services, education, small business coaching, and compli-  
24 ance assistance.

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

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

- 30       (i) at least fifty-one percent owned by one or more minority group  
31 members;
- 32       (ii) an enterprise in which such minority ownership is real, substan-  
33 tial and continuing;
- 34       (iii) an enterprise in which such minority 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     (b) "minority group member" shall mean a United States citizen or  
41 permanent resident alien who is and can demonstrate membership in one of  
42 the following groups:

- 43       (i) black persons having origins in any of the black African racial  
44 groups;
- 45       (ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban,  
46 Central or South American of either Indian or Hispanic origin, regard-  
47 less of race;
- 48       (iii) Native American or Alaskan native persons having origins in any  
49 of the original peoples of North America; or
- 50       (iv) Asian and Pacific Islander persons having origins in any of the  
51 far east countries, south east Asia, the Indian subcontinent or the  
52 Pacific islands.

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

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

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

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

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

(v) an enterprise that is a small business.

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

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

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

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

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

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

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

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

§ 85. Collective bargaining. 1. The executive director shall require all licensees under this article with more than twenty-five employees, including registered organizations authorized pursuant to section forty of this chapter to cultivate, process, distribute and sell adult-use cannabis products, to enter into a bona-fide collective bargaining agreement with a bona-fide labor organization.

2. The maintenance of such a collective bargaining agreement shall be an ongoing material condition of the entity's license.

§ 86. Regulations. The executive director shall make regulations to implement this article.

## ARTICLE 5 HEMP CANNABIS

Section 90. Cannabinoid related hemp licensing.

91. Cannabinoid grower licenses.

92. Cannabinoid extractor license.

93. Cannabinoid license applications.

94. Information to be requested in applications for licenses.

95. Fees.

96. Selection criteria.

97. Limitations of licensure; duration.

98. License renewal.

99. Form of license.

100. Amendments to license and duty to update information submitted for licensing.

101. Record keeping and tracking.

102. Inspections and ongoing requirements.

103. Packaging and labeling of hemp cannabis.

104. Provisions governing the growing and extracting of hemp cannabis.

105. Laboratory testing.

106. Advertising.

107. Research.

108. Regulations.

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

(a) cannabinoid grower license and/or;

(b) cannabinoid extractor license.

2. Notwithstanding subsection one of this section, those persons growing, processing or manufacturing food or food ingredients from hemp, which food or food ingredients are generally recognized as safe, shall be subject to regulation and/or licensing under the agriculture and markets law.

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

2. A person holding a cannabinoid grower's license shall not sell hemp products marketed, distributed or sold for its cannabinoid content and intended for human consumption or use without also being licensed as an extractor pursuant to this article.

3. Persons growing industrial hemp pursuant to article twenty-nine of the agriculture and markets law are not authorized to and shall not sell hemp cannabis for human or animal consumption or use, other than as food or a food ingredient that has been generally recognized as safe in accordance with the U.S. food and drug administration or determined by the state to be safe for human consumption as food or a food ingredient.

4. A person licensed under article twenty-nine of the agriculture and markets law as a hemp grower may apply for a cannabinoid grower's license provided that it can demonstrate to the office that its cultivation of hemp meets all the requirements for hemp cultivated under a cannabinoid grower's license.

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

2. No cannabinoid extractor licensee shall engage in any other business on the licensed premises; except that nothing contained in this chapter shall prevent a cannabinoid extractor licensee from also being licensed as a cannabinoid grower on the same premises.

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

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

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

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

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

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

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

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

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

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

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

1     § 95. Fees. The office shall have the authority to charge licensees a  
2 biennial license fee. Such fee may be based on the amount of hemp canna-  
3 bis to be grown, processed or extracted by the licensee, the gross annu-  
4 al receipts of the licensee for the previous license period, or any  
5 other factors deemed appropriate by the office.

6     § 96. Selection criteria. 1. An applicant shall furnish evidence:

7     (a) its ability to effectively maintain a delta-9-tetrahydrocannabinol  
8 concentration that does not exceed a percentage of delta-9-tetrahydro-  
9 cannabinol cannabis set by the executive director on a dry weight basis  
10 of any part of the plant of the genus cannabis, or per volume or weight  
11 of cannabis product, or the combined percent of delta-9-tetrahydrocanna-  
12 binol and tetrahydrocannabinolic acid in any part of the plant of the  
13 genus cannabis regardless of moisture content, for all hemp cannabis and  
14 hemp derived products cultivated, processed or extracted by the appli-  
15 cant;

16     (b) its ability to comply with all applicable state laws and regu-  
17 lations, including, without limitation, the provisions of article four-  
18 teen of the agriculture and markets law;

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

21     (d) that the applicant is in possession of or has the right to use  
22 land, buildings and equipment sufficient to properly carry on the activ-  
23 ity described in the application.

24     2. The office, in considering whether to grant the license applica-  
25 tion, shall consider whether:

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

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

32     (c) the applicant satisfies any other conditions as determined by the  
33 office.

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

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

39     § 97. Limitations of licensure; duration. 1. No license pursuant to  
40 this article may be issued to a person under the age of twenty-one  
41 years.

42     2. The office shall have the authority to limit, by canopy, plant  
43 count or other means, the amount of hemp cannabis allowed to be culti-  
44 vated, processed, extracted or sold by a licensee.

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

48     § 98. License renewal. 1. Each license, issued pursuant to this arti-  
49 cle, may be renewed upon application therefor by the licensee and the  
50 payment of the fee for such license as prescribed by this article.

51     2. In the case of applications for renewals, the office may dispense  
52 with the requirements of such statements as it deems unnecessary in view  
53 of those contained in the application made for the original license, but  
54 in any event the submission of photographs of the licensed premises  
55 shall be dispensed with, provided the applicant for such renewal shall



1 file a statement with the office to the effect that there has been no  
2 alteration of such premises since the original license was issued.

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

6 4. The office shall provide an application for renewal of a license  
7 issued under this article not less than ninety days prior to the expira-  
8 tion of the current license.

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

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

18 § 99. Form of license. Licenses issued pursuant to this article shall  
19 specify:

20 1. the name and address of the licensee;

21 2. the activities permitted by the license;

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

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

25 5. such other information as the executive director shall deem neces-  
26 sary to assure compliance with this chapter.

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

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

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

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

47 (a) for a corporation, a change of eighty percent or more of the offi-  
48 cers and/or directors, or a transfer of eighty percent or more of stock  
49 of such corporation, or an existing stockholder obtaining eighty percent  
50 or more of the stock of such corporation; and

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

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

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

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

15     4. Such books, records and invoices shall be kept for a period of five  
16 years and shall be available for inspection by any authorized represen-  
17 tative of the office.

18     § 102. Inspections and ongoing requirements. All licensees shall be  
19 subject to reasonable inspection by the office, and a person who holds a  
20 license must make himself or herself, or an agent thereof, available and  
21 present for any inspection required by the office. The office shall make  
22 reasonable accommodations so that ordinary business is not interrupted  
23 and safety and security procedures are not compromised by the  
24 inspection.

25     § 103. Packaging and labeling of hemp cannabis. 1. The office is  
26 hereby authorized to promulgate rules and regulations governing the  
27 packaging and labeling of hemp cannabis products, sold or possessed for  
28 sale in New York state.

29     2. Such regulations shall include, but not be limited to, requiring  
30 labels warning consumers of any potential impact on human health result-  
31 ing from the consumption of hemp cannabis products that shall be affixed  
32 to those products when sold, if such labels are deemed warranted by the  
33 office.

34     3. Such rules and regulations shall establish methods and procedures  
35 for determining, among other things, serving sizes for hemp cannabis  
36 products, active cannabinoid concentration per serving size, and number  
37 of servings per container. Such regulations shall also require a nutri-  
38 tional fact panel that incorporates data regarding serving sizes and  
39 potency thereof.

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

45     § 104. Provisions governing the growing and extracting of hemp canna-  
46 bis. 1. No licensed cannabinoid grower or extractor shall sell, or  
47 agree to sell or deliver in the state any hemp cannabis products, as the  
48 case may be, except in sealed containers containing quantities in  
49 accordance with size standards pursuant to rules adopted by the office.  
50 Such containers shall have affixed thereto such labels as may be  
51 required by the rules of the office.

52     2. Licensed cannabinoid growers shall only use pesticides that are  
53 registered by the New York state department of environmental conserva-  
54 tion or that specifically meet the United States Environmental  
55 Protection Agency registration exemption criteria for minimum risk

1 pesticides, and only in compliance with regulations, standards and  
2 guidelines issued by the department of environmental conservation.

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

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

9 § 105. Laboratory testing. 1. Every cannabinoid extractor shall  
10 contract with an independent laboratory to test the cannabis products  
11 produced by the licensed extractor. The executive director, in consulta-  
12 tion with the commissioner of health, shall approve the laboratory and  
13 require that the laboratory report testing results in a manner deter-  
14 mined by the executive director. The executive director is authorized to  
15 issue regulations requiring the laboratory to perform certain tests and  
16 services.

17 2. Cannabinoid extractors shall make laboratory test reports available  
18 to persons holding a cannabinoid permit pursuant to article six of this  
19 chapter for all cannabis products manufactured by the licensee.

20 3. On-site laboratory testing by licensees is permissible; however,  
21 such testing shall not be certified by the office and does not exempt  
22 the licensee from the requirements of quality assurance testing at a  
23 testing laboratory pursuant to this section.

24 § 106. Advertising. The office shall promulgate rules and regulations  
25 governing the advertising of hemp cannabis and any other related  
26 products or services as determined by the executive director.

27 § 107. Research. 1. The office shall promote research and development  
28 through public-private partnerships to bring new hemp cannabis and  
29 industrial hemp derived products to market within the state.

30 2. The executive director may develop and carry out research programs  
31 relating to industrial hemp and hemp cannabis.

32 § 108. Regulations. The executive director shall make regulations to  
33 implement this article.

34 ARTICLE 6  
35 GENERAL PROVISIONS

36 Section 125. General prohibitions and restrictions.

37 126. License to be confined to premises licensed; premises for  
38 which no license shall be granted; transporting cannabis.

39 127. Protections for the use of cannabis; unlawful discrimi-  
40 nations prohibited.

41 128. Registrations and licenses.

42 129. Laboratory testing permit.

43 130. Special use permits.

44 131. Professional and medical record keeping.

45 132. County opt-out; municipal control and preemption.

46 133. Executive director to be necessary party to certain  
47 proceedings.

48 134. Penalties for violation of this chapter.

49 135. Revocation of registrations, licenses and permits for  
50 cause; procedure for revocation or cancellation.

51 136. Lawful actions pursuant to this chapter.

52 137. Review by courts.

53 138. Illicit cannabis.

139. Injunction for unlawful manufacture, sale or consumption of cannabis.

140. Persons forbidden to traffic cannabis products; certain officials not to be interested in manufacture or sale of cannabis products.

141. Access to criminal history information through the division of criminal justice services.

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

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

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

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

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

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

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

8. The proper conduct of registered, licensed, or permitted premises is essential to the public interest. Failure of a registered organization, licensee, or permittee to exercise adequate supervision over the registered, licensed, or permitted location poses a substantial risk not only to the objectives of this chapter but imperils the health, safety, and welfare of the people of this state. It shall be the obligation of

1 each person registered, licensed, or permitted under this chapter to  
2 ensure that a high degree of supervision is exercised over any and all  
3 conduct at any registered, licensed, or permitted location at any and  
4 all times in order to safeguard against abuses of the privilege of being  
5 registered, licensed, or permitted, as well as other violations of law,  
6 statute, rule, or regulation. Persons registered, licensed, or permitted  
7 shall be held strictly accountable for any and all violations that occur  
8 upon any registered, licensed, or permitted premises, and for any and  
9 all violations committed by or permitted by any manager, agent or  
10 employee of such registered, licensed, or permitted person.

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

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

32 11. No adult-use cannabis or medical cannabis may be imported to, or  
33 exported out of, New York state by a registered organization, licensee  
34 or person holding a license and/or permit pursuant to this chapter,  
35 until such time as it may become legal to do so under federal law.  
36 Should it become legal to do so under federal law, the office is granted  
37 the power to promulgate such rules and regulations as it deems necessary  
38 to protect the public and the policy of the state.

39 12. No registered organization, licensee or any of its agents, serv-  
40 ants or employees shall peddle any cannabis product, medical cannabis or  
41 hemp cannabis from house to house by means of a truck or otherwise,  
42 where the sale is consummated and delivery made concurrently at the  
43 residence or place of business of a cannabis consumer. This subdivision  
44 shall not prohibit the delivery by a registered organization to certi-  
45 fied patients or their designated caregivers, pursuant to article three  
46 of this chapter.

47 13. No licensee shall employ any canvasser or solicitor for the  
48 purpose of receiving an order from a certified patient, designated care-  
49 giver or cannabis consumer for any cannabis product, medical cannabis or  
50 hemp cannabis at the residence or place of business of such patient,  
51 caregiver or consumer, nor shall any licensee receive or accept any  
52 order, for the sale of any cannabis product, medical cannabis or hemp  
53 cannabis which shall be solicited at the residence or place of business  
54 of a patient, caregiver or consumer. This subdivision shall not prohibit  
55 the solicitation by a distributor of an order from any licensee at the  
56 licensed premises of such licensee.

1 14. No premises registered, licensed, or permitted by the office  
2 shall:

3 (a) permit or allow any gambling on the premises;

4 (b) permit or allow the premises to become disorderly;

5 (c) permit or allow the use, by any person, of any fireworks or other  
6 pyrotechnics on the premises; or

7 (d) permit or allow to appear as an entertainer, on any part of the  
8 premises registered, licensed, or permitted, any person under the age of  
9 eighteen years.

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

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

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

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

51 (a) a sale between relatives;

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

53 (c) a sale, lease, management agreement, or other agreement giving the  
54 applicant control over the cannabis at the premises, affected by other  
55 facts or circumstances that would indicate that the sale, lease, manage-  
56 ment agreement, or other agreement giving the applicant control over the



1 cannabis at the premises, is entered into for the primary purpose of  
2 permitting the original licensee to avoid the effect of the revocation.

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

9 6. No common carrier or person operating a transportation facility in  
10 this state, other than the United States government, shall receive for  
11 transportation or delivery within the state any cannabis products or  
12 medical cannabis unless the shipment is accompanied by copy of a bill of  
13 lading, or other document, showing the name and address of the consig-  
14 nor, the name and address of the consignee, the date of the shipment,  
15 and the quantity and kind of cannabis products or medical cannabis  
16 contained therein.

17 § 127. Protections for the use of cannabis; unlawful discriminations  
18 prohibited. 1. No person, registered organization, licensee or permit-  
19 tee shall be subject to arrest, prosecution, or penalty in any manner,  
20 or denied any right or privilege, including but not limited to civil  
21 liability or disciplinary action by a business or occupational or  
22 professional licensing board or office, solely for conduct permitted  
23 under this chapter. For the avoidance of doubt, the appellate division  
24 of the supreme court of the state of New York, and any disciplinary or  
25 character and fitness committees established by them are occupational  
26 and professional licensing boards within the meaning of this section.  
27 State or local law enforcement agencies shall not cooperate with or  
28 provide assistance to the government of the United States or any agency  
29 thereof in enforcing the federal controlled substances act, 21 U.S.C. et  
30 seq., solely for actions consistent with this chapter, except as pursu-  
31 ant to a valid court order.

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

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

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

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

42 3. For the purposes of medical care, including organ transplants, a  
43 certified patient's authorized use of medical cannabis must be consid-  
44 ered the equivalent of the use of any other medication under the direc-  
45 tion of a practitioner and does not constitute the use of an illicit  
46 substance or otherwise disqualify a registered qualifying patient from  
47 medical care.

48 4. Unless an employer establishes that the lawful use of cannabis has  
49 impaired the employee's ability to perform the employee's job responsi-  
50 bilities, it shall be unlawful to take any adverse employment action  
51 against an employee based on conduct allowed under this chapter.

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

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

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

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

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

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

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

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

(b) kind of license and what kind of traffic in cannabis is thereby permitted;

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

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

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

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

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

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

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

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

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

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

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

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

18 5. The executive director is authorized to promulgate regulations, in  
19 consultation with the commissioner of the department of health, requir-  
20 ing permitted laboratories to perform certain tests and services.

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

28 1. Industrial cannabis permit - to purchase cannabis for use in the  
29 manufacture and sale of any of the following, when such cannabis is not  
30 otherwise suitable for consumption purposes, namely: (a) apparel, ener-  
31 gy, paper, and tools; (b) scientific, chemical, mechanical and indus-  
32 trial products; or (c) any other industrial use as determined by the  
33 executive director in regulation.

34 2. Nursery permit - to produce clones, immature plants, seeds, and  
35 other agricultural products used specifically for the planting, propa-  
36 gation, and cultivation of cannabis, and to sell such to licensed  
37 adult-use cultivators, registered organizations, and certified patients  
38 or their designated caregivers.

39 3. Solicitor's permit - to offer for sale or to solicit orders for the  
40 sale of any cannabis products, medical cannabis and/or hemp cannabis, as  
41 a representative of a registered organization or licensee under this  
42 chapter.

43 4. Broker's permit - to act as a broker in the purchase and sale of  
44 cannabis products, medical cannabis and/or hemp cannabis for a fee or  
45 commission, for or on behalf of a person authorized to cultivate, proc-  
46 ess, distribute or dispense cannabis products, medical cannabis or hemp  
47 cannabis within the state.

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

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

54 7. Delivery permit - to authorize licensed adult-use cannabis dispen-  
55 saries to deliver adult-use cannabis and cannabis products directly to  
56 cannabis consumers.

1 8. Cannabinoid permit - to sell cannabinoid products derived from hemp  
2 cannabis for off-premises consumption.

3 9. Temporary retail cannabis permit - to authorize the retail sale of  
4 adult-use cannabis to cannabis consumers, for a limited purpose or dura-  
5 tion.

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

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

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

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

32 § 132. County opt-out; municipal control and preemption. 1. The  
33 provisions of article four of this chapter, authorizing the cultivation,  
34 processing, distribution and sale of adult-use cannabis to cannabis  
35 consumers, shall not be applicable to a county, or city having a popu-  
36 lation of one-hundred thousand or more residents, which adopts a local  
37 law, ordinance or resolution by a majority vote of its governing body to  
38 completely prohibit the establishment or operation of one or more types  
39 of licenses contained in article four of this chapter, within the juris-  
40 diction of the county or city.

41 2. Except as provided for in subdivision one of this section, all  
42 county, town, city and village municipalities are hereby preempted from  
43 adopting any rule, ordinance, regulation or prohibition pertaining to  
44 the operation or licensure of registered organizations, adult-use canna-  
45 bis licenses or hemp licenses. However, municipalities may pass ordi-  
46 nances or regulations governing the time, place and manner of licensed  
47 adult-use cannabis retail dispensaries, provided such ordinance or regu-  
48 lation does not make the operation of such licensed retail dispensaries  
49 unreasonably impracticable as determined by the executive director in  
50 his or her sole discretion.

51 § 133. Executive director to be necessary party to certain  
52 proceedings. The executive director shall be made a party to all  
53 actions and proceedings affecting in any manner the ability of a regis-  
54 tered organization or licensee to operate within a municipality, or the  
55 result of any vote thereupon; to all actions and proceedings relative to  
56 issuance or revocation of registrations, licenses or permits; to all

1 injunction proceedings, and to all other civil actions or proceedings  
2 which in any manner affect the enjoyment of the privileges or the opera-  
3 tion of the restrictions provided for in this chapter.

4 § 134. Penalties for violation of this chapter. 1. Any person who  
5 cultivates for sale or sells cannabis, cannabis products, medical canna-  
6 bis or hemp cannabis without having an appropriate registration, license  
7 or permit therefor, or whose registration, license, or permit has been  
8 revoked, surrendered or cancelled, shall be guilty of a misdemeanor, and  
9 upon first conviction thereof shall be punished by a fine not more than  
10 five thousand dollars per instance or by imprisonment in a county jail  
11 or penitentiary for a term of not less than thirty days nor more than  
12 one year or both and upon second conviction thereof shall be punished by  
13 a fine not less than ten thousand dollars or by imprisonment in a county  
14 jail or penitentiary for a term of not less than thirty days nor more  
15 than one year or both and upon all subsequent convictions thereof shall  
16 be punished by a fine not less twenty-five thousand dollars or peniten-  
17 tiary for a term of not less than thirty days nor more than one year or  
18 both provided, however, that in default of payment of any fine imposed,  
19 such person shall be imprisoned in a county jail or penitentiary for a  
20 term of not less than thirty days.

21 2. Any registered organization or licensee, whose registration or  
22 license has been suspended pursuant to the provisions of this chapter,  
23 who sells cannabis, cannabis products, medical cannabis or hemp cannabis  
24 during the suspension period, shall be guilty of a misdemeanor, and upon  
25 conviction thereof shall be punished by a fine of not more than five  
26 thousand dollars per instance or by imprisonment in a county jail or  
27 penitentiary for a term of not more than six months, or by both such  
28 fine and imprisonment.

29 3. Any person who shall make any false statement in the application  
30 for a registration, license or a permit under this chapter shall be  
31 guilty of a misdemeanor, and upon conviction thereof shall be punishable  
32 by a fine of not more than five thousand dollars, or by imprisonment in  
33 a county jail or penitentiary for a term of not more than six months or  
34 both.

35 4. Any violation by any person of any provision of this chapter for  
36 which no punishment or penalty is otherwise provided shall be a misde-  
37 meanor.

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

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

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

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

55 3. (a) As used in this section, the term "for cause" shall also  
56 include the existence of a sustained and continuing pattern of miscon-

duct, failure to adequately prevent diversion or disorder on or about the registered, licensed or permitted premises, or in the area in front of or adjacent to the registered or licensed premises, or in any parking lot provided by the registered organization or licensee for use by registered organization or licensee's patrons, which, in the judgment of the office, adversely affects or tends to affect the protection, health, welfare, safety, or repose of the inhabitants of the area in which the registered or licensed premises is located, or results in the licensed premises becoming a focal point for police attention, or is offensive to public decency.

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

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

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

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

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

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

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

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

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

9. Where a licensee or permittee is convicted of two or more qualifying offenses within a five-year period, the office, upon receipt of

1 notification of such second or subsequent conviction, shall, in addition  
2 to any other sanction or civil or criminal penalty imposed pursuant to  
3 this chapter, impose on such licensee a civil penalty not to exceed ten  
4 thousand dollars. For purposes of this subdivision, a qualifying  
5 offense shall mean the unlawful sale of cannabis to a person under the  
6 age of twenty-one. For purposes of this subdivision, a conviction of a  
7 licensee or an employee or agent of such licensee shall constitute a  
8 conviction of such licensee.

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

14 2. The following actions are not unlawful as provided under this chap-  
15 ter, shall not be an offense under any state or local law, and shall not  
16 result in any civil fine, seizure, or forfeiture of assets against any  
17 person acting in accordance with this chapter:

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

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

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

33 (d) The purchase, possession, or consumption of cannabis, medical  
34 cannabis and hemp, as permitted by this chapter and consistent with  
35 rules and regulations of the office, obtained from a validly registered,  
36 licensed or permitted retailer.

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

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

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

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

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

51 (e) Refusal to approve alteration of premises.

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

54 2. No stay shall be granted pending the determination of such matter  
55 except on notice to the office and only for a period of less than thirty  
56 days. In no instance shall a stay be granted where the office has issued



1 a summary suspension of a registration, license, or permit for the  
2 protection of the public health, safety, and welfare.

3 § 138. Illicit cannabis. 1. "Illicit cannabis" means and includes any  
4 cannabis product, medical cannabis or hemp cannabis owned, cultivated,  
5 distributed, bought, sold, packaged, rectified, blended, treated, forti-  
6 fied, mixed, processed, warehoused, possessed or transported, or on  
7 which any tax required to have been paid under any applicable state law  
8 has not been paid.

9 2. Any person who shall knowingly possess or have under his or her  
10 control any illicit cannabis is guilty of a misdemeanor.

11 3. Any person who shall knowingly barter or exchange with, or sell,  
12 give or offer to sell or to give another any illicit cannabis is guilty  
13 of a misdemeanor.

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

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

25 § 139. Injunction for unlawful manufacturing, sale or consumption of  
26 cannabis. 1. If any person shall engage or participate or be about to  
27 engage or participate in the cultivation, production, distribution,  
28 traffic, or sale of cannabis products, medical cannabis or hemp cannabis  
29 in this state without obtaining the appropriate registration, license,  
30 or permit therefor, or shall traffic in cannabis products, medical  
31 cannabis or hemp cannabis contrary to any provision of this chapter, or  
32 otherwise unlawfully, or shall traffic in illegal cannabis products,  
33 medical cannabis or hemp cannabis, or, operating a place for profit or  
34 pecuniary gain, with a capacity for the assemblage of twenty or more  
35 persons, shall permit a person or persons to come to such place of  
36 assembly for the purpose of consuming cannabis products without having  
37 the appropriate license or permit therefor, the office may present a  
38 verified petition or complaint to a justice of the supreme court at a  
39 special term of the supreme court of the judicial district in which such  
40 city, village or town is situated, for an order enjoining such person  
41 engaging or participating in such activity or from carrying on such  
42 business. Such petition or complaint shall state the facts upon which  
43 such application is based. Upon the presentation of the petition or  
44 complaint, the justice or court may grant an order temporarily restrain-  
45 ing any person from continuing to engage in conduct as specified in the  
46 petition or complaint, and shall grant an order requiring such person to  
47 appear before such justice or court at or before a special term of the  
48 supreme court in such judicial district on the day specified therein,  
49 not more than ten days after the granting thereof, to show cause why  
50 such person should not be permanently enjoined from engaging or partic-  
51 ipating in such activity or from carrying on such business, or why such  
52 person should not be enjoined from carrying on such business contrary to  
53 the provisions of this chapter. A copy of such petition or complaint and  
54 order shall be served upon the person, in the manner directed by such  
55 order, not less than three days before the return day thereof. On the  
56 day specified in such order, the justice or court before whom the same

1 is returnable shall hear the proofs of the parties and may, if deemed  
2 necessary or proper, take testimony in relation to the allegations of  
3 the petition or complaint. If the justice or court is satisfied that  
4 such person is about to engage or participate in the unlawful traffic in  
5 cannabis, medical cannabis or hemp cannabis or has unlawfully culti-  
6 vated, processed, or sold cannabis products, medical cannabis or hemp  
7 cannabis without having obtained a registration or license or contrary  
8 to the provisions of this chapter, or has trafficked in illegal canna-  
9 bis, or, is operating or is about to operate such place for profit or  
10 pecuniary gain, with such capacity, and has permitted or is about to  
11 permit a person or persons to come to such place of assembly for the  
12 purpose of consuming cannabis products without having such appropriate  
13 license, an order shall be granted enjoining such person from thereafter  
14 engaging or participating in or carrying on such activity or business.  
15 If, after the entry of such an order in the county clerk's office of the  
16 county in which the principal place of business of the corporation or  
17 partnership is located, or in which the individual so enjoined resides  
18 or conducts such business, and the service of a copy thereof upon such  
19 person, or such substituted service as the court may direct, such  
20 person, partnership or corporation shall, in violation of such order,  
21 cultivate, process, distribute or sell cannabis products, medical canna-  
22 bis or hemp cannabis, or illegal cannabis products, medical cannabis or  
23 hemp cannabis, or permit a person or persons to come to such place of  
24 assembly for the purpose of consuming cannabis products, such activity  
25 shall be deemed a contempt of court and be punishable in the manner  
26 provided by the judiciary law, and, in addition to any such punishment,  
27 the justice or court before whom or which the petition or complaint is  
28 heard, may, in his or its discretion, order the seizure and forfeiture  
29 of any cannabis products and any fixtures, equipment and supplies used  
30 in the operation or promotion of such illegal activity and such property  
31 shall be subject to forfeiture pursuant to law. Costs upon the applica-  
32 tion for such injunction may be awarded in favor of and against the  
33 parties thereto in such sums as in the discretion of the justice or  
34 court before whom or which the petition or complaint is heard may seem  
35 proper.

36 2. The owner, lessor and lessee of a building, erection or place where  
37 cannabis products, medical cannabis or hemp cannabis is unlawfully  
38 cultivated, processed, distributed, sold, consumed or permitted to be  
39 unlawfully cultivated, processed, distributed, sold or consumed may be  
40 made a respondent or defendant in the proceeding or action.

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

44 (a) Except as provided in subdivision one-a of this section, a person  
45 who has been convicted of a felony, unless subsequent to such conviction  
46 such person shall have received an executive pardon therefor removing  
47 this disability, a certificate of good conduct granted by the department  
48 of corrections and community supervision, or a certificate of relief  
49 from disabilities granted by the department of corrections and community  
50 supervision or a court of this state pursuant to the provisions of arti-  
51 cle twenty-three of the correction law to remove the disability under  
52 this section because of such conviction;

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

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

(d) A partnership or a corporation, unless each member of the partnership, or each of the principal officers and directors of the corporation, is a citizen of the United States or an alien lawfully admitted for permanent residence in the United States, not less than twenty-one years of age, and has not been convicted of any felony, or if so convicted has received, subsequent to such conviction, an executive pardon therefor removing this disability a certificate of good conduct granted by the department of corrections and community supervision, or a certificate of relief from disabilities granted by the department of corrections and community supervision or a court of this state pursuant to the provisions of article twenty-three of the correction law to remove the disability under this section because of such conviction; provided however that a corporation which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal officers and more than one-half of its directors are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; and provided further that a corporation organized under the not-for-profit corporation law or the education law which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal officers and more than one-half of its directors are not less than twenty-one years of age and none of its directors are less than eighteen years of age; and provided further that a corporation organized under the not-for-profit corporation law or the education law and located on the premises of a college as defined by section two of the education law which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal officers and each of its directors are not less than eighteen years of age;

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

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

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

1-a. Notwithstanding the provision of subdivision one of this section, a corporation holding a registration or license to traffic cannabis products or medical cannabis shall not, upon conviction of a felony be automatically forbidden to traffic in cannabis products or medical cannabis, but the application for a registered organization or license by such a corporation shall be subject to denial, and the registration or license of such a corporation shall be subject to revocation or suspension by the office pursuant, consistent with the provisions of article twenty-three-A of the correction law. For any felony conviction by a court other than a court of this state, the office may request the department of corrections and community supervision to investigate and review the facts and circumstances concerning such a conviction, and such department shall, if so requested, submit its findings to the office as to whether the corporation has conducted itself in a manner such that discretionary review by the office would not be inconsistent with the public interest. The department of corrections and community supervision may charge the registered organization, licensee or appli-

1 cant a fee equivalent to the expenses of an appropriate investigation  
2 under this subdivision. For any conviction rendered by a court of this  
3 state, the office may request the corporation, if the corporation is  
4 eligible for a certificate of relief from disabilities, to seek such a  
5 certificate from the court which rendered the conviction and to submit  
6 such a certificate as part of the office's discretionary review process.

7 2. Except as may otherwise be provided for in regulation, it shall be  
8 unlawful for any police commissioner, police inspector, captain,  
9 sergeant, roundsman, patrolman or other police official or subordinate  
10 of any police department in the state, to be either directly or indi-  
11 rectly interested in the cultivation, processing, distribution, or sale  
12 of cannabis products or to offer for sale, or recommend to any regis-  
13 tered organization or licensee any cannabis products. A person may not  
14 be denied any registration or license granted under the provisions of  
15 this chapter solely on the grounds of being the spouse of a public serv-  
16 ant described in this section. The solicitation or recommendation made  
17 to any registered organization or licensee, to purchase any cannabis  
18 products by any police official or subordinate as hereinabove described,  
19 shall be presumptive evidence of the interest of such official or subor-  
20 dinate in the cultivation, processing, distribution, or sale of cannabis  
21 products.

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

26 § 141. Access to criminal history information through the division of  
27 criminal justice services. In connection with the administration of  
28 this chapter, the executive director is authorized to request, receive  
29 and review criminal history information through the division of criminal  
30 justice services with respect to any person seeking a registration,  
31 license, permit or authorization to cultivate, process, distribute or  
32 sell medical cannabis, adult use cannabis or hemp cannabis. At the exec-  
33 utive director's request, each person, member, principal and/or officer  
34 of the applicant shall submit to the office his or her fingerprints in  
35 such form and in such manner as specified by the division, for the  
36 purpose of conducting a criminal history search and returning a report  
37 thereon in accordance with the procedures and requirements established  
38 by the division pursuant to the provisions of article thirty-five of the  
39 executive law, which shall include the payment of the prescribed proc-  
40 essing fees for the cost of the division's full search and retain proce-  
41 dures and a national criminal history record check. The executive direc-  
42 tor, or his or her designee, shall submit such fingerprints and the  
43 processing fee to the division. The division shall forward to the execu-  
44 tive director a report with respect to the applicant's previous criminal  
45 history, if any, or a statement that the applicant has no previous crim-  
46 inal history according to its files. Fingerprints submitted to the divi-  
47 sion pursuant to this subdivision may also be submitted to the federal  
48 bureau of investigation for a national criminal history record check. If  
49 additional copies of fingerprints are required, the applicant shall  
50 furnish them upon request.

51 § 3. Intentionally omitted.

52 § 4. Section 3302 of the public health law, as added by chapter 878 of  
53 the laws of 1972, subdivisions 1, 14, 16, 17 and 27 as amended and  
54 subdivisions 4, 5, 6, 7, 8, 11, 12, 13, 15, 18, 19, 20, 21, 22, 23, 24,  
55 25, 26, 28, 29 and 30 as renumbered by chapter 537 of the laws of 1998,  
56 subdivisions 9 and 10 as amended and subdivisions 34, 35, 36, 37, 38, 39

and 40 as added by chapter 178 of the laws of 2010, paragraph (a) of subdivision 20, the opening paragraph of subdivision 22 and subdivision 29 as amended by chapter 163 of the laws of 1973, subdivision 31 as amended by section 4 of part A of chapter 58 of the laws of 2004, subdivision 41 as added by section 6 of part A of chapter 447 of the laws of 2012, and subdivisions 42 and 43 as added by section 13 of part D of chapter 60 of the laws of 2014, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) by a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

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

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

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

~~22.]~~ 20. "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable

1 origin, or independently by means of chemical synthesis, or by a combi-  
2 nation of extraction and chemical synthesis:

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

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

9 (c) opium poppy and poppy straw.

10 ~~[23-]~~ 21. "Opiate" means any substance having an addiction-forming or  
11 addiction-sustaining liability similar to morphine or being capable of  
12 conversion into a drug having addiction-forming or addiction-sustaining  
13 liability. It does not include, unless specifically designated as  
14 controlled under section ~~[3306]~~ thirty-three hundred six of this ~~[arti-~~  
15 ~~cle]~~ title, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and  
16 its salts (dextromethorphan). It does include its racemic and levorota-  
17 tory forms.

18 ~~[24-]~~ 22. "Opium poppy" means the plant of the species *Papaver*  
19 *somniferum* L., except its seeds.

20 ~~[25-]~~ 23. "Person" means individual, institution, corporation, govern-  
21 ment or governmental subdivision or agency, business trust, estate,  
22 trust, partnership or association, or any other legal entity.

23 ~~[26-]~~ 24. "Pharmacist" means any person licensed by the state depart-  
24 ment of education to practice pharmacy.

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

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

30 ~~[29-]~~ 27. "Practitioner" means:

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

38 ~~[30-]~~ 28. "Prescribe" means a direction or authorization, by  
39 prescription, permitting an ultimate user lawfully to obtain controlled  
40 substances from any person authorized by law to dispense such  
41 substances.

42 ~~[31-]~~ 29. "Prescription" shall mean an official New York state  
43 prescription, an electronic prescription, an oral prescription~~[,]~~ or an  
44 out-of-state prescription~~[, or any one]~~.

45 ~~[32-]~~ 30. "Sell" means to sell, exchange, give or dispose of to anoth-  
46 er, or offer or agree to do the same.

47 ~~[33-]~~ 31. "Ultimate user" means a person who lawfully obtains and  
48 possesses a controlled substance for his own use or the use by a member  
49 of his household or for an animal owned by him or in his custody. It  
50 shall also mean and include a person designated, by a practitioner on a  
51 prescription, to obtain such substance on behalf of the patient for whom  
52 such substance is intended.

53 ~~[34-]~~ 32. "Internet" means collectively computer and telecommuni-  
54 cations facilities which comprise the worldwide network of networks that  
55 employ a set of industry standards and protocols, or any predecessor or  
56 successor protocol to such protocol, to exchange information of all



1 kinds. "Internet," as used in this article, also includes other  
2 networks, whether private or public, used to transmit information by  
3 electronic means.

4 ~~[35-]~~ 33. "By means of the internet" means any sale, delivery,  
5 distribution, or dispensing of a controlled substance that uses the  
6 internet, is initiated by use of the internet or causes the internet to  
7 be used.

8 ~~[36-]~~ 34. "Online dispenser" means a practitioner, pharmacy, or person  
9 in the United States that sells, delivers or dispenses, or offers to  
10 sell, deliver, or dispense, a controlled substance by means of the  
11 internet.

12 ~~[37-]~~ 35. "Electronic prescription" means a prescription issued with  
13 an electronic signature and transmitted by electronic means in accord-  
14 ance with regulations of the commissioner and the commissioner of educa-  
15 tion and consistent with federal requirements. A prescription generated  
16 on an electronic system that is printed out or transmitted via facsimile  
17 is not considered an electronic prescription and must be manually  
18 signed.

19 ~~[38-]~~ 36. "Electronic" means of or relating to technology having elec-  
20 trical, digital, magnetic, wireless, optical, electromagnetic or similar  
21 capabilities. "Electronic" shall not include facsimile.

22 ~~[39-]~~ 37. "Electronic record" means a paperless record that is  
23 created, generated, transmitted, communicated, received or stored by  
24 means of electronic equipment and includes the preservation, retrieval,  
25 use and disposition in accordance with regulations of the commissioner  
26 and the commissioner of education and in compliance with federal law and  
27 regulations.

28 ~~[40-]~~ 38. "Electronic signature" means an electronic sound, symbol, or  
29 process, attached to or logically associated with an electronic record  
30 and executed or adopted by a person with the intent to sign the record,  
31 in accordance with regulations of the commissioner and the commissioner  
32 of education.

33 ~~[41-]~~ 39. "Registry" or "prescription monitoring program registry"  
34 means the prescription monitoring program registry established pursuant  
35 to section thirty-three hundred forty-three-a of this article.

36 ~~[42-]~~ 40. "Compounding" means the combining, admixing, mixing, dilut-  
37 ing, pooling, reconstituting, or otherwise altering of a drug or bulk  
38 drug substance to create a drug with respect to an outsourcing facility  
39 under section 503B of the federal Food, Drug and Cosmetic Act and  
40 further defined in this section.

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

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

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

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

48 Notwithstanding any other provision of law to the contrary, when an  
49 outsourcing facility distributes or dispenses any drug to any person  
50 pursuant to a prescription, such outsourcing facility shall be deemed to  
51 be providing pharmacy services and shall be subject to all laws, rules  
52 and regulations governing pharmacies and pharmacy services.

53 § 5. Paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25,  
54 26, 27, 28, 29, 30, 31 and 32 of subdivision (d) of schedule I of  
55 section 3306 of the public health law, paragraphs 13, 14, 15, 16, 17,  
56 18, 19, 20, 21, 22, 23 and 24 as added by chapter 664 of the laws of

1985, paragraphs 25, 26, 27, 28, 29 and 30 as added by chapter 589 of the laws of 1996 and paragraphs 31 and 32 as added by chapter 457 of the laws of 2006, are amended to read as follows:

(13) ~~[(13)]~~ ~~Marihuana.~~

~~[(14)]~~ Mescaline.

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

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

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

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

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

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

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

[/\] delta 1 cis or trans tetrahydrocannabinol, and their optical isomers

[/\] delta 6 cis or trans tetrahydrocannabinol, and their optical isomers

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

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

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

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

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

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

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

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

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

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

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

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

§ 6. Title 5-A of article 33 of the public health law is REPEALED.

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

§ 3382. Growing of the plant known as Cannabis by unlicensed persons. A person who, without being licensed so to do under this article or articles three, four or five of the cannabis law, grows the plant of the genus Cannabis or knowingly allows it to grow on his land without destroying the same, shall be guilty of a class A misdemeanor.

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

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

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

8. "Smoking" means the burning of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco or cannabis.

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

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

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

9. "Hallucinogen" means any controlled substance listed in schedule I(d) (5), [~~(18), (19), (20), (21) and (22)~~] (17), (18), (19), (20) and (21).

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

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

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

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

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

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

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

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

§ 220.50 Criminally using drug paraphernalia in the second degree.

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

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

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

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

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

§ 15. Section 221.00 of the penal law, as amended by chapter 90 of the laws of 2014, is amended to read as follows:

§ 221.00 [~~Marihuana~~] Cannabis; definitions.

Unless the context in which they are used clearly otherwise requires, the terms occurring in this article shall have the same meaning ascribed to them in article two hundred twenty of this chapter. Any act that is lawful under [~~title five-A of article thirty-three of the public health articles three, four or five, of the cannabis~~] law is not a violation of this article.

§ 15-a. Section 221.00 of the penal law, as added by chapter 360 of the laws of 1977, is amended to read as follows:

§ 221.00 [~~Marihuana~~] Cannabis; definitions.

Unless the context in which they are used clearly otherwise requires, the terms occurring in this article shall have the same meaning ascribed to them in article two hundred twenty of this chapter.

§ 16. Section 221.05 of the penal law, as added by chapter 360 of the laws of 1977, is amended to read as follows:

§ 221.05 Unlawful possession of [~~marihuana~~] cannabis.

A person is guilty of unlawful possession of [~~marihuana~~] cannabis when he or she knowingly and unlawfully possesses [~~marihuana~~]:

1. cannabis and is less than twenty-one years of age; or
2. cannabis in a public place, as defined in section 240.00 of this part, and such cannabis is burning.

Unlawful possession of [~~marihuana~~] cannabis is a violation punishable only by a fine of not more than one hundred fifty dollars[~~-. However, where the defendant has previously been convicted of an offense defined in this article or article 220 of this chapter, committed within the three years immediately preceding such violation, it shall be punishable (a) only by a fine of not more than two hundred dollars, if the defendant was previously convicted of one such offense committed during such period, and (b) by a fine of not more than two hundred fifty dollars or a term of imprisonment not in excess of fifteen days or both, if the defendant was previously convicted of two such offenses committed during such period~~] when such possession is by a person less than twenty-one years of age and of an aggregate weight of less than one-half of one ounce or a fine of not more than one hundred dollars when such possession is by a person less than twenty-one years of age and of an aggregate weight more than one-half of one ounce but not more than one ounce. Unlawful possession of marijuana is punishable by a fine of not more than one hundred twenty-five dollars when such possession is in a public place and such cannabis is burning. The term burning in this section shall have the same meaning as the term vaping as defined in subdivision eight of section thirteen hundred ninety-nine-n of the public health law.

§ 17. Section 221.15 of the penal law, as amended by chapter 265 of the laws of 1979, the opening paragraph as amended by chapter 75 of the laws of 1995, is amended to read as follows:

§ 221.15 Criminal possession of [~~marihuana~~] cannabis in the [~~fourth~~] third degree.

A person is guilty of criminal possession of [~~marihuana~~] cannabis in the [~~fourth~~] third degree when he or she knowingly and unlawfully possesses [~~one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of~~] an aggregate weight of more than [~~two ounces~~] one ounce of cannabis or more than five grams of concentrated cannabis.

Criminal possession of [~~marihuana~~] cannabis in the [~~fourth~~] third degree is a [~~class A misdemeanor~~] violation punishable by a fine of not more than one hundred twenty-five dollars. The provisions of this section shall not apply to certified patients or designated caregivers as lawfully registered under article three of the cannabis law.

§ 18. Section 221.20 of the penal law, as amended by chapter 265 of the laws of 1979, the opening paragraph as amended by chapter 75 of the laws of 1995, is amended to read as follows:

§ 221.20 Criminal possession of [~~marihuana~~] cannabis in the [~~third~~] second degree.



1 A person is guilty of criminal possession of [~~marihuana~~] cannabis in  
2 the [~~third~~] second degree when he or she knowingly and unlawfully  
3 possesses [~~one or more preparations, compounds, mixtures or substances~~  
4 ~~containing marihuana and the preparations, compounds, mixtures or~~  
5 ~~substances are of~~] an aggregate weight of more than [~~eight~~] two ounces  
6 of cannabis or more than ten ounces of concentrated cannabis.

7 Criminal possession of [~~marihuana~~] cannabis in the [~~third~~] second  
8 degree is a class [~~E-felony~~] A misdemeanor punishable by a fine not more  
9 than one hundred twenty-five dollars per ounce possessed in excess of  
10 two ounces. However, where the defendant has previously been convicted  
11 of an offense defined in this article or article two hundred twenty of  
12 this title, committed within the three years immediately preceding such  
13 violation, it shall be punishable (a) only by a fine of not more than  
14 two hundred dollars per ounce possessed in excess of two ounces, if the  
15 defendant was previously convicted of one such offense committed during  
16 such period, and (b) by a fine of not more than two hundred fifty  
17 dollars per ounce possessed in excess of two ounces or a term of impri-  
18 sonment not in excess of fifteen days or both, if the defendant was  
19 previously convicted of two such offenses committed during such period.  
20 The provisions of this section shall not apply to certified patients or  
21 designated caregivers as lawfully registered under article three of the  
22 cannabis law.

23 § 19. Section 221.25 of the penal law, as amended by chapter 265 of  
24 the laws of 1979, the opening paragraph as amended by chapter 75 of the  
25 laws of 1995, is amended to read as follows:

26 § 221.25 Criminal possession of [~~marihuana~~] cannabis in the [~~second~~]  
27 first degree.

28 A person is guilty of criminal possession of [~~marihuana~~] cannabis in  
29 the [~~second~~] first degree when he or she knowingly and unlawfully  
30 possesses [~~one or more preparations, compounds, mixtures or substances~~  
31 ~~containing marihuana and the preparations, compounds, mixtures or~~  
32 ~~substances are of~~] an aggregate weight of more than [~~sixteen~~] sixty-four  
33 ounces of cannabis or more than eighty grams of concentrated cannabis.

34 Criminal possession of [~~marihuana~~] cannabis in the [~~second~~] first  
35 degree is a class [~~D~~] E felony.

36 § 20. Sections 221.10 and 221.30 of the penal law are REPEALED.

37 § 21. Section 221.35 of the penal law, as amended by chapter 265 of  
38 the laws of 1979, the opening paragraph as amended by chapter 75 of the  
39 laws of 1995, is amended to read as follows:

40 § 221.35 Criminal sale of [~~marihuana~~] cannabis in the fifth degree.

41 A person is guilty of criminal sale of [~~marihuana~~] cannabis in the  
42 fifth degree when he or she knowingly and unlawfully sells, [~~without~~]  
43 for consideration[~~, one or more preparations, compounds, mixtures or~~  
44 ~~substances containing marihuana and the preparations, compounds,~~  
45 ~~mixtures or substances are~~] cannabis or cannabis concentrate of [~~an~~  
46 ~~aggregate weight of two grams or less, or one cigarette containing mari-~~  
47 ~~huana~~] any weight.

48 Criminal sale of [~~marihuana~~] cannabis in the fifth degree is a [~~class~~  
49 ~~B-misdemeanor~~] violation punishable by a fine not more than the greater  
50 of two-hundred and fifty dollars or two times the value of the sale.

51 § 22. Section 221.40 of the penal law, as added by chapter 360 of the  
52 laws of 1977, is amended to read as follows:

53 § 221.40 Criminal sale of [~~marihuana~~] cannabis in the fourth degree.

54 A person is guilty of criminal sale of [~~marihuana~~] cannabis in the  
55 fourth degree when he or she knowingly and unlawfully sells [~~marihuana~~  
56 ~~except as provided in section 221.35 of this article~~] cannabis of an

aggregate weight of more than one ounce or more than five grams of cannabis concentrate.

Criminal sale of [~~marihuana~~] cannabis in the fourth degree is a [~~class A~~] misdemeanor punishable by a fine of not more than the greater of five hundred dollars or two times the value of the sale or a maximum of three months imprisonment, or both.

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

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

A person is guilty of criminal sale of [~~marihuana~~] cannabis in the third degree when he or she knowingly and unlawfully sells [~~one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of an aggregate weight of more than twenty-five grams~~] four ounces of cannabis or more than twenty grams of concentrated cannabis.

Criminal sale of [~~marihuana~~] cannabis in the third degree is a [~~class E felony~~] misdemeanor punishable by a fine of not more than the greater of one thousand dollars or two times the value of the sale or a maximum of one year imprisonment or both.

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

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

A person is guilty of criminal sale of [~~marihuana~~] cannabis in the second degree when he knowingly and unlawfully sells [~~one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of an aggregate weight of~~] more than [~~four ounces, or knowingly and unlawfully sells one or more preparations, compounds, mixtures or substances containing marihuana to a person less than eighteen years of age~~] sixteen ounces of cannabis or more than eighty grams of concentrated cannabis or any amount of cannabis or concentrated cannabis to any person under twenty-one years of age.

Criminal sale of [~~marihuana~~] cannabis in the second degree is a class D felony.

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

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

A person is guilty of criminal sale of [~~marihuana~~] cannabis in the first degree when he knowingly and unlawfully sells [~~one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of an aggregate weight of~~] more than [~~sixteen~~] sixty-four ounces of cannabis or three hundred and twenty grams of cannabis concentrate.

Criminal sale of [~~marihuana~~] cannabis in the first degree is a class C felony.

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

§ 221.60 Licensing of cannabis production and distribution.

The provisions of this article and of article two hundred twenty of this title shall not apply to any person exempted from criminal penalties pursuant to the provisions of this chapter or possessing, manufacturing, transporting, distributing, selling or transferring cannabis or



concentrated cannabis, or engaged in any other action that is in compliance with articles three, four or five of the cannabis law.

§ 27. Paragraphs (i), (j) and (k) of subdivision 3 of section 160.50 of the criminal procedure law, paragraphs (i) and (j) as added by chapter 905 of the laws of 1977, paragraph (k) as added by chapter 835 of the laws of 1977 and as relettered by chapter 192 of the laws of 1980 and such subdivision as renumbered by chapter 142 of the laws of 1991, are amended to read as follows:

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

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

(k) (i) The accusatory instrument alleged a violation of article two hundred twenty or section 240.36 of the penal law, prior to the taking effect of article two hundred twenty-one of the penal law, or a violation of article two hundred twenty-one of the penal law; (ii) the sole controlled substance involved is ~~[marijuana]~~ cannabis; and (iii) the conviction was only for a violation or violations~~[-]~~ and ~~(iv) at least three years have passed since the offense occurred~~].

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

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

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

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

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

§ 31. The article heading of article 20-B of the tax law, as added by chapter 90 of the laws of 2014, is amended to read as follows:

#### ARTICLE 20-B

#### EXCISE TAX ON MEDICAL ~~[MARIJUANA]~~ CANNABIS

§ 32. The paragraph heading and subparagraph (i) of paragraph (b) of subdivision 1 of section 1193 of the vehicle and traffic law, as amended by chapter 169 of the laws of 2013, are amended to read as follows:

1 Driving while intoxicated or while ability impaired by drugs or while  
2 ability impaired by the combined influence of drugs or of alcohol and  
3 any drug or drugs; aggravated driving while intoxicated; misdemeanor  
4 offenses. (i) A violation of subdivision two, three, or four [~~or four-a~~]  
5 of section eleven hundred ninety-two of this article shall be a misde-  
6 meanor and shall be punishable by a fine of not less than five hundred  
7 dollars nor more than one thousand dollars, or by imprisonment in a  
8 penitentiary or county jail for not more than one year, or by both such  
9 fine and imprisonment. A violation of paragraph (a) of subdivision two-a  
10 of section eleven hundred ninety-two of this article shall be a misde-  
11 meanor and shall be punishable by a fine of not less than one thousand  
12 dollars nor more than two thousand five hundred dollars or by imprison-  
13 ment in a penitentiary or county jail for not more than one year, or by  
14 both such fine and imprisonment.

15 § 33. The paragraph heading and subparagraph (i) of paragraph (c) of  
16 subdivision 1 of section 1193 of the vehicle and traffic law, as amended  
17 by chapter 169 of the laws of 2013, are amended to read as follows:

18 Felony offenses. (i) A person who operates a vehicle (A) in violation  
19 of subdivision four-a of section eleven hundred ninety-two of this arti-  
20 cle or in violation of subdivision two, two-a, three, or four [~~or~~  
21 ~~four-a~~] of section eleven hundred ninety-two of this article after  
22 having been convicted of a violation of subdivision two, two-a, three,  
23 four or four-a of such section or of vehicular assault in the second or  
24 first degree, as defined, respectively, in sections 120.03 and 120.04  
25 and aggravated vehicular assault as defined in section 120.04-a of the  
26 penal law or of vehicular manslaughter in the second or first degree, as  
27 defined, respectively, in sections 125.12 and 125.13 and aggravated  
28 vehicular homicide as defined in section 125.14 of such law, within the  
29 preceding ten years, or (B) in violation of paragraph (b) of subdivision  
30 two-a of section eleven hundred ninety-two of this article shall be  
31 guilty of a class E felony, and shall be punished by a fine of not less  
32 than one thousand dollars nor more than five thousand dollars or by a  
33 period of imprisonment as provided in the penal law, or by both such  
34 fine and imprisonment.

35 § 34. Subdivision 1 of section 171-a of the tax law, as amended by  
36 section 3 of part MM of chapter 59 of the laws of 2018, 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-one, twenty-two, twenty-four, twenty-  
47 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 subdi-  
29 vision 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

chapter; and (vi) the comptroller shall deduct a like amount which the comptroller shall pay into the treasury to the credit of the general fund from amounts subsequently payable to the department of social services, the state university of New York, the city university of New York, or the higher education services corporation, or the revenue arrearage account or special offset fiduciary account pursuant to section ninety-one-a or ninety-one-c of the state finance law, as the case may be, whichever had been credited the amount originally withheld from such overpayment, and (vii) with respect to amounts originally withheld from such overpayment pursuant to section one hundred seventy-one-1 of this article and paid to the city of New York, the comptroller shall collect a like amount from the city of New York.

§ 35. Section 490 of the tax law, as added by chapter 90 of the laws of 2014, is amended to read as follows:

§ 490. ~~Definitions~~ Excise tax on medical cannabis. 1. (a) ~~[All definitions of terms applicable to title five-A of article thirty-three of the public health law shall apply to this article.]~~ For purposes of this article, the terms "medical cannabis," "registered organization," "certified patient," and "designated caregiver" shall have the same definitions as in section three of the cannabis law.

(b) As used in this section, where not otherwise specifically defined and unless a different meaning is clearly required "gross receipt" means the amount received in or by reason of any sale, conditional or otherwise, of medical ~~[marihuana]~~ cannabis or in or by reason of the furnishing of medical ~~[marihuana]~~ cannabis from the sale of medical ~~[marihuana]~~ cannabis provided by a registered organization to a certified patient or designated caregiver. Gross receipt is expressed in money, whether paid in cash, credit or property of any kind or nature, and shall be determined without any deduction therefrom on account of the cost of the service sold or the cost of materials, labor or services used or other costs, interest or discount paid, or any other expenses whatsoever. "Amount received" for the purpose of the definition of gross receipt, as the term gross receipt is used throughout this article, means the amount charged for the provision of medical ~~[marihuana]~~ cannabis.

2. There is hereby imposed an excise tax on the gross receipts from the sale of medical ~~[marihuana]~~ cannabis by a registered organization to a certified patient or designated caregiver, to be paid by the registered organization, at the rate of seven percent. The tax imposed by this article shall be charged against and be paid by the registered organization and shall not be added as a separate charge or line item on any sales slip, invoice, receipt or other statement or memorandum of the price given to the retail customer.

3. The commissioner may make, adopt and amend rules, regulations, procedures and forms necessary for the proper administration of this article.

4. Every registered organization that makes sales of medical ~~[marihuana]~~ cannabis subject to the tax imposed by this article shall, on or before the twentieth date of each month, file with the commissioner a return on forms to be prescribed by the commissioner, showing its receipts from the retail sale of medical ~~[marihuana]~~ cannabis during the preceding calendar month and the amount of tax due thereon. Such returns shall contain such further information as the commissioner may require. Every registered organization required to file a return under this section shall, at the time of filing such return, pay to the commissioner the total amount of tax due on its retail sales of medical ~~[marihuana]~~ cannabis for the period covered by such return. If a return is not

1 filed when due, the tax shall be due on the day on which the return is  
2 required to be filed.

3 5. Whenever the commissioner shall determine that any moneys received  
4 under the provisions of this article were paid in error, he may cause  
5 the same to be refunded, with interest, in accordance with such rules  
6 and regulations as he may prescribe, except that no interest shall be  
7 allowed or paid if the amount thereof would be less than one dollar.  
8 Such interest shall be at the overpayment rate set by the commissioner  
9 pursuant to subdivision twenty-sixth of section one hundred seventy-one  
10 of this chapter, or if no rate is set, at the rate of six percent per  
11 annum, from the date when the tax, penalty or interest to be refunded  
12 was paid to a date preceding the date of the refund check by not more  
13 than thirty days. Provided, however, that for the purposes of this  
14 subdivision, any tax paid before the last day prescribed for its payment  
15 shall be deemed to have been paid on such last day. Such moneys received  
16 under the provisions of this article which the commissioner shall deter-  
17 mine were paid in error, may be refunded out of funds in the custody of  
18 the comptroller to the credit of such taxes provided an application  
19 therefor is filed with the commissioner within two years from the time  
20 the erroneous payment was made.

21 6. The provisions of article twenty-seven of this chapter shall apply  
22 to the tax imposed by this article in the same manner and with the same  
23 force and effect as if the language of such article had been incorpo-  
24 rated in full into this section and had expressly referred to the tax  
25 imposed by this article, except to the extent that any provision of such  
26 article is either inconsistent with a provision of this article or is  
27 not relevant to this article.

28 7. All taxes, interest and penalties collected or received by the  
29 commissioner under this article shall be deposited and disposed of  
30 pursuant to the provisions of section one hundred seventy-one-a of this  
31 chapter, provided that an amount equal to one hundred percent collected  
32 under this article less any amount determined by the commissioner to be  
33 reserved by the comptroller for refunds or reimbursements shall be paid  
34 by the comptroller to the credit of the medical [~~marihuana~~] cannabis  
35 trust fund established by section eighty-nine-h of the state finance  
36 law.

37 8. A registered organization that dispenses medical [~~marihuana~~] canna-  
38 bis shall provide to the department information on where the medical  
39 [~~marihuana~~] cannabis was dispensed and where the medical [~~marihuana~~]  
40 cannabis was manufactured. A registered organization that obtains [~~mari-~~  
41 ~~huana~~] cannabis from another registered organization shall obtain from  
42 such registered organization information on where the medical [~~marihua-~~  
43 ~~na~~] cannabis was manufactured.

44 § 36. Section 491 of the tax law, as added by chapter 90 of the laws  
45 of 2014, subdivision 1 as amended by section 1 of part II of chapter 60  
46 of the laws of 2016, is amended to read as follows:

47 § 491. Returns to be secret. 1. Except in accordance with proper judi-  
48 cial order or as in this section or otherwise provided by law, it shall  
49 be unlawful for the commissioner, any officer or employee of the depart-  
50 ment, or any officer or person who, pursuant to this section, is permit-  
51 ted to inspect any return or report or to whom a copy, an abstract or a  
52 portion of any return or report is furnished, or to whom any information  
53 contained in any return or report is furnished, or any person engaged or  
54 retained by such department on an independent contract basis or any  
55 person who in any manner may acquire knowledge of the contents of a  
56 return or report filed pursuant to this article to divulge or make known

1 in any manner the contents or any other information relating to the  
2 business of a distributor, owner or other person contained in any return  
3 or report required under this article. The officers charged with the  
4 custody of such returns or reports shall not be required to produce any  
5 of them or evidence of anything contained in them in any action or  
6 proceeding in any court, except on behalf of the state, [~~the state~~  
7 ~~department of health~~] office of cannabis management, or the commissioner  
8 in an action or proceeding under the provisions of this chapter or on  
9 behalf of the state or the commissioner in any other action or proceed-  
10 ing involving the collection of a tax due under this chapter to which  
11 the state or the commissioner is a party or a claimant or on behalf of  
12 any party to any action or proceeding under the provisions of this arti-  
13 cle, when the returns or the reports or the facts shown thereby are  
14 directly involved in such action or proceeding, or in an action or  
15 proceeding relating to the regulation or taxation of medical [~~marihuana~~  
16 cannabis] on behalf of officers to whom information shall have been  
17 supplied as provided in subdivision two of this section, in any of which  
18 events the court may require the production of, and may admit in  
19 evidence so much of said returns or reports or of the facts shown there-  
20 by as are pertinent to the action or proceeding and no more. Nothing  
21 herein shall be construed to prohibit the commissioner, in his or her  
22 discretion, from allowing the inspection or delivery of a certified copy  
23 of any return or report filed under this article or of any information  
24 contained in any such return or report by or to a duly authorized offi-  
25 cer or employee of the [~~state department of health~~] office of cannabis  
26 management; or by or to the attorney general or other legal represen-  
27 tatives of the state when an action shall have been recommended or  
28 commenced pursuant to this chapter in which such returns or reports or  
29 the facts shown thereby are directly involved; or the inspection of the  
30 returns or reports required under this article by the comptroller or  
31 duly designated officer or employee of the state department of audit and  
32 control, for purposes of the audit of a refund of any tax paid by a  
33 registered organization or other person under this article; nor to  
34 prohibit the delivery to a registered organization, or a duly authorized  
35 representative of such registered organization, a certified copy of any  
36 return or report filed by such registered organization pursuant to this  
37 article, nor to prohibit the publication of statistics so classified as  
38 to prevent the identification of particular returns or reports and the  
39 items thereof. This section shall also not be construed to prohibit the  
40 disclosure, for tax administration purposes, to the division of the  
41 budget and the office of the state comptroller, of information aggre-  
42 gated from the returns filed by all the registered organizations making  
43 sales of, or manufacturing, medical [~~marihuana~~] cannabis in a specified  
44 county, whether the number of such registered organizations is one or  
45 more. Provided further that, notwithstanding the provisions of this  
46 subdivision, the commissioner may, in his or her discretion, permit the  
47 proper officer of any county entitled to receive an allocation, follow-  
48 ing appropriation by the legislature, pursuant to this article and  
49 section eighty-nine-h of the state finance law, or the authorized repre-  
50 sentative of such officer, to inspect any return filed under this arti-  
51 cle, or may furnish to such officer or the officer's authorized repre-  
52 sentative an abstract of any such return or supply such officer or such  
53 representative with information concerning an item contained in any such  
54 return, or disclosed by any investigation of tax liability under this  
55 article.



2. The commissioner, in his or her discretion and pursuant to such rules and regulations as he or she may adopt, may permit ~~[the commissioner of internal revenue of the United States, or]~~ the appropriate officers of any other state which regulates or taxes medical ~~[marihuana]~~ cannabis, or the duly authorized representatives of such ~~[commissioner or of any such]~~ officers, to inspect returns or reports made pursuant to this article, or may furnish to such ~~[commissioner or]~~ other officers, or duly authorized representatives, a copy of any such return or report or an abstract of the information therein contained, or any portion thereof, or may supply ~~[such commissioner or]~~ any such officers or such representatives with information relating to the business of a registered organization making returns or reports hereunder. The commissioner may refuse to supply information pursuant to this subdivision ~~[to the commissioner of internal revenue of the United States or]~~ to the officers of any other state if the statutes ~~[of the United States, or]~~ of the state represented by such officers, do not grant substantially similar privileges to the commissioner, but such refusal shall not be mandatory. Information shall not be supplied to ~~[the commissioner of internal revenue of the United States or]~~ the appropriate officers of any other state which regulates or taxes medical ~~[marihuana]~~ cannabis, or the duly authorized representatives ~~[of such commissioner or]~~ of any of such officers, unless such ~~[commissioner,]~~ officer or other representatives shall agree not to divulge or make known in any manner the information so supplied, but such officers may transmit such information to their employees or legal representatives when necessary, who in turn shall be subject to the same restrictions as those hereby imposed upon such ~~[commissioner,]~~ officer or other representatives.

3. (a) Any officer or employee of the state who willfully violates the provisions of subdivision one or two of this section shall be dismissed from office and be incapable of holding any public office in this state for a period of five years thereafter.

(b) Cross-reference: For criminal penalties, see article thirty-seven of this chapter.

§ 37. The tax law is amended by adding a new article 20-C to read as follows:

## ARTICLE 20-C

### TAX ON ADULT-USE CANNABIS PRODUCTS

#### Section 492. Definitions.

##### 493. Tax on cannabis.

##### 494. Registration and renewal.

##### 495. Returns and payment of tax.

##### 496. Returns to be kept secret.

§ 492. Definitions. For purposes of this article, the following definitions shall apply:

(a) "Cannabis" means all parts of a plant of the genus cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. For purposes of this article, cannabis does not include medical cannabis or hemp as defined in section three of the cannabis law.

(b) "Cannabis flower" means the flower of a plant of the genus cannabis that has been harvested, dried, and cured, and prior to any processing whereby the plant material is transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or



1 topical product containing cannabis or concentrated cannabis and other  
2 ingredients. Cannabis flower excludes leaves and stem.

3 (c) "Cannabis trim" means all parts of a plant of the genus cannabis  
4 other than cannabis flowers that have been harvested, dried, and cured,  
5 and prior to any processing whereby the plant material is transformed  
6 into a concentrate, including, but not limited to, concentrated canna-  
7 bis, or an edible or topical product containing cannabis and other  
8 ingredients.

9 (d) "Adult-use cannabis product" means a cannabis product as defined  
10 in section three of the cannabis law. For purposes of this article,  
11 under no circumstances shall adult-use cannabis product include medical  
12 cannabis or hemp cannabis as defined in section three of the cannabis  
13 law.

14 (e) "Person" means every individual, partnership, limited liability  
15 company, society, association, joint stock company, corporation, estate,  
16 receiver, trustee, assignee, referee, and any other person acting in a  
17 fiduciary or representative capacity, whether appointed by a court or  
18 otherwise, and any combination of the foregoing.

19 (f) "Wholesaler" means any person that sells or transfers adult-use  
20 cannabis products to a retail dispensary licensed pursuant to section  
21 seventy-two of the cannabis law. Where the cultivator or processor is  
22 also the retail dispensary, the retail dispensary shall be the whole-  
23 saler for purposes of this article.

24 (g) "Cultivation" has the same meaning as described in subdivision two  
25 of section sixty-eight of the cannabis law.

26 (h) "Retail dispensary" means a dispensary licensed to sell adult-use  
27 cannabis products pursuant to section seventy-two of the cannabis law.

28 (i) "Transfer" means to grant, convey, hand over, assign, sell,  
29 exchange or barter, in any manner or by any means, with or without  
30 consideration.

31 (j) "Sale" means any transfer of title, possession or both, exchange  
32 or barter, rental, lease or license to use or consume, conditional or  
33 otherwise, in any manner or by any means whatsoever for a consideration  
34 or any agreement therefor.

35 (k) "Processor" has the same meaning as described in subdivision two  
36 of section sixty-nine of the cannabis law.

37 § 493. Tax on cannabis. (a) There is hereby imposed and shall be paid  
38 a tax on the cultivation of cannabis flower and cannabis trim cannabis  
39 pursuant to the cannabis law at the rate of one dollar per dry-weight  
40 gram of cannabis flower and twenty-five cents per dry-weight gram of  
41 cannabis trim. Where the wholesaler is not the cultivator, such tax  
42 shall be collected from the cultivator by the wholesaler at the time  
43 such flower or trim is transferred to the wholesaler. Where the whole-  
44 saler is the cultivator, such tax shall be paid by the wholesaler and  
45 shall accrue at the time of sale or transfer to a retail dispensary.  
46 Where the cultivator is also the retail dispensary, such tax shall  
47 accrue at the time of the sale to the retail customer.

48 (b) In addition to the tax imposed by subdivision (a) of this section,  
49 there is hereby imposed a tax on the sale or transfer by a wholesaler to  
50 a retail dispensary of adult-use cannabis products, to be paid by such  
51 wholesaler. Where the wholesaler is not the retail dispensary, such tax  
52 shall be at the rate of twenty percent of the invoice price charged by  
53 the wholesaler to a retail dispensary, and shall accrue at the time of  
54 such sale. Where the wholesaler is the retail dispensary, such tax shall  
55 be at the rate of twenty percent of the price charged to the retail  
56 customer and shall accrue at the time of such sale.

1     (c) In addition to the taxes imposed by subdivisions (a) and (b) of  
2 this section, there is hereby imposed a tax on the sale or transfer by a  
3 wholesaler to a retail dispensary of adult-use cannabis products, in  
4 trust for and on account of the county in which the retail dispensary is  
5 located. Such tax shall be paid by the wholesaler and shall accrue at  
6 the time of such sale. Where the wholesaler is not the retail dispen-  
7 sary, such tax shall be at the rate of two percent of the invoice price  
8 charged by the wholesaler to a retail dispensary. Where the wholesaler  
9 is the retail dispensary, such tax shall be at the rate of two percent  
10 of the price charged to the retail customer.

11     (d) Notwithstanding any other provision of law to the contrary, the  
12 taxes imposed by article twenty of this chapter shall not apply to any  
13 product subject to tax under this article.

14     § 494. Registration and renewal. (a) Every wholesaler must file with  
15 the commissioner a properly completed application for a certificate of  
16 registration before engaging in business. In order to apply for such  
17 certificate of registration, such person must first be in possession of  
18 a valid license from the office of cannabis management. An application  
19 for a certificate of registration must be submitted electronically, on a  
20 form prescribed by the commissioner, and must be accompanied by a non-  
21 refundable application fee of six hundred dollars. A certificate of  
22 registration shall not be assignable or transferable and shall be  
23 destroyed immediately upon such person ceasing to do business as speci-  
24 fied in such certificate, or in the event that such business never  
25 commenced.

26     (b) The commissioner shall refuse to issue a certificate of registra-  
27 tion to any applicant and shall revoke the certificate of registration  
28 of any such person who does not possess a valid license from the office  
29 of cannabis management. The commissioner may refuse to issue a certif-  
30 icate of registration to any applicant where such applicant: (1) has a  
31 past-due liability as that term is defined in section one hundred seven-  
32 ty-one-v of this chapter; (2) has had a certificate of registration  
33 under this article, a license from the office of cannabis management, or  
34 any license or registration provided for in this chapter revoked within  
35 one year from the date on which such application was filed; (3) has been  
36 convicted of a crime provided for in this chapter within one year from  
37 the date on which such application was filed of the certificate's issu-  
38 ance; (4) willfully fails to file a report or return required by this  
39 article; (5) willfully files, causes to be filed, gives or causes to be  
40 given a report, return, certificate or affidavit required by this arti-  
41 cle which is false; or (6) willfully fails to collect or truthfully  
42 account for or pay over any tax imposed by this article.

43     (c) A certificate of registration shall be valid for the period speci-  
44 fied thereon, unless earlier suspended or revoked. Upon the expiration  
45 of the term stated on a certificate of registration, such certificate  
46 shall be null and void.

47     (d) Every holder of a certificate of registration must notify the  
48 commissioner of changes to any of the information stated on the certif-  
49 icate, or of changes to any information contained in the application for  
50 the certificate of registration. Such notification must be made on or  
51 before the last day of the month in which a change occurs and must be  
52 made electronically on a form prescribed by the commissioner.

53     (e) Every holder of a certificate of registration under this article  
54 shall be required to reapply prior to such certificate's expiration,  
55 during a reapplication period established by the commissioner. Such  
56 reapplication period shall not occur more frequently than every two

1 years. Such reapplication shall be subject to the same requirements and  
2 conditions, including grounds for refusal, as an initial application,  
3 including the payment of the application fee.

4 (f) Penalties. A person to whom adult-use cannabis products have been  
5 transferred or who sells adult-use cannabis products without a valid  
6 certificate of registration pursuant to subdivision (a) of this section  
7 shall be subject to a penalty of five hundred dollars for each month or  
8 part thereof during which such person continues to possess adult-use  
9 cannabis products that have been transferred to such person or who sells  
10 such products after the expiration of the first month after which such  
11 person operates without a valid certificate of registration, not to  
12 exceed ten thousand dollars in the aggregate.

13 § 495. Returns and payment of tax. (a) 1. Every wholesaler shall, on  
14 or before the twentieth date of the month, file with the commissioner a  
15 return on forms to be prescribed by the commissioner, showing the total  
16 weight of cannabis flower and cannabis trim subject to tax pursuant to  
17 subdivision (a) of section four hundred ninety-three of this article and  
18 the total amount of tax due thereon in the preceding calendar month, and  
19 the total amount of tax due under subdivisions (b) and (c) of such  
20 section on its sales to a retail dispensary during the preceding calen-  
21 dar month, along with such other information as the commissioner may  
22 require. Every person required to file a return under this section  
23 shall, at the time of filing such return, pay to the commissioner the  
24 total amount of tax due for the period covered by such return. If a  
25 return is not filed when due, the tax shall be due on the day on which  
26 the return is required to be filed.

27 2. The wholesaler shall maintain such records in such form as the  
28 commissioner may require regarding such items as: where the wholesaler  
29 is not the cultivator, the weight of the cannabis flower and cannabis  
30 trim transferred to it by a cultivator or, where the wholesaler is the  
31 cultivator, the weight of such flower and trim produced by it; the  
32 geographic location of every retail dispensary to which it sold adult-  
33 use cannabis products; and any other record or information required by  
34 the commissioner. This information must be kept by such person for a  
35 period of three years after the return was filed.

36 (b) The provisions of article twenty-seven of this chapter shall apply  
37 to the tax imposed by this article in the same manner and with the same  
38 force and effect as if the language of such article had been incorpo-  
39 rated in full into this section and had expressly referred to the tax  
40 imposed by this article, except to the extent that any provision of such  
41 article is either inconsistent with a provision of this article or is  
42 not relevant to this article.

43 (c) 1. All taxes, interest, and penalties collected or received by the  
44 commissioner under this article shall be deposited and disposed of  
45 pursuant to the provisions of section one hundred seventy-one-a of this  
46 chapter, provided that an amount equal to one hundred percent collected  
47 under this article less any amount determined by the commissioner to be  
48 reserved by the comptroller for refunds or reimbursements shall be paid  
49 by the comptroller to the credit of the cannabis revenue fund estab-  
50 lished by section ninety-nine-ff of the state finance law. Of the total  
51 revenue collected or received under this article, the comptroller shall  
52 retain such amount as the commissioner may determine to be necessary for  
53 refunds. The commissioner is authorized and directed to deduct from the  
54 registration fees under subdivision (a) of section four hundred ninety-  
55 four of this article, before deposit into the cannabis revenue fund  
56 designated by the comptroller, a reasonable amount necessary to effectu-

1 ate refunds of appropriations of the department to reimburse the depart-  
2 ment for the costs incurred to administer, collect, and distribute the  
3 taxes imposed by this article.

4 2. Notwithstanding the foregoing, the commissioner shall certify to  
5 the comptroller the total amount of tax, penalty and interest received  
6 by him or her on account of the tax imposed by subdivision (c) of  
7 section four hundred ninety-three of this article in trust for and on  
8 account of each county in which a retail dispensary is located. On or  
9 before the twelfth day of each month, the comptroller, after reserving  
10 such refund fund, shall pay to the appropriate fiscal officer of each  
11 such county the taxes, penalties and interest received and certified by  
12 the commissioner for the preceding calendar month.

13 § 496. Returns to be kept secret. (a) Except in accordance with proper  
14 judicial order or as in this section or otherwise provided by law, it  
15 shall be unlawful for the commissioner, any officer or employee of the  
16 department, or any officer or person who, pursuant to this section, is  
17 permitted to inspect any return or report or to whom a copy, an abstract  
18 or a portion of any return or report is furnished, or to whom any infor-  
19 mation contained in any return or report is furnished, or any person who  
20 in any manner may acquire knowledge of the contents of a return or  
21 report filed pursuant to this article to divulge or make known in any  
22 manner the content or any other information related to the business of  
23 the wholesaler contained in any return or report required under this  
24 article. The officers charged with the custody of such returns or  
25 reports shall not be required to produce any of them or evidence of  
26 anything contained in them in any action or proceeding in any court,  
27 except on behalf of the state, the office of cannabis management, or the  
28 commissioner in an action or proceeding involving the collection of tax  
29 due under this chapter to which the state or the commissioner is a party  
30 or a claimant or on behalf of any party to any action or proceeding  
31 under the provisions of this article, when the returns or the reports or  
32 the facts shown thereby are directly involved in such action or proceed-  
33 ing, or in an action or proceeding related to the regulation or taxation  
34 of adult-use cannabis products on behalf of officers to whom information  
35 shall have been supplied as provided in this section, in any of which  
36 events the courts may require the production of, and may admit in  
37 evidence so much of said returns or reports or of the facts shown there-  
38 by as are pertinent to the action or proceeding and no more. Nothing  
39 herein shall be construed to prohibit the commissioner, in his or her  
40 discretion, from allowing the inspection or delivery of a certified copy  
41 of any return or report filed under this article or of any information  
42 contained in any such return or report by or to a duly authorized offi-  
43 cer or employee of the office of cannabis management or by or to the  
44 attorney general or other legal representatives of the state when an  
45 action shall have been recommended or commenced pursuant to this chapter  
46 in which such returns or reports or the facts shown thereby are directly  
47 involved; or the inspection of the returns or reports required under  
48 this article by the comptroller or duly designated officer or employee  
49 of the state department of audit and control, for purposes of the audit  
50 of a refund of any tax paid by the wholesaler under this article; nor to  
51 prohibit the delivery to such person or a duly authorized representative  
52 of such person, a certified copy of any return or report filed by such  
53 person pursuant to this article, nor to prohibit the publication of  
54 statistics so classified as to prevent the identification of particular  
55 returns or reports and the items thereof. This section shall also not be  
56 construed to prohibit the disclosure, for tax administration purposes,

1 to the division of the budget and the office of the state comptroller,  
2 of information aggregated from the returns filed by all wholesalers  
3 purchasing and selling such products in the state, whether the number of  
4 such persons is one or more. Provided further that, notwithstanding the  
5 provisions of this subdivision, the commissioner may in his or her  
6 discretion, permit the proper officer of any county entitled to receive  
7 any distribution of the monies received on account of the tax imposed by  
8 subdivision (c) of section four hundred ninety-three of this article, or  
9 the authorized representative of such officer, to inspect any return  
10 filed under this article, or may furnish to such officer or the offi-  
11 cer's authorized representative an abstract of any such return or supply  
12 such officer or representative with information concerning an item  
13 contained in any such return, or disclosed by any investigation of tax  
14 liability under this article.

15 (b) The commissioner, in his or her discretion, may permit the appro-  
16 priate officers of any other state that regulates or taxes cannabis or  
17 the duly authorized representatives of such commissioner or of any such  
18 officers, to inspect returns or reports made pursuant to this article,  
19 or may furnish to the commissioner or other officer, or duly authorized  
20 representatives, a copy of any such return or report or an abstract of  
21 the information therein contained, or any portion thereof, or may supply  
22 such commissioner or any such officers or such representatives with  
23 information relating to the business of a wholesaler making returns or  
24 reports hereunder solely for purposes of tax administration. The commis-  
25 sioner may refuse to supply information pursuant to this subdivision to  
26 the officers of any other state if the statutes of the state represented  
27 by such officers do not grant substantially similar privileges to the  
28 commissioner, but such refusal shall not be mandatory. Information shall  
29 not be supplied to the appropriate officers of any state that regulates  
30 or taxes cannabis, or the duly authorized representatives of such  
31 commissioner or of any such officers, unless such commissioner, officer,  
32 or other representatives shall agree not to divulge or make known in any  
33 manner the information so supplied, but such officers may transmit such  
34 information to their employees or legal representatives when necessary,  
35 who in turn shall be subject to the same restrictions as those hereby  
36 imposed upon such commissioner, officer or other representatives.

37 (c) 1. Any officer or employee of the state who willfully violates the  
38 provisions of subdivision one or two of this section shall be dismissed  
39 from office and be incapable of holding any public office in the state  
40 for a period of five years thereafter.

41 2. For criminal penalties, see article thirty-seven of this chapter.

42 § 38. Subdivision (a) of section 1115 of the tax law is amended by  
43 adding a new paragraph 3-b to read as follows:

44 (3-b) Adult-use cannabis products as defined by article twenty-C of  
45 this chapter.

46 § 39. Section 1825 of the tax law, as amended by section 3 of part NNN  
47 of chapter 59 of the laws of 2018, is amended to read as follows:

48 § 1825. Violation of secrecy provisions of the tax law.--Any person  
49 who violates the secrecy provisions of [~~subdivision (b) of section twenty-~~  
50 ~~ty one, subdivision one of section two hundred two, subdivision eight of~~  
51 ~~section two hundred eleven, subdivision (a) of section three hundred~~  
52 ~~fourteen, subdivision one or two of section four hundred thirty seven,~~  
53 ~~section four hundred eighty seven, subdivision one or two of section~~  
54 ~~five hundred fourteen, subsection (e) of section six hundred ninety sev-~~  
55 ~~en, subsection (a) of section nine hundred ninety four, subdivision (a)~~  
56 ~~of section eleven hundred forty six, section twelve hundred eighty sev-~~



~~en, section twelve hundred ninety six, section twelve hundred ninety nine F, subdivision (a) of section fourteen hundred eighteen, subdivision (a) of section fifteen hundred eighteen, subdivision (a) of section fifteen hundred fifty five of~~ this chapter, ~~[and]~~ or subdivision (e) of section 11-1797 of the administrative code of the city of New York shall be guilty of a misdemeanor.

§ 40. Section 12 of chapter 90 of the laws of 2014 amending the public health law, the tax law, the state finance law, the general business law, the penal law and the criminal procedure law relating to medical use of marihuana, is amended to read as follows:

§ 12. This act shall take effect immediately ~~[and]~~; provided, however that sections one, three, five, six, seven-a, eight, nine, ten and eleven of this act shall expire and be deemed repealed seven years after such date; provided that the amendments to section 171-a of the tax law made by section seven of this act shall take effect on the same date and in the same manner as section 54 of part A of chapter 59 of the laws of 2014 takes effect and shall not expire and be deemed repealed; and provided, further, that the amendments to subdivision 5 of section 410.91 of the criminal procedure law made by section eleven of this act shall not affect the expiration and repeal of such section and shall expire and be deemed repealed therewith.

§ 41. The office of cannabis management, in consultation with the division of the budget, the department of taxation and finance, the department of health, office of alcoholism and substance abuse services, office of mental health, New York state police and the division of criminal justice services, shall conduct a study of the effectiveness of this act. Such study shall examine all aspects of this act, including economic and fiscal impacts, the impact on the public health and safety of New York residents and the progress made in achieving social justice goals and toward eliminating the illegal market for cannabis products in New York. The office shall make recommendations regarding the appropriate level of taxation of adult-use cannabis, as well as changes, if any, necessary to improve and protect the public health and safety of New Yorkers. Such study shall be conducted two years after the effective date of this act and shall be presented to the governor, the majority leader of the senate and the speaker of the assembly, no later than October 1, 2022.

§ 42. Section 102 of the alcoholic beverage control law is amended by adding a new subdivision 8 to read as follows:

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

§ 43. Subdivisions 1, 4, 5, 6, 7 and 13 of section 12-102 of the general obligations law, as added by chapter 406 of the laws of 2000, are amended to read as follows:

1. "Illegal drug" means any controlled substance ~~[or marijuana]~~ the possession of which is an offense under the public health law or the penal law.

4. "Grade one violation" means possession of one-quarter ounce or more, but less than four ounces, or distribution of less than one ounce of an illegal drug ~~[other than marijuana, or possession of one pound or twenty five plants or more, but less than four pounds or fifty plants, or distribution of less than one pound of marijuana]~~.

5. "Grade two violation" means possession of four ounces or more, but less than eight ounces, or distribution of one ounce or more, but less than two ounces, of an illegal drug ~~[other than marijuana, or possession~~

~~of four pounds or more or fifty plants or distribution of more than one pound but less than ten pounds of marijuana~~].

6. "Grade three violation" means possession of eight ounces or more, but less than sixteen ounces, or distribution of two ounces or more, but less than four ounces, of a specified illegal drug ~~[or possession of eight pounds or more or seventy-five plants or more, but less than sixteen pounds or one hundred plants, or distribution of more than five pounds but less than ten pounds of marijuana]~~.

7. "Grade four violation" means possession of sixteen ounces or more or distribution of four ounces or more of a specified illegal drug ~~[or possession of sixteen pounds or more or one hundred plants or more or distribution of ten pounds or more of marijuana]~~.

13. "Drug trafficker" means a person convicted of a class A or class B felony controlled substance ~~[or marijuana offense]~~ who, in connection with the criminal conduct for which he or she stands convicted, possessed, distributed, sold or conspired to sell a controlled substance ~~[or marijuana]~~ which, by virtue of its quantity, the person's prominent role in the enterprise responsible for the sale or distribution of such controlled substance and other circumstances related to such criminal conduct indicate that such person's criminal possession, sale or conspiracy to sell such substance was not an isolated occurrence and was part of an ongoing pattern of criminal activity from which such person derived substantial income or resources and in which such person played a leadership role.

§ 44. Paragraph (g) of subdivision 1 of section 488 of the social services law, as added by section 1 of part B of chapter 501 of the laws of 2012, is amended to read as follows:

(g) "Unlawful use or administration of a controlled substance," which shall mean any administration by a custodian to a service recipient of: a controlled substance as defined by article thirty-three of the public health law, without a prescription; or other medication not approved for any use by the federal food and drug administration, except for the administration of medical cannabis when such administration is in accordance with article three of the cannabis law and any regulations promulgated thereunder as well as the rules, regulations, policies, or procedures of the state oversight agency or agencies governing such custodians. It also shall include a custodian unlawfully using or distributing a controlled substance as defined by article thirty-three of the public health law, at the workplace or while on duty.

§ 45. Paragraphs (e) and (f) of subdivision 1 of section 490 of the social services law, as added by section 1 of part B of chapter 501 of the laws of 2012, are amended and a new paragraph (g) is added to read as follows:

(e) information regarding individual reportable incidents, incident patterns and trends, and patterns and trends in the reporting and response to reportable incidents is shared, consistent with applicable law, with the justice center, in the form and manner required by the justice center and, for facilities or provider agencies that are not state operated, with the applicable state oversight agency which shall provide such information to the justice center; ~~[and]~~

(f) incident review committees are established; provided, however, that the regulations may authorize an exemption from this requirement, when appropriate, based on the size of the facility or provider agency or other relevant factors. Such committees shall be composed of members of the governing body of the facility or provider agency and other persons identified by the director of the facility or provider agency,



1 including some members of the following: direct support staff, licensed  
2 health care practitioners, service recipients and representatives of  
3 family, consumer and other advocacy organizations, but not the director  
4 of the facility or provider agency. Such committee shall meet regularly  
5 to: (i) review the timeliness, thoroughness and appropriateness of the  
6 facility or provider agency's responses to reportable incidents; (ii)  
7 recommend additional opportunities for improvement to the director of  
8 the facility or provider agency, if appropriate; (iii) review incident  
9 trends and patterns concerning reportable incidents; and (iv) make  
10 recommendations to the director of the facility or provider agency to  
11 assist in reducing reportable incidents. Members of the committee shall  
12 be trained in confidentiality laws and regulations, and shall comply  
13 with section seventy-four of the public officers law~~[-]~~; and

14 (g) safe storage, administration, and diversion prevention policies  
15 regarding controlled substances and medical marihuana.

16 § 46. Subdivision 1 of section 505 of the agriculture and markets law,  
17 as added by chapter 524 of the laws of 2014, is amended to read as  
18 follows:

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

24 § 47. Section 506 of the agriculture and markets law, as amended by  
25 section 1 of part 00 of chapter 58 of the laws of 2017, is amended to  
26 read as follows:

27 § 506. Growth, sale, distribution, transportation and processing of  
28 industrial hemp and products derived from such hemp permitted. [~~Notwith-~~  
29 ~~standing any provision of law to the contrary, industrial~~] 1. Industrial  
30 hemp and products derived from such hemp are agricultural products which  
31 may be grown, produced [~~and~~], possessed [~~in the state, and~~], sold,  
32 distributed, transported [~~or~~] and/or processed [~~either~~] in [~~or out of~~]  
33 state [~~as part of agricultural pilot programs pursuant to authorization~~  
34 ~~under federal law and the provisions of this article~~] pursuant to  
35 authorization under federal law, the provisions of this article and/or  
36 the the cannabis law. [~~Notwithstanding any provision of law to the~~  
37 ~~contrary restricting the growing or cultivating, sale, distribution,~~  
38 ~~transportation or processing of industrial hemp and products derived~~  
39 ~~from such hemp, and subject to authorization under federal law, the~~]

40 2. The commissioner may authorize the growing or cultivating of indus-  
41 trial hemp as part of agricultural pilot programs conducted by the  
42 department and/or an institution of higher education to study the growth  
43 and cultivation, sale, distribution, transportation and processing of  
44 such hemp and products derived from such hemp provided that the sites  
45 and programs used for growing or cultivating industrial hemp are certi-  
46 fied by, and registered with, the department.

47 3. In addition to the department's licensing authority hereinafter  
48 provided in this article, the office of cannabis management shall  
49 license and regulate the growth, extraction, processing and/or manufac-  
50 turing of hemp for derivatives, extracts, cannabinoids, isomers, acids,  
51 salts and salts or isomers and/or hemp products for human or animal  
52 consumption or use (except for those food and/or food ingredients that  
53 are generally recognized as safe).

54 4. Nothing in this section shall limit the jurisdiction of the depart-  
55 ment under any other article of the agriculture and markets law.

1 § 48. Section 507 of the agriculture and markets law is REPEALED and a  
2 new section 507 is added to read as follows:

3 § 507. Licensing; fees. 1. No person shall: (a) grow industrial hemp  
4 in the state and/or sell or distribute industrial hemp grown in the  
5 state unless licensed biennially by the commissioner or (b) grow, proc-  
6 ess and/or produce industrial hemp and products derived from hemp in the  
7 state or sell or distribute unless authorized by the commissioner as  
8 part of an agricultural research pilot program established under this  
9 article.

10 2. Application for a license to grow industrial hemp shall be made  
11 upon a form prescribed by the commissioner, accompanied by a non-refund-  
12 able application fee of five hundred dollars.

13 3. The applicant shall furnish evidence of his or her good character,  
14 experience and competency, that the applicant has adequate facilities,  
15 equipment, process controls, testing capability and security to grow  
16 hemp.

17 4. Growers who intend to cultivate hemp for cannabinoids shall also be  
18 required to obtain a license from the office of cannabis management.

19 5. A renewal application shall be submitted to the commissioner at  
20 least thirty days prior to the commencement of the next license period.

21 § 49. Section 508 of the agriculture and markets law is REPEALED and a  
22 new section 508 is added to read as follows:

23 § 508. Compliance action plan. If the commissioner determines, after  
24 notice and an opportunity for hearing, that a licensee has negligently  
25 violated a provision of this article, that licensee shall be required to  
26 comply with a corrective action plan established by the commissioner to  
27 correct the violation by a reasonable date and to periodically report to  
28 the commissioner with respect to the licensee's compliance with this  
29 article for a period of no less than the next two calendar years follow-  
30 ing the commencement date of the compliance action plan. The provisions  
31 of this section shall not be applicable to research partners conducting  
32 hemp research pursuant to a research partner agreement, the terms of  
33 which shall control.

34 § 50. Section 509 of the agriculture and markets law is REPEALED and a  
35 new section 509 is added to read as follows:

36 § 509. Granting, suspending or revoking licenses. The commissioner  
37 may decline to grant a new license, may decline to renew a license, may  
38 suspend or revoke a license already granted after due notice and oppor-  
39 tunity for hearing whenever he or she finds that:

40 (1) any statement contained in an application for an applicant or  
41 licensee is or was false or misleading;

42 (2) the applicant or licensee does not have good character, the  
43 required experience and/or competency, adequate facilities, equipment,  
44 process controls, testing capability and/or security to produce hemp or  
45 products derived from hemp;

46 (3) the applicant or licensee has failed or refused to produce any  
47 records or provide any information demanded by the commissioner reason-  
48 ably related to the administration and enforcement of this article; or

49 (4) the applicant or licensee, or any officer, director, partner,  
50 holder of ten percent of the voting stock, or any other person exercis-  
51 ing any position of management or control has failed to comply with any  
52 of the provisions of this article or rules and regulations promulgated  
53 pursuant thereto.

54 § 51. Section 510 of the agriculture and markets law is REPEALED and a  
55 new section 510 is added to read as follows:

1     § 510. Regulations. The commissioner may develop regulations consist-  
2 ent with the provisions of this article for the growing and cultivation,  
3 sale, distribution, and transportation of industrial hemp grown in the  
4 state, including:

5     (a) the authorization or licensing of any person who may: acquire or  
6 possess hemp plants or seeds; grow or cultivate hemp plants; and/or  
7 sell, purchase, distribute, or transport such plants, plant parts, or  
8 seeds;

9     (b) maintaining relevant information regarding land on which indus-  
10 trial hemp is produced within the state, including the legal description  
11 of the land, for a period of not less than three calendar years;

12     (c) the procedure for testing of industrial hemp produced in the state  
13 for delta-9 tetrahydrocannabinol levels, using post decarboxylation or  
14 other similarly reliable methods;

15     (d) the procedure for effective disposal of industrial hemp plants or  
16 products derived from hemp that are produced in violation of this arti-  
17 cle;

18     (e) a procedure for conducting at least a random sample of industrial  
19 hemp producers to verify that hemp is not produced in violation of this  
20 article;

21     (f) any required security measures; and

22     (g) such other and further regulation as the commissioner deems appro-  
23 priate or necessary.

24     § 52. Section 511 of the agriculture and markets law is REPEALED and a  
25 new section 511 is added to read as follows:

26     § 511. Prohibitions. Except as authorized by state law, and regu-  
27 lations promulgated thereunder, the growth, cultivation, processing,  
28 sale, and/or distribution of industrial hemp is prohibited.

29     § 53. Section 512 of the agriculture and markets law is REPEALED and a  
30 new section 512 is added to read as follows:

31     § 512. Industrial hemp data collection and best farming practices.  
32 The commissioner shall have the power to collect and publish data and  
33 research concerning, among other things, the growth, cultivation,  
34 production and processing methods of industrial hemp and products  
35 derived from industrial hemp and work with the cornell cooperative  
36 extension to promote best farming practices for industrial hemp which  
37 are compatible with state water quality and other environmental objec-  
38 tives.

39     § 54. Sections 513 and 514 of the agriculture and markets law are  
40 REPEALED and a new section 513 is added to read as follows:

41     § 513. Access to criminal history information through the division of  
42 criminal justice services. In connection with the administration of  
43 this article, the commissioner is authorized to request, receive and  
44 review criminal history information through the division of criminal  
45 justice services (division) with respect to any person seeking a license  
46 or authorization to undertake a hemp pilot project. At the commission-  
47 er's request, each researcher, principal and/or officer of the applicant  
48 shall submit to the department his or her fingerprints in such form and  
49 in such manner as specified by the division, for the purpose of conduct-  
50 ing a criminal history search and returning a report thereon in accord-  
51 ance with the procedures and requirements established by the division  
52 pursuant to the provisions of article thirty-five of the executive law,  
53 which shall include the payment of the prescribed processing fees for  
54 the cost of the division's full search and retain procedures and a  
55 national criminal history record check. The commissioner, or his or her  
56 designee, shall submit such fingerprints and the processing fee to the

1 division. The division shall forward to the commissioner a report with  
2 respect to the applicant's previous criminal history, if any, or a  
3 statement that the applicant has no previous criminal history according  
4 to its files. Fingerprints submitted to the division of criminal justice  
5 services pursuant to this subdivision may also be submitted to the  
6 federal bureau of investigation for a national criminal history record  
7 check. If additional copies of fingerprints are required, the applicant  
8 shall furnish them upon request.

9 § 55. Sections 179.00, 179.05, 179.10, 179.11 and 179.15 of the penal  
10 law, as added by chapter 90 of the laws of 2014, are amended to read as  
11 follows:

12 § 179.00 Criminal diversion of medical [~~marihuana~~] cannabis; defi-  
13 nitions.

14 The following definitions are applicable to this article:

15 1. "Medical [~~marihuana~~] cannabis" means medical [~~marihuana~~] cannabis  
16 as defined in [~~subdivision eight of section thirty-three hundred sixty~~  
17 ~~of the public health law~~] section three of the cannabis law.

18 2. "Certification" means a certification, made under section [~~thirty-~~  
19 ~~three hundred sixty-one of the public health law~~] thirty of the cannabis  
20 law.

21 § 179.05 Criminal diversion of medical [~~marihuana~~] cannabis; limita-  
22 tions.

23 The provisions of this article shall not apply to:

24 1. a practitioner authorized to issue a certification who acted in  
25 good faith in the lawful course of his or her profession; or

26 2. a registered organization as that term is defined in [~~subdivision~~  
27 ~~nine of section thirty-three hundred sixty of the public health law~~]  
28 section thirty-four of the cannabis law who acted in good faith in the  
29 lawful course of the practice of pharmacy; or

30 3. a person who acted in good faith seeking treatment for a medical  
31 condition or assisting another person to obtain treatment for a medical  
32 condition.

33 § 179.10 Criminal diversion of medical [~~marihuana~~] cannabis in the first  
34 degree.

35 A person is guilty of criminal diversion of medical [~~marihuana~~] canna-  
36 bis in the first degree when he or she is a practitioner, as that term  
37 is defined in [~~subdivision twelve of section thirty-three hundred sixty~~  
38 ~~of the public health law~~] section three of the cannabis law, who issues  
39 a certification with knowledge of reasonable grounds to know that (i)  
40 the recipient has no medical need for it, or (ii) it is for a purpose  
41 other than to treat a serious condition as defined in [~~subdivision seven~~  
42 ~~of section thirty-three hundred sixty of the public health law~~] section  
43 three of the cannabis law.

44 Criminal diversion of medical [~~marihuana~~] cannabis in the first degree  
45 is a class E felony.

46 § 179.11 Criminal diversion of medical [~~marihuana~~] cannabis in the  
47 second degree.

48 A person is guilty of criminal diversion of medical [~~marihuana~~] canna-  
49 bis in the second degree when he or she sells, trades, delivers, or  
50 otherwise provides medical [~~marihuana~~] cannabis to another with know-  
51 ledge or reasonable grounds to know that the recipient is not registered  
52 under [~~title five A of article thirty-three of the public health law~~]  
53 article three of the cannabis law.

54 Criminal diversion of medical [~~marihuana~~] cannabis in the second  
55 degree is a class B misdemeanor.

56 § 179.15 Criminal retention of medical [~~marihuana~~] cannabis.

1 A person is guilty of criminal retention of medical [~~marihuana~~] canna-  
2 bis when, being a certified patient or designated caregiver, as those  
3 terms are defined in [~~subdivisions three and five of section thirty-~~  
4 ~~three hundred sixty of the public health law, respectively~~] section  
5 three of the cannabis law, he or she knowingly obtains, possesses,  
6 stores or maintains an amount of [~~marihuana~~] cannabis in excess of the  
7 amount he or she is authorized to possess under the provisions of [~~title~~  
8 ~~five-A of article thirty-three of the public health law~~] article three  
9 of the cannabis law.

10 Criminal retention of medical [~~marihuana~~] cannabis is a class A misde-  
11 meanor.

12 § 56. Section 220.78 of the penal law, as added by chapter 154 of the  
13 laws of 2011, is amended to read as follows:

14 § 220.78 Witness or victim of drug or alcohol overdose.

15 1. A person who, in good faith, seeks health care for someone who is  
16 experiencing a drug or alcohol overdose or other life threatening  
17 medical emergency shall not be charged or prosecuted for a controlled  
18 substance offense under article two hundred twenty or a [~~marihuana~~]  
19 cannabis offense under article two hundred twenty-one of this title,  
20 other than an offense involving sale for consideration or other benefit  
21 or gain, or charged or prosecuted for possession of alcohol by a person  
22 under age twenty-one years under section sixty-five-c of the alcoholic  
23 beverage control law, or for possession of drug paraphernalia under  
24 article thirty-nine of the general business law, with respect to any  
25 controlled substance, [~~marihuana~~] cannabis, alcohol or paraphernalia  
26 that was obtained as a result of such seeking or receiving of health  
27 care.

28 2. A person who is experiencing a drug or alcohol overdose or other  
29 life threatening medical emergency and, in good faith, seeks health care  
30 for himself or herself or is the subject of such a good faith request  
31 for health care, shall not be charged or prosecuted for a controlled  
32 substance offense under this article or a [~~marihuana~~] cannabis offense  
33 under article two hundred twenty-one of this title, other than an  
34 offense involving sale for consideration or other benefit or gain, or  
35 charged or prosecuted for possession of alcohol by a person under age  
36 twenty-one years under section sixty-five-c of the alcoholic beverage  
37 control law, or for possession of drug paraphernalia under article thir-  
38 ty-nine of the general business law, with respect to any substance,  
39 [~~marihuana~~] cannabis, alcohol or paraphernalia that was obtained as a  
40 result of such seeking or receiving of health care.

41 3. Definitions. As used in this section the following terms shall have  
42 the following meanings:

43 (a) "Drug or alcohol overdose" or "overdose" means an acute condition  
44 including, but not limited to, physical illness, coma, mania, hysteria  
45 or death, which is the result of consumption or use of a controlled  
46 substance or alcohol and relates to an adverse reaction to or the quan-  
47 tity of the controlled substance or alcohol or a substance with which  
48 the controlled substance or alcohol was combined; provided that a  
49 patient's condition shall be deemed to be a drug or alcohol overdose if  
50 a prudent layperson, possessing an average knowledge of medicine and  
51 health, could reasonably believe that the condition is in fact a drug or  
52 alcohol overdose and (except as to death) requires health care.

53 (b) "Health care" means the professional services provided to a person  
54 experiencing a drug or alcohol overdose by a health care professional  
55 licensed, registered or certified under title eight of the education law  
56 or article thirty of the public health law who, acting within his or her



1 lawful scope of practice, may provide diagnosis, treatment or emergency  
2 services for a person experiencing a drug or alcohol overdose.

3 4. It shall be an affirmative defense to a criminal sale controlled  
4 substance offense under this article or a criminal sale of [marihuana]  
5 cannabis offense under article two hundred twenty-one of this title, not  
6 covered by subdivision one or two of this section, with respect to any  
7 controlled substance or [marihuana] cannabis which was obtained as a  
8 result of such seeking or receiving of health care, that:

9 (a) the defendant, in good faith, seeks health care for someone or for  
10 him or herself who is experiencing a drug or alcohol overdose or other  
11 life threatening medical emergency; and

12 (b) the defendant has no prior conviction for the commission or  
13 attempted commission of a class A-I, A-II or B felony under this arti-  
14 cle.

15 5. Nothing in this section shall be construed to bar the admissibility  
16 of any evidence in connection with the investigation and prosecution of  
17 a crime with regard to another defendant who does not independently  
18 qualify for the bar to prosecution or for the affirmative defense; nor  
19 with regard to other crimes committed by a person who otherwise quali-  
20 fies under this section; nor shall anything in this section be construed  
21 to bar any seizure pursuant to law, including but not limited to pursu-  
22 ant to section thirty-three hundred eighty-seven of the public health  
23 law.

24 6. The bar to prosecution described in subdivisions one and two of  
25 this section shall not apply to the prosecution of a class A-I felony  
26 under this article, and the affirmative defense described in subdivision  
27 four of this section shall not apply to the prosecution of a class A-I  
28 or A-II felony under this article.

29 § 57. Subdivision 1 of section 260.20 of the penal law, as amended by  
30 chapter 362 of the laws of 1992, is amended as follows:

31 1. He knowingly permits a child less than eighteen years old to enter  
32 or remain in or upon a place, premises or establishment where sexual  
33 activity as defined by article one hundred thirty, two hundred thirty or  
34 two hundred sixty-three of this [chapter] part or activity involving  
35 controlled substances as defined by article two hundred twenty of this  
36 ~~[chapter or involving marihuana as defined by article two hundred twen-~~  
37 ~~ty one of this chapter]~~ part is maintained or conducted, and he knows or  
38 has reason to know that such activity is being maintained or conducted;  
39 or

40 § 58. Section 89-h of the state finance law, as added by chapter 90 of  
41 the laws of 2014, is amended to read as follows:

42 § 89-h. Medical [marihuana] cannabis trust fund. 1. There is hereby  
43 established in the joint custody of the state comptroller and the  
44 commissioner of taxation and finance a special fund to be known as the  
45 "medical [marihuana] cannabis trust fund."

46 2. The medical [marihuana] cannabis trust fund shall consist of all  
47 moneys required to be deposited in the medical [marihuana] cannabis  
48 trust fund pursuant to the provisions of section four hundred ninety of  
49 the tax law.

50 3. The moneys in the medical [marihuana] cannabis trust fund shall be  
51 kept separate and shall not be commingled with any other moneys in the  
52 custody of the commissioner of taxation and finance and the state comp-  
53 troller.

54 4. The moneys of the medical [marihuana] cannabis trust fund, follow-  
55 ing appropriation by the legislature, shall be allocated upon a certifi-  
56 cate of approval of availability by the director of the budget as

1 follows: (a) Twenty-two and five-tenths percent of the monies shall be  
2 transferred to the counties in New York state in which the medical  
3 [~~marihuana~~] cannabis was manufactured and allocated in proportion to the  
4 gross sales originating from medical [~~marihuana~~] cannabis manufactured  
5 in each such county; (b) twenty-two and five-tenths percent of the  
6 moneys shall be transferred to the counties in New York state in which  
7 the medical [~~marihuana~~] cannabis was dispensed and allocated in propor-  
8 tion to the gross sales occurring in each such county; (c) five percent  
9 of the monies shall be transferred to the office of alcoholism and  
10 substance abuse services, which shall use that revenue for additional  
11 drug abuse prevention, counseling and treatment services; and (d) five  
12 percent of the revenue received by the department shall be transferred  
13 to the division of criminal justice services, which shall use that  
14 revenue for a program of discretionary grants to state and local law  
15 enforcement agencies that demonstrate a need relating to [~~title five-A~~  
16 ~~of article thirty-three of the public health law~~] article three of the  
17 cannabis law; said grants could be used for personnel costs of state and  
18 local law enforcement agencies. For purposes of this subdivision, the  
19 city of New York shall be deemed to be a county.

20 § 59. Intentionally omitted.

21 § 60. The state finance law is amended by adding a new section 99-ff  
22 to read as follows:

23 § 99-ff. New York state cannabis revenue fund. 1. There is hereby  
24 established in the joint custody of the state comptroller and the  
25 commissioner of taxation and finance a special fund to be known as the  
26 "New York state cannabis revenue fund" (the "fund").

27 2. Monies in the fund shall be kept separate from and shall not be  
28 commingled with any other monies in the custody of the comptroller or  
29 the commissioner of taxation and finance. Provided, however that any  
30 monies of the fund not required for immediate use may, at the discretion  
31 of the comptroller, in consultation with the director of the budget, be  
32 invested by the comptroller in obligations of the United States or the  
33 state. The proceeds of any such investment shall be retained by the fund  
34 as assets to be used for purposes of the fund.

35 3. Except as set forth in subdivisions two and four of this section,  
36 monies from the fund shall not be used to make payments for any purpose  
37 other than the purposes set forth in subdivisions two and four of this  
38 section.

39 4. The "New York state cannabis revenue fund" shall consist of monies  
40 received by the commissioner of taxation and finance pursuant to subdi-  
41 visions (a) and (b) of section four hundred ninety-three of the tax law  
42 and all other monies credited or transferred thereto from any other fund  
43 or source. Monies of such fund shall be expended for the following  
44 purposes: administration of the regulated cannabis program, data gather-  
45 ing, monitoring and reporting, the governor's traffic safety committee,  
46 small business development and loans, substance abuse, harm reduction  
47 and mental health treatment and prevention, public health education and  
48 intervention, research on cannabis uses and applications, program evalu-  
49 ation and improvements, and any other identified purpose recommended by  
50 the executive director of the office of cannabis management and approved  
51 by the director of the budget.

52 § 61. Subdivision 2 of section 3371 of the public health law, as  
53 amended by chapter 90 of the laws of 2014, is amended to read as  
54 follows:

55 2. The prescription monitoring program registry may be accessed, under  
56 such terms and conditions as are established by the department for



1 purposes of maintaining the security and confidentiality of the informa-  
2 tion contained in the registry, by:

3 (a) a practitioner, or a designee authorized by such practitioner  
4 pursuant to paragraph (b) of subdivision two of section thirty-three  
5 hundred forty-three-a or section thirty-three hundred sixty-one of this  
6 article, for the purposes of: (i) informing the practitioner that a  
7 patient may be under treatment with a controlled substance by another  
8 practitioner; (ii) providing the practitioner with notifications of  
9 controlled substance activity as deemed relevant by the department,  
10 including but not limited to a notification made available on a monthly  
11 or other periodic basis through the registry of controlled substances  
12 activity pertaining to his or her patient; (iii) allowing the practi-  
13 tioner, through consultation of the prescription monitoring program  
14 registry, to review his or her patient's controlled substances history  
15 as required by section thirty-three hundred forty-three-a [~~or section~~  
16 ~~thirty-three hundred sixty-one~~] of this article; and (iv) providing to  
17 his or her patient, or person authorized pursuant to paragraph (j) of  
18 subdivision one of this section, upon request, a copy of such patient's  
19 controlled substance history as is available to the practitioner through  
20 the prescription monitoring program registry; or

21 (b) a pharmacist, pharmacy intern or other designee authorized by the  
22 pharmacist pursuant to paragraph (b) of subdivision three of section  
23 thirty-three hundred forty-three-a of this article, for the purposes of:  
24 (i) consulting the prescription monitoring program registry to review  
25 the controlled substances history of an individual for whom one or more  
26 prescriptions for controlled substances or certifications for marihuana  
27 is presented to the pharmacist, pursuant to section thirty-three hundred  
28 forty-three-a of this article; and (ii) receiving from the department  
29 such notifications of controlled substance activity as are made avail-  
30 able by the department; or

31 (c) an individual employed by a registered organization for the  
32 purpose of consulting the prescription monitoring program registry to  
33 review the controlled substances history of an individual for whom one  
34 or more certifications for [~~marihuana~~ cannabis] is presented to that  
35 registered organization[~~, pursuant to section thirty-three hundred~~  
36 ~~sixty-four of this article~~]. Unless otherwise authorized by this arti-  
37 cle, an individual employed by a registered organization will be  
38 provided access to the prescription monitoring program in the sole  
39 discretion of the commissioner.

40 § 62. Subdivision 3 of section 853 of the general business law, as  
41 added by chapter 90 of the laws of 2014, is amended to read as follows:

42 3. This article shall not apply to any sale, furnishing or possession  
43 which is for a lawful purpose under [~~title five-A of article thirty-~~  
44 ~~three of the public health law~~] the cannabis law.

45 § 63. Subdivision 5 of section 410.91 of the criminal procedure law,  
46 as amended by chapter 90 of the laws of 2014, is amended to read as  
47 follows:

48 5. For the purposes of this section, a "specified offense" is an  
49 offense defined by any of the following provisions of the penal law:  
50 burglary in the third degree as defined in section 140.20, criminal  
51 mischief in the third degree as defined in section 145.05, criminal  
52 mischief in the second degree as defined in section 145.10, grand larceny  
53 in the fourth degree as defined in subdivision one, two, three, four,  
54 five, six, eight, nine or ten of section 155.30, grand larceny in the  
55 third degree as defined in section 155.35 (except where the property  
56 consists of one or more firearms, rifles or shotguns), unauthorized use

1 of a vehicle in the second degree as defined in section 165.06, criminal  
2 possession of stolen property in the fourth degree as defined in subdi-  
3 vision one, two, three, five or six of section 165.45, criminal  
4 possession of stolen property in the third degree as defined in section  
5 165.50 (except where the property consists of one or more firearms,  
6 rifles or shotguns), forgery in the second degree as defined in section  
7 170.10, criminal possession of a forged instrument in the second degree  
8 as defined in section 170.25, unlawfully using slugs in the first degree  
9 as defined in section 170.60, criminal diversion of medical [~~marihuana~~  
10 ~~cannabis~~ in the first degree as defined in section 179.10 or an attempt  
11 to commit any of the aforementioned offenses if such attempt constitutes  
12 a felony offense; or a class B felony offense defined in article two  
13 hundred twenty where a sentence is imposed pursuant to paragraph (a) of  
14 subdivision two of section 70.70 of the penal law; or any class C, class  
15 D or class E controlled substance [~~or marihuana~~ ~~cannabis~~ felony offense  
16 as defined in article two hundred twenty or two hundred twenty-one.

17 § 63-a. Subdivision 5 of section 410.91 of the criminal procedure law,  
18 as amended by section 8 of part AAA of chapter 56 of the laws of 2009,  
19 is amended to read as follows:

20 5. For the purposes of this section, a "specified offense" is an  
21 offense defined by any of the following provisions of the penal law:  
22 burglary in the third degree as defined in section 140.20, criminal  
23 mischief in the third degree as defined in section 145.05, criminal  
24 mischief in the second degree as defined in section 145.10, grand larceny  
25 in the fourth degree as defined in subdivision one, two, three, four,  
26 five, six, eight, nine or ten of section 155.30, grand larceny in the  
27 third degree as defined in section 155.35 (except where the property  
28 consists of one or more firearms, rifles or shotguns), unauthorized use  
29 of a vehicle in the second degree as defined in section 165.06, criminal  
30 possession of stolen property in the fourth degree as defined in subdi-  
31 vision one, two, three, five or six of section 165.45, criminal  
32 possession of stolen property in the third degree as defined in section  
33 165.50 (except where the property consists of one or more firearms,  
34 rifles or shotguns), forgery in the second degree as defined in section  
35 170.10, criminal possession of a forged instrument in the second degree  
36 as defined in section 170.25, unlawfully using slugs in the first degree  
37 as defined in section 170.60, or an attempt to commit any of the afore-  
38 mentioned offenses if such attempt constitutes a felony offense; or a  
39 class B felony offense defined in article two hundred twenty where a  
40 sentence is imposed pursuant to paragraph (a) of subdivision two of  
41 section 70.70 of the penal law; or any class C, class D or class E  
42 controlled substance or [~~marihuana~~ ~~cannabis~~ felony offense as defined  
43 in article two hundred twenty or two hundred twenty-one.

44 § 64. This act shall take effect immediately; provided, however that  
45 sections thirty-seven and thirty-eight of this act shall take effect on  
46 April 1, 2020, and shall apply on and after such date: (a) to the culti-  
47 vation of cannabis flower and cannabis trim transferred by a cultivator  
48 who is not a wholesaler; (b) to the cultivation of cannabis flower and  
49 cannabis trim sold or transferred to a retail dispensary by a cultivator  
50 who is a wholesaler; and (c) to the sale or transfer of adult use canna-  
51 bis products to a retail dispensary; provided, further, that the amend-  
52 ments to article 179 of the penal law made by section fifty-five of this  
53 act shall not affect the repeal of such article and shall be deemed to  
54 be repealed therewith; provided further, that the amendments to section  
55 89-h of the state finance law made by section fifty-eight of this act  
56 shall not affect the repeal of such section and shall be deemed repealed

therewith; provided further, that the amendments to section 221.00 of the penal law made by section fifteen of this act shall be subject to the expiration of such section when upon such date the provisions of section fifteen-a of this act shall take effect; provided, however, that the amendments to subdivision 2 of section 3371 of the public health law made by section sixty-one of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith; provided further, that the amendments to subdivision 3 of section 853 of the general business law made by section sixty-two of this act shall not affect the repeal of such subdivision and shall be deemed to be repealed therewith; and provided further, that the amendments to subdivision 5 of section 410.91 of the penal law made by section sixty-three of this act shall be subject to the expiration and reversion of such subdivision when upon such date the provisions of section sixty-three-a of this act shall take effect.

## PART WW

Section 1. Section 1166-a of the tax law, as added by section 1 of part F of chapter 25 of the laws of 2009, is amended to read as follows:

§ 1166-a. Special supplemental tax on passenger car rentals within the metropolitan commuter transportation district. (a) In addition to the tax imposed under section eleven hundred sixty of this article and in addition to any tax imposed under any other article of this chapter, there is hereby imposed and there shall be paid a tax at the rate of five percent upon the receipts from every rental of a passenger car which is a retail sale of such passenger car within the metropolitan commuter transportation district as defined in ~~[subdivision]~~ subsection (a) of section eight hundred of this chapter.

(b) Except to the extent that a passenger car rental described in subdivision (a) of this section, or section eleven hundred sixty-six-b of this article, has already been or will be subject to the tax imposed under such subdivision or section and except as otherwise exempted under this article, there is hereby imposed on every person and there shall be paid a use tax for the use within the metropolitan commuter transportation district as defined in ~~[subdivision]~~ subsection (a) of section eight hundred of this chapter; of any passenger car rented by the user ~~[which]~~ that is a purchase at retail of such passenger car, but not including any lease of a passenger car to which subdivision (i) of section eleven hundred eleven of this chapter applies. For purposes of this ~~[paragraph]~~ subsection, the tax shall be at the rate of five percent of the consideration given or contracted to be given for such property, or for the use of such property, including any charges for shipping or delivery as described in paragraph three of subdivision (b) of section eleven hundred one of this chapter, but excluding any credit for tangible personal property accepted in part payment and intended for resale.

§ 2. The tax law is amended by adding a new section 1166-b to read as follows:

§ 1166-b. Special supplemental tax on passenger car rentals outside of the metropolitan commuter transportation district. (a) In addition to the tax imposed under section eleven hundred sixty of this article and in addition to any tax imposed under any other article of this chapter, there is hereby imposed and there shall be paid a tax at the rate of five percent upon the receipts from every rental of a passenger car that is not subject to the tax described in section eleven hundred

1 sixty-six-a of this article, but which is a retail sale of such passen-  
2 ger car within the state.

3 (b) Except to the extent that a passenger car rental described in  
4 subdivision (a) of this section or in section eleven hundred  
5 sixty-six-a of this article, has already been subject to the tax imposed  
6 under such subdivision or section, and except as otherwise exempted  
7 under this article, there is hereby imposed on every person and there  
8 shall be paid a use tax for the use within the state of any passenger  
9 car rented by the user that is a purchase at retail of such passenger  
10 car, but not including any lease of a passenger car to which subdivision  
11 (i) of section eleven hundred eleven of this chapter applies. For  
12 purposes of this subdivision, the tax shall be at the rate of five  
13 percent of the consideration given or contracted to be given for such  
14 property, or for the use of such property, including any charges for  
15 shipping or delivery as described in paragraph three of subdivision (b)  
16 of section eleven hundred one of this chapter, but excluding any credit  
17 for tangible personal property accepted in part payment and intended for  
18 resale.

19 § 3. Section 1167 of the tax law, as amended by section 3 of part F of  
20 chapter 25 of the laws of 2009, is amended to read as follows:

21 § 1167. Deposit and disposition of revenue. All taxes, interest and  
22 penalties collected or received by the commissioner under this article  
23 shall be deposited and disposed of pursuant to the provisions of section  
24 one hundred seventy-one-a of this chapter, except that after reserving  
25 amounts in accordance with such section one hundred seventy-one-a of  
26 this chapter, the remainder shall be paid by the comptroller to the  
27 credit of the highway and bridge trust fund established by section  
28 eighty-nine-b of the state finance law, provided, however[✗]: (a) taxes,  
29 interest and penalties collected or received pursuant to section eleven  
30 hundred sixty-six-a of this article shall be paid to the credit of the  
31 metropolitan transportation authority aid trust account of the metropol-  
32 itan transportation authority financial assistance fund established by  
33 section ninety-two-ff of the state finance law; and (b) taxes, interest  
34 and penalties collected or received pursuant to section eleven hundred  
35 sixty-six-b of this article shall be paid to the credit of the public  
36 transportation systems operating assistance account established by  
37 section eighty-eight-a of the state finance law.

38 § 4. This act shall take effect September 1, 2019, and shall apply to  
39 rentals of passenger cars commencing on and after such date whether or  
40 not under a prior contract; provided, however where such passenger car  
41 rentals are billed on a monthly, quarterly or other period basis, the  
42 tax imposed by this act shall apply to the rental for such period if  
43 more than half of the days included in such period are days subsequent  
44 to such effective date.

45 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-  
46 sion, section or part of this act shall be adjudged by any court of  
47 competent jurisdiction to be invalid, such judgment shall not affect,  
48 impair, or invalidate the remainder thereof, but shall be confined in  
49 its operation to the clause, sentence, paragraph, subdivision, section  
50 or part thereof directly involved in the controversy in which such judg-  
51 ment shall have been rendered. It is hereby declared to be the intent of  
52 the legislature that this act would have been enacted even if such  
53 invalid provisions had not been included herein.

54 § 3. This act shall take effect immediately provided, however, that  
55 the applicable effective date of Parts A through WW of this act shall be  
56 as specifically set forth in the last section of such Parts.