STATE OF NEW YORK

S. 7509 A. 9509

SENATE - ASSEMBLY

January 22, 2020

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 59 of the laws of 2017, amending the tax law, relating to the financial institution data match system for state tax collection purposes, in relation to making such provisions permanent; and to amend part Q of chapter 59 of the laws of 2013, amending the tax law relating to serving an income execution with respect to individual tax debtors without filing a warrant, in relation to making such provisions permanent (Part A); to amend the tax law, in relation to extending hire a veteran credit for an additional two years (Part B); to amend chapter 540 of the laws of 1992, amending the real property tax law relating to oil and gas charges, in relation to the effectiveness thereof (Part C); to amend the tax law, in relation to reducing the burden on small businesses (Part D); to amend the tax law, in relation to capping the maximum amount of the long-term care insurance credit (Part E); to amend the tax law and the administrative code of the city of New York, in relation to allowing the department of taxation and finance to provide taxpayers with unclaimed tax benefits relating to the earned income credit and deductions (Part F); to amend the tax law, in relation to the definition of a qualifying child for purposes of the empire state child credit (Part G); to amend the tax law, in relation to reforming the tobacco products tax (Part H); to amend the alcoholic beverage control law and the tax law, in relation to the suspension and revocation of certain licenses and certificates issued under such laws (Part I); to amend the tax law, in relation to the tax imposed on alcoholic beverages and the annual reporting requirements imposed on alcoholic beverage producers (Part J); to amend the tax law, in relation to updating the criminal tax fraud statutes and to establish the offenses of criminal tax preparation in the second degree and criminal tax preparation in the first degree (Part K); to amend the economic development law and the tax law, in relation to the excelsior jobs program and certain

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

LBD12674-04-0

incentives for green projects within such program (Part L); to amend the tax law, in relation to the empire state film production credit and the empire state film post production credit (Part M); to amend the real property tax law, in relation to converted condominiums (Part N); to amend the tax law, in relation to state support for the local enforcement of past-due property taxes (Part O); to amend the real property tax law, in relation to providing for the appointment of an acting director of real property tax services in the event the position becomes vacant (Part P); to amend the real property law and tax law, in relation to the electronic submission of consolidated real property transfer forms; and to repeal paragraphs vii and viii of subdivision 1-e of section 333 of the real property law relating thereto (Part Q); to amend the public lands law, the real property law, and the real property tax law, in relation to the functions of the state board of real property tax services; and to repeal certain provisions of the real property tax law related thereto (Part R); to repeal certain provisions of the real property tax law and the tax law, in relation to removing references to the former STAR offset program (Part S); to amend the real property tax law, in relation to assessment ceilings for railroads and local public utility mass real property; and to repeal section 3 of chapter 475 of the laws of 2013 amending the real property tax law relating to assessment ceilings for local public utility mass real property (Part T); to amend the real property tax law, in relation to extending the period for enrollment in the STAR income verification program (Part U); to amend the racing, pari-mutuel wagering and breeding law and the tax law, in relation to financing and constructing a new equine drug testing laboratory (Part V); to amend the racing, pari-mutuel wagering and breeding law, in relation to enacting the interstate compact on anti-doping and drug testing standards (Part W); to amend the racing, pari-mutuel wagering and breeding law, in relation to restrictions on sports wagering lounges in casinos (Part X); to amend the tax law, in relation to a keno style lottery game (Part Y); 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 Z); to amend the real property tax law, in relation to the income limit for the basic STAR exemption (Part AA); and 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 of taxes on cannabis; to amend the criminal procedure law, the civil practice law and rules, the general business law, the alcoholic beverage control law, the general obligations law, the social services law, the state finance law, the penal law and the vehicle and traffic law, in relation to making conforming changes; 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 title 5-A of article 33 of the public health law relating to medical use of marihuana; to repeal article 29-A of the agriculture and markets law relating to the regulation of hemp extract; to repeal subdivision 4 of section 220.06 and subdivision 10 of section 220.09 of the penal law relating to criminal possession of a controlled substance; to repeal sections 221.10 and 221.30 of the penal law relating to the criminal possession of marihuana; and to repeal paragraph (f) of subdivision 2 of section 850 of the general business law relating to drug related paraphernalia (Part BB)

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

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2020-2021 state fiscal year. Each component is wholly contained within a Part identified as Parts A through BB. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, 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 Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. Section 2 of part U of chapter 59 of the laws of 2017, amending the tax law, relating to the financial institution data match system for state tax collection purposes, is amended to read as follows:

§ 2. This act shall take effect immediately [~~and shall expire April 1, 2020 when upon such date the provisions of this act shall be deemed repealed~~].

§ 2. Section 2 of part Q of chapter 59 of the laws of 2013, amending the tax law, relating to serving an income execution with respect to individual tax debtors without filing a warrant, as amended by section 1 of part X of chapter 59 of the laws of 2017, is amended to read as follows:

§ 2. This act shall take effect immediately [~~and shall expire and be deemed repealed on and after April 1, 2020~~].

§ 3. This act shall take effect immediately.

PART B

Section 1. Paragraph (a) and subparagraph 2 of paragraph (b) of subdivision 29 of section 210-B of the tax law, as amended by section 1 of part Q of chapter 59 of the laws of 2018, are amended to read as follows:

(a) Allowance of credit. For taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand [~~twenty-one~~] **twenty-three**, a taxpayer shall be allowed a credit, to be computed as provided in this subdivision, against the tax imposed by this article, for hiring and employing, for not less than one year and for not less than thirty-five hours each week, a qualified veteran within the state. The taxpayer may claim the credit in the year in which the qualified veteran completes one year of employment by the taxpayer. If the taxpayer claims the credit allowed under this subdivision, the taxpayer may not use the hiring of a qualified veteran that is the basis for this credit in the basis of any other credit allowed under this article.

(2) who commences employment by the qualified taxpayer on or after January first, two thousand fourteen, and before January first, two thousand [~~twenty~~] **twenty-two**; and

§ 2. Paragraph 1 and subparagraph (B) of paragraph 2 of subsection (a-2) of section 606 of the tax law, as amended by section 2 of part Q of chapter 59 of the laws of 2018, are amended to read as follows:

(1) Allowance of credit. For taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand [~~twenty-one~~] **twenty-three**, a taxpayer shall be allowed a credit, to be computed as provided in this subsection, against the tax imposed by this article, for hiring and employing, for not less than one year and for not less than thirty-five hours each week, a qualified veteran within the state. The taxpayer may claim the credit in the year in which the qualified veteran completes one year of employment by the taxpayer. If the taxpayer claims the credit allowed under this subsection, the taxpayer may not use the hiring of a qualified veteran that is the basis for this credit in the basis of any other credit allowed under this article.

(B) who commences employment by the qualified taxpayer on or after January first, two thousand fourteen, and before January first, two thousand [~~twenty~~] **twenty-two**; and

§ 3. Paragraph 1 and subparagraph (B) of paragraph 2 of subdivision (g-1) of section 1511 of the tax law, as amended by section 3 of part Q of chapter 59 of the laws of 2018, are amended to read as follows:

(1) Allowance of credit. For taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand [~~twenty-one~~] **twenty-three**, a taxpayer shall be allowed a credit, to be computed as provided in this subdivision, against the tax imposed by this article, for hiring and employing, for not less than one year and for not less than thirty-five hours each week, a qualified veteran within the state. The taxpayer may claim the credit in the year in which the qualified veteran completes one year of employment by the taxpayer. If the taxpayer claims the credit allowed under this subdivision, the taxpayer may not use the hiring of a qualified veteran that is the basis for this credit in the basis of any other credit allowed under this article.

(B) who commences employment by the qualified taxpayer on or after January first, two thousand fourteen, and before January first, two thousand [~~twenty~~] **twenty-two**; and

§ 4. This act shall take effect immediately.

PART C

Section 1. Section 2 of chapter 540 of the laws of 1992, amending the real property tax law relating to oil and gas charges, as amended by section 1 of part I of chapter 59 of the laws of 2017, is amended to read as follows:

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 1992; provided, however that any charges imposed by section 593 of the real property tax law as added by section one of this act shall first be due for values for assessment rolls with tentative completion dates after July 1, 1992, and provided further, that this act shall remain in full force and effect until March 31, [~~2021~~] **2024**, at which time section 593 of the real property tax law as added by section one of this act shall be repealed.

§ 2. This act shall take effect immediately.

PART D

Section 1. Subparagraph (iv) of paragraph (a) of subdivision 1 of section 210 of the tax law, as amended by section 12 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(iv) for taxable years beginning before January first, two thousand sixteen, if the business income base is not more than two hundred ninety thousand dollars the amount shall be six and one-half percent of the business income base; if the business income base is more than two hundred ninety thousand dollars but not over three hundred ninety thousand dollars the amount shall be the sum of (1) eighteen thousand eight hundred fifty dollars, (2) seven and one-tenth percent of the excess of the business income base over two hundred ninety thousand dollars but not over three hundred ninety thousand dollars and (3) four and thirty-five hundredths percent of the excess of the business income base over three hundred fifty thousand dollars but not over three hundred ninety thousand dollars**. For taxable years beginning on or after January first, two thousand twenty-one the amount shall be four percent of the taxpayer's business income base**;

§ 2. Paragraph (d) of subdivision 1 of section 210-B of the tax law, as amended by section 31 of part T of chapter 59 of the laws of 2015, is amended to read as follows:

(d) Except as otherwise provided in this paragraph, the credit allowed under this subdivision for any taxable year shall not reduce the tax due for such year to less than the fixed dollar minimum amount prescribed in paragraph (d) of subdivision one of section two hundred ten of this article. However, if the amount of credit allowable 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 allowed for a taxable year commencing prior to January first, nineteen hundred eighty-seven and not deductible in such taxable year may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years but in no event shall such credit be carried over to taxable years commencing on or after January first, two thousand two, and any amount of credit allowed for a taxable year commencing on or after January first, nineteen hundred eighty-seven and not deductible in such year may be carried over to the fifteen taxable years next following such taxable year and may be deducted from the taxpayer's tax for such year or years. In lieu of such carryover, any such taxpayer which qualifies as a new business under paragraph (f) of this subdivision **or a taxpayer that qualifies as an eligible farmer for purposes of paragraph (b) of subdivision eleven of this section** may elect to treat the amount of such carryover as an overpayment of tax to be credited or refunded in accordance with the provisions of section ten hundred eighty-six of this chapter, provided, however, the provisions of subsection (c) of section ten hundred eighty-eight of this chapter notwithstanding, no interest shall be paid thereon.

§ 3. Paragraph 5 of subsection (a) of section 606 of the tax law, as amended by chapter 170 of the laws of 1994, is amended to read as follows:

(5) If the amount of credit allowable under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess allowed for a taxable year commencing prior to January first, nineteen hundred eighty-seven may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years, but in no event shall such credit be carried over to taxable years commencing on or after January first, nineteen hundred ninety-seven, and any amount of credit allowed for a taxable year commencing on or after January first, nineteen hundred eighty-seven and not deductible in such year may be carried over to the ten taxable years next following such taxable year and may be deducted from the taxpayer's tax for such year or years. In lieu of carrying over any such excess, a taxpayer who qualifies as an owner of a new business for purposes of paragraph ten of this subsection **or a taxpayer who qualifies as an eligible farmer for purposes of paragraph two of subsection (n) of this section** may, at his option, receive such excess as a refund. Any refund paid pursuant to this paragraph shall be deemed to be a refund of an overpayment of tax as provided in section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

§ 4. Paragraph 39 of subsection (c) of section 612 of the tax law, as added by section 1 of part Y of chapter 59 of the laws of 2013, is amended to read as follows:

(39) In the case of a taxpayer who is a small business who has business income and/or farm income as defined in the laws of the United States, an amount equal to three percent of the net items of income, gain, loss and deduction attributable to such business or farm entering into federal adjusted gross income, but not less than zero, for taxable years beginning after two thousand thirteen, an amount equal to three and three-quarters percent of the net items of income, gain, loss and deduction attributable to such business or farm entering into federal adjusted gross income, but not less than zero, for taxable years beginning after two thousand fourteen, [~~and~~] an amount equal to five percent of the net items of income, gain, loss and deduction attributable to such business or farm entering into federal adjusted gross income, but not less than zero, for taxable years beginning after two thousand fifteen**, and an amount equal to fifteen percent of the net items of income, gain, loss and deduction attributable to such business or farm entering into federal adjusted gross income, but not less than zero, for taxable years beginning after two thousand twenty**. For the purposes of this paragraph, the term small business shall mean a sole proprietor or a farm business who employs one or more persons during the taxable year and who has net business income or net farm income of less than two hundred fifty thousand dollars.

§ 5. Paragraph 1 of subsection (c) of section 1085 of the tax law, as amended by section 4 of part KK of chapter 59 of the laws of 2018, is amended to read as follows:

(1) If any taxpayer**, except a New York S corporation as defined in subdivision one-A of section two hundred eight of this chapter,** fails to file a declaration of estimated tax under article nine-A of this chapter, or fails to pay all or any part of an amount which is applied as an installment against such estimated tax, it shall be deemed to have made an underpayment of estimated tax. There shall be added to the tax for the taxable year an amount at the underpayment rate set by the commissioner pursuant to section one thousand ninety-six of this article, or if no rate is set, at the rate of seven and one-half percent per annum upon the amount of the underpayment for the period of the underpayment but not beyond the fifteenth day of the fourth month following the close of the taxable year. Provided, however, that, for taxable years beginning on or after January first, two thousand seventeen and before January first, two thousand eighteen, no amount shall be added to the tax with respect to the portion of such tax related to the amount of any interest deductions directly or indirectly attributable to the amount included in exempt CFC income pursuant to subparagraph (ii) of paragraph (b) of subdivision six-a of section two hundred eight of this chapter or the forty percent reduction of such exempt CFC income in lieu of interest attribution if the election described in paragraph (b) of subdivision six-a of such section is made. The amount of the underpayment shall be, with respect to any installment of estimated tax computed on the basis of either the preceding year's tax or the second preceding year's tax, the excess of the amount required to be paid over the amount, if any, paid on or before the last day prescribed for such payment or, with respect to any other installment of estimated tax, the excess of the amount of the installment which would be required to be paid if the estimated tax were equal to ninety-one percent of the tax shown on the return for the taxable year (or if no return was filed, ninety-one percent of the tax for such year) over the amount, if any, of the installment paid on or before the last day prescribed for such payment. In any case in which there would be no underpayment if "eighty percent" were substituted for "ninety-one percent" each place it appears in this subsection, the addition to the tax shall be equal to seventy-five percent of the amount otherwise determined. No underpayment shall be deemed to exist with respect to a declaration or installment otherwise due on or after the termination of existence of the taxpayer.

§ 6. This act shall take effect immediately; provided however that sections two and three of this act shall apply to property acquired by purchase on or after January 1, 2021, and section five of this act shall apply to taxable years beginning on or after January 1, 2020.

PART E

Section 1. Paragraph 1 of subsection (aa) of section 606 of the tax law, as amended by section 1 of part P of chapter 61 of the laws of 2005, is amended to read as follows:

(1) Residents. [~~A taxpayer~~] **There** shall be allowed a credit against the tax imposed by this article **in an amount** equal to twenty percent of the [~~premium~~] **premiums** paid during the taxable year for long-term care insurance. **The credit amount shall not exceed one thousand five hundred dollars and shall be allowed only if the amount of New York adjusted gross income required to be reported on the return is less than two**

hundred fifty thousand dollars. In order to qualify for such credit, the taxpayer's premium payment must be for the purchase of or for continuing coverage under a long-term care insurance policy that qualifies for such credit pursuant to section one thousand one hundred seventeen of the insurance law. If the amount of the credit allowable under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

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

PART F

Section 1. Paragraph 6 of subsection (d) of section 606 of the tax law, as amended by section 3 of part V of chapter 60 of the laws of 2004, is amended to read as follows:

(6) Notification. **(A)** The commissioner shall periodically, but not less than every three years, make efforts to alert taxpayers that may be currently eligible to receive the credit provided under this subsection, and the credit provided under any local law enacted pursuant to subsection (f) of section thirteen hundred ten of this chapter, as to their potential eligibility. In making the determination of whether a taxpayer may be eligible for such credit, the commissioner shall use such data as may be appropriate and available, including, but not limited to, data available from the United States Department of Treasury, Internal Revenue Service and New York state income tax returns for preceding tax years.

(B) If the department determines that the taxpayer is eligible to receive the credit provided under this subsection but has not claimed such credit on his or her return, the department, at its discretion, may compute the taxpayer's liability and allow the credit, and, if applicable, issue any refund for the allowable credit amount provided under this subsection. Any refund paid pursuant to this subparagraph shall be deemed to be a refund of an overpayment of tax as provided in section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

§ 2. Subsection (f) of section 1310 of the tax law is amended by adding a new paragraph 6 to read as follows:

(6) If the department determines that the taxpayer is eligible to receive the credit provided under this subsection but has not claimed such credit on his or her return, the department, at its discretion, may compute and issue any refund for the allowable credit amount provided under this subsection. Any refund paid pursuant to this paragraph shall be deemed to be a refund of an overpayment of tax as provided in section six hundred eighty-six of this chapter, provided, however, that no interest shall be paid thereon.

§ 3. Section 613 of the tax law, as added by chapter 563 of the laws of 1960, is amended to read as follows:

§ 613. New York deduction of a resident individual. The New York deduction of a resident individual shall be his New York standard deduction unless he elects to deduct his New York itemized deduction under the conditions set forth in section six hundred fifteen **of this article. If an individual taxpayer has elected to deduct his New York itemized deduction computed pursuant to section six hundred fifteen of this article, but the department determines that the New York standard deduction allowable pursuant to section six hundred fourteen of this**

article is greater, the department may recompute the taxpayer's tax liability pursuant to section six hundred eleven of this article using the New York standard deduction provided in section six hundred fourteen of this article. The department will notify the taxpayer of any adjustment to the election.

§ 4. Subdivision (d) of section 11-1706 of the administrative code of the city of New York is amended by adding a new paragraph 5 to read as follows:

(5) If the state commissioner of taxation and finance determines that the taxpayer is eligible to receive the credit provided under this subdivision but has not claimed such credit on his or her return, the state commissioner of taxation and finance, at his or her discretion, may compute and issue any refund for the allowable credit amount provided under this subdivision. Any refund paid pursuant to this paragraph shall be deemed to be a refund of an overpayment of tax as provided in section 11-1786 of this title, provided, however, that no interest shall be paid thereon.

§ 5. This act shall take effect immediately.

PART G

Section 1. Paragraph 1 of subsection (c-1) of section 606 of the tax law, as amended by section 1 of part P of chapter 59 of the laws of 2018, is amended to read as follows:

(1) A resident taxpayer shall be allowed a credit as provided herein equal to the greater of one hundred dollars times the number of qualifying children of the taxpayer or the applicable percentage of the child tax credit allowed the taxpayer under section twenty-four of the internal revenue code for the same taxable year for each qualifying child. Provided, however, in the case of a taxpayer whose federal adjusted gross income exceeds the applicable threshold amount set forth by section 24(b)(2) of the Internal Revenue Code, the credit shall only be equal to the applicable percentage of the child tax credit allowed the taxpayer under section 24 of the Internal Revenue Code for each qualifying child. For the purposes of this subsection, a qualifying child shall be a child who meets the definition of qualified child under section 24(c) of the internal revenue code and is at least four years of age. **Provided, however, in the case of a resident taxpayer with a New York state adjusted gross income of fifty thousand dollars or less, a qualifying child shall be a child who meets the definition of a qualifying child under section 24(c) of the Internal Revenue Code.** The applicable percentage shall be thirty-three percent. For purposes of this subsection, any reference to section 24 of the Internal Revenue Code shall be a reference to such section as it existed immediately prior to the enactment of Public Law 115-97.

§ 2. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2021.

PART H

Section 1. Subdivision 6 of section 470 of the tax law, as added by chapter 61 of the laws of 1989, is amended to read as follows:

6. "Wholesale price." The [~~established~~] price for which a manufacturer **or other person** sells tobacco products to a distributor, **including the federal excise taxes paid by the manufacturer or other person,** before

the allowance of any discount, trade allowance, rebate or other reduction.

[~~In the absence of such an established price, a manufacturer's~~] **The** invoice [~~price of any~~] **received by a distributor with respect to its purchase of a** tobacco product shall be presumptive evidence of the wholesale price of such tobacco product[~~, and in its absence the price at which such tobacco products were purchased shall be presumed to be the wholesale price, unless evidence of a lower wholesale price shall be established or any industry standard of markups relating to the purchase price in relation to the wholesale price shall be established~~].

§ 2. Subdivision 3 of section 481 of the tax law, as amended by chapter 190 of the laws of 1990, is amended to read as follows:

3. **(a)** For purposes of this chapter, the certificate of the commissioner of taxation and finance to the effect that a tax or fee imposed by this article has not been paid, that a return required by or under the provisions of this article has not been filed, or that information has not been supplied, as required by or under the provisions of this article, or that a bond or other security required by or pursuant to the provisions of this article has not been filed, or that books, accounts, records, memoranda, documents or papers have not been supplied as required by or pursuant to the authority of this article, or that a retail dealer or vending machine owner or operator is not currently or validly registered as required by this article shall be prima facie evidence that such tax or fee has not been paid, such return not filed, such information not supplied, such bond or other security not filed, that such books, accounts, records, memoranda, documents or papers have not been supplied, or that such retail dealer or vending machine owner or operator is not currently or validly registered.

(b) Any person required to make or maintain records under this article who fails to maintain or make available such records may be subject to a penalty not to exceed one thousand dollars for each monthly reporting period or part thereof for which records are not maintained or provided by such person. This penalty is in addition to any other penalty provided for in this article, but will not be imposed and collected more than once for such failures for the same reporting period or part thereof. If the commissioner determines that any failure described in this subdivision for a given reporting period was entirely due to reasonable cause and not to willful neglect, the commissioner may waive the penalty imposed for that period. The penalties imposed by this subdivision will be paid and disposed of in the same manner as other revenues from this article. These penalties will be determined, assessed, collected, paid and enforced in the same manner as the tax imposed by this article, and all the provisions of this article relating to tax will be deemed also to apply to the penalties imposed by this subdivision.

§ 3. This act shall take effect on October 1, 2020; provided however, that section one of this act shall apply to all tobacco products possessed in this state for sale on or after such date.

PART I

Section 1. Section 17 of the alcoholic beverage control law is amended by adding a new subdivision 3-a to read as follows:

3-a. To suspend or cancel any license pursuant to and corresponding in duration with an action of the commissioner of taxation and finance under subdivision four of section four hundred eighty-a of the tax law. A suspension or cancellation under this subdivision shall be initiated

upon receipt by the authority of notice from the commissioner of taxation and finance of such action under subdivision four of section four hundred eighty-a of the tax law and shall be effective upon service of an order by the authority served at the licensed premises. Such suspension or cancellation issued by the authority shall be appealable only as provided for in paragraph (b) of subdivision four of section four hundred eighty-a of the tax law. The power to issue such suspensions or cancellations may be delegated to the chairman, or to such other officers or employees as may be designated by the chairman.

§ 2. Subdivision 9 of section 470 of the tax law, as amended by chapter 61 of the laws of 1989, is amended to read as follows:

9. "Retail dealer." Any person other than a wholesale dealer engaged in selling cigarettes or tobacco products. For purposes of section four hundred eighty-a of this article and section eleven hundred thirty-four of this chapter, such term shall include for each such person engaged in selling cigarettes or tobacco products all "persons required to collect tax," as defined in subdivision one of section eleven hundred thirty-one of this chapter.

§ 3. Section 470 of the tax law is amended by adding a new subdivision 21 to read as follows:

21. "Affiliated person." Persons are affiliated persons with respect to each other where one of such persons has an ownership interest of more than five percent, whether direct or indirect, in the other, 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.

§ 4. Subdivision 4 of section 480-a of the tax law, as added by chapter 629 of the laws of 1996, paragraph (d) as amended by chapter 262 of the laws of 2000, is amended to read as follows:

4. (a) If a retail dealer possesses or sells unstamped or unlawfully stamped packages of cigarettes, or if a retail dealer is also licensed as an agent pursuant to section four hundred seventy-two and it possesses unlawfully stamped packages of cigarettes or sells unstamped or unlawfully stamped packages of cigarettes at retail, (i) its registration shall be [~~suspended~~] revoked for a period of [~~not more than six months~~] one year, or (ii) for a second such possession or sale within a period of five years[~~, its~~] by a retail dealer or any affiliated person of such retail dealer, the registration of such retail dealer and the registration of any retail dealer that is an affiliated person of such retail dealer shall be [~~suspended~~] revoked for a period of [~~up to thirty-six months~~] three years, or (iii) for a third such possession or sale within a period of five years[~~, its~~] by a retail dealer or any affiliated person of such retail dealer, the registration [~~may~~] of such retail dealer and the registration of any retail dealer that is an affiliated person of such retail dealer shall be revoked for a period of [~~up to~~] five years. A retail dealer registration shall be [~~suspended or~~] revoked pursuant to this subdivision immediately upon such dealer's receipt of written notice of [~~suspension or~~] revocation from the commissioner. [~~If a retail dealer sells cigarettes through more than one place of business in this state, the retail dealer registration shall not be suspended or revoked pursuant to this subdivision, but the certificate of registration issued to the place of business, cart, stand, truck or other merchandising device where unstamped or unlawfully stamped cigarettes were found shall be suspended or cancelled for possession or sale of unstamped or unlawfully stamped packages of cigarettes, as if such~~]

~~certificate of registration were a retail dealer registration. A suspension or cancellation of a certificate of registration shall be treated as if it were a suspension or revocation of a registration.~~] If unstamped or unlawfully stamped cigarettes are found in a retail dealer's warehouse or a warehouse of any affiliated person of such retail dealer, the [~~suspension or~~] revocation of the retail dealer's registration pursuant to this subdivision shall be applicable to each retail place of business in this state through which such retail dealer and any affiliated person of such retail dealer sells cigarettes.

(b) A retail dealer who is notified of a [~~suspension or~~] revocation of its registration pursuant to this subdivision shall have the right to have the [~~suspension or~~] revocation reviewed by the commissioner or his or her designee by contacting the department at a telephone number or an address to be disclosed in the notice of [~~suspension or~~] revocation within ten days of such dealer's receipt of such notification. The retail dealer may present written evidence or argument in support of its defense to the [~~suspension or~~] revocation, or may appear at a scheduled conference with the commissioner or his or her designee to present oral arguments and written and oral evidence in support of such defense. The commissioner or his or her designee is authorized to delay the effective date of the [~~suspension or~~] revocation to enable the retail dealer to present further evidence or arguments in connection with the [~~suspension or~~] revocation. The commissioner or his or her designee shall cancel the [~~suspension or~~] revocation of registration if the commissioner or his or her designee is not satisfied by a preponderance of the evidence that the retail dealer possessed or sold unstamped or unlawfully stamped packages of cigarettes.

(c) An order of [~~suspension or~~] revocation of a retail dealer registration shall not be reviewable by the division of tax appeals, but may be reviewed pursuant to article seventy-eight of the civil practice law and rules by a proceeding commenced in the supreme court within four months of the [~~suspension or~~] revocation of registration petitioning that the order of [~~suspension or~~] revocation be enjoined or set aside. Such proceeding shall be instituted in the county where the commissioner has his or her principal office. Upon the filing of such petition the court shall have jurisdiction to set aside such order of [~~suspension or~~] revocation, in whole or in part, or to dismiss the petition. The jurisdiction of the supreme court shall be exclusive and its order dismissing the petition or enjoining or setting aside such order, in whole or in part, shall be final, subject to review by the appellate division of the supreme court and the court of appeals in the same manner and form and with the same effect as provided by law for appeals from a judgment in a special proceeding. All such proceedings shall be heard and determined by the court and by any appellate court as expeditiously as possible and with lawful precedence over other civil matters. All such proceedings for review shall be heard on the petition, transcript and other papers, and on appeal shall be heard on the record, without requirement of printing.

(d) After review of the [~~suspension or~~] revocation of registration by the commissioner or his or her designee is complete, or the time within which a retail dealer may request such review has expired without such a request having been made, notice of the [~~suspension or~~] revocation of a retail dealer registration pursuant to this subdivision shall be given by the commissioner to the head of the division of the lottery for the purpose of enforcement of section sixteen hundred seven of this chapter [~~and such division may suspend or revoke any license issued with respect~~

~~to a lottery agent's specific location pursuant to article thirty-four of this chapter if such lottery agent is a retail dealer of cigarettes whose registration for such location is suspended or revoked pursuant to this section~~]. In addition, notice of such [~~suspension or~~] revocation shall also be given to the [~~division of alcoholic beverage control~~] state liquor authority and such [~~suspension or~~] revocation shall constitute cause[~~, for purposes of section one hundred eighteen of the alcoholic beverage control law,~~] for revocation, cancellation or suspension of any license or permit issued pursuant to [~~such~~] the alcoholic beverage control law to the retail dealer of cigarettes whose registration is revoked pursuant to this section.

§ 5. Subparagraph (A) of paragraph 4 of subdivision (a) of section 1134 of the tax law, as amended by section 21-a of part U of chapter 61 of the laws of 2011, is amended to read as follows:

(A) Where a person who holds a certificate of authority (i) willfully fails to file a report or return required by this article, (ii) willfully files, causes to be filed, gives or causes to be given a report, return, certificate or affidavit required under this article which is false, (iii) willfully fails to comply with the provisions of paragraph two or three of subdivision (e) of section eleven hundred thirty-seven of this article, (iv) willfully fails to prepay, collect, truthfully account for or pay over any tax imposed under this article or pursuant to the authority of article twenty-nine of this chapter, (v) fails to obtain a bond pursuant to paragraph two of subdivision (e) of section eleven hundred thirty-seven of this part, or fails to comply with a notice issued by the commissioner pursuant to paragraph three of such subdivision, [~~or~~] (vi) has been convicted of a crime provided for in this chapter, or (vii) where such person, or any person affiliated with such person as such term is defined in subdivision twenty-one of section four hundred seventy of this chapter, has had a retail dealer registration issued pursuant to section four hundred eighty-a of this chapter revoked pursuant to paragraph (a) of subdivision four of such section four hundred eighty-a, the commissioner may revoke or suspend such certificate of authority and all duplicates thereof. Provided, however, that the commissioner may revoke or suspend a certificate of authority based on the grounds set forth in clause (vi) of this subparagraph only where the conviction referred to occurred not more than one year prior to the date of revocation or suspension; and provided further that where the commissioner revokes or suspends a certificate of authority based on the grounds set forth in clause (vii) of this subparagraph, such suspension or revocation shall continue for as long as the revocation of the retail dealer registration pursuant to section four hundred eighty-a of this chapter remains in effect.

§ 6. Subparagraph (A) of paragraph 4 of subdivision (a) of section 1134 of the tax law, as amended by chapter 2 of the laws of 1995, is amended to read as follows:

(A) Where a person who holds a certificate of authority (i) willfully fails to file a report or return required by this article, (ii) willfully files, causes to be filed, gives or causes to be given a report, return, certificate or affidavit required under this article which is false, (iii) willfully fails to comply with the provisions of paragraph two or three of subdivision (e) of section eleven hundred thirty-seven of this article, (iv) willfully fails to prepay, collect, truthfully account for or pay over any tax imposed under this article or pursuant to the authority of article twenty-nine of this chapter, [~~or~~] (v) has been convicted of a crime provided for in this chapter, or (vi) where

such person, or any person affiliated with such person as such term is defined in subdivision twenty-one of section four hundred seventy of this chapter, has had a retail dealer registration issued pursuant to section four hundred eighty-a of this chapter suspended or revoked pursuant to paragraph (a) of subdivision four of such section four hundred eighty-a, the commissioner may revoke or suspend such certificate of authority and all duplicates thereof. Provided, however, that the commissioner may revoke or suspend a certificate of authority based on the grounds set forth in clause (v) of this subparagraph only where the conviction referred to occurred not more than one year prior to the date of revocation or suspension**; and provided further that where the commissioner revokes or suspends a certificate of authority based on the grounds set forth in clause (vi) of this subparagraph, such suspension or revocation shall continue for as long as the revocation of the retail dealer registration pursuant to section four hundred eighty-a of this chapter remains in effect**.

§ 7. Subparagraph (B) of paragraph 4 of subdivision (a) of section 1134 of the tax law, as amended by chapter 2 of the laws of 1995, is amended to read as follows:

(B) Where a person files a certificate of registration for a certificate of authority under this subdivision and in considering such application the commissioner ascertains that (i) any tax imposed under this chapter or any related statute, as defined in section eighteen hundred of this chapter, has been finally determined to be due from such person and has not been paid in full, (ii) a tax due under this article or any law, ordinance or resolution enacted pursuant to the authority of article twenty-nine of this chapter has been finally determined to be due from an officer, director, partner or employee of such person, and, where such person is a limited liability company, also a member or manager of such person, in the officer's, director's, partner's, member's, manager's or employee's capacity as a person required to collect tax on behalf of such person or another person and has not been paid, (iii) such person has been convicted of a crime provided for in this chapter within one year from the date on which such certificate of registration is filed, (iv) an officer, director, partner or employee of such person, and, where such person is a limited liability company, also a member or manager of such person, which officer, director, partner, member, manager or employee is a person required to collect tax on behalf of such person filing a certificate of registration has in the officer's, director's, partner's, member's, manager's or employee's capacity as a person required to collect tax on behalf of such person or of another person been convicted of a crime provided for in this chapter within one year from the date on which such certificate of registration is filed, (v) a shareholder owning more than fifty percent of the number of shares of stock of such person (where such person is a corporation) entitling the holder thereof to vote for the election of directors or trustees, who owned more than fifty percent of the number of such shares of another person (where such other person is a corporation) at the time any tax imposed under this chapter or any related statute as defined in section eighteen hundred of this chapter was finally determined to be due and where such tax has not been paid in full, or at the time such other person was convicted of a crime provided for in this chapter within one year from the date on which such certificate of registration is filed, [~~or~~] (vi) a certificate of authority issued to such person has been revoked or suspended pursuant to subparagraph (A) of this paragraph within one year from the date on which such certificate of registration is filed, or (vii) a retail dealer registration issued pursuant to section four hundred eighty-a of this chapter to such person, or to any person affiliated with such person as such term is defined in subdivision twenty-one of section four hundred seventy of this chapter, has been revoked pursuant to paragraph (a) of subdivision four of such section four hundred eighty-a, where such revocation remains in effect, the commissioner may refuse to issue a certificate of authority.

§ 8. Section 1607 of the tax law is amended by adding a new subdivision i to read as follows:

i. A lottery sales agent's license shall be suspended or revoked upon notification to the division by the commissioner of the revocation of such agent's retail dealer registration pursuant to subdivision four of section four hundred eighty-a of this chapter. Such suspension or revocation shall continue for as long as the revocation of such retail dealer registration remains in effect. Notwithstanding any other law to the contrary, lottery sales agents shall have no right to a hearing and shall have no right to commence a court action or proceeding or to any other legal recourse against the division with respect to any action taken pursuant to this subdivision. Nothing in this subdivision shall affect the right to review the revocation of a retail dealer registration, or any appeal therefrom, as provided in paragraphs (b) and (c) of subdivision four of section four hundred eighty-a of this chapter.

§ 9. This act shall take effect September 1, 2020 and shall apply to the possession or sale of unstamped or illegally stamped cigarettes occurring on and after such date; provided, however, that the amendments to section 17 of the alcoholic beverage control law made by section one of this act shall survive the expiration and reversion of such section as provided in section 4 of chapter 118 of the laws of 2012, as amended; provided, further, that the amendments to subparagraph (A) of paragraph 4 of subdivision (a) of section 1134 of the tax law made by section five of this act shall not affect the expiration of such subparagraph and shall expire therewith, when upon such date the provisions of section six of this act shall take effect.

PART J

Section 1. Paragraph (e) of subdivision 1 of section 424 of the tax law, as amended by chapter 190 of the laws of 1990, is amended to read as follows:

(e) Sixty-seven cents per liter upon liquors containing not more than twenty-four per centum of alcohol by volume except liquors containing not more than two per centum of alcohol by volume, upon which the tax shall be [~~one cent per liter~~] zero; and

§ 2. Paragraph (g) of subdivision 1 of section 424 of the tax law, as amended by chapter 433 of the laws of 1978 and the opening paragraph as amended by chapter 508 of the laws of 1993, is amended to read as follows:

(g) For purposes of this chapter, it is presumed that liquors are possessed for the purpose of sale in this state if the quantity of liquors possessed in this state, imported or caused to be imported into this state or produced, distilled, manufactured, compounded, mixed or fermented in this state exceeds ninety liters. Such presumption may be rebutted by the introduction of substantial evidence to the contrary. In any case where the quantity of alcoholic beverages taxable pursuant to this article is a fractional part of one liter (or one gallon in the case of beers) or an amount greater than a whole multiple of liters (or gallons in the case of beers), the amount of tax levied and imposed on such fractional part of one liter (or one gallon in the case of beers), or fractional part of a liter (or gallon) in excess of a whole multiple of liters or gallons shall be such fractional part of the rate imposed by paragraphs (a) through (f).

Notwithstanding any other provision of this article, the [~~tax commission~~] **commissioner** may permit the purchase of [~~liquors and wines~~] **alcoholic beverages** without tax by a **person registered as a distributor under section four hundred twenty-one of this article** [~~holder of a distiller's license or a winery license, issued by the state liquor authority~~] from another **person so registered** [~~holder of a distiller's license or a winery license, issued by such authority~~], in which event the [~~liquors and wines~~] **alcoholic beverage** so purchased shall be subject to the taxes imposed by this article in the hands of the purchaser in the same manner and to the same extent as if such purchaser had imported or caused the same to be imported into this state or had produced, distilled, manufactured, brewed, compounded, mixed or fermented the same within this state.

§ 3. Subparagraph (C) of paragraph 1 of subdivision (i) of section 1136 of the tax law, as separately amended by chapters 229 and 485 of the laws of 2015, is amended, and a new subparagraph (D) is added to read as follows:

(C) Every wholesaler, as defined by section three of the alcoholic beverage control law, if it has made a sale of an alcoholic beverage, as defined by section four hundred twenty of this chapter, without collecting sales or use tax during the period covered by the return, except (i) a sale to a person that has furnished an exempt organization certificate to the wholesaler for that sale; or (ii) a sale to another wholesaler whose license under the alcoholic beverage control law does not allow it to make retail sales of the alcoholic beverage. For each vendor, operator, or recipient to whom the wholesaler has made a sale without collecting sales or compensating use tax, the return must include the total value of those sales made during the period covered by the return (excepting the sales described in clauses (i) and (ii) of this subparagraph) and the vendor's, operator's or recipient's state liquor authority license number, along with the information required by paragraph two of this subdivision. [~~A person operating pursuant to a farm winery license as provided in section seventy-six-a of the alcoholic beverage control law, or a person operating pursuant to a winery license as provided in section seventy-six of the alcoholic beverage control law and whose winery manufactures less than one hundred fifty thousand finished gallons of wine annually, or a person operating pursuant to a farm distillery license as provided in subdivision two-c of section sixty-one of such law, or a person operating pursuant to a farm cidery license as provided in section fifty-eight-c of the alcoholic beverage control law, or a person operating pursuant to a farm brewery license as provided in section fifty-one-a of the alcoholic beverage control law, or a person operating pursuant to a brewer's license as provided in section fifty-one of the alcoholic beverage control law who produces less than sixty thousand barrels of beer a year, or a person operating pursuant to any combination of such licenses, shall not be subject to any of the requirements of this subdivision.~~]

(D) Notwithstanding the provisions of subparagraph (C) of this paragraph, a person operating pursuant to any of the following licenses shall not be subject to any of the requirements of this subdivision: (i) a farm winery license, as provided in section seventy-six-a of the alco-

holic beverage control law; (ii) a winery license, as provided in section seventy-six of the alcoholic beverage control law, where the number of gallons of wine, cider and mead produced annually by such person does not exceed the annual limits on the number of finished gallons of wine, cider and mead permitted to be produced by a farm winery under subdivision eight of section seventy-six-a of the alcoholic beverage control law; (iii) a farm distillery license, as provided in subdivision two-c of section sixty-one of the alcoholic beverage control law; (iv) a distiller's license, as provided in section sixty-one of the alcoholic beverage control law, where the number of gallons of liquor produced annually by such person does not exceed the annual limits on the number of gallons of liquor permitted to be produced by a farm distillery under paragraph (f) of subdivision two-c of section sixty-one of the alcoholic beverage control law; (v) a farm cidery license, as provided in section fifty-eight-c of the alcoholic beverage control law; (vi) a cider producers' license, as provided in section fifty-eight of the alcoholic beverage control law, where the number of gallons of cider produced annually by such person does not exceed the annual limits on the number of gallons of cider permitted to be produced by a farm cidery under subdivision ten of section fifty-eight-c of the alcoholic beverage control law; (vii) a farm brewery license, as provided in section fifty-one-a of the alcoholic beverage control law; (viii) a brewer's license, as provided in section fifty-one of the alcoholic beverage control law, where the number of finished barrels of beer, cider and braggot produced annually by such person does exceed the annual number of finished barrels of beer, cider and braggot permitted to be produced by a farm brewery under subdivision ten of section fifty-one-a of the alcoholic beverage control law; (ix) a farm meadery license, as provided in section thirty-one of the alcoholic beverage control law; or (x) a mead producers' license, as provided in section thirty of the alcoholic beverage control law, where the number of gallons of mead and braggot produced annually by such person does exceed the annual number of finished barrels of mead and braggot permitted to be produced by a farm meadery under subdivision ten of section thirty-one of the alcoholic beverage control law. Nothing in this subparagraph shall exempt a person operating pursuant to multiple licenses under the alcoholic beverage control law from the requirements of subparagraph (C) of this paragraph if such person produces an amount of any alcoholic beverage in excess of the amounts permitted to be produced annually by a person who holds only a farm winery, farm cidery, farm distillery, farm brewery or farm meadery license for such beverage, nor shall this section exempt any person holding a wholesalers' license under the alcoholic beverage control law from the requirements of subparagraph (C) of this paragraph.

§ 4. This act shall take effect June 1, 2020.

PART K

Section 1. Subdivision (c) of section 1800 of the tax law, as amended by section 13 of subpart I of part V-1 of chapter 57 of the laws of 2009, is amended to read as follows:

(c) As used in this article, the term "felony" and the term "misdemeanor" shall have the same meaning as they have in the penal law, and the disposition of such offenses and the sentences imposed therefor shall be as provided in such law except; (1) notwithstanding the provisions of paragraph a of subdivision one of section 80.00 and paragraph (a) of subdivision one of section 80.10 of the penal law relating to the fine for a felony, the court may impose a fine not to exceed the greater of double the amount of [~~the underpaid tax liability resulting from the commission of the crime~~] **tax liability evaded or fraudulent refund received or applied for as a result of the commission of the crime,** or fifty thousand dollars, or, in the case of a corporation the fine may not exceed the greater of double the amount of [~~the underpaid tax liability resulting from the commission of the crime~~] **tax liability evaded or fraudulent refund received or applied for as a result of the commission of the crime,** or two hundred fifty thousand dollars and (2) notwithstanding the provisions of subdivision one of section 80.05 and paragraph (b) of subdivision one of section 80.10 of the penal law relating to the fine for a class A misdemeanor, the court may impose a fine not to exceed ten thousand dollars, except that in the case of a corporation the fine may not exceed twenty thousand dollars.

§ 2. Section 1803 of the tax law, as added by section 17 of subpart I of part V-1 of chapter 57 of the laws of 2009, is amended to read as follows:

§ 1803. Criminal tax fraud in the fourth degree. A person commits criminal tax fraud in the fourth degree when he or she commits a tax fraud act or acts and[~~, with the intent to evade any tax due under this chapter, or to defraud~~] **thereby deprives or defrauds** the state or any **political** subdivision [~~thereof, the person pays the state and/or a political subdivision of the state (whether by means of underpayment or receipt of refund or both), in a period of not more than one year in excess~~] of **the state in an amount exceeding** three thousand dollars [~~less than the tax liability that is due~~]. Criminal tax fraud in the fourth degree is a class E felony.

§ 3. Section 1804 of the tax law, as added by section 18 of subpart I of part V-1 of chapter 57 of the laws of 2009, is amended to read as follows:

§ 1804. Criminal tax fraud in the third degree. A person commits criminal tax fraud in the third degree when he or she commits a tax fraud act or acts and[~~, with the intent to evade any tax due under this chapter, or to defraud~~] **thereby deprives or defrauds** the state or any political subdivision of the state[~~, the person pays the state and/or a political subdivision of the state (whether by means of underpayment or receipt of refund or both), in a period of not more than one year in excess of~~] **in an amount exceeding** ten thousand dollars [~~less than the tax liability that is due~~]. Criminal tax fraud in the third degree is a class D felony.

§ 4. Section 1805 of the tax law, as added by section 19 of subpart I of part V-1 of chapter 57 of the laws of 2009, is amended to read as follows:

§ 1805. Criminal tax fraud in the second degree. A person commits criminal tax fraud in the second degree when he or she commits a tax fraud act or acts and[~~, with the intent to evade any tax due under this chapter, or to defraud~~] **thereby deprives or defrauds** the state or any subdivision of the state[~~, the person pays the state and/or a political subdivision of the state (whether by means of underpayment or receipt of refund or both), in a period of not more than one year in excess of~~] **in an amount exceeding** fifty thousand dollars [~~less than the tax liability that is due~~]. Criminal tax fraud in the second degree is a class C felony.

§ 5. Section 1806 of the tax law, as added by section 20 of subpart I of part V-1 of chapter 57 of the laws of 2009, is amended to read as follows:

§ 1806. Criminal tax fraud in the first degree. A person commits criminal tax fraud in the first degree when he or she commits a tax fraud act or acts and[~~, with the intent to evade any tax due under this chapter, or to defraud~~] **thereby deprives or defrauds** the state or any subdivision of the state[~~, the person pays the state and/or a political subdivision of the state (whether by means of underpayment or receipt of refund or both), in a period of not more than one year in excess of~~] **in an amount exceeding** one million dollars [~~less than the tax liability that is due~~]. Criminal tax fraud in the first degree is a class B felony.

§ 6. Section 1807 of the tax law, as amended by section 5 of subpart A of part S of chapter 57 of the laws of 2010, is amended to read as follows:

§ 1807. Aggregation. For purposes of this article, [~~the payments due and not paid under a single article of this chapter pursuant to a common scheme or plan or due and not paid, within one year, may be charged in a single count, and the amount of underpaid tax liability incurred, within one year,~~] **(a) the amount deprived or defrauded within a three hundred sixty-five consecutive day period** may be aggregated in a single count**, or (b) when a person is shown to be acting pursuant to a common plan or scheme constituting a systematic ongoing course of conduct, the total amount deprived or defrauded under such scheme or plan may be charged in a single count**.

§ 7. The tax law is amended by adding a new section 1810 to read as follows:

§ 1810. Criminal tax preparation in the second degree. A person commits criminal tax preparation in the second degree when he or she files or causes to be filed ten or more tax returns with the department, within a period of not more than three hundred sixty-five consecutive days, knowing that each contains materially false information or omits material information with the intent to evade or reduce any tax liability owed or to effect or inflate a refund. Criminal tax preparation in the second degree is a class D felony.

§ 8. The tax law is amended by adding a new section 1810-a to read as follows:

§ 1810-a. Criminal tax preparation in the first degree. A person commits criminal tax preparation in the first degree when he or she files or causes to be filed fifty or more tax returns with the department, within a period of not more than three hundred sixty-five consecutive days, knowing that each contains materially false information or omits material information with the intent to evade or reduce any tax liability owed or to effect or inflate a refund. Criminal tax preparation in the first degree is a class C felony.

§ 9. This act shall take effect immediately and shall apply to offenses committed on or after such effective date.

PART L

Section 1. Section 352 of the economic development law is amended by adding a new subdivision 8-a to read as follows:

8-a. "Green project" means a project deemed by the commissioner to make products or develop technologies that are substantially aimed at reducing greenhouse gas emissions or supporting the use of clean energy in accordance with goals described in chapter one hundred six of the laws of two thousand nineteen, along with the state energy plan and future updates as described in section 6-104 of the energy law. "Green

project" shall include, but not be limited to, the manufacture or development of products or technologies or supply chain components primarily for renewable energy systems as defined in section sixty-six-p of the public service law, vehicles that use non-hydrocarbon fuels and produce zero or near zero emissions, heat pumps, energy efficiency, carbon capture and storage, clean energy storage and other products that significantly reduce greenhouse gas emissions by minimizing the utilization of depletable resources or by improving industrial efficiency. "Green project" shall not include a project primarily composed of (i) necessarily local activities such as retail, building construction, or the installation, deployment or adoption of a clean energy product or technology at an end user's site, or (ii) the production of products or development of technologies that would produce only marginal and incremental energy savings or environmental benefits ancillary to the core function of the product or technology.

§ 2. Subdivision 1 of section 353 of the economic development law, as amended by section 2 of part K of chapter 59 of the laws of 2017, is amended to read as follows:

1. To be a participant in the excelsior jobs program, a business entity shall operate in New York state predominantly:

(a) as a financial services data center or a financial services back office operation;

(b) in manufacturing;

(c) in software development and new media;

(d) in scientific research and development;

(e) in agriculture;

(f) in the creation or expansion of back office operations in the state;

(g) in a distribution center;

(h) in an industry with significant potential for private-sector economic growth and development in this state as established by the commissioner in regulations promulgated pursuant to this article. In promulgating such regulations the commissioner shall include job and investment criteria;

(i) as an entertainment company;

(j) in music production; [~~or~~]

(k) as a life sciences company; or

(l) as a company operating in one of the industries listed in paragraphs (b) through (e) of this subdivision and engaging in a green project as defined in section three hundred fifty-two of this article.

§ 3. Subdivision 5 of section 354 of the economic development law, as amended by section 4 of part K of chapter 59 of the laws of 2017, is amended to read as follows:

5. A participant may claim tax benefits commencing in the first taxable year that the business enterprise receives a certificate of tax credit or the first taxable year listed on its preliminary schedule of benefits, whichever is later. A participant may claim such benefits for the next nine consecutive taxable years, provided that the participant demonstrates to the department that it continues to satisfy the eligibility criteria specified in section three hundred fifty-three of this article and subdivision two of this section in each of those taxable years, and provided that no tax credits may be allowed for taxable years beginning on or after January first, two thousand [~~thirty~~] fifty. If, in any given year, a participant who has satisfied the eligibility criteria specified in section three hundred fifty-three of this article realizes job creation less than the estimated amount, the credit shall

be reduced by the proportion of actual job creation to the estimated amount, provided the proportion is at least seventy-five percent of the jobs estimated.

§ 4. Subdivisions 1, 2 and 3 of section 355 of the economic development law, subdivisions 1 and 2 as amended by section 4 of part G of chapter 61 of the laws of 2011, and subdivision 3 as amended by section 1 of part YY of chapter 59 of the laws of 2017, are amended to read as follows:

1. Excelsior jobs tax credit component. A participant in the excelsior jobs program shall be eligible to claim a credit for each net new job it creates in New York state. [~~The~~] **In a project that is not a green project, the** amount of such credit per job shall be equal to the product of the gross wages paid and **up to** 6.85 percent. **In a green project, the amount of such credit per job shall be equal to the product of the gross wages paid and up to 7.5 percent.**

2. Excelsior investment tax credit component. A participant in the excelsior jobs program shall be eligible to claim a credit on qualified investments. [~~The~~] **In a project that is not a green project, the** credit shall be equal to two percent of the cost or other basis for federal income tax purposes of the qualified investment. **In a green project, the credit shall be equal to five percent of the cost or other basis for federal income tax purposes of the qualified investment.** A participant may not claim both the excelsior investment tax credit component and the investment tax credit set forth in subdivision [~~twelve~~] **one** of section two hundred [~~ten~~] **ten-B**, subsection (a) of section six hundred six, **the former** subsection (i) of section fourteen hundred fifty-six, or subdivision (q) of section fifteen hundred eleven of the tax law for the same property in any taxable year, except that a participant may claim both the excelsior investment tax credit component and the investment tax credit for research and development property. In addition, a taxpayer who or which is qualified to claim the excelsior investment tax credit component and is also qualified to claim the brownfield tangible property credit component under section twenty-one of the tax law may claim either the excelsior investment tax credit component or such tangible property credit component, but not both with regard to a particular piece of property. A credit may not be claimed until a business enterprise has received a certificate of tax credit, provided that qualified investments made on or after the issuance of the certificate of eligibility but before the issuance of the certificate of tax credit to the business enterprise, may be claimed in the first taxable year for which the business enterprise is allowed to claim the credit. Expenses incurred prior to the date the certificate of eligibility is issued are not eligible to be included in the calculation of the credit.

3. Excelsior research and development tax credit component. A participant in the excelsior jobs program shall be eligible to claim a credit equal to fifty percent of the portion of the participant's federal research and development tax credit that relates to the participant's research and development expenditures in New York state during the taxable year; provided however, **if not a green project,** the excelsior research and development tax credit shall not exceed six percent of the qualified research and development expenditures attributable to activities conducted in New York state**, or, if a green project, the excelsior research and development tax credit shall not exceed eight percent of the research and development expenditures attributable to activities conducted in New York state**. If the federal research and development credit has expired, then the research and development expenditures

relating to the federal research and development credit shall be calculated as if the federal research and development credit structure and definition in effect in two thousand nine were still in effect. Notwithstanding any other provision of this chapter to the contrary, research and development expenditures in this state, including salary or wage expenses for jobs related to research and development activities in this state, may be used as the basis for the excelsior research and development tax credit component and the qualified emerging technology company facilities, operations and training credit under the tax law.

§ 5. Section 359 of the economic development law, as amended by section 5 of part K of chapter 59 of the laws of 2017, is amended to read as follows:

§ 359. Cap on tax credit. [~~The total amount of tax credits listed on certificates of tax credit issued by the commissioner for any taxable year may not exceed the limitations set forth in this section.~~] One-half of any amount of tax credits not awarded for a particular taxable year [~~in years two thousand eleven through two thousand twenty-four~~] may be used by the commissioner to award tax credits in another taxable year.

Credit components in the aggregate shall not exceed:	With respect to taxable years beginning in:
$ 50 million	2011
$ 100 million	2012
$ 150 million	2013
$ 200 million	2014
$ 250 million	2015
$ 183 million	2016
$ 183 million	2017
$ 183 million	2018
$ 183 million	2019
$ 183 million	2020
$ 183 million	2021
$ 133 million	2022
$ 83 million	2023
$ 36 million	2024
$ 200 million	2025
$ 200 million	2026
$ 200 million	2027
$ 200 million	2028
$ 200 million	2029
$ 200 million	2030
$ 200 million	2031
$ 200 million	2032
$ 200 million	2033
$ 200 million	2034
$ 200 million	2035
$ 200 million	2036
$ 200 million	2037
$ 200 million	2038
$ 200 million	2039

Twenty-five percent of tax credits shall be allocated to businesses accepted into the program under subdivision four of section three hundred fifty-three of this article and seventy-five percent of tax credits shall be allocated to businesses accepted into the program under subdivision three of section three hundred fifty-three of this article.

Provided, however, if by September thirtieth of a calendar year, the department has not allocated the full amount of credits available in that year to either: (i) businesses accepted into the program under subdivision four of section three hundred fifty-three of this article or (ii) businesses accepted into the program under subdivision three of section three hundred fifty-three of this article, the commissioner may allocate any remaining tax credits to businesses referenced in this paragraph as needed; provided, however, that under no circumstances may the aggregate statutory cap for all program years be exceeded. One hundred percent of the unawarded amounts remaining at the end of two thousand [~~twenty-four~~] **thirty-nine** may be allocated in subsequent years, notwithstanding the fifty percent limitation on any amounts of tax credits not awarded in taxable years two thousand eleven through two thousand [~~twenty-four~~] **thirty-nine**. Provided, however, no tax credits may be allowed for taxable years beginning on or after January first, two thousand [~~thirty~~] **fifty**.

§ 6. Subdivision (b) of section 31 of the tax law, as amended by section 6 of part K of chapter 59 of the laws of 2017, is amended to read as follows:

(b) To be eligible for the excelsior jobs program credit, the taxpayer shall have been issued a "certificate of tax credit" by the department of economic development pursuant to subdivision four of section three hundred fifty-four of the economic development law, which certificate shall set forth the amount of each credit component that may be claimed for the taxable year. A taxpayer may claim such credit for ten consecutive taxable years commencing in the first taxable year that the taxpayer receives a certificate of tax credit or the first taxable year listed on its preliminary schedule of benefits, whichever is later, provided that no tax credits may be allowed for taxable years beginning on or after January first, two thousand [~~thirty~~] **fifty**. The taxpayer shall be allowed to claim only the amount listed on the certificate of tax credit for that taxable year. Such certificate must be attached to the taxpayer's return. No cost or expense paid or incurred by the taxpayer shall be the basis for more than one component of this credit or any other tax credit, except as provided in section three hundred fifty-five of the economic development law.

§ 7. This act shall take effect immediately.

PART M

Section 1. Paragraph 2 of subdivision (a) of section 24 of the tax law, as amended by section 4 of part Q of chapter 57 of the laws of 2010, is amended to read as follows:

(2) The amount of the credit shall be the product (or pro rata share of the product, in the case of a member of a partnership) of [~~thirty~~] **twenty-five** percent and the qualified production costs paid or incurred in the production of a qualified film, provided that: (i) the qualified production costs (excluding post production costs) paid or incurred which are attributable to the use of tangible property or the performance of services at a qualified film production facility in the production of such qualified film equal or exceed seventy-five percent of the production costs (excluding post production costs) paid or incurred which are attributable to the use of tangible property or the performance of services at any film production facility within and with-

out the state in the production of such qualified film, and (ii) except with respect to a qualified independent film production company or pilot, at least ten percent of the total principal photography shooting days spent in the production of such qualified film must be spent at a qualified film production facility. However, if the qualified production costs (excluding post production costs) which are attributable to the use of tangible property or the performance of services at a qualified film production facility in the production of such qualified film is less than three million dollars, then the portion of the qualified production costs attributable to the use of tangible property or the performance of services in the production of such qualified film outside of a qualified film production facility shall be allowed only if the shooting days spent in New York outside of a film production facility in the production of such qualified film equal or exceed seventy-five percent of the total shooting days spent within and without New York outside of a film production facility in the production of such qualified film. The credit shall be allowed for the taxable year in which the production of such qualified film is completed. However, in the case of a qualified film that receives funds from additional pool 2, no credit shall be claimed before the later of (1) the taxable year the production of the qualified film is complete, or (2) the taxable year immediately following the allocation year for which the film has been allocated credit by the governor's office for motion picture and television development. If the amount of the credit is at least one million dollars but less than five million dollars, the credit shall be claimed over a two year period beginning in the first taxable year in which the credit may be claimed and in the next succeeding taxable year, with one-half of the amount of credit allowed being claimed in each year. If the amount of the credit is at least five million dollars, the credit shall be claimed over a three year period beginning in the first taxable year in which the credit may be claimed and in the next two succeeding taxable years, with one-third of the amount of the credit allowed being claimed in each year.

§ 2. Paragraph 2 of subdivision (a) of section 24 of the tax law, as amended by section 4 of part Q of chapter 57 of the laws of 2010, is amended to read as follows:

(2) The amount of the credit shall be the product (or pro rata share of the product, in the case of a member of a partnership) of thirty percent and the qualified production costs paid or incurred in the production of a qualified film, provided that: (i) the qualified production costs (excluding post production costs) paid or incurred which are attributable to the use of tangible property or the performance of services at a qualified film production facility in the production of such qualified film equal or exceed seventy-five percent of the production costs (excluding post production costs) paid or incurred which are attributable to the use of tangible property or the performance of services at any film production facility within and without the state in the production of such qualified film, and (ii) except with respect to a qualified independent film production company or pilot, at least ten percent of the total principal photography shooting days spent in the production of such qualified film must be spent at a qualified film production facility. However, if the qualified production costs (excluding post production costs) which are attributable to the use of tangible property or the performance of services at a qualified film production facility in the production of such qualified film is less than three million dollars, then the portion of the qualified

production costs attributable to the use of tangible property or the performance of services in the production of such qualified film outside of a qualified film production facility shall be allowed only if the shooting days spent in New York outside of a film production facility in the production of such qualified film equal or exceed seventy-five percent of the total shooting days spent within and without New York outside of a film production facility in the production of such qualified film. The credit shall be allowed for the taxable year in which the production of such qualified film is completed. However, in the case of a qualified film that receives funds from additional pool 2, no credit shall be claimed before the later of (1) the taxable year the production of the qualified film is complete, or (2) the **first** taxable year **beginning** immediately [~~following~~] **after** the allocation year for which the film has been allocated credit by the governor's office for motion picture and television development. If the amount of the credit is at least one million dollars but less than five million dollars, the credit shall be claimed over a two year period beginning in the first taxable year in which the credit may be claimed and in the next succeeding taxable year, with one-half of the amount of credit allowed being claimed in each year. If the amount of the credit is at least five million dollars, the credit shall be claimed over a three year period beginning in the first taxable year in which the credit may be claimed and in the next two succeeding taxable years, with one-third of the amount of the credit allowed being claimed in each year.

§ 3. Paragraph 3 of subdivision (b) of section 24 of the tax law, as amended by section 1 of part B of chapter 59 of the laws of 2013, is amended to read as follows:

(3) "Qualified film" means a feature-length film, television film, relocated television production, television pilot [~~and/or each episode of a~~] **or** television series, regardless of the medium by means of which the film, pilot or [~~episode~~] **series** is created or conveyed. **A "qualified film" with the exception of a television pilot, whose majority of principal photography shooting days in the production of the qualified film are shot in Westchester, Rockland, Nassau, or Suffolk county or any of the five New York City boroughs shall have a minimum budget of one million dollars. A "qualified film", with the exception of a television pilot, whose majority of principal photography shooting days in the production of the qualified film are shot in any other county of the state than those listed in the preceding sentence shall have a minimum budget of two hundred fifty thousand dollars.** "Qualified film" shall not include**:** (i) a documentary film, news or current affairs program, interview or talk program, "how-to" (i.e., instructional) film or program, film or program consisting primarily of stock footage, sporting event or sporting program, game show, award ceremony, film or program intended primarily for industrial, corporate or institutional end-users, fundraising film or program, daytime drama (i.e., daytime "soap opera"), commercials, music videos or "reality" program, or (ii) a production for which records are required under section 2257 of title 18, United States code, to be maintained with respect to any performer in such production (reporting of books, films, etc. with respect to sexually explicit conduct).

§ 4. Paragraph 3 of subdivision (b) of section 24 of the tax law, as amended by section 1 of part B of chapter 59 of the laws of 2013, is amended to read as follows:

(3) "Qualified film" means a feature-length film, television film, relocated television production, television pilot and/or each episode of

a television series, regardless of the medium by means of which the film, pilot or episode is created or conveyed. "Qualified film" shall not include**:** (i) a documentary film, news or current affairs program, interview or talk program, "how-to" (i.e., instructional) film or program, film or program consisting primarily of stock footage, sporting event or sporting program, game show, award ceremony, film or program intended primarily for industrial, corporate or institutional end-users, fundraising film or program, daytime drama (i.e., daytime "soap opera"), commercials, music videos or "reality" program[~~, or~~]**;** (ii) a production for which records are required under section 2257 of title 18, United States code, to be maintained with respect to any performer in such production (reporting of books, films, etc. with respect to sexually explicit conduct)**; or (iii) other than a relocated television production, a television series commonly known as variety entertainment, variety sketch and variety talk, i.e., a program with components of improvisational or scripted content (monologues, sketches, interviews), either exclusively or in combination with other entertainment elements such as musical performances, dancing, cooking, crafts, pranks, stunts, and games and which may be further defined in regulations of the commissioner of economic development. However, a qualified film shall include a television series as described in subparagraph (iii) of this paragraph only if an application for such series has been deemed conditionally eligible for the tax credit under this section prior to April first, two thousand twenty, such series remains in continuous production for each season, and an annual application for each season of such series is continually submitted for such series after April first, two thousand twenty**.

§ 5. Paragraph 2 of subdivision (a) of section 31 of the tax law, as amended by chapter 268 of the laws of 2012, is amended to read as follows:

(2) The amount of the credit shall be the product (or pro rata share of the product, in the case of a member of a partnership) of [~~thirty~~] **twenty-five** percent and the qualified post production costs paid in the production of a qualified film at a qualified post production facility located within the metropolitan commuter transportation district as defined in section twelve hundred sixty-two of the public authorities law or [~~thirty-five~~] **thirty** percent and the qualified post production costs paid in the production of a qualified film at a qualified post production facility located elsewhere in the state.

§ 5-a. Paragraph 5 of subdivision (a) of section 24 of the tax law, as amended by section 1 of part SSS of chapter 59 of the laws of 2019, is amended to read as follows:

(5) For the period two thousand fifteen through two thousand [~~twenty-four~~] **twenty-five**, in addition to the amount of credit established in paragraph two of this subdivision, a taxpayer shall be allowed a credit equal to the product (or pro rata share of the product, in the case of a member of a partnership) of ten percent and the amount of wages or salaries paid to individuals directly employed (excluding those employed as writers, directors, music directors, producers and performers, including background actors with no scripted lines) by a qualified film production company or a qualified independent film production company for services performed by those individuals in one of the counties specified in this paragraph in connection with a qualified film with a minimum budget of five hundred thousand dollars. For purposes of this additional credit, the services must be performed in one or more of the following counties: Albany, Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung,

Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Erie, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Niagara, Oneida, Onondaga, Ontario, Orange, Orleans, Oswego, Otsego, Putnam, Rensselaer, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Wyoming, or Yates. The aggregate amount of tax credits allowed pursuant to the authority of this paragraph shall be five million dollars each year during the period two thousand fifteen through two thousand [~~twenty-four~~] **twenty-five** of the annual allocation made available to the program pursuant to paragraph four of subdivision (e) of this section. Such aggregate amount of credits shall be allocated by the governor's office for motion picture and television development among taxpayers in order of priority based upon the date of filing an application for allocation of film production credit with such office. If the total amount of allocated credits applied for under this paragraph in any year exceeds the aggregate amount of tax credits allowed for such year under this paragraph, such excess shall be treated as having been applied for on the first day of the next year. If the total amount of allocated tax credits applied for under this paragraph at the conclusion of any year is less than five million dollars, the remainder shall be treated as part of the annual allocation made available to the program pursuant to paragraph four of subdivision (e) of this section. However, in no event may the total of the credits allocated under this paragraph and the credits allocated under paragraph five of subdivision (a) of section thirty-one of this article exceed five million dollars in any year during the period two thousand fifteen through two thousand [~~twenty-four~~] **twenty-five**.

§ 5-b. Paragraph 4 of subdivision (e) of section 24 of the tax law, as amended by chapter 683 of the laws of 2019, is amended to read as follows:

(4) Additional pool 2 - The aggregate amount of tax credits allowed in subdivision (a) of this section shall be increased by an additional four hundred twenty million dollars in each year starting in two thousand ten through two thousand [~~twenty-four~~] **twenty-five** provided however, seven million dollars of the annual allocation shall be available for the empire state film post production credit pursuant to section thirty-one of this article in two thousand thirteen and two thousand fourteen, twenty-five million dollars of the annual allocation shall be available for the empire state film post production credit pursuant to section thirty-one of this article in each year starting in two thousand fifteen through two thousand [~~twenty-four~~] **twenty-five** and five million dollars of the annual allocation shall be made available for the television writers' and directors' fees and salaries credit pursuant to section twenty-four-b of this article in each year starting in two thousand twenty through two thousand [~~twenty-four~~] **twenty-five**. This amount shall be allocated by the governor's office for motion picture and television development among taxpayers in accordance with subdivision (a) of this section. If the commissioner of economic development determines that the aggregate amount of tax credits available from additional pool 2 for the empire state film production tax credit have been previously allocated, and determines that the pending applications from eligible applicants for the empire state film post production tax credit pursuant to section thirty-one of this article is insufficient to utilize the balance of unallocated empire state film post production tax credits from such pool, the remainder, after such pending applications are considered,

shall be made available for allocation in the empire state film tax credit pursuant to this section, subdivision twenty of section two hundred ten-B and subsection (gg) of section six hundred six of this chapter. Also, if the commissioner of economic development determines that the aggregate amount of tax credits available from additional pool 2 for the empire state film post production tax credit have been previously allocated, and determines that the pending applications from eligible applicants for the empire state film production tax credit pursuant to this section is insufficient to utilize the balance of unallocated film production tax credits from such pool, then all or part of the remainder, after such pending applications are considered, shall be made available for allocation for the empire state film post production credit pursuant to this section, subdivision thirty-two of section two hundred ten-B and subsection (qq) of section six hundred six of this chapter. The governor's office for motion picture and television development must notify taxpayers of their allocation year and include the allocation year on the certificate of tax credit. Taxpayers eligible to claim a credit must report the allocation year directly on their empire state film production credit tax form for each year a credit is claimed and include a copy of the certificate with their tax return. In the case of a qualified film that receives funds from additional pool 2, no empire state film production credit shall be claimed before the later of the taxable year the production of the qualified film is complete, or the taxable year immediately following the allocation year for which the film has been allocated credit by the governor's office for motion picture and television development.

§ 6. This act shall take effect immediately; provided, however, that the amendments made by sections one, three and five of this act shall apply to applications that are filed with the governor's office for motion picture and television development on or after April 1, 2020.

PART N

Section 1. Subdivision 13 of section 1901 of the real property tax law is amended by adding a new paragraph (c) to read as follows:

(c) Notwithstanding any provision of law to the contrary, the governing body of a municipal corporation that has adopted the provisions of paragraph (c) of subdivision one of section five hundred eighty-one of this chapter relating to converted condominium units is authorized to adopt a local law or, in the case of a school district, a resolution, providing that such converted condominium units shall be classified in the homestead class for purposes of taxes levied by such municipal corporation.

§ 2. This act shall take effect immediately.

PART O

Section 1. The tax law is amended by adding a new section 171-w to read as follows:

§ 171-w. State support for the local enforcement of past-due property taxes. 1. Legislative findings. The legislature finds that local governments have limited means to enforce the collection of past-due property taxes. The legislature further finds that it is appropriate for the state to support the local enforcement of past-due property taxes by authorizing the commissioner to administer a program to disallow STAR

credits and exemptions to delinquent property owners based on information reported to him or her by municipal officials.

2. Definitions. For the purposes of this section:

(a) "Delinquent property owner" means a STAR recipient whose primary residence is subject to past-due property taxes.

(b) "Past-due property taxes" means property taxes that have been levied upon a property owner's primary residence that remain unpaid one year after the last date on which they could have been paid without interest, or where such taxes are payable in installments, those taxes that remain unpaid one year after the last date on which the final installment could have been paid without interest.

(c) "STAR credit" means the personal income tax credit authorized by subsection (eee) of section six hundred six of this chapter.

(d) "STAR exemption" means the exemption from real property taxation authorized by section four hundred twenty-five of the real property tax law.

(e) "STAR recipient" means a property owner who is registered to receive the STAR credit in relation to his or her primary residence, or whose primary residence is receiving the STAR exemption.

3. STAR tax payment requirement; generally. Notwithstanding any provision of law to the contrary, a property owner whose primary residence is subject to past-due property taxes shall not be allowed to receive a STAR credit or STAR exemption unless the past-due property taxes are paid in full on or before a date specified by the commissioner.

4. Commissioner's authority. The commissioner is hereby authorized to develop a program to support the local enforcement of past-due property taxes by disallowing STAR credits and STAR exemptions to delinquent property owners. The commissioner shall establish procedures for the administration of this program, which shall include the following provisions:

(a) The procedures by which municipal officials shall report past-due property taxes and property tax payments to the department.

(b) The procedures by which the department shall notify delinquent property owners of the impending disallowance of their STAR credits or exemptions due to past-due property taxes.

(c) The date by which delinquent property owners must pay their past-due property taxes in full in order to avoid disallowance of their STAR credits or exemptions.

(d) The procedures by which the commissioner shall disallow STAR credits and notify assessors of the disallowance of STAR exemptions if past-due property taxes are not paid in full by the specified date.

(e) Such other procedures as the commissioner shall deem necessary to carry out the provisions of this section.

5. Municipal reports. The commissioner's procedures regarding municipal reporting shall be subject to the following provisions:

(a) The commissioner may request and shall be entitled to receive from any municipal corporation of the state, or any agency or official thereof, such data as the commissioner deems necessary to effectuate the purposes of this section. Such information shall be submitted to the department at such time and in such manner as the commissioner may direct.

(b) In lieu of requiring municipal officials to submit their reports directly to the department, the commissioner may, in his or her discretion, require that such reports be submitted to the county director of real property tax services, who shall integrate the reports into a single file and submit it to the department at such time and in such manner as the commissioner may direct. Provided, that where the commissioner institutes such a procedure, he or she may exclude cities with one hundred twenty-five thousand inhabitants or more, so that information about past-due property taxes and property tax payments in such a city shall be reported directly to the department by a designated city official at such time and in such manner as the commissioner may direct.

(c) Reports and other records prepared pursuant to this section shall not be subject to the provisions of article six of the public officers law.

6. Notification of delinquent property owners. The commissioner's procedures regarding the notification of delinquent property owners shall be subject to the following provisions:

(a) The department shall notify a delinquent property owner by regular mail at least thirty days prior to the date by which his or her past-due property taxes must be paid in full in order to avoid disallowance of his or her STAR credit or exemption.

(b) Such notice shall include a statement that the property owner's STAR credit or exemption will be disallowed unless his or her past-due property taxes are paid in full by the date specified in the notice.

(c) To the extent practicable, such notice shall provide contact information for the local official or officials to whom the past-due property taxes may be paid.

(d) Such notice shall further state that the property owner's right to protest the disallowance of the STAR credit or exemption is limited to raising issues that constitute a "mistake of fact" as defined in subdivision nine of this section.

(e) Such notice may include such other information as the commissioner may deem necessary.

7. Timely payment of past-due property taxes. If a delinquent property owner pays his or her past-due property taxes in full on or before the date specified in such notice, the official receiving such payment shall so notify the department at such time and in such manner as prescribed by the commissioner. The property owner shall then be permitted to receive the STAR credit or exemption that would have been disallowed if timely payment had not been made. However, if the department does not learn of the payment until after it has already directed an assessor to deny a STAR exemption to a delinquent property owner, then in lieu of directing the exemption to be restored, the department may remit to the property owner payment in an amount that will reimburse the property owner for the increase in his or her school tax bill that is directly attributable to the lost STAR exemption.

8. Failure to make timely payment. (a) If the past-due taxes are not paid on or before the date specified in the notice that had been sent to the delinquent property owner, his or her STAR credit or STAR exemption shall be disallowed in accordance with the procedures established by the commissioner.

(b) The delinquent property owner shall be permanently ineligible for any STAR credit or exemption that has been disallowed, even if the past-due property taxes are subsequently paid in full. The property owner shall not be eligible to participate in the STAR program again as long as the property is subject to past-due property taxes.

(c) Upon payment of the past-due property taxes in full, the official receiving such payment shall notify the department at such time and in such manner as may be prescribed by the commissioner. The commissioner shall then proceed as follows:

(i) If the property owner had previously been receiving the STAR credit, the commissioner shall allow the property owner to resume his or her participation in the STAR credit program on a prospective basis, if otherwise eligible, effective with the first taxable year commencing after such payment.

(ii) If the property owner had previously been receiving the STAR exemption, the commissioner shall allow the property owner to participate in the STAR credit program on a prospective basis, if otherwise eligible, effective with the first taxable year commencing after such payment. The property owner shall not be allowed back into the STAR exemption program.

9. Mistake of fact. Notwithstanding any other provision of law, a disallowance of a STAR credit or STAR exemption pursuant to this section may only be challenged before the department on the grounds of a mistake of fact as defined in this subdivision. The taxpayer will have no right to commence a court action, administrative proceeding or any other form of legal recourse against an assessor, county director of real property tax services or other local official regarding such disallowance. For the purposes of this subdivision, "mistake of fact" is limited to claims that: (i) the individual notified is not the taxpayer at issue; or (ii) the past-due property taxes were satisfied before the date specified in the notice described in subdivision six of this section. However, nothing in this subdivision is intended to limit a taxpayer from seeking relief from joint and several liability pursuant to section six hundred fifty-four of this chapter to the extent that he or she is eligible pursuant to that subdivision or establishing to the department that the enforcement of the underlying property taxes has been stayed by the filing of a petition pursuant to the Bankruptcy Code of 1978 (Title Eleven of the United States Code).

10. Assessors. (a) Notwithstanding any provision of law to the contrary, the department may disclose to assessors such information as the commissioner deems necessary to ensure that the STAR exemptions of delinquent property owners are disallowed as required by this section.

(b) Notwithstanding any provision of law to the contrary, an assessor shall be authorized and directed to deny a STAR exemption to a delinquent property owner upon being directed by the department to do so. If an assessor should receive such a directive after the applicable assessment roll has been filed, the assessor or other official having custody and control of that roll shall be authorized and directed to remove such exemption from such roll prior to the levy of school taxes, without regard to the provisions of title three of article five of the real property tax law or any comparable laws governing the correction of administrative errors on assessment rolls and tax rolls.

11. Recovery of STAR benefits in certain cases. The commissioner may establish procedures to be followed in cases where a STAR credit or exemption was inadvertently or erroneously provided to a delinquent property owner who was sent the notice required by subdivision six of this section, and whose past-due property taxes were not paid in full by the date specified in the notice. Such procedures shall include, but not be limited to, (a) applying the improperly received STAR credit or exemption as an offset against future STAR credits or against other personal income tax credits or personal income tax refunds to which the delinquent property owner would otherwise be entitled, and (b) pursuing any of the other remedies that are available to enforce a personal income tax debt under article twenty-two of this chapter.

§ 2. This act shall take effect immediately.

PART P

Section 1. Section 1530 of the real property tax law is amended by adding a new subdivision 1-a to read as follows:

1-a. In the event that a director of real property tax services, appointed pursuant to the provisions of this section, is unable to perform the duties of the office of director of real property tax services or the office becomes vacant, the appointing authority may by resolution designate or appoint an acting director of real property tax services. Where an acting director of real property tax services is designated or appointed pursuant to this section, the appointing authority shall notify the commissioner within fifteen days of making such designation or appointment. The acting director of real property tax services shall function as director of real property tax services until such time as the director of real property tax services is able to resume the position or until a replacement is appointed. In the event an acting director of real property tax services functions as director of real property tax services for more than six months, then such acting director of real property tax services shall be required to meet the minimum qualification standards required by this title for persons appointed to the office of director of real property tax services.

§ 2. This act shall take effect immediately.

PART Q

Section 1. Paragraph i of subdivision 1-e of section 333 of the real property law, as amended by section 5 of part X of chapter 56 of the laws of 2010 and as further amended by subdivision (d) of section 1 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

i. A recording officer shall not record or accept for record any conveyance of real property affecting land in New York state unless accompanied by **either (A)** a transfer report form prescribed by the commissioner of taxation and finance [~~or in lieu thereof, confirmation from the commissioner that the required data has been reported to it pursuant to paragraph vii of this subdivision,~~] and the fee prescribed pursuant to subdivision three of this section**, or (B) a receipt issued by the commissioner of taxation and finance pursuant to section fourteen hundred twenty-three of the tax law that confirms the electronic submission of a consolidated real property transfer form and payment of the associated taxes and fees**.

§ 2. Paragraph v of subdivision 1-e of section 333 of the real property law, as amended by section 5 of part X of chapter 56 of the laws of 2010 and as further amended by section 1 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

v. **(1)** The provisions of this subdivision shall not operate to invalidate any conveyance of real property where one or more of the items designated as subparagraphs one through eight of paragraph ii of this subdivision, have not been reported or which has been erroneously reported, nor affect the record contrary to the provisions of this subdivision, nor impair any title founded on such conveyance or record. [~~Such~~]

(2) Subject to the provisions of section fourteen hundred twenty-three of the tax law, such form shall contain an affirmation as to the accuracy of the contents made both by the transferor or transferors and by the transferee or transferees. Provided, however, that if the conveyance of real property occurs as a result of a taking by eminent domain, tax foreclosure, or other involuntary proceeding such affirmation may be made only by either the condemnor, tax district, or other party to whom the property has been conveyed, or by that party's attorney. The affirmations required by this paragraph shall be made in the form and manner prescribed by the commissioner, provided that notwithstanding any provision of law to the contrary, affirmants may be allowed, but shall not be required, to sign such affirmations electronically.

§ 3. Paragraphs vii and viii of subdivision 1-e of section 333 of the real property law are REPEALED.

§ 4. Subdivision 3 of section 333 of the real property law, as amended by section 2 of part JJ of chapter 56 of the laws of 2009 and as further amended by section 1 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

3. The recording officer of every county and the city of New York shall impose a fee of two hundred fifty dollars, or in the case of a transfer involving qualifying residential or farm property as defined by paragraph iv of subdivision one-e of this section, a fee of one hundred twenty-five dollars, for every real property transfer reporting form submitted for recording as required under subdivision one-e of this section. In the city of New York, the recording officer shall impose a fee of one hundred dollars for each real property transfer tax form filed in accordance with chapter twenty-one of title eleven of the administrative code of the city of New York, except where a real property transfer reporting form is also submitted for recording for the transfer as required under subdivision one-e of this section. The recording officer shall deduct nine dollars from such fee and remit the remainder of the revenue collected to the commissioner of taxation and finance every month for deposit into the general fund. The amount duly deducted by the recording officer shall be retained by the county or by the city of New York. **Provided, however, that the recording officer shall not impose such a fee where the conveyance is accompanied by a receipt issued by the commissioner of taxation and finance pursuant to section fourteen hundred twenty-three of the tax law that confirms the electronic submission of a consolidated real property transfer form and payment of the associated taxes and fees.**

§ 5. Subdivision (c) of section 1407 of the tax law, as amended by chapter 61 of the laws of 1989, is amended to read as follows:

(c) Every recording officer designated to act as such agent shall retain, from the real estate transfer tax which he **or she** collects, the sum of one dollar for each of the first five thousand conveyances accepted for recording and for which he **or she** has issued a documentary stamp or metering machine stamp or upon which instrument effecting the conveyance he **or she** has noted payment of the tax or that no tax is due, pursuant to any other method for payment of the tax provided for in the regulations of the commissioner of taxation and finance, during each annual period commencing on the first day of August and ending on the next succeeding thirty-first day of July and seventy-five cents for each conveyance in excess of five thousand accepted for recording and for which he **or she** has issued such a stamp or upon which instrument effecting the conveyance he **or she** has noted payment of the tax or that no tax is due, pursuant to such other method, during such annual period. Such fee shall be payable even though the stamp issued or such notation shows that no tax is due. Such a fee paid to the register of the city of New York shall belong to the city of New York and such a fee paid to a recording officer of a county outside such city shall belong to such officer's county. With respect to any other agents designated to act pursuant to subdivision (a) of this section, the commissioner of taxation and finance shall have the power to provide, at his **or her** discretion, for payment of a fee to such agent, in such manner and amount and subject to such limitations as he **or she** may determine, but any such fee for any annual period shall not be greater than the sum of one dollar for each of the first five thousand conveyances for which such agent has issued a documentary stamp or metering machine stamp or upon which instrument effecting the conveyance he **or she** has noted payment of the tax or that no tax is due, pursuant to any other method for payment of the tax provided for in the regulations of the commissioner of taxation and finance, during such annual period and seventy-five cents for each conveyance in excess of five thousand for which such agent has issued such a stamp or upon which instrument effecting the conveyance such agent has noted payment of the tax or that no tax is due, pursuant to such other method, during such annual period. **Provided, however, that where the recording officer is provided with a receipt issued by the commissioner pursuant to section fourteen hundred twenty-three of this article that confirms the electronic submission of a consolidated real property transfer form and payment of the associated taxes and fees, the recording officer shall neither collect such tax nor impose such fee.**

§ 6. Subdivision (b) of section 1409 of the tax law, as added by chapter 61 of the laws of 1989, is amended to read as follows:

(b) [~~The~~] **Subject to the provisions of section fourteen hundred twenty-three of article, the** return shall be signed by both the grantor and the grantee. Where a conveyance has more than one grantor or more than one grantee, the return shall be signed by all of such grantors and grantees. Where any or all of the grantors or any or all of the grantees have failed to sign a return, it shall be accepted as a return if signed by any one of the grantors or by any one of the grantees. Provided, however, those not signing the return shall not be relieved of any liability for the tax imposed by this article and the period of limitations for assessment of tax or of additional tax shall not apply to any such party.

§ 7. Subdivision (b) of section 1410 of the tax law, as added by chapter 61 of the laws of 1989, is amended to read as follows:

(b) A recording officer shall not record an instrument effecting a conveyance unless **either (i)** the return required by section fourteen hundred nine of this article has been filed and the real estate transfer tax due, if any, shall have been paid as provided in this section**, or (ii) the instrument is accompanied by a receipt issued by the commissioner pursuant to section fourteen hundred twenty-three of this article that confirms the electronic submission of a consolidated real property transfer form and payment of the associated taxes and fees**.

§ 8. The tax law is amended by adding a new section 1423 to read as follows:

§ 1423. Modernization of real property transfer reporting. (a) Notwithstanding any provision of law to the contrary, the commissioner is hereby authorized to implement a system for the electronic collection of data relating to transfers of real property. In connection therewith, the commissioner may combine the two forms referred to in paragraph (i) of this subdivision into a consolidated real property transfer form to be filed with him or her electronically; provided:

(i) The two forms that may be so combined are the real estate transfer tax return required by section fourteen hundred nine of this article, and the real property transfer report required by subdivision one-e of

section three hundred thirty-three of the real property law. However, the commissioner shall continue to maintain both such return and such report as separate forms, so that a party who prefers not to file a consolidated real property transfer form with the commissioner electronically shall have the option of filing both such return and such report with the recording officer, as otherwise provided by law. Under no circumstances shall a consolidated real property transfer form be filed with, or accepted by, the recording officer.

(ii) Notwithstanding the provisions of section fourteen hundred eighteen of this article, any information appearing on a consolidated real property transfer form that is required to be included on the real property transfer report required by subdivision one-e of section three hundred thirty-three of the real property law shall be subject to public disclosure.

(iii) When a consolidated real property transfer form is electronically submitted to the department by either the grantor or grantee, the act of submitting such form shall be deemed to be the signing of the return as required by paragraph (v) of subdivision one-e of the real property law or subdivision (b) of section fourteen hundred nine of this article, and the requirement that all the grantors and grantees shall sign the return shall not apply. However, the fact that a grantor or grantee has not electronically submitted the form shall not relieve that grantor or grantee of any liability for the tax imposed by this article.

(b) When a consolidated real property transfer form is filed with the commissioner electronically pursuant to this section, the real estate transfer tax imposed under this article, and the fee that would otherwise be retained by the recording officer pursuant to subdivision three of section three hundred thirty-three of the real property law, shall be paid to the commissioner therewith. The commissioner shall retain on behalf of the recording officer the portion of such tax that would otherwise have been retained by the recording officer pursuant to subdivision (c) of section fourteen hundred seven of this article, and the portion of such fee that would otherwise have been retained by the recording officer pursuant to subdivision three of section three hundred thirty-three of the real property law. The moneys so retained by the commissioner on behalf of the recording officer, hereinafter referred to as the recording officer's fees, shall be deposited daily with such responsible banks, banking houses, or trust companies as may be designated by the state comptroller. Of the recording officer's fees so deposited, the comptroller shall retain in the comptroller's hands such amount as the commissioner may determine to be necessary for refunds or reimbursements of such fees collected or received pursuant to this section, out of which the comptroller shall pay any refunds or reimbursements of such fees to which persons shall be entitled under the provisions of this section. The comptroller, after reserving such refund and reimbursement fund shall, on or before the twelfth day of each month, pay to the appropriate recording officers an amount equal to the recording officer's fees reserved on their behalf. Provided, however, that the commissioner is authorized to request that the comptroller refrain from making such a payment of such fees to a recording officer until the commissioner has certified to the comptroller that the recording officer has supplied the commissioner with the liber and page numbers of the recorded instruments that gave rise to such fees.

(c) The system for the electronic submission of consolidated real property transfer forms shall be designed so that upon the successful electronic filing of such a form and the payment of the associated taxes

<u>and fees, the party submitting the same shall be provided with an electronic receipt in a form prescribed by the commissioner that confirms such filing and payment. Such party may file a printed copy of such receipt with the recording officer when offering the associated instrument for recording, in lieu of submitting to the recording officer the return, report, tax and fee that would otherwise have been required under this article and subdivisions one-e and three of section three hundred thirty-three of the real property law. The recording officer shall retain such receipt for a minimum of three years, unless otherwise directed by the commissioner, and shall provide a copy thereof to the commissioner for inspection upon his or her request.</u>

<u>(d) Upon recording the instrument to which the consolidated real property transfer form pertains, the recording officer shall provide the commissioner with the liber and page thereof at such time and in such manner as the commissioner shall prescribe.</u>

<u>(e) The provisions of this section shall not be applicable within a city or county that has implemented its own electronic system for the recording of deeds, the filing of the real estate transfer tax returns and the real property transfer reports prescribed by the commissioner, and the payment of the associated taxes and fees, unless such city or county should agree to allow the system implemented by the commissioner pursuant to this section to be used therein.</u>

§ 9. This act shall take effect immediately.

PART R

Section 1. Section 19 of the public lands law, as amended by chapter 449 of the laws of 2016, is amended to read as follows:

§ 19. Taxes and assessments for local improvements on state lands. A person, body or board authorized to assess lands for local improvements or purposes, shall submit to the comptroller of the state an invoice of assessment on state lands, showing the purpose for which the assessment is made, the state lands assessed and the amounts for which they are assessed, and referring to the law authorizing the assessment. No fee, interest, penalty or expense shall be added to or accrue on any assessment against state lands, nor shall such lands be sold therefor; but such assessments shall, if confirmed and uncontested, be paid and discharged out of any moneys appropriated therefor. All sales of state lands for unpaid taxes or assessments for local improvements or purposes are void. All taxes and assessments legally made on state lands, and all legal rents or charges thereon, shall be audited by the comptroller and paid out of the treasury. On or before January fifteenth the comptroller, in consultation with the [~~board of real property tax services~~] <u>department of taxation and finance</u> and other agencies as may be appropriate, shall submit to the governor and the legislature an annual accounting of taxes and assessments paid pursuant to this section during the preceding and current fiscal years. Such accounting shall include, but not be limited to the number, type and amount of such payments, as well as an estimate of payments to be made during the remainder of the current fiscal year and during the following fiscal year. If any provision of this section conflict with any provision of any other general, special or local law, this section shall prevail; and no other general, special or local law shall be deemed to repeal, alter or abridge any provision of this section, unless this section or this article or this chapter be expressly and specifically referred to therein. This section shall extend, in its operation and effect, so as to include all actions and proceedings, whether judicial or administrative, heretofore commenced under any general, special or local law and now pending.

§ 2. Subdivision 3 of section 19-b of the public lands law, as amended by chapter 385 of the laws of 1994, is amended to read as follows:

3. Such state aid shall be payable upon application to the state comptroller by the chief fiscal officer of the taxing authority which qualifies for aid pursuant to this section. The application shall be made on a form prescribed by such comptroller and shall contain such information as such comptroller shall require. On or before January fifteenth the comptroller, in consultation with the [~~board of real property services~~] department of taxation and finance and other agencies as may be appropriate, shall submit to the governor and the legislature an annual accounting of state aid paid pursuant to this section during the preceding and current fiscal years. Such accounting shall include, but not be limited to the number, type and amount of such payments, as well as an estimate of payments to be made during the remainder of the current fiscal year and during the following fiscal year.

§ 3. Subdivision 6 of section 291-i of the real property law, as added by chapter 549 of the laws of 2011, is amended to read as follows:

6. Nothing contained in this section shall be construed to authorize a recording officer to furnish digitized paper documents of the reports required by section five hundred seventy-four of the real property tax law. Such reports shall be furnished as paper documents with the requisite notations thereon, except where the [~~state board of real property services~~] department of taxation and finance has agreed to accept data submissions in lieu thereof or has provided for the electronic transmission of such data pursuant to law.

§ 4. Subdivision 18 of section 102 of the real property tax law is REPEALED.

§ 5. The article heading of article 2 of the real property tax law is amended to read as follows:

[~~STATE BOARD~~] COMMISSIONER OF TAXATION AND FINANCE

§ 6. Sections 200 and 200-A of the real property tax law are REPEALED.

§ 7. Subdivisions 1 and 7 of section 201 of the real property tax law, as added by section 5 of part W of chapter 56 of the laws of 2010, are amended to read as follows:

1. On and after the effective date of this section, the functions, powers and duties of the state board of real property services as formerly established by this chapter shall be considered functions, powers and duties of the commissioner of taxation and finance[~~, except to the extent provided by section two hundred-a of this article~~].

7. (a) All rules, regulations, acts, orders, determinations, and decisions of the state board of real property services or the office of real property services, in force at the time of such transfer and assumption, shall continue in full force and effect as rules, regulations, acts, orders, determinations and decisions of the department until duly modified or abrogated by the commissioner or the department.

(b) All acts, orders, determinations, and decisions of the state board of real property services pertaining to the functions and powers provided in former section two hundred-a of this article shall continue in full force and effect as acts, orders, determinations and decisions of the [~~state board of real property tax services~~] commissioner.

§ 8. Section 203 of the real property tax law, as amended by section 7 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

§ 203. Office of real property tax services. There is hereby created within the department of taxation and finance an office of real property tax services. The head of the office shall be a deputy commissioner for real property tax services[~~, who shall also be the executive officer for and secretary of the state board of real property tax services~~]. The deputy commissioner for real property tax services shall be appointed by the governor. He or she shall exercise such powers and duties in relation to real property tax administration as may be delegated to him or her by the commissioner, shall report directly to the commissioner on the activities of the office, and shall hold office at the pleasure of the commissioner. The commissioner may appoint such officers, employees, agents, consultants and special committees as he or she may deem necessary to carry out the provisions of this chapter, and shall prescribe their duties.

§ 9. Sections 204, 206 and 208 of the real property tax law are REPEALED.

§ 10. Clause (D) of subparagraph (iv) of paragraph (b) of subdivision 4 of section 425 of the real property tax law, as amended by section 1 of part PP of chapter 59 of the laws of 2019, is amended to read as follows:

(D) Notwithstanding any provision of law to the contrary, neither an assessor nor a board of assessment review has the authority to consider an objection to the replacement or removal or denial of an exemption pursuant to this subdivision, nor may such an action be reviewed in a proceeding to review an assessment pursuant to title one or one-A of article seven of this chapter. Such an action may only be challenged before the department. If a taxpayer is dissatisfied with the department's final determination, the [~~taxpayer may appeal that determination to the state board of real property tax services in a form and manner to be prescribed by the commissioner. Such appeal shall be filed within forty-five days from the issuance of the department's final determination. If dissatisfied with the state board's determination, the~~] taxpayer may seek judicial review thereof pursuant to article seventy-eight of the civil practice law and rules. The taxpayer shall otherwise have no right to challenge such final determination in a court action, administrative proceeding or any other form of legal recourse against the commissioner, the department, [~~the state board of real property tax services,~~] the assessor or other person having custody or control of the assessment roll or tax roll regarding such action.

§ 11. Paragraph (d) of subdivision 14 of section 425 of the real property tax law, as added by section 1 of part J of chapter 57 of the laws of 2013, is amended to read as follows:

(d) Notwithstanding the provisions of paragraph (b) of subdivision six of this section, neither an assessor nor a board of assessment review has the authority to consider an objection to the removal or denial of an exemption pursuant to this subdivision, nor may such an action be reviewed in a proceeding to review an assessment pursuant to title one or one-A of article seven of this chapter. Such an action may only be challenged before the department of taxation and finance. If a taxpayer is dissatisfied with the department's final determination, [~~the taxpayer may appeal that determination to the state board of real property tax services in a form and manner to be prescribed by the commissioner. Such appeal shall be filed within forty-five days from the issuance of the department's final determination. If dissatisfied with the state board's determination,~~] the taxpayer may seek judicial review thereof pursuant to article seventy-eight of the civil practice law and rules. The taxpayer shall otherwise have no right to challenge such final determination in a court action, administrative proceeding or any other form of legal recourse against the commissioner, the department of taxation and finance, [~~the state board of real property tax services,~~] the assessor or other person having custody or control of the assessment roll or tax roll regarding such action.

§ 12. Subparagraph (iii) of paragraph (b) of subdivision 15 of section 425 of the real property tax law, as amended by section 1 of part JJ of chapter 60 of the laws of 2016, is amended to read as follows:

(iii) notwithstanding the provisions of paragraph (b) of subdivision six of this section, neither an assessor nor a board of assessment review has the authority to consider an objection to the recoupment of an exemption pursuant to this subdivision, nor may such an action be reviewed in a proceeding to review an assessment pursuant to title one or one-A of article seven of this chapter. Such an action may only be challenged before the department. If an owner is dissatisfied with the department's final determination, [~~the owner may appeal that determination to the board in a form and manner to be prescribed by the commissioner. Such appeal shall be filed within forty-five days from the issuance of the department's final determination. If dissatisfied with the board's determination,~~] the owner may seek judicial review thereof pursuant to article seventy-eight of the civil practice law and rules. The owner shall otherwise have no right to challenge such final determination in a court action, administrative proceeding, including but not limited to an administrative proceeding pursuant to article forty of the tax law, or any other form of legal recourse against the commissioner, the department, [~~the board,~~] the assessor, or any other person, state agency, or local government.

§ 13. Section 489-o of the real property tax law, as amended by section 13 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

§ 489-o. Final determination of railroad ceiling; certificate. 1. After the hearing provided for in section four hundred eighty-nine-n of this title, the [~~state board of real property tax services~~] commissioner shall finally determine the railroad ceiling for the railroad real property of each railroad company situated in each assessing unit. Whenever upon complaint the [~~state board~~] commissioner shall revise the local reproduction cost of a railroad company in an assessing unit, [~~it~~] he or she shall revise the railroad ceiling therefor to reflect such revision, but [~~it~~] he or she shall not, on account of such revision, modify any other determination with respect to the railroad ceilings for such railroad company for such year. Notwithstanding the fact that no complaint shall have been filed with respect to a tentative determination of a railroad ceiling, the [~~state board~~] commissioner shall give effect to any special equalization rate established, pursuant to subdivision two of section four hundred eighty-nine-l of this title prior to the final determination of the railroad ceiling.

2. Not later than ten days before the last date prescribed by law for the levy of taxes, the [~~state board~~] commissioner shall file a certificate setting forth each railroad ceiling as finally determined with the assessor of the appropriate assessing unit or the town or county assessor who prepares a copy of the applicable part of the town or county assessment roll for village tax purposes as provided in subdivision three of section fourteen hundred two of this chapter, and at the same time shall transmit to each railroad company for which such ceiling has been determined a duplicate copy of such certificate.

3. Any final determination of a railroad ceiling by the [~~state board~~] **commissioner** pursuant to subdivision one of this section shall be subject to judicial review in a proceeding under article seventy-eight of the civil practice law and rules.

§ 14. Section 489-ll of the real property tax law, as added by chapter 920 of the laws of 1977, subdivision 1 as amended by section 14 of part W of chapter 56 of the laws of 2010, subdivision 2 as amended by chapter 735 of the laws of 1983, and subdivision 3 as added by chapter 841 of the laws of 1986, is amended to read as follows:

§ 489-ll. Final determination of railroad ceiling; certificate. 1. After the hearing provided for in section four hundred eighty-nine-kk of this title, the [~~state board of real property tax services~~] **commissioner** shall finally determine the railroad ceiling for the railroad real property of each railroad company situated in each assessing unit. Whenever upon complaint the [~~state board~~] **commissioner** shall revise the local reproduction cost of a railroad company in an assessing unit, [~~it~~] **he or she** shall revise the appropriate railroad ceiling to reflect such revision, but [~~it~~] **he or she** shall not, on account of such revision, modify any other determination with respect to the railroad ceilings for such railroad company for such year. Notwithstanding the fact that no complaint shall have been filed with respect to a tentative determination of a railroad ceiling, the [~~state board~~] **commissioner** shall give effect to any special equalization rate established pursuant to subdivision two of section four hundred eighty-nine-jj of this title prior to the final determination of the railroad ceiling.

2. Not later than ten days before the last date prescribed by law for the levy of taxes, the [~~state board~~] **commissioner** shall file a certificate setting forth each railroad ceiling as finally determined with the assessor of the appropriate assessing unit or the town or county assessor who prepares a copy of the applicable part of the town or county assessment roll for village tax purposes as provided in subdivision three of section fourteen hundred two of this chapter, and at the same time shall transmit to each railroad company for which such ceiling has been determined a duplicate copy of such certificate.

3. Any final determination of a railroad ceiling by the [~~state board~~] **commissioner** pursuant to subdivision one of this section shall be subject to judicial review in a proceeding under article seventy-eight of the civil practice law and rules.

§ 15. Section 547 of the real property tax law, as amended by chapter 385 of the laws of 1994, is amended to read as follows:

§ 547. Annual report. On or before January fifteenth the comptroller, in consultation with the [~~board of real property services~~] **commissioner** and other agencies as may be appropriate, shall submit to the governor and the legislature an annual accounting of state aid, taxes and assessments paid by the state pursuant to this article during the preceding and current fiscal years. Such accounting shall include, but not be limited to, the number, type and amount of claims so paid, as well as an estimate of claims to be paid during the remainder of the current fiscal year and during the following fiscal year.

§ 16. Section 614 of the real property tax law, as amended by section 15 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

§ 614. Determination of final assessment of special franchises. After receiving the [~~commissioner's~~] **hearing officer's** report regarding any complaint filed pursuant to section six hundred twelve of this article, the [~~state board of real property tax services~~] commissioner shall determine the final assessment of each special franchise.

§ 17. Section 816 of the real property tax law, as amended by chapter 36 of the laws of 1980 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:

§ 816. Review by [~~state board of real property tax services~~] commissioner. The [~~state board of real property tax services~~] commissioner shall have power on complaint to review the equalization made by any county equalization agency. Such review shall be brought by filing the complaint with the [~~state board of real property tax services~~] commissioner at any time within thirty days from the date on which notice was given pursuant to section eight hundred four of this article. Notice of the hearing on such review shall be given by the [~~state board of real property tax services~~] commissioner to the clerk of the county legislative body, whose duty it shall be to transmit a copy of such notice to each member of the county legislative body and to the chief executive officer of each city and town in the county.

§ 18. Section 818 of the real property tax law, as amended by chapter 615 of the laws of 1972, subdivision 3 as added by chapter 556 of the laws of 2002, and subdivisions 1 and 3 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:

§ 818. Determination on review. 1. On review of the equalization made by the county equalization agency, the [~~state board of real property tax services~~] commissioner shall review such equalization and shall determine whether such equalization is fair and equitable and if not, what corrections should be made. The [~~state board of real property tax services~~] commissioner shall certify its determination in writing to the county legislative body and to the chief executive officer of each city or town complaining, if any.

2. Such determination shall have the same force and effect as an original equalization made by the county equalization agency within the time prescribed by law.

3. If the [~~state board of real property tax services~~] commissioner determines that the equalization made by a county equalization agency in a county containing a designated large property, as that term is described in section eight hundred forty-seven of this article, is not fair and equitable, [~~it~~] he or she shall issue an order directing correction of such equalization, which may include the apportionment and levy of taxes in the manner provided in section eight hundred five of this title.

§ 19. Section 1210 of the real property tax law, as amended by section 17 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

§ 1210. Establishment of final state equalization rates, class ratios and class equalization rates. After receiving the [~~commissioner's~~] hearing officer's report regarding any complaint filed pursuant to section twelve hundred eight of this title, the [~~state board of real property tax services~~] commissioner shall establish the final state equalization rate, class ratios, and class equalization rates, if required, for each city, town, village, special assessing unit, or approved assessing unit or eligible non-assessing unit village which has adopted the provisions of section nineteen hundred three of this chapter.

§ 20. Section 1218 of the real property tax law, as amended by section 18 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

§ 1218. Review of final determinations of [~~state board of real property tax services~~] **the commissioner** relating to state equalization rates. A final determination of the [~~state board of real property tax services~~] **commissioner** relating to state equalization rates may be reviewed by commencing an action in the appellate division of the supreme court in the manner provided by article seventy-eight of the civil practice law and rules upon application of the county, city, town or village for which the rate or rates were established. The standard of review in such a proceeding shall be as specified in subdivision four of section seventy-eight hundred three of the civil practice law and rules. Whenever a final order is issued in such a proceeding directing a revised state equalization rate, any county, village or school district that used the former rate in the apportionment of taxes must, upon receipt of such final order, recalculate the levy that used such former rate and credit or debit as appropriate its constituent municipalities in its next levy. Any special franchise assessments that were established using the former rate must, upon receipt of such final order, be revised by the [~~state board~~] **commissioner** in accordance with the new rate, and, if taxes have already been levied upon such assessments, the affected special franchise owners shall either automatically receive a refund if there is a decrease or be taxed on an increase in the next levy in the manner provided for omitted parcels in title three of article five of this chapter.

§ 21. Section 1263 of the real property tax law, as added by chapter 280 of the laws of 1978 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:

§ 1263. Notice of determination of tentative ratios and opportunity to be heard. Not later than ninety days prior to the ensuing fiscal year of the city school district, the [~~state board of real property tax services~~] **commissioner** shall provide written notice of the determination of tentative ratios pursuant to this article to the board of education of each city school district. The notice shall set forth the tentative ratios, identify the assessment rolls for which the ratios were determined and shall specify the time and place where the [~~state board of real property tax services~~] **commissioner** or a duly authorized representative thereof will meet to hear objections presented by the appropriate board of education concerning such ratios. The notice must be served at least ten days before the date specified for the hearing. After hearing any objections, the [~~state board of real property tax services~~] **commissioner** shall determine final ratios for the appropriate assessment rolls in accordance with the provisions of this article. The board of education is hereby authorized and empowered to waive the hearing with respect to such tentative ratios.

§ 22. This act shall take effect October 1, 2020.

PART S

Section 1. Paragraph (f) of subdivision 3 of section 425 of the real property tax law is REPEALED.

§ 2. Section 171-y of the tax law is REPEALED.

§ 3. This act shall take effect immediately.

PART T

Section 1. Subdivision 3 of section 489-c of the real property tax law, as amended by chapter 733 of the laws of 2004, is amended to read as follows:

3. Railroad real property shall be assessed according to its condition and ownership as of the [~~first~~] **thirty-first** day of [~~July~~] **December** of the year preceding the year in which the assessment roll on which such assessment will be entered is filed in the office of the city or town clerk, except that it shall be assessed according to its condition and ownership as of the [~~first~~] **thirty-first** day of [~~July~~] **December** of the second year preceding the date required by law for the filing of the final assessment roll for purposes of all village assessment rolls.

§ 2. Subdivision 3 of section 489-cc of the real property tax law, as amended by chapter 733 of the laws of 2004, is amended to read as follows:

3. Railroad real property shall be assessed according to its condition and ownership as of the [~~first~~] **thirty-first** day of [~~July~~] **December** of the year preceding the year in which the assessment roll on which such assessment will be entered is filed in the office of the city or town clerk, except that it shall be assessed according to its condition and ownership as of the [~~first~~] **thirty-first** day of [~~July~~] **December** of the second year preceding the date required by law for the filing of the final assessment roll for purposes of all village assessment rolls.

§ 3. Section 499-nnnn of the real property tax law, as added by chapter 475 of the laws of 2013, is amended to read as follows:

§ 499-nnnn. Equalization rate. In determining assessment ceilings, the commissioner shall apply the final state equalization rate [~~for the assessment roll of the local assessing jurisdiction for which the ceiling is established. If that final rate is not available, the commissioner shall apply the most recent final state equalization rate for the local assessing jurisdiction, except that if a special equalization rate has been established as provided in title two of article twelve of this chapter, such rate shall be applied. In the case of a special assessing unit as defined in section eighteen hundred one of this chapter, the equalization rate to be applied shall be the applicable class equalization rate~~] **used for the local assessing jurisdiction on the assessment roll for the year immediately preceding the year in which the assessment ceiling is being established, except that (1) if a special equalization rate was used on such assessment roll, such rate shall be applied, and (2) in the case of a special assessing unit as defined in section eighteen hundred one of this chapter, the equalization rate to be applied shall be the applicable class equalization rate used on such assessment roll**.

§ 4. Subdivision 2 of section 499-pppp of the real property tax law, as added by chapter 475 of the laws of 2013, is amended to read as follows:

2. Notwithstanding that a complaint may not have been filed with respect to a tentative determination of an assessment ceiling, the commissioner shall give effect to any special equalization rate established pursuant to section twelve hundred twenty-four of this chapter [~~or the final state equalization rate for the assessment roll for which the ceiling is established as provided in section four hundred ninety-nine-nnnn of this title~~] prior to the date for the final determination of the assessment ceiling.

§ 5. Section 3 of chapter 475 of the laws of 2013 amending the real property tax law relating to assessment ceilings for local public utility mass real property is REPEALED.

§ 6. This act shall take effect immediately; provided, however, that the amendments to title 5 of article 4 of the real property tax law made by sections three and four of this act shall not affect the repeal of such title and shall be deemed to be repealed therewith.

PART U

Section 1. Clause (A) of subparagraph (iv) of paragraph (b) of subdivision 4 of section 425 of the real property tax law, as amended by section 1 of part PP of chapter 59 of the laws of 2019, is amended to read as follows:

(A) Effective with applications for the enhanced exemption on final assessment rolls to be completed in two thousand nineteen, the application form shall indicate that all owners of the property and any owners' spouses residing on the premises must have their income eligibility verified annually by the department and must furnish their taxpayer identification numbers in order to facilitate matching with records of the department. The income eligibility of such persons shall be verified annually by the department, and the assessor shall not request income documentation from them. All applicants for the enhanced exemption and all assessing units shall be required to participate in this program, which shall be known as the STAR income verification program. The commissioner may, in his or her discretion, extend the enrollment period of the STAR income verification program for property owners whose property received the enhanced exemption on the final assessment roll completed in two thousand eighteen but who failed to enroll in sufficient time to have the exemption continued on the final assessment roll completed in two thousand nineteen. Where appropriate, the commissioner is further authorized to remit directly to such a property owner a payment in an amount equal to the difference between the school tax bill that the property owner actually received and the school tax bill that the property owner would have received had he or she enrolled in a timely manner.

§ 2. This act shall take effect immediately.

PART V

Section 1. Section 902 of the racing, pari-mutuel wagering and breeding law is amended by adding a new subdivision 7 to read as follows:

7. A franchised racing corporation may, in its discretion and at its expense, fund for the exclusive use or utilization of the commission, the construction and initial equipping of an equine drug testing and research laboratory located within this state to be used for such purposes specified in subdivision one of this section. Such corporation shall consult with the commission regarding the proper scope and equipping of a laboratory. The siting and use of such laboratory shall be pursuant to a long-term lease between the corporation and the commission. The commission shall operate or contract for the operation of such laboratory.

§ 2. Paragraph 3 of subdivision f of section 1612 of the tax law, as amended by chapter 174 of the laws of 2013, is amended to read as follows:

3. Four percent of the total revenue wagered after payout of prizes to be deposited into an account of the franchised corporation established pursuant to section two hundred six of the racing, pari-mutuel wagering and breeding law to be used for capital expenditures in maintaining and upgrading Aqueduct racetrack, Belmont Park racetrack and Saratoga race course. Capital expenditures may include funding the construction of and initially equipping a state-based equine drug testing and research laboratory to be used pursuant to subdivision seven of section nine hundred two of the racing, pari-mutuel wagering and breeding law.

§ 3. This act shall take effect immediately.

PART W

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

§ 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;

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

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

i. "State" means each of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and each territory or possession of the United States; and

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

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

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

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

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

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

e. Each member state, by its delegate, shall be entitled to one vote in the compact commission. A majority vote of the total number of delegates shall be required to propose a compact rule, receive and distribute any funds, and to adopt, amend, or rescind the by-laws. A compact rule shall take effect in and for each member state when adopted by a super majority vote of eighty percent of the total number of member states.

Other compact actions shall require a majority vote of the delegates who are meeting.

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

g. No action may be taken at a compact commission meeting unless there is a quorum, which is either a majority of the delegates in the compact commission, or where applicable, all the delegates from any member states who propose or are voting affirmatively to adopt a compact rule.

h. Once effective, the compact shall continue in force and remain binding according to its terms upon each member state; provided that, a member state may withdraw from the compact by repealing the statute that enacted the compact into law. The racing commission of a withdrawing state shall give written notice of such withdrawal to the compact chairperson, who shall notify the member state racing commissions. A withdrawing state shall remain responsible for any unfulfilled obligations and liabilities. The effective date of withdrawal from the compact shall be the effective date of the repeal.

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

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

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

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

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

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

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

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

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

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

b. to collaborate with national industry stakeholders and industry organizations in the design and implementation of compact rules in a manner that serves the best interests of racing; and

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

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

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

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

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

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

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

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

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

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

b. gather information and engage in discussions with advisory committees, national industry stakeholders, and others, including an opportunity for industry organizations to submit input to member state racing commissions on the state level, to foster, promote and conduct a collaborative approach in the design and advancement of compact rules in a manner that serves the best interests of racing and as established in the by-laws;

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

d. have a standing committee that reviews at least quarterly the participation in and value of compact rules and, when it determines that a revision is appropriate or when requested to by any member state, submits a revising proposed compact rule. To the extent a revision would only add or remove a member state or states from where a compact rule has been adopted, the vote required by this section shall be required of only such state or states. The standing committee shall gather information and engage in discussions with national industry stakeholders, who may also directly recommend a compact rule proposal or revision to the compact committee.

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

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

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

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 financial obligations incurred by the compact commission.

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

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

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

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

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

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

§ 1123. Legal actions against compact. a. Any person may commence a claim, action, or proceeding against the compact commission in state court for damages. The compact commission shall have the benefit of the same limits of liability, defenses, rights to indemnity and defense by the state, and other legal rights and defenses for non-compact matters of the state racing commission in the state. All legal rights and defenses that arise from the compact shall also be available to the compact commission.

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

c. Each member state shall be liable for and pay judgments filed against the compact commission to the extent related to its participation in the compact. Where liability arises from action undertaken jointly with other member states, the liability shall be divided equally among the states for whom the applicable action or omission of the executive director or other employees of the compact commission was undertaken; and no member state shall contribute to or pay, or be jointly or severally or otherwise liable for, any part of any judgment beyond its share as determined in accordance with this section.

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

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

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

§ 1125. Construction, savings and severability. a. The compact shall be liberally construed so as to effectuate its purposes. The provisions of the compact shall be severable and if any phrase, clause, sentence, or provision of the compact is declared to be contrary to the constitution of the United States or of any member state, or the applicability of the compact to any government, agency, person, or circumstance is held invalid, the validity of the remainder of the compact and its applicability to any government, agency, person, or circumstance shall not be affected. If all or some portion of the compact is held to be contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the state affected as to all severable matters.

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

§ 2. This act shall take effect immediately.

PART X

Section 1. Paragraph (b) of subdivision 3 of section 1367 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:

(b) A sports pool shall be **primarily** operated in a sports wagering lounge located at a casino. The lounge shall conform to all requirements concerning square footage, design, equipment, security measures and related matters which the commission shall by regulation prescribe. **The commission may also approve additional locations for a sports pool within the casino, in areas that have been approved by the commission for the conduct of other gaming, to be operated in a manner and methodology as regulation shall prescribe.**

§ 2. This act shall take effect immediately.

PART Y

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

(1) sixty percent of the total amount for which tickets have been sold for [~~a lawful lottery~~] **the Quick Draw** game [~~introduced on or after the effective date of this paragraph,~~] subject to [~~the following provisions:~~

~~(A) such game shall be available only on premises occupied by licensed lottery sales agents, subject to the following provisions:~~

~~(i) if the licensee does not hold a license issued pursuant to the alcoholic beverage control law to sell alcoholic beverages for consumption on the premises, then the premises must have a minimum square footage greater than two thousand five hundred square feet;~~

~~(ii) notwithstanding the foregoing provisions, television equipment that automatically displays the results of such drawings may be installed and used without regard to the square footage if such premises are used as:~~

~~(I) a commercial bowling establishment, or~~

~~(II) a facility authorized under the racing, pari-mutuel wagering and breeding law to accept pari-mutuel wagers;~~

~~(B) the~~] rules for the operation of such game [~~shall be~~] as prescribed by regulations promulgated and adopted by the division, provided however, that such rules shall provide that no person under the age of twenty-one may participate in such games on the premises of a licensee who holds a license issued pursuant to the alcoholic beverage control law to sell alcoholic beverages for consumption on the premises; and, provided, further, that such regulations may be revised on an emergency basis not later than ninety days after the enactment of this paragraph in order to conform such regulations to the requirements of this paragraph; or

§ 2. This act shall take effect immediately.

PART Z

Section 1. Paragraph (a) of subdivision 1 of section 1003 of the racing, pari-mutuel wagering and breeding law, as amended by section 1 of part HH of chapter 59 of the laws of 2019, is amended to read as follows:

(a) Any racing association or corporation or regional off-track betting corporation, authorized to conduct pari-mutuel wagering under this chapter, desiring to display the simulcast of horse races on which pari-mutuel betting shall be permitted in the manner and subject to the conditions provided for in this article may apply to the commission for a license so to do. Applications for licenses shall be in such form as may be prescribed by the commission and shall contain such information or other material or evidence as the commission may require. No license shall be issued by the commission authorizing the simulcast transmission of thoroughbred races from a track located in Suffolk county. The fee for such licenses shall be five hundred dollars per simulcast facility and for account wagering licensees that do not operate either a simulcast facility that is open to the public within the state of New York or a licensed racetrack within the state, twenty thousand dollars per year payable by the licensee to the commission for deposit into the general fund. Except as provided in this section, the commission shall not approve any application to conduct simulcasting into individual or group residences, homes or other areas for the purposes of or in connection with pari-mutuel wagering. The commission may approve simulcasting into residences, homes or other areas to be conducted jointly by one or more regional off-track betting corporations and one or more of the following: a franchised corporation, thoroughbred racing corporation or a harness racing corporation or association; provided (i) the simulcasting consists only of those races on which pari-mutuel betting is authorized by this chapter at one or more simulcast facilities for each of the contracting off-track betting corporations which shall include wagers made in accordance with section one thousand fifteen, one thousand sixteen and one thousand seventeen of this article; provided further that the contract provisions or other simulcast arrangements for such simulcast facility shall be no less favorable than those in effect on January first, two thousand five; (ii) that each off-track betting corporation having within its geographic boundaries such residences, homes or other areas technically capable of receiving the simulcast signal shall be a contracting party; (iii) the distribution of revenues shall be subject to contractual agreement of the parties except that statutory payments to non-contracting parties, if any, may not be reduced; provided, however, that nothing herein to the contrary shall prevent a track from televising its races on an irregular basis primarily for promotional or marketing purposes as found by the commission. For purposes of this paragraph, the provisions of section one thousand thirteen of this article shall not apply. Any agreement authorizing an in-home simulcasting experiment commencing prior to May fifteenth, nineteen hundred ninety-five, may, and all its terms, be extended until June thirtieth, two thousand [~~twenty~~] **twenty-one**; provided, however, that any party to such agreement may elect to terminate such agreement upon conveying written notice to all other parties of such agreement at least forty-five days prior to the effective date of the termination, via registered mail. Any party to an agreement receiving such notice of an intent to terminate, may request the commission to mediate between the parties new terms and conditions in a replacement agreement between the parties as will permit continuation of an in-home experiment until June thirtieth, two thousand [~~twenty~~] **twenty-one**; and (iv) no in-home simulcasting in the thoroughbred special betting district shall occur without the approval of the regional thoroughbred track.

§ 2. Subparagraph (iii) of paragraph d of subdivision 3 of section 1007 of the racing, pari-mutuel wagering and breeding law, as amended by section 2 of part HH of chapter 59 of the laws of 2019, is amended to 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 [~~twenty~~] **twenty-one**, 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 HH of chapter 59 of the laws of 2019, 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 [~~twenty~~] **twenty-one** 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 [~~twenty~~] **twenty-one**. 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 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 HH of chapter 59 of the laws of 2019, 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 [~~twenty~~] **twenty-one**. 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 HH of chapter 59 of the laws of 2019, 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 [~~twenty~~] **twenty-one**. 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 display the live full-card simulcast signal of thoroughbred tracks (which may include quarter horse or mixed meetings provided that all such wagering on such races shall be construed to be thoroughbred races) located in another state or foreign country, subject to the following provisions; provided, however, no such written agreement shall be required of a franchised corporation licensed in accordance with section one thousand seven of this article:

§ 6. The opening paragraph of section 1018 of the racing, pari-mutuel wagering and breeding law, as amended by section 6 of part HH of chapter 59 of the laws of 2019, is amended to read as follows:

Notwithstanding any other provision of this chapter, for the period July twenty-fifth, two thousand one through September eighth, two thousand [~~nineteen~~] twenty, when a franchised corporation is conducting a race meeting within the state at Saratoga Race Course, every off-track betting corporation branch office and every simulcasting facility licensed in accordance with section one thousand seven (that 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, provided that such facility shall accept wagers on races run at all in-state thoroughbred tracks which are conducting racing programs subject to the following provisions; provided, however, no such written agreement shall be required of a franchised corporation licensed in accordance with section one thousand seven of this article.

§ 7. Section 32 of chapter 281 of the laws of 1994, amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting, as amended by section 7 of part HH of chapter 59 of the laws of 2019, is amended to read as follows:

§ 32. This act shall take effect immediately and the pari-mutuel tax reductions in section six of this act shall expire and be deemed repealed on July 1, [~~2020~~] 2021; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration, or repeal of any provision of law amended by any section of this act, and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law; provided further, however, that sections twenty-three and twenty-five of this act shall remain in full force and effect only until May 1, 1997 and at such time shall be deemed to be repealed.

§ 8. Section 54 of 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, as amended by section 8 of part HH of chapter 59 of the laws of 2019, is amended to read as follows:

§ 54. This act shall take effect immediately; provided, however, sections three through twelve of this act shall take effect on January 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breeding law, as added by section thirty-eight of this act, shall expire and be deemed repealed on July 1, [~~2020~~] 2021; and section eighteen of this act shall take effect on July 1, 2008 and sections fifty-one and fifty-two of this act shall take effect as of the same date as chapter 772 of the laws of 1989 took effect.

§ 9. Paragraph (a) of subdivision 1 of section 238 of the racing, pari-mutuel wagering and breeding law, as amended by section 9 of part HH of chapter 59 of the laws of 2019, 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 [~~twenty~~] **twenty-one**, 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 [~~**twenty**~~] <u>**twenty-one**</u>, such payment shall be seven-tenths of one per centum of such pools.

§ 10. This act shall take effect immediately.

PART AA

Section 1. Paragraph (b-1) of subdivision 3 of section 425 of the real property tax law, as amended by section 1 of part RR of chapter 59 of the laws of 2019, is amended to read as follows:

(b-1) Income. For final assessment rolls to be used for the levy of taxes for the two thousand eleven-two thousand twelve through two thousand eighteen-two thousand nineteen school years, the parcel's affiliated income may be no greater than five hundred thousand dollars, as determined by the commissioner pursuant to subdivision fourteen of this section or section one hundred seventy-one-u of the tax law, in order to be eligible for the basic exemption authorized by this section. [~~**Beginning with**~~] <u>**For**</u> the two thousand 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. <u>**Beginning with the two thousand twenty--two thousand twenty-one school year, for purposes of the exemption authorized by this section, the parcel's affiliated income may be no greater than two hundred thousand dollars, as so determined.**</u> 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. This act shall take effect immediately.

PART BB

Section 1. This act shall be known and may be cited as the "Cannabis Regulation and Taxation Act".

§ 2. A new chapter 7-A of the consolidated laws is added to read as follows:

CHAPTER 7-A OF THE CONSOLIDATED LAWS
CANNABIS LAW
ARTICLE 1
SHORT TITLE; POLICY OF STATE AND PURPOSE OF CHAPTER;
DEFINITIONS

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

§ 2. Policy of state and purpose of chapter. It is hereby declared as policy of the state of New York that it is necessary to properly regulate, restrict, and control the cultivation, processing, manufacture, wholesale, and retail production, distribution, transportation, advertising, marketing, and sale of cannabis, cannabis products, medical cannabis, and cannabinoid hemp within the state of New York, for the purposes of fostering and promoting temperance in their consumption, to properly protect the public health, safety, and welfare, to displace the illicit cannabis market, to provide safe and affordable access to medical cannabis for patients, and to promote social and economic equality. It is hereby declared that such policy will best be carried out by empowering the state office of cannabis management and its executive director, to determine whether public health, safety, convenience and advantage will be promoted by the issuance of registrations, licenses and/or permits granting the privilege to produce, distribute, transport, sell, or traffic in cannabis, medical cannabis, or cannabinoid hemp, to increase or decrease in the number thereof, scope of activities, and the location of premises registered, licensed, or permitted thereby, subject only to the right of judicial review hereinafter provided for. It is the purpose of this chapter to carry out that policy in the public interest. The restrictions, regulations, and provisions contained in this chapter are enacted by the legislature for the protection of the health, safety, and welfare of the people of the state.

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

1. "Applicant" means a person or for-profit entity or not-for-profit corporation and includes: board members, officers, managers, owners, partners, principal stakeholders, financiers, and members who submit an application to become a registered organization, licensee or permittee, and may include any other individual or entity with a material or operational interest in the license or its operations as determined by its executive director in regulation.

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-tenths of one percent by weight or by volume 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 or which exceeds an amount 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 per serving or per product determined by the executive director in regulation.

5. "Adult-use cannabis consumer" means a person, twenty-one years of age or older, who purchases approved adult-use cannabis or adult-use cannabis products for personal use, but not for resale to others.

6. "Adult-use cannabis processor" means a person licensed by the office who may purchase adult-use cannabis from adult-use cannabis cultivators, and who may process adult-use cannabis, and adult-use cannabis products, package and label adult-use cannabis, and adult-use

cannabis products for sale in adult-use cannabis retail outlets, and who may sell adult-use cannabis and cannabis-infused products at wholesale to licensed adult-use cannabis distributors, in accordance with regulations determined by the executive director.

7. "Adult-use cannabis product" or "adult-use cannabis" means any approved adult-use cannabis, concentrated cannabis, or adult-use cannabis-infused or extracted products, or products which otherwise contain or are derived from adult-use cannabis, and which have been authorized for distribution to and for use by an adult-use cannabis consumer as determined by the executive director in regulation.

8. "Adult-use cannabis retail dispenser" means a person or entity licensed by the executive director who may purchase adult-use cannabis products, from adult-use cannabis cultivators, processors or distributors, and who may sell approved adult-use cannabis products, in a retail outlet, in accordance with regulations determined by the executive director.

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. "Adult-use cultivation" shall include, the planting, growing, cloning, harvesting, drying, curing, grading and trimming of adult-use cannabis, or such other cultivation related processes as determined by the executive director in regulation.

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

15. "Convicted" and "conviction" include and mean a finding of guilt resulting from a plea of guilty, the decision of a court or magistrate or the verdict of a jury, irrespective of the pronouncement of judgment or the suspension thereof.

16. "Designated caregiver" means an individual designated by a certified patient in a registry application. A certified patient may designate up to two designated caregivers.

17. "Designated caregiver facility" means a general hospital or residential health care facility operating pursuant to article twenty-eight of the public health law; an adult care facility operating pursuant to title two of article seven of the social services law; a community mental health residence established pursuant to section 41.44 of the mental hygiene Law; a hospital operating pursuant to section 7.17 of the mental hygiene law; a mental hygiene facility operating pursuant to article thirty-one of the mental hygiene law; an inpatient or residential treatment program certified pursuant to article thirty-two of the mental hygiene law; a residential facility for the care and treatment of persons with developmental disabilities operating pursuant to article sixteen of the mental hygiene law; a residential treatment facility for

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

18. "Felony" means any criminal offense classified as a felony under the laws of this state or any criminal offense committed in any other state, district, or territory of the United States and classified as a felony therein which if committed within this state, would constitute a felony in this state.

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

20. "Government agency" means any office, division, board, bureau, commission, office, agency, authority or public corporation of the state or federal government or a county, city, town or village government within the state.

21. "Hemp" means the plant Cannabis sativa L. and any part of such plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight or per volume basis.

22. "Cannabinoid hemp" means any hemp and any product processed or derived from hemp, that is used for human consumption provided that when such product is packaged or offered for retail sale to a consumer, it shall not have a concentration of more than three-tenths of one percent of delta-9 tetrahydrocannabinol or more than an amount of delta-9 tetrahydrocannabinol per quantity of cannabinoid hemp product as determined by the executive director in regulation.

23. "Cannabinoid hemp processor license" means a license granted by the office to process, extract, pack or manufacture cannabinoid hemp or hemp extract into products, whether in intermediate or final form, used for human consumption.

24. "Cannabinoid hemp retailer license" means a license granted by the office to sell cannabinoid hemp, in final approved form, to consumers within the state.

25. "Individual dose" means a single measure of adult-use cannabis, medical cannabis or cannabinoid hemp product, as determined by the executive director in regulation. Individual doses may be established through a measure of raw material, a measure of an individual cannabinoid or compound, or an equivalency thereof.

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

27. "License" means a license issued pursuant to this chapter.

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

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

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

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

33. "Person" means individual, institution, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

34. "Practitioner" means a practitioner who: (i) is authorized to prescribe controlled substances within the state, (ii) by training or experience is qualified to treat a serious condition as defined in subdivision forty-three of this section; and (iii) completes, at a minimum, a two-hour course as determined by the executive director in regulation; provided however, the executive director may revoke a practitioner's ability to certify patients for cause.

35. "Processing" includes, blending, extracting, infusing, packaging, labeling, branding and otherwise making or preparing adult-use cannabis, medical cannabis and cannibinoid hemp, or such other related processes as determined by the executive director in regulation. Processing shall not include the cultivation of cannabis.

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

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

38. "Registry identification card" means a document that identifies a certified patient or designated caregiver, as provided under section thirty-two of this chapter.

39. "Retail sale" or "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale.

40. "Retailer" means any licensed person who sells at retail any approved adult-use cannabis product.

41. "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.

42. "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.

43. "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.

44. "Traffic in" includes to cultivate, process, manufacture, distribute or sell any cannabis, adult-use cannabis product or medical cannabis at wholesale or retail.

45. "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.

46. "Wholesale sale" or "sale at wholesale" means a sale to any person for purposes of resale.

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

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

ARTICLE 2

NEW YORK STATE OFFICE OF CANNABIS MANAGEMENT

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

§ 8. Establishment of the cannabis control board. 1. The cannabis control board or "board" is created and shall consist of a chairperson with one vote, and four other voting board members, all of whom shall be citizens and residents of this state.

2. The governor shall appoint all members of the board, and shall designate one member to serve as chairperson. All members of the board shall serve for a term of three years and shall continue to serve in office until the expiration of their terms and until their successors are appointed and have qualified. The members, other than the chairperson, shall be compensated at a rate of two hundred sixty dollars per day when performing the work of the board, together with an allowance for actual and necessary expenses incurred in the discharge of their duties. No person shall be appointed to or employed by the board if, during the period commencing three years prior to appointment or employment, such person held any direct or indirect interest in, or employment by, any corporation, association or person engaged in regulated activity within the state.

3. Prior to appointment or employment, each member, officer or employee of the board shall swear or affirm that he or she possesses no interest in any corporation or association holding a license, registration, certificate or permit issued by the board. Thereafter, no member or officer of the board shall hold any direct interest in or be employed by any applicant for or by any corporation, association or person holding a

license, registration, certificate or permit issued by the board for a period of four years commencing on the date his or her membership with the board terminates. Further, no employee of the board may acquire any direct or indirect interest in, or accept employment with, any applicant for or any person holding a license, registration, certificate or permit issued by the board for a period of two years commencing at the termination of employment with the board. The board may, by resolution adopted by unanimous vote at a properly noticed public meeting, waive for good cause the pre-employment restrictions enumerated in this subdivision for a prospective employee whose duties and responsibilities are not policy-making. Such adopted resolution shall state the reasons for waiving the pre-employment conditions for the prospective employee, including a finding that there were no other qualified candidates with the desired experience for the specified position.

4. Any member of the board may be removed by the governor for cause after notice and an opportunity to be heard.

5. In the event of a vacancy caused by the death, resignation, removal or disability of any board member, the vacancy shall be filled in the same manner as the original appointment; provided that in such instance the governor may appoint a member of the board to serve as chairperson for the remainder of their term.

6. A majority of the board members of the authority shall constitute a quorum for the purpose of conducting business, and a majority vote of those present shall be required for action.

7. The board shall meet as frequently as its business may require, and at least four times in each year. The board may enact and from time to time amend by-laws in relation to its meetings and the transactions of its business.

§ 9. Functions, powers and duties of the cannabis control board. The cannabis control board shall have such powers and duties as are set forth in this chapter and shall:

1. approve the office's social and economic equity plan pursuant to section eighty-four of this chapter;

2. approve the type and number of available licenses issued by the office;

3. approve the opening of new license application periods and when new or additional licenses are made available;

4. approve the creation of any new type of license;

5. approve any price quotas or price controls set by the executive director as provided by this chapter;

6. at the request of the executive director, appoint advisory groups or committees necessary to provide assistance to the office to carry out the policy of the state and purpose of this chapter;

7. when an administrative decision is appealed by an applicant, registered organization, licensee or permittee, issue a final determination of the office; and

8. promulgate any rules and regulations necessary to effectuate this chapter.

§ 10. Executive director. The office shall exercise its authority, through an executive director. The executive director shall receive an annual salary within the amounts appropriated therefor.

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

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

2. To limit the number, scope, and/or availability of registrations, licenses and permits of each class to be issued within the state or any political subdivision thereof, and in connection therewith to prohibit the acceptance of applications for such classes which have been so limited.

3. To revoke, cancel or suspend for cause any registration, license, or permit issued under this chapter and/or to impose a civil penalty for cause against any holder of a registration, license, or permit issued pursuant to this chapter or any person engaged in activities without a license or permit for which a license or permit is required by this chapter. Any civil penalty so imposed shall be in addition to and separate and apart from the terms and provisions of the bond required pursuant to section thirty-five of this chapter.

4. To fix by rule the standards and requirements for the cultivation, processing, packaging, marketing, and sale of medical cannabis, adult-use cannabis and cannabinoid hemp, including but not limited to, the ability to regulate potency, excipients, and the types and forms of products which may be manufactured and/or processed, in order to ensure the health and safety of the public and the use of proper ingredients and methods in the manufacture of all cannabis and cannabinoid hemp to be sold or consumed in the state and to ensure that products are not packaged, marketed, or otherwise trafficked in a way which targets minors or promotes increased use or cannabis use disorders.

5. To limit or prohibit, at any time of public emergency and without previous notice or advertisement, the cultivation, processing, distribution or sale of any or all adult-use cannabis products, medical cannabis or cannabinoid hemp, for and during the period of such emergency.

6. To inspect or provide for the inspection at any time of any premises where adult-use cannabis, medical cannabis or cannabinoid hemp is cultivated, processed, stored, distributed or sold including but not limited to compelling the production and review of all relevant business records and financial statements and corporate documents.

7. To prescribe forms of applications, criteria of review and method of selection or issuance for registrations, licenses and permits under this chapter and of all reports deemed necessary by the office.

8. Intentionally omitted.

9. 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.

10. To develop and establish minimum criteria for certifying employees to work in the cannabis industry, which may include the establishment of a cannabis workers certification program.

11. 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.

12. To establish and implement a social and economic equity plan, subject to approval of the board, to ensure access to, and participation in, the cannabis industry by social equity and economic empowerment applicants as prescribed in section eighty-four of this chapter.

13. 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 or administrative hold of products and a product recall 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.

14. To issue guidance and industry advisories.

15. To recommend that the state enter into tribal-state compacts with the New York state Indian nations and tribes, as defined by section two of the Indian law, authorizing such Indian nations or tribes to acquire, possess, manufacture, sell, deliver, transport, distribute or dispense adult-use cannabis and/or medical cannabis.

16. To coordinate across state agencies and departments in order to research and study any changes in cannabis use and the impact that cannabis use and the regulated cannabis industry may have on access to cannabis products, public health, and public safety.

§ 12. Rulemaking authority. 1. The board shall perform such acts, prescribe such forms and promulgate such rules, regulations and orders as it may deem necessary or proper to fully effectuate the provisions of this chapter, in accordance with the state administrative procedure act.

2. The board shall promulgate any and all necessary rules and regulations governing the production, processing, transportation, distribution, marketing, advertising and sale of medical cannabis, adult-use cannabis and cannabinoid hemp, 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 hemp processors and retailers, including but not limited to:

(a) prescribing forms and establishing application, registration, 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 adult-use cannabis, medical cannabis, cannabis-infused products, and cannabinoid hemp; conditions of sanitation, standards of ingredients, quality, and identity of adult-use cannabis and medical cannabis products cultivated, processed, packaged, or sold by registered organizations and licensees, and standards for the devices used to consume adult-use cannabis, medical cannabis and cannabinoid hemp;

(e) security requirements for adult-use cannabis retail dispensaries and premises where cannabis products or medical cannabis are cultivated, produced, processed, or stored, and safety protocols for registered organizations, licensees and their employees;

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

(g) the circumstances under and manner and process by which an applicant, registered organization, licensee, or permittee, may apply to change or alter its previously submitted or approved owners, managers, members, directors, financiers, or interest holders.

3. The board shall promulgate rules and regulations to:

(a) prevent the distribution of adult-use cannabis to persons under twenty-one years of age including the marketing, packaging and branding of adult-use cannabis;

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

(c) prevent the diversion of adult-use cannabis and medical cannabis from this state to other states;

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

(e) prevent violence and the use of firearms in the cultivation and distribution of cannabis;

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

(g) prevent the growing of cannabis on public lands and the attendant public safety and environmental dangers posed by cannabis production on public lands;

(h) prevent the possession and use of adult-use cannabis and medical cannabis on federal property;

(i) regulate and restrict the use of cannabis and prohibit the trafficking of dangerous cannabis products in order to reduce the rate of cannabis abuse, cannabis dependency, cannabis use disorders, and other adverse public health and safety consequences of cannabis use;

(j) educate the public and at-risk populations about responsible cannabis use and the potential dangers of cannabis use;

(k) prevent predatory marketing and advertising practices targeted toward at-risk populations such as minors, pregnant or breastfeeding women, and demographics which disproportionately engage in higher rates of cannabis use and display higher rates of cannabis use disorders;

(l) notwithstanding subdivision two of this section, revoke or refuse to issue any class or type of license, permit, or registration if he or she determines that failing to do so would conflict with any federal law or guidance pertaining to regulatory, enforcement and other systems that states, businesses, or other institutions may implement to mitigate the potential for federal intervention or enforcement against legalized adult-use cannabis and medical cannabis programs or businesses;

(m) notwithstanding any other section of state law, adopt rules and regulations based on federal guidance provided those rules and regulations are designed to comply with federal guidance and mitigate federal enforcement against the registrations, licenses, or permits issued under this chapter, or the cannabis industry as a whole. This may include regulations which permit the sharing of licensee, registrant, or permit-holder information with designated banking or financial institutions; and

(n) establish application, licensing, and permitting processes which ensure all material owners and interest holders are disclosed and that officials or other individuals with control over the approval of an application, permit, or license do not themselves have any interest in an application, license, or permit.

4. The board, in consultation with the department of agriculture and markets and the department of environmental conservation, shall promulgate necessary rules and regulations governing the safe production of adult-use cannabis and medical cannabis, including but not limited to environmental and energy standards and restrictions on the use of pesticides.

§ 13. Deputies; employees. 1. The executive director shall appoint a deputy director for health and safety who shall be a duly licensed physician within the state and who shall oversee the medical cannabis program and all clinical aspects of the office. The executive director shall also appoint a deputy director for social and economic equity who shall oversee the social and economic equity plan. The executive director may appoint such other deputies as he or she deems necessary to fulfill the responsibilities of the office.

2. The executive director may appoint and remove from time to time, in accordance with law and any applicable rules of the state civil service commission, such additional employees, under such titles as the executive director may assign, as the executive director may deem necessary for the efficient administration of the office. They shall perform such duties as the executive director shall assign to them. The compensation of such employees shall be within the amounts appropriated therefor.

3. Investigators employed by the office shall be deemed to be peace officers for the purpose of enforcing the provisions of this chapter or judgments or orders obtained for violation thereof, with all the powers set forth in section 2.20 of the criminal procedure law.

§ 14. Disposition of moneys received for license fees. The office shall establish a schedule of application, licensing, and renewal fees, based upon the cost of enforcing this chapter which may vary based on the nature, size, class, or scope of the cannabis business being licensed or the classification of the applicant, as follows:

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

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

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

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

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

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

4. Nothing in this section shall be construed to alter or repeal any existing provision of law declaring such violations to be misdemeanors or felonies or prescribing the penalty therefor.

5. Such civil penalty may be released or compromised by the executive director before the matter has been referred to the attorney general,

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

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

7. It is the purpose of this section to provide additional and cumulative remedies, and nothing herein contained shall abridge or alter rights of action or remedies now or hereafter existing, nor shall any provision of this section, nor any action done by virtue of this section, be construed as estopping the state, persons or municipalities in the exercising of their respective rights.

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

2. The board and those designated by the board shall not be bound by the laws of evidence in the conduct of hearing proceedings, but the determination shall be founded upon substantial evidence to sustain it.

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

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

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

6. Following a hearing, the board or its designee may make appropriate determinations and issue a final order in accordance therewith.

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

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

§ 17. Ethics, transparency and accountability. No member of the office or any officer, deputy, assistant, inspector or employee thereof shall have any interest, direct or indirect, either proprietary or by means of any loan, mortgage or lien, or in any other manner, in or on any premises where cannabis, medical cannabis or hemp is cultivated, processed, distributed or sold; nor shall he or she have any interest, direct or indirect, in any business wholly or partially devoted to the cultivation, processing, distribution, sale, transportation, marketing, or storage of adult-use cannabis, medical cannabis or cannabinoid hemp, or own any stock in any corporation which has any interest, proprietary or otherwise, direct or indirect, in any premises where adult-use cannabis, medical cannabis or cannabinoid hemp is cultivated, processed, distributed or sold, or in any business wholly or partially devoted to the cultivation, processing, distribution, sale, transportation or storage of adult-use cannabis, medical cannabis or cannabinoid hemp, or receive any commission or profit whatsoever, direct or indirect, from any person applying for, receiving, managing or operating any license or permit provided for in this chapter, or hold any other elected or appointed public office in the state or in any political subdivision to which a registered organization, licensee, permittee or applicant would appear. Anyone who violates any of the provisions of this section shall be removed or shall divest him or herself of such direct or indirect interests.

§ 18. 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 monitoring, surveillance and education campaign regarding the legalization of adult-use cannabis and the impact of cannabis use on public health and safety.

§ 19. Traffic safety oral fluid or other roadside detection method pilot program. The office, in consultation with the commissioner of the department of motor vehicles and the superintendent of the state police, shall develop and implement a workgroup together with other states to outline goals and standard operating procedures for a statewide or regional oral fluid or other roadside detection pilot program. The workgroup may include, but not be limited to, representatives from district attorney offices, local and county police departments, and other relevant public safety experts.

§ 20. Establish uniform policies and best practices. To engage in activities with other states, territories, or jurisdictions in order to coordinate and establish, uniform policies and best practices in cannabis regulation. These activities shall prioritize coordination with neighboring and regional states, and may include, but not be limited to establish working groups related to laboratory testing, products safety, taxation, road safety, and any other issues identified by the executive director. The executive director may enter into any contracts, or memoranda of understanding necessary to effectuate this provision.

ARTICLE 3
MEDICAL CANNABIS

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 any approved form of medical cannabis the patient should consume, including the method of consumption and any particular strain, variety, and quantity or percentage of cannabis or particular active ingredient, and appropriate dosage. The practitioner may state in the certification any recommendation or limitation the practitioner makes, in his or her professional opinion, concerning the appropriate form or forms of medical cannabis and dosage.

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

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

6. No practitioner shall issue a certification under this section for himself or herself.

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

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

9. A practitioner who offers patient certification shall not have any business relationship with, or own any stock in any corporation which has any interest, proprietary or otherwise, direct or indirect, in any registered organization, or other business or premises where medical cannabis is cultivated, processed, distributed or sold. This provision shall not be construed to prohibit a practitioner who offers patient certification from providing their medical expertise to, or engaging in medical cannabis research with, a registered organization or a licensee that traffics in medical cannabis provided that the practitioner is not compensated for or offered any consideration for these educational or research activities.

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

(a) the cannabis that may be possessed by a certified patient shall not exceed quantities determined by the executive director in regulation;

(b) the cannabis that may be possessed by designated caregivers does not exceed the quantities determined by the executive director under paragraph (a) of this subdivision for any certified patient for whom the caregiver is issued a valid registry identification card;

(c) the cannabis that may be possessed by designated caregiver facilities does not exceed the quantities determined by the executive director under paragraph (a) of this subdivision for each certified patient under the care or treatment of the facility;

(d) the form or forms of medical cannabis that may be possessed by the certified patient, designated caregiver or designated caregiver facility pursuant to a certification shall be in compliance with any recommendation or limitation by the practitioner as to the form or forms of medical cannabis or dosage for the certified patient in the certification and consistent with any guidance, limitation, and regulation issued by the executive director; and

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

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

2. To obtain, amend or renew a registry identification card, a certified patient or designated caregiver shall file a registry application with the office, unless otherwise exempted by the executive director in regulation. The registry application or renewal application shall include such information as prescribed by the office which shall include but not be limited to:

(a) in the case of a certified patient:

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

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

(iii) the date of the certification;

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

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

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

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

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

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

(b) in the case of a designated caregiver:

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

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

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

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

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

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

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

(a) The application for a registry identification card shall be made by an appropriate person over eighteen years of age. The application shall state facts demonstrating that the person is appropriate.

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

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

5. No person may be a designated caregiver for more than one certified patient at one time, unless approved by the office. The office may allow a designated caregiver to serve more than one patient in cases where additional designating patients are immediate family members, in the immediate and continuous care of the caregiver, or satisfy other eligibility requirements determined by the executive director in regulation.

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

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

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

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

10. A registry identification card shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) operating certificate or license number where appropriate;

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

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

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

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

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

3. The office shall approve, deny or reject an initial or renewal application. If the application is approved within the 30-day period, the office shall issue a registration as soon as is reasonably practicable.

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

§ 34. Registered organizations. 1. A registered organization shall be a for-profit business entity or not-for-profit corporation organized for the purpose of acquiring, possessing, manufacturing, selling, delivering, transporting, distributing or dispensing cannabis for certified medical use, in accordance with minimum operating and recordkeeping requirements determined by the executive director in regulation.

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

3. Each registered organization shall contract with an independent laboratory permitted by the office to test the medical cannabis produced by the registered organization. The executive director, in consultation with the commissioner of health, shall approve the laboratory used by the registered organization, including but not limited to sampling and testing protocols and standards used by the laboratory, and may require that the registered organization use a particular testing laboratory.

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

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

5. (a) No registered organization may sell, deliver, distribute or dispense to any certified patient or designated caregiver a quantity of medical cannabis larger than that individual would be allowed to possess as set out in regulation by the executive director.

(b) When dispensing medical cannabis to a certified patient or designated caregiver, the registered organization: (i) shall not dispense an amount greater than an amount established by the executive director in regulation; and (ii) shall verify the information in subparagraph (i) of this paragraph by consulting the prescription monitoring program registry under this article.

(c) Medical cannabis dispensed to a certified patient or designated caregiver by a registered organization shall conform to any recommendation or limitation by the practitioner as to the form or forms of medical cannabis or dosage for the certified patient, and any medical cannabis product or form limitations or restrictions determined by the executive director in regulation.

6. When a registered organization sells, delivers, distributes or dispenses medical cannabis to a certified patient or designated caregiv-

er, it shall provide to that individual a safety insert, which may be developed by the registered organization and shall include, but not be limited to, information on:

(a) methods for administering medical cannabis in individual doses,

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

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

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

7. Registered organizations shall not be managed by or employ anyone who has been convicted of any felony other than for the sale or possession of drugs, narcotics, or controlled substances, and provided that this subdivision only applies to (a) managers or employees who come into contact with or handle medical cannabis, and (b) a conviction less than ten years, not counting time spent in incarceration, prior to being employed, for which the person has not received a certificate of relief from disabilities, a certificate of good conduct under article twenty-three of the correction law, or an executive pardon.

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

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

10. A registered organization shall determine the quality, safety, and clinical strength of medical cannabis manufactured or dispensed by the registered organization, and shall provide documentation of that quality, safety and clinical strength to the office and to any person or entity to which the medical cannabis is sold or dispensed.

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

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

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

14. The board is authorized to make rules and regulations regulating the packaging, labeling, form and method of administration or ingestion, branding and marketing of medical cannabis products to prohibit accidental or overconsumption.

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

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

(ii) that the applicant:

(A) is of good moral character;

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

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

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

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

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

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

(A) any position of management, interest, or ownership during the preceding ten years of a ten per centum or greater interest in any other cannabis business or applicant, located in or outside of this state, manufacturing or distributing drugs, including indirect interest management or ownership of parent companies, subsidiaries, or affiliates;

(B) whether such person or any such business has had a cannabis business application denied or withdrawn or been convicted of a felony or had a registration or license subject to administrative action, including but not limited to violations, penalties, or consent agreements, or had any registration or license suspended or revoked in any administrative or judicial proceeding; and

(C) such other information as the executive director may reasonably require to enforce the licensing restrictions of this chapter.

2. The applicant shall be under a continuing duty to seek approval from the office prior to any material changes in ownership, management, or financial or managerial interest, or prior to substantive operational changes, and to disclose any change in facts or circumstances reflected in the application or any newly discovered or occurring fact or circumstance which is required to be included in the application.

3. (a) The board may grant a registration or approve a requested amendment to a registration under this section if he or she is satisfied that:

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

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

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

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

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

(A) whether the number of registered organizations in an area will be adequate or excessive to reasonably serve the area's patient need and demand;

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

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

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

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

(vi) the applicant and its managing officers and interest holders are of good moral character and have demonstrated a record and history of compliance with cannabis laws and regulations in the jurisdictions where they operate or have operated cannabis licenses and/or registrations;

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

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

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

(c) The fee for a registration under this section shall be an amount determined by the office in regulations.

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

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

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

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

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

(e) Upon application of a registered organization, a registration may be amended to allow the registered organization to relocate within the state or to add or delete permitted registered organization activities or facilities. The fee for such amendment request shall be determined by the executive director.

4. A registration issued under this section shall be valid for two years from the date of issue.

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

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

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

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

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

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

(c) An applicant for renewal shall be under a continuing duty to report to the office any change in facts or circumstances reflected in the application or any newly discovered or occurring fact or circumstance which is required to be included in the application, and to seek approval prior to any material change in ownership interest, management or operations.

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

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

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

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

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

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

(v) the applicant has substantively violated this chapter, regulations promulgated thereunder, or the laws of another jurisdiction in which they operate or have operated a cannabis license or registration.

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

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

8. The office shall begin issuing registrations for registered organizations as soon as practicable after the certifications required by this article are given.

9. The office shall register at least ten registered organizations that manufacture medical cannabis with no more than four dispensing sites wholly owned and operated by such registered organization. The executive director shall ensure that such registered organization, dispensing sites or approved delivery activities are geographically distributed across the state to satisfy patient and program need. The executive director may register additional registered organizations.

§ 36. Intentionally omitted.

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

2. The executive director shall require each registered organization to adopt and maintain security, tracking, record keeping, record retention and surveillance systems, relating to all medical cannabis at every stage of acquiring, possession, manufacture, sale, delivery, transporting, distributing, or dispensing by the registered organization, subject to regulations of the executive director.

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

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

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

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

(a) to test chemical potency and composition levels;

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

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

(d) to conduct genomic or agricultural research.

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

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

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

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

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

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

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

(a) application requirements;

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

(c) conditions for license revocation;

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

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

(f) licensee reporting requirements;

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

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

6. A cannabis research license issued pursuant to this section shall be issued in the name of the applicant, specify the location at which the cannabis researcher intends to operate, which shall be within the state of New York, and the holder thereof may not allow any other person to use the license.

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

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

§ 40. Registered organizations and adult-use cannabis. 1. The executive director shall have the authority to grant some or all of the registered organizations previously registered with the department of health and currently registered and in good standing with the office, the ability to be licensed to cultivate, process, distribute and/or sell adult-use cannabis and cannabis products, pursuant to any fees, rules or conditions prescribed by the board in regulation, but exempt from the restrictions on licensed adult-use cultivators, processors, and distributors from having any ownership interest in a licensed adult-use retail dispensary wholly owned and controlled by the registered organization pursuant to article four of this chapter.

2. The office shall have the authority to hold a competitive bidding process, including an auction, to determine the registered organization(s) authorized to be licensed to cultivate, process, distribute and/or sell adult-use cannabis and to collect the fees generated from such auction to administer the office's social and economic equity plan and other duties prescribed by this chapter.

3. Alternatively, registered organizations may apply for licensure as an adult-use cannabis cultivator, adult-use cannabis processor, and adult-use cannabis distributor, or apply for licensure as an adult-use cannabis retail dispensary, subject to all of the restrictions and limitations set forth in article four of this chapter.

4. Any registered organization which is licensed to cultivate, process, distribute and sell adult-use cannabis and cannabis products pursuant to this section and article four of this chapter, shall be required to maintain sufficient supply and distribution of medical cannabis products for certified patients pursuant to regulations promulgated by the executive director.

§ 41. Home cultivation of medical cannabis. 1. Eligible certified patients or one of their designated caregivers twenty-one years of age or older may apply for registration with the office to grow and possess no more than four cannabis plants, as defined by the executive director in regulation, per household.

2. All medical cannabis cultivated at home must be grown and stored in a single location in an enclosed, locked space, not open or viewable to the public. Such homegrown medical cannabis must only be for use by the certified patient and may not be distributed, sold, or gifted.

3. The board shall develop rules and regulations governing this section which shall include, but not be limited to:

(a) the registration of medical cannabis cultivated at home users and tracking of individual plants and the cannabis they produce;

(b) the inspection of medical cannabis cultivated at home to ensure compliance with possession limits and any building code, fire code, or other applicable state or local laws;

(c) restrictions and prohibitions on the unlicensed manufacturing and processing of medical cannabis products;

(d) application and eligibility requirements for a patient or one of their designated caregivers to qualify and be approved to grow medical cannabis;

(e) odor mitigation systems and plans that must be utilized for the home growing of medical cannabis;

(f) systems and processes that shall be used to confirm grow and possession limits compliance with law enforcement officials;

(g) possession limit equivalencies and restrictions on how much harvested and unused cannabis may be possessed by patients and caregivers who grow at home;

(h) the requirement that any patient or caregiver who cultivates medical cannabis at home provides proof of ownership of the grow location or written permission from the owner, landlord or governing board;

(i) enforcement of non-compliant cultivation at home including but not limited to the revocation of any registration or registry identification card associated with the patient and the seizure and destruction of non-compliant cannabis plants and products and the acquisition and transfer of cannabis plants;

(j) cultivation of medical cannabis at home location requirements; and

(k) any other regulations related to cultivation of medical cannabis at home, the growing infrastructure used, those with access to the site, or the cannabis material produced.

4. An eligible designated caregiver approved by the office may only grow for one patient.

5. A designated caregiver may not accept any money, fees, consideration, services, or any exchange of value in return for their growing services.

6. Any person in violation of state law or regulations related to cultivation of medical cannabis at home shall have any cannabis registry identification card, license, registration, or permit immediately revoked and shall be subject to administrative fines and penalties imposed by the office, as determined in regulation, and shall be subject to any applicable criminal penalties.

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

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

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

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

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

4. (a) Certification applications, certification forms, any certified patient information contained within a database, and copies of registry identification cards shall be deemed exempt from public disclosure under sections eighty-seven and eighty-nine of the public officers law. Upon specific request by a certified patient to the office, the office may verify the requesting patient's status as a valid certified patient to

the patient's school or employer, to ensure compliance with the protections afforded by this section.

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

§ 44. Regulations. The board shall make regulations to implement this article.

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

§ 46. Pricing. 1. Every sale of medical cannabis shall be at or below the price approved by the executive director. Every charge made or demanded for medical cannabis not in accordance with the price approved by the executive director, is prohibited.

2. The executive director is hereby authorized to set the per dose price of each form of medical cannabis sold by any registered organization. In reviewing the per dose price of each form of medical cannabis, the executive director may consider the fixed and variable costs of producing the form of cannabis and any other factor the executive director, in his or her discretion, deems relevant in reviewing the per dose price of each form of medical cannabis.

§ 47. Severability. If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which the judgment shall have been rendered.

ARTICLE 4
ADULT-USE CANNABIS

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

1. Adult-use cultivator license;
2. Adult-use processor license;
3. Adult-use cooperative license;
4. Adult-use distributor license;
5. Adult-use retail dispensary license;
6. On-site consumption license; and
7. Any other type of license as prescribed by the board in regulation.

§ 61. License Application. 1. Any eligible person may apply to the office for a license to cultivate, process, distribute or dispense cannabis within this state for sale during an open application period and pursuant to regulations promulgated by the office. Such application shall be in writing and verified and shall contain such information as the office shall require. Such application shall be accompanied by a check, draft or other forms of payment as the office may require for the amount required by this article for such license. If the office approves the application, it may issue a license in such form and through such process prescribed by the office. Such license shall contain a description of the licensed premises and in form and in substance shall be a license to the person therein specifically designated to cultivate, process, distribute or dispense cannabis in the premises therein specifically licensed or to engage in any other licensed, registered or permitted activity within the state, and the address, location, and/or scope specified by the office.

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

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

§ 62. Information to be requested in applications for licenses. 1. The office shall have the authority to prescribe the manner and form in which an application must be submitted to the office for licensure under this article. Such information may include, but is not limited to:

information about the applicant's identity, including racial and ethnic background; 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.

2. 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.

3. 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.

4. If there be any proposed 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 requesting approval of such change, cost and source of money involved in the change, duly verified, shall be submitted to the office prior to such proposed change. Failure to do so shall, if willful and deliberate, be cause for revocation of the license.

5. In giving any notice, or taking any action in reference to a registered organization or licensee of a licensed premises, the office may rely upon the information furnished in such application and in any supplemental statement or request 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, requests or supplemental statements shall be deemed material in any prosecution for perjury, any proceeding to revoke or suspend any license, or impose a fine and in the office's determination to approve or deny the license.

6. 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.

7. The office may, in its discretion, wholly prohibit and/or prescribe specific criteria under which it will consider and allow limited transfers or changes of ownership, interest, or control during the registration or license application period and/or up to two years after an approved applicant commences licensed activities.

§ 63. Fees. 1. The office shall have the authority to charge applicants for licensure under this article a non-refundable application fee and/or to to create a competitive process determined by the office to be qualified for such licensure based on the selection criteria in section sixty-four of this article. Such fee may be based on the type of licensure sought, cultivation and/or production volume, sequence or priority of issuance, or any other factors deemed necessary, reasonable and appropriate by the office to achieve the policy and purpose of this chapter.

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

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

§ 64. Approval and selection criteria. 1. The board shall develop regulations for use by the office in determining whether or not an applicant should be approved for and subsequently granted the privilege of holding an adult-use cannabis license. The criteria for such approval or subsequent issuance shall be based on, but not limited to, the following criteria:

(a) the applicant will be able to maintain effective control against the illegal diversion or inversion of cannabis;

(b) the applicant will be able to comply with all applicable state laws and regulations;

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

(d) where appropriate and applicable, the applicant possesses or has the right to use, or opportunity to acquire, sufficient land, buildings, and equipment to properly carry on the activity described in the application;

(e) it is in the public interest that such license be granted, taking into consideration, but not limited to, the following criteria:

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

(ii) the number, classes, scope and character of other licenses or approved applicants in proximity to the location or in the state, county or particular municipality or subdivision thereof as appropriate;

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

(iv) the history of cannabis or other relevant regulatory violations at the proposed location or by the applicant in any relevant jurisdiction, as well as any pattern of violations under this chapter, and reported criminal activity at the proposed premises;

(v) the effect on the production, price and availability of cannabis and cannabis products; and

(vi) any other factors specified by law or regulation that are relevant to determine that granting a license would promote public health and safety and the public interest of the state, county or community;

(f) the applicant and its managing officers do not have an ownership or controlling interest in more licenses, permits, or the scope of activity allowed by this chapter, or any regulations promulgated hereunder;

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

(h) the applicant will contribute to communities, the workforce and people disproportionately harmed by cannabis law enforcement through participation in the social and economic equity plan implemented by the office or other suitable means;

(i) if the application is for an adult-use cultivator license, the environmental impact of the facility to be licensed; and

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

2. If the executive director is not satisfied that the applicant is eligible to be approved, or subsequently should be issued a license, the

executive director shall notify the applicant in writing of the specific reason or reasons for denial.

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

2. No person shall sell, deliver, or give away or cause or permit or procure to be sold, delivered or given away any cannabis to any person, actually or apparently, under the age of twenty-one years, or any visibly intoxicated person.

3. No person shall knowingly sell, deliver, or give away or cause or permit or procure to be sold, delivered or given away to a lawful cannabis consumer any amount of cannabis which would cause the lawful cannabis consumer to be in violation of the possession limits established by this chapter, or their equivalent as determined by the executive director in regulation.

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

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

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

2. The office shall create a social responsibility framework agreement and make the adherence to and fulfillment of such agreement a conditional requirement of license renewal.

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

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

5. Each applicant must maintain a labor peace agreement with a bona-fide labor organization that is actively engaged in representing or attempting to represent the applicant's employees and the maintenance of such a labor peace agreement shall be an ongoing material condition of licensure.

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

(a) the name and address of the licensee;

(b) the activities permitted by the license;

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

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

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

2. Upon application to the office, an application or license may be amended to allow the applicant or licensee to relocate within the state, to add or delete licensed activities or facilities, or to amend the ownership or organizational structure of the entity that is the applicant or licensee, upon approval by the executive director. The fee for such amendment shall be determined by the executive director in regulation.

3. A license shall become void by a change in ownership, management, interest, substantial corporate change, location, or material changes in operations without prior written approval of the executive director. The executive director may promulgate regulations specifying the process for amendment requests and allowing for certain types of changes in ownership without the need for prior written approval.

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

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

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

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

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

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

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

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

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

7. The executive director shall have the authority to issue microbusiness cultivator licenses, allowing microbusiness licensees to cultivate, process, and distribute adult-use cannabis direct to licensed cannabis

retailers, under a single license. The board may establish through regulation microbusiness license eligibility criteria and production limits of total cannabis cultivated, processed and/or distributed annually for microbusiness cultivator licenses.

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

2. For purposes of this section, processing shall include, but not be limited to, blending, extracting, infusing, packaging, labeling, branding and otherwise making or preparing cannabis products. Processing shall not include the cultivation of cannabis.

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

4. No cannabis processor licensee may hold more than one cannabis processor license, provided a single license may authorize processor activities at multiple locations.

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

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

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

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

(b) 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 board shall promulgate regulations governing cooperative licenses, including, but not limited to, the establishment of canopy limits and other restrictions on the size and scope of cooperative licensees.

§ 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, adult-use cooperative, 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.

4. Adult-use distributor licensees are subject to minimum operating requirements as determined by regulation.

§ 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; subject to any conditions, limitations or restrictions established by the office.

3. No person holding a retail dispensary license may also hold or have any interest in 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 cannabis retail license shall be granted for any premises within five hundred feet of a building occupied exclusively as a school, or two hundred feet of a church, synagogue or other place of worship.

§ 73. Notification to municipalities of adult-use on-site consumption license. 1. Adult-use on-site consumption applicants must notify the municipality in which the proposed premises is located within ten business days of identifying the proposed premises and/or executing a lease, letter of intent to occupy the premises, or execution of a purchase and sale agreement.

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

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

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

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

4. Such notification shall be made in such manner as outlined by the office in regulation.

5. The office shall require such notification to be on a standardized form that can be obtained on the internet or from the office and such notification shall include applicant, licensee and proposed or secured premises information as determined by the office in regulation.

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

2. No adult-use cannabis retail dispensary shall be granted a cannabis on-site consumption license for any premises within five hundred feet of a building occupied exclusively as a school, or two hundred feet of a church, synagogue or other place of worship.

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

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

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

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

(d) the history of violations under this chapter, or cannabis laws and regulations of another jurisdiction, and reported criminal activity at the proposed premises or associated with the applicant; and

(e) any other factors that, in the judgment of the office, are relevant to determine that granting a license would promote public health, safety and convenience and the public interest of the community;

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

5. All retail licensed premises shall be subject to inspection by any peace officer, acting pursuant to his or her special duties, or police officer and by the duly authorized representatives of the office, during

the hours when the said premises are open for the transaction of business.

6. 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.

7. The office, in its discretion, shall have the ability to prioritize, or postpone accepting applications for, and the issuance of, on-site consumption licenses, and/or prioritize or limit the acceptance and review of applications from applicant pools such as social and economic equity applicants, consistent with the intent of this chapter.

8. The office shall promulgate rules and regulations governing the minimum operating requirements for on-site consumption licensees.

§ 75. Record keeping and tracking. The board 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.

§ 76. Inspections and ongoing requirements. All licensed or permitted premises, regardless of the type of premises, and records including financial statements and corporate documents, 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. 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 of the requirements of this article, the regulations promulgated pursuant thereto, and other applicable building codes, fire, health, safety, and governmental regulations, including at the municipal, county, and state level and include any inspector or official of relevant jurisdiction.

§ 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.

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

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

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

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

3. The board shall have the authority to create rules and regulations in regard to this section.

§ 78. Packaging, labeling, form and administration of adult-use cannabis products. 1. The board is hereby authorized to promulgate rules and regulations governing the packaging, labeling, form and method of administration or ingestion, branding and marketing of cannabis products, sold or possessed for sale in New York state.

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

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

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

(c) packages, labels, forms and products shall not be made to be attractive to or target persons under the age of twenty-one.

3. Such regulations shall include requiring labels warning consumers of any potential impact on human health resulting from the consumption of cannabis products that shall be affixed to those products when sold, if such labels are deemed warranted by the office and may establish standardized and/or uniform packaging requirements for adult-use products.

4. Such rules and regulations shall determine serving sizes for cannabis-infused products, active cannabis concentration per serving size, and number of servings per container. Such regulations shall also require a nutritional fact panel that incorporates data regarding serving sizes and potency thereof.

5. Such rules and regulations shall establish approved product types and forms and establish an application and review process to determine the suitability of new product types and forms, taking into consideration the consumer and public health and safety implications of different product varieties, manufacturing processes, product types and forms, the means and methods of ingestion associated with specific product types, and any other criteria identified by the board for consideration to protect public health and safety.

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

§ 79. Laboratory testing. 1. Every processor of adult-use cannabis shall contract with an independent laboratory permitted pursuant to section one hundred twenty-nine of this chapter, to test the cannabis products it produces pursuant to rules and regulations prescribed by the office. The board may assign an approved testing laboratory, which the processor of adult-use cannabis must use, and may establish consortia with neighboring states, to inform best practices, and share data.

2. Adult-use cannabis processors, cooperatives and microbusinesses shall make laboratory test reports available to licensed distributors

and retail dispensaries for all cannabis products manufactured by the processor or licensee.

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

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

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

6. The office shall have the authority to require any licensee under this article to submit cannabis or cannabis products to one or more independent laboratories for testing and the board may promulgate regulations related to all aspects of third-party testing and quality assurance including but not limited to:

(a) minimum testing and sampling requirements;

(b) testing and sampling methodologies;

(c) testing reporting requirements;

(d) retesting; and

(e) product quarantine, hold, recall, and remediation.

§ 80. Provisions governing the cultivation and processing of adult-use cannabis. 1. Cultivation of cannabis shall comply with regulations promulgated by the board governing minimum requirements.

2. No cultivator or processor of adult-use cannabis shall sell, or agree to sell or deliver in the state any cannabis products, as the case may be, except in sealed containers containing quantities in accordance with size standards pursuant to rules adopted by the office. Such containers shall have affixed thereto such labels or other means of tracking and identification as may be required by the rules of the executive director.

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

4. The board, in conjunction with the department of environmental conservation, shall promulgate all necessary rules and regulations, as well as a process for approval, governing the safe production of cannabis including, but not limited to, environmental and energy standards and restrictions on the use of pesticides.

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

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

7. All cannabis products shall be processed in accordance with good manufacturing processes for the product category, pursuant to either Part 111 or Part 117 of Title 21 of the Code of Federal Regulations, as may be defined and modified by the board in regulation, which shall to the extent practicable and possible, align with neighboring state requirements.

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

9. The use or integration of wine, beer, liquor or nicotine or any other substance identified in regulation in cannabis products is prohibited.

10. The board shall promulgate regulations governing the minimum requirements for the secure transport of adult-use cannabis.

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

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

3. Each distributor shall keep and maintain upon the licensed premises, adequate books and records of all transactions involving the business transacted by such distributor, which shall show the amount of cannabis products purchased by such distributor together with the names, license numbers and places of business of the persons from whom the same was purchased and the amount involved in such purchases, as well as the amount of cannabis products sold by such distributor together with the names, addresses, and license numbers of such purchasers and any other information required in regulation. 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 and any other information required in regulation. Such distributor shall deliver to the purchaser a true duplicate invoice stating the name and address of the purchaser, the quantity of cannabis products, description by brands and the price of such cannabis products, and a true, accurate and complete statement of the terms and conditions on which such sale is made. Such books, records and invoices shall be kept for a period of six years and shall be available for inspection by any authorized representative of the office.

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

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

6. The board is authorized to promulgate regulations establishing a minimum margin for which a distributor may mark up a cannabis product for sale to a retail dispensary. Any adult-use cannabis product sold by a distributor in violation of the established markup allowed in regulation, shall be unlawful.

7. Each distributor shall keep and maintain upon the licensed premises, adequate books and records to demonstrate the distributor's actual

cost of doing business, using accounting standards and methods regularly employed in the determination of costs for the purpose of federal income tax reporting, for the total operation of the licensee. Such books, records, financial statements, contracts, corporate documents, and invoices shall be kept for a period of six years and shall be available for inspection by any authorized representative of the office, including, for use in determining the minimum markup allowed in regulation pursuant to subdivision six of this section.

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

2. No cannabis retail licensee shall sell more than one ounce of adult-use cannabis, or its equivalent amount as determined in regulation, per cannabis consumer per day; nor more than five grams of cannabis concentrate per cannabis consumer per day.

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

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

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

6. All premises licensed under this section shall be subject to reasonable inspection by any peace officer described in subdivision four of section 2.10 of the criminal procedure law acting pursuant to his or her special duties, or police officer or any duly authorized representative of the office.

7. No cannabis retail licensee shall be interested, directly or indirectly, in any cultivator, processor or distributor licensed pursuant to this article, by stock ownership, interlocking directors, mortgage or lien on any personal or real property or by any other means.

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

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

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

11. If an employee of a cannabis retail licensee suspects that a cannabis consumer may be abusing cannabis, such employee shall encourage such cannabis consumer to seek the help of a state licensed facility or program for the treatment of cannabis use disorder. Cannabis retail

licensees shall develop standard operating procedures and written materials for employees to utilize when consulting consumers for purposes of this subdivision.

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

13. No adult-use retail dispensary may engage in the home delivery or retail delivery of adult-use cannabis products unless they are specifically approved and licensed to do so, or have contracted with a third-party home delivery licensee. All home delivery operations must be separately approved and licensed by the office and must comply with minimum application, licensing and operation requirements required by the office in regulation.

§ 83. Adult-use cannabis advertising and marketing. 1. The board is hereby authorized to promulgate rules and regulations governing, restricting, and prohibiting various forms and content of the advertising and marketing of licensed adult-use cannabis cultivators, processors, cooperatives, distributors, retailers, and any cannabis products or services.

2. The office shall promulgate guidelines for appropriate content, warnings, and means of advertising and marketing, including but not limited to prohibiting advertising that:

(a) is false, deceptive, or misleading;

(b) promotes overconsumption;

(c) depicts consumption;

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

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

(f) is in public transit vehicles and stations;

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

(h) is on publicly owned or operated property;

(i) makes medical claims or promotes adult-use cannabis for a medical or wellness purpose;

(j) promotes or implements discounts, coupons, or other means of selling adult-use cannabis products below market value or whose discount would subvert local and state tax collections;

(k) the content and primary purpose of which is not to alert and educate lawful cannabis consumers about the availability of regulated adult-use cannabis and displace the illicit market but to solely promote cannabis use; or

(l) fails to satisfy any other advertising or marketing rule or regulations promulgated by the office related to marketing or advertising.

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

(a) appeal to persons under twenty-one years of age and/or at-risk populations; or

(b) disseminate false or misleading information to customers.

4. The office shall promulgate guidelines requiring that:

(a) all advertisements and marketing accurately and legibly identify the licensee responsible for its content and contain recognizable and legible warnings associated with cannabis use; and

(b) any broadcast, cable, radio, print and digital communication advertisements only be placed where the audience is reasonably expected to be twenty-one years of age or older, as determined by reliable, up-to-date audience composition data. The burden of proving this requirement lies with the party that has paid for or facilitated the advertisement.

5. The office shall establish procedures to review and enforce all advertising and marketing requirements.

§ 84. Minority, women-owned businesses and disadvantaged farmers; social and economic equity plan. 1. The office shall implement a social and economic equity plan that actively promotes racial, ethnic, and gender diversity in the adult-use cannabis industry and prioritizes applicants who qualify as a minority and women-owned business, social equity applicant, or disadvantaged farmer and which positively impacts areas that have been harmed through disproportionate enforcement of the war on drugs.

2. The office shall create a social and economic equity plan which promotes diversity in ownership and employment in the adult-use cannabis industry and the inclusion of:

(a) minority-owned businesses;

(b) women-owned businesses;

(c) social equity applicants as defined in subdivision four of this section;

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

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

3. (a) The social and economic equity plan implemented by the office shall promote participation and hiring of qualified social and economic equity applicants. These applicants shall be deemed qualified by the office through criteria determined in this section and by regulation promulgated hereunder. Once qualified, a social and economic equity applicant shall be eligible to access all or some of this available social and economic equity plan programs based on their qualification criteria, which may include but not be limited to:

(i) priority and expedited application submission and review for adult-use cannabis licenses;

(ii) priority or exclusive access to specific classes or categories of adult-use cannabis licenses and licensed activities;

(iii) reduced or deferred fees for adult-use cannabis applications and/or licenses;

(iv) priority access to the adult-use cannabis market by being the first licensees allowed to commence licensed activities;

(v) priority access to the adult-use cannabis market through first or exclusive access to license locations and geographic areas of operation;

(vi) access to low or zero interest small business loans for entry into the adult-use cannabis market;

(vii) access to incubator programs pairing qualified and eligible social and economic equity applicants with support in the form of counseling services, education, small business development, and compliance assistance;

(viii) access to cannabis workforce development and hiring initiatives which incentivize hiring of qualified social and economic equity staff members; and

(ix) any other available program or initiative developed under the office's social and economic equity plan.

(b) The executive director shall have the ability to alter or amend the social and economic equity plan, and its programs, to meet the needs of qualified social and economic equity applicants and areas as the industry grows and evolves.

(c) Under the social and economic equity plan, the board shall also have the authority to create and distribute local social and economic equity impact grants to community-based organizations which are located or operate in areas of disproportionate enforcement from the war on drugs. The application for, and administration of social and economic equity impact grants shall be determined by the office through regulations, provided sufficient funds are available.

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

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

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

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

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

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

(v) an enterprise that is a small business.

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

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

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

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

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

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

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

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

(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 five preceding tax years, and who:

(i) farms in a county that has greater than ten percent rate of poverty according to the latest U.S. census bureau's american communities survey;

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

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

(f) "Social equity applicants" shall mean an applicant for licensure or employment that:

(i) is or has been a member of a community group or resident of an area that has been disproportionately impacted by the enforcement of cannabis prohibition, as determined by the office in regulation;

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

(iii) was convicted of a marihuana-related offense prior to the effective date of this chapter or had a parent, guardian, child, or spouse who, prior to the effective date of this chapter, was convicted of a marihuana-related offense.

5. Licenses issued to minority and women-owned businesses or under the social and economic equity plan shall not be transferable for a period of two years except to qualified minority and women-owned businesses or social and economic equity applicants and only upon prior written approval of the executive director.

§ 85. Regulations. The board shall make regulations to implement this article.

ARTICLE 5
CANNABINOID HEMP AND HEMP EXTRACT

§ 90. Definitions. As used in this article, the following terms shall have the following meanings, unless the context clearly requires otherwise:

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

2. "Cannabinoid hemp" means any hemp and any product processed or derived from hemp, that is used for human consumption provided that when such product is packaged or offered for retail sale to a consumer, it shall not have a concentration of more than three-tenths of one percent delta-9 tetrahydrocannabinol or a final delta-9 tetrahydrocannabinol concentration which exceeds an amount determined by the office in regulation.

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

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

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

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

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

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

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

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

1. Specifying forms, establishing application, reasonable administration and renewal fees, or license duration;

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

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

4. Any reporting requirements;

5. Methods and standards of processing, labeling, packaging and marketing of cannabinoid hemp, hemp extract and products derived therefrom;

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

7. Provisions governing the modes and forms of administration, including inhalation;

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

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

10. Restrictions governing the advertising and marketing of cannabinoid hemp, hemp extract and products derived therefrom; and

11. Any other regulations necessary to implement this article.

§ 92. Cannabinoid hemp processor license. 1. Persons processing cannabinoid hemp or hemp extract used for human consumption, whether in intermediate or final form, shall be required to obtain a cannabinoid hemp processor license from the department.

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

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

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

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

6. Any person holding an active research partnership agreement with the department of agriculture and markets, authorizing that person to process cannabinoid hemp, shall be awarded licensure under this section, provided that the research partner is actively performing research pursuant to such agreement and is able to demonstrate compliance with this article, as determined by the office, after notice and an opportunity to be heard.

§ 93. Cannabinoid hemp retailer license. 1. Retailers selling cannabinoid hemp, in final form to consumers within the state, shall be required to obtain a cannabinoid hemp retailer license from the office.

2. The executive director shall have the authority to set reasonable fees for such license, to establish the period during which such license is authorized, which shall be one year or more, and to make rules and regulations necessary to implement this section.

§ 94. Cannabinoid license applications. 1. Persons shall apply for a license under this article by submitting an application upon a form supplied by the office, providing all the relevant 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 processing or retail sales are conducted; however, an applicant may submit one application for separate licensure at multiple locations.

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

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

2. The executive director shall prescribe what relevant information shall 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; ownership and investment information, including the corporate structure; evidence of good moral character; financial statements; information about the premises to be licensed; information about the activities to be licensed; and any other relevant information prescribed by the executive director.

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

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

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

§ 96. Fees. The office may charge licensees a reasonable license fee. Such fee may be based on the activities permitted by the license, the amount of cannabinoid hemp or hemp extract to be processed or extracted by the licensee, the gross annual receipts of the licensee for the previous license period, or any other factors reasonably deemed appropriate by the office.

§ 97. Selection criteria. 1. The applicant, if an individual or individuals, shall furnish evidence of the individual's good moral character, and if an entity, the applicant shall furnish evidence of the good moral character of the individuals who have or will have substantial responsibility for the licensed or authorized activity and those in control of the entity, including principals, officers, or others with such control.

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

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

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

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

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

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

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

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

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

1. The name and address of the licensee;

2. The activities permitted by the license;

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

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

5. Such other information as the office shall deem necessary to assure compliance with this chapter.

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

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

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

§ 101. Granting, suspending or revoking licenses. After due notice and an opportunity to be heard, which process shall be established by rules and regulations, the office may decline to grant a new license, impose conditions or limits with respect to the grant of a license, modify an existing license or decline to renew a license, and may suspend or revoke a license already granted after due notice and an opportunity to be heard, as established by rules and regulations, whenever the executive director finds that:

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

2. The applicant or licensee, or a person in a position of management and control thereof or of the licensed activity, does not have good moral character, necessary experience or competency, adequate facili-

ties, equipment, process controls, or security to process, distribute, transport or sell cannabinoid hemp, hemp extract or products derived therefrom;

3. After appropriate notice and opportunity, the applicant or licensee has failed or refused to produce any records or provide any information required by this article or the regulations promulgated pursuant thereto;

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

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

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

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

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

3. The packaging, sale, or possession of products derived from cannabinoid hemp or hemp extract used for human consumption not labeled or offered in conformity with regulations under this section shall be grounds for the seizure or quarantine of the product, the imposition of a civil penalty against a processor or retailer, and the suspension, revocation or suspension of a license, in accordance with this article.

§ 104. Processing of cannabinoid hemp and hemp extract. 1. No processor shall sell or agree to sell or deliver in the state any cannabinoid hemp, hemp extract or product derived therefrom, used for human consumption, except in sealed containers containing quantities in accordance with size standards pursuant to rules adopted by the office. Such containers shall have affixed thereto such labels as may be required by the rules of the office.

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

3. All cannabinoid hemp, hemp extract and products derived therefrom used for human consumption shall be extracted and processed in accordance with good manufacturing processes for the product category pursuant to Part 117 or Part 111 of title 21 of the code of federal regulations, as may be defined, modified and decided upon by the office, provided that such rules shall be in conformity to the extent practicable with neighboring states.

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

§ 105. Laboratory testing. Every cannabinoid hemp processor shall contract with an independent commercial laboratory to test the hemp extract and products produced by the licensed processor. The executive director, in consultation with the commissioner of the department of health, shall establish the necessary qualifications or certifications required for such laboratories used by licensees. The board is authorized to issue rules and regulations consistent with this article establishing the testing required, the reporting of testing results and the form for reporting such laboratory testing results. The office has authority to require licensees to submit any cannabinoid hemp, hemp extract or product derived therefrom, processed or offered for sale within the state, for testing. This section shall not obligate the office, in any way, to perform any testing on hemp, cannabinoid hemp, hemp extract or product derived therefrom. The office shall be authorized to establish consortia or cooperative agreements with neighboring states to effectuate this section.

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

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

§ 108. Hemp workgroup. The executive director, in consultation with the commissioner of the department of agriculture and markets and the commissioner of health, may appoint a New York state hemp and hemp extract workgroup, composed of growers, researchers, producers, processors, manufacturers and trade associations, to make recommendations for the industrial hemp and cannabinoid hemp programs, state, regional, and federal policies and policy initiatives, and opportunities for the promotion and marketing of cannabinoid hemp and hemp extract as consistent with federal and state laws, rules and regulations.

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

2. Cannabinoid hemp and hemp extracts used for human consumption and grown or processed outside the state shall not be distributed or sold at

retail within the state, unless they meet all standards established for cannabinoid hemp under state law and regulations.

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

§ 110. Special use permits. The office shall have the authority to issue temporary permits for carrying on any activity related to cannabinoid hemp, hemp extract and products derived therefrom, licensed under this article. The executive director may set reasonable fees for such permits, to establish the periods during which such permits are valid, and to make rules and regulations to implement this section.

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

ARTICLE 6
GENERAL PROVISIONS

§ 125. General prohibitions and restrictions. 1. No person shall cultivate, process, or distribute for sale or sell at wholesale or retail any cannabis, adult-use cannabis product, medical cannabis or cannabinoid hemp 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 cannabinoid hemp 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.

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 adult-use cannabis, cannabis product, medical cannabis or cannabinoid hemp on credit unless authorized by the executive director; 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 cannabinoid hemp for which it is registered, licensed or permitted to dispense or sell to patients or cannabis consumers. This includes, but is not limited to, any consignment sale of any kind.

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

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

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

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

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

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

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

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

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

14. No premises registered, licensed, or permitted by the office shall:

(a) permit or allow any gambling on the premises;

(b) permit or allow the premises to become disorderly;

(c) permit or allow the use, by any person, of any fireworks or other pyrotechnics on the premises; or

(d) permit or allow to appear as an entertainer, on any part of the premises registered, licensed, or permitted, any person under the age of eighteen years.

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

2. Where a registration or license for premises has been revoked, the office in its discretion may refuse to accept an application from, or issue a registration, license, or permit under this chapter to, any individual, business, or entity connected to the revoked registration or license, or for such premises or for any part of the building containing such premises and connected therewith.

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

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

(a) a sale between relatives;

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

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

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

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

§ 127. Protections for the use of cannabis; unlawful discriminations prohibited. 1. No person, registered organization, licensee or permittee, or agent or contractor of a registered organization, licensee or permittee shall be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil liability or disciplinary action by a business or occupational or professional licensing board or office, solely for conduct permitted under this chapter. For the avoidance of doubt, the appellate division of the supreme court of the state of New York, and any disciplinary or character and fitness committees established by them are occupational and professional licensing boards within the meaning of this section. State or local law enforcement agencies shall not cooperate with or provide assistance to the government of the United States or any agency thereof in enforcing the federal controlled substances act, 21 U.S.C. et seq., solely for actions consistent with this chapter, except pursuant to an order of a court of competent jurisdiction.

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

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

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

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

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

4. An employer may implement policies prohibiting the use or possession of cannabis in accordance with section two hundred one-d of the labor law, provided such policies are in writing as part of an established workplace policy, uniformly applied to all employees, and the employer gives prior written notice of such policies to employees.

5. An employer may take disciplinary or adverse employment action against an employee, including termination of employment, for violating an established workplace policy adopted under subdivision four of this section, or if the results of a drug test administered in accordance with applicable state and local law demonstrate that the employee was impaired by or under the influence of cannabis while in the workplace or during the performance of work. For the purposes of this subdivision, a drug test that solely yields a positive result for cannabis metabolites shall not be construed as proof that an employee is under the influence of or impaired by cannabis unless the test yields a positive result for active tetrahydrocannabinol, delta-9-tetrahydrocannabinol, delta-8-tetrahydrocannabinol, or other active cannabinoid found in cannabis which causes impairment.

6. Nothing in this chapter permits any person to undertake any task under the influence of cannabis when doing so would constitute negligence or professional malpractice, jeopardize workplace safety, or to operate, navigate or be in actual physical control of any motor vehicle or other transport vehicle, aircraft, motorboat, machinery or equipment, or firearms under the influence of cannabis.

7. 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, in consultation with the commissioner of health, shall approve and permit one or more independent cannabis testing laboratories to test medical cannabis, adult-use cannabis and/or cannabinoid hemp.

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 testing required for adult-use cannabis, medical cannabis and/or cannabinoid hemp;

(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 cannabinoid hemp;

(d) the laboratory is physically located in New York state except for laboratories only testing cannabinoid hemp or as authorized in regulation; and

(e) the laboratory meets the requirements prescribed by this chapter and by regulation.

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

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

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

6. The executive director is authorized to enter into contracts or memoranda of understanding with any other state for the purposes of aligning laboratory testing requirements or establishing best practices in testing of cannabis.

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

1. Industrial cannabis permit - to purchase cannabis for use in the manufacture and sale of any of the following, when such cannabis is not otherwise suitable for consumption purposes, namely: (a) apparel, energy, paper, and tools; (b) scientific, chemical, mechanical and industrial products; or (c) any other industrial use as determined by the executive director in regulation.

2. Nursery permit - to produce clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis, and to sell such to licensed adult-use cultivators, registered organizations, and certified patients or their designated caregivers.

3. Solicitor's permit - to offer for sale or to solicit orders for the sale of any cannabis products and/or medical cannabis, as a representative of a registered organization or licensee under this chapter.

4. Broker's permit - to act as a broker in the purchase and sale of cannabis products and/or medical cannabis for a fee or commission, for or on behalf of a person authorized to cultivate, process, distribute or dispense cannabis products, medical cannabis or hemp cannabis within the state.

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

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

7. Delivery permit - to authorize licensed adult-use cannabis dispensaries or third-parties to deliver adult-use cannabis and cannabis products directly to cannabis consumers.

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

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

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

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

§ 132. Municipal control and preemption. 1. The provisions of article four of this chapter, authorizing the cultivation, processing, distribution and sale of adult-use cannabis to cannabis consumers, shall not be applicable to a county, or city having a population of one hundred thousand or more residents, which adopts a local law, ordinance or resolution by a majority vote of its governing body, to completely prohibit the establishment or operation of one or more types of licenses contained in article four of this chapter, within the jurisdiction of such county or city.

2. Except as provided for in subdivision one of this section, all counties, towns, cities and villages are hereby preempted from adopting any rule, ordinance, regulation or prohibition pertaining to the operation or licensure of registered organizations, adult-use cannabis licenses or cannabinoid hemp licenses. However, counties, cities, towns and villages, as applicable, may pass ordinances or regulations governing the hours of operation and location of licensed adult-use cannabis retail dispensaries, provided such ordinances or regulations do not make the operation of such licensed retail dispensaries unreasonably impracticable.

3. Local rules, ordinances, regulations or prohibitions enacted by a county, city, town, or village shall not require an adult-use cannabis applicant or licensee to enter into a community host agreement or pay any consideration to the municipality other than reasonable zoning and permitting fees.

4. Notwithstanding subdivision one of this section, adult-use cannabis, medical cannabis and cannabinoid hemp farming and farm operations, on land located within an agricultural district, shall be deemed an approved activity under the relevant county, city, town, or village land use or zoning ordinances, rules, or regulations, inclusive of all necessary ancillary farm operations as permitted by license pursuant to this chapter.

§ 133. Office to be necessary party to certain proceedings. The office shall be made a party to all actions and proceedings affecting in any manner the possession, ownership or transfer of a registration, license or permit to operate within a municipality; to all injunction proceedings; and to all other civil actions or proceedings which in any manner affect the enjoyment of the privileges or the operation of the restrictions provided for in this chapter.

§ 134. Penalties for violation of this chapter. 1. Any person who cultivates for sale or sells cannabis, cannabis products, medical cannabis or cannabinoid hemp without having an appropriate registration, license or permit therefor, or whose registration, license, or permit has been revoked, surrendered or cancelled, upon first conviction thereof shall be guilty of a misdemeanor, punishable by a fine not more than five thousand dollars per violation, per day, and upon second conviction thereof shall be guilty of a class A misdemeanor punishable by a fine not more than ten thousand dollars per violation, per day, or a sentence of imprisonment not to exceed thirty days and upon all subsequent convictions thereof shall be an E felony punishable by a fine not more than twenty-five thousand dollars per violation, per day or a sentence of imprisonment not to exceed one year.

2. Any registered organization or licensee, whose registration or license has been suspended pursuant to the provisions of this chapter, who sells cannabis, cannabis products, medical cannabis or cannabinoid hemp during the suspension period, upon conviction thereof shall be guilty of an A misdemeanor, punishable punished by a fine of not more than five thousand dollars per violation, per day.

3. Any person who shall make any false statement in the application for or renewal of a registration, license or a permit under this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five thousand dollars.

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

5. Nothing in this section shall prohibit the office from suspending, revoking, or denying a license, permit, registration, or application in addition to the penalties prescribed herein.

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

(a) the registered organization, licensee, permittee or his or her agent or employee has sold any illegal cannabis on the premises registered, licensed or permitted;

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

(c) for failing to follow testing requirements prescribed under this chapter or falsifying testing results;

(d) for knowingly distributing cannabis products to persons under twenty-one years of age;

(e) for diverting, inverting or trafficking in cannabis to or from an illegal and unlicensed, registered, or permitted source in violation of this chapter; or

(f) for any other violation established in regulation which poses an imminent and substantial threat to public health, public safety, or the integrity of the state's cannabis regulatory structure.

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

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

premises becoming a focal point for police attention, or is offensive to public decency.

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

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

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

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

4. As used in this chapter, the existence of a sustained and continuing pattern of misconduct, failure to adequately prevent diversion or disorder on or about the premises may be presumed upon the third 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.

5. The denial, revocation, or suspension of any application, license, permit, or registration issued to or submitted by a person, business, or entity may also be grounds for the denial, suspension, or revocation of any and all other licenses, permits, or registrations applied for by, or issued to said person, business, or entity if the executive director determines it necessary to protect public health and safety or that the person, business, and/or entities involved no longer possess the good moral character required to participate in the cannabis industry.

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.

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 by regulation.

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. Notwithstanding any other provision of this chapter, the office may: (a) revoke or refuse to issue any class or type of license, permit, or registration if it determines that failing to do so would conflict with any federal law or guidance pertaining to regulatory, enforcement and other systems that states, businesses, or other institutions may implement to mitigate the potential for federal intervention or enforcement. This provision shall not be construed to prohibit the overall implementation and administration of this chapter on account of the federal classification of marijuana or cannabis as a schedule I substance or any other federal prohibitions or restrictions; and

(b) the board may adopt rules and regulations based on federal guidance, provided those rules and regulations are designed to comply with federal guidance and mitigate federal enforcement against the registrations, licenses, or permits issued under this chapter, or the cannabis industry as a whole. This may include regulations which permit the sharing of licensee, registrant, or permit holder information with designated banking or financial institutions, provided these regulations are designed to aid cannabis industry participants' access to banking and financial services.

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

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

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

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

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

(d) The purchase, possession, or consumption of cannabis, medical cannabis and cannabinoid hemp, as permitted by this chapter and consistent with rules and regulations of the office, obtained from a validly registered, licensed or permitted retailer.

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

(a) refusal by the office to issue a registration, license, or a permit;

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

(c) the failure or refusal by the office to render a decision upon any completed application for a license, registration or permit, or hearing submitted to or held by the office within sixty days after such submission of a completed application or hearing;

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

(e) refusal to approve a corporate change in stockholders, stockholdings, officers or directors.

2. No stay shall be granted pending the determination of such matter except on notice to the office and only for a period of less than thirty days. In no instance shall a stay be granted where the office has issued

a summary suspension of a registration, license, or permit for the protection of the public health, safety, and welfare.

§ 138. Illicit cannabis. 1. "Illicit cannabis" means and includes any cannabis product or medical cannabis owned, cultivated, distributed, bought, sold, packaged, rectified, blended, treated, fortified, mixed, processed, warehoused, possessed or transported, on which any tax required to have been paid under any applicable state law has not been paid; or any adult-use cannabis or medical cannabis product the form, packaging, or content of which is not permitted by the office, as applicable.

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

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

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

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

§ 139. Injunction for unlawful manufacturing, sale, distribution, or consumption of cannabis. 1. If any person shall engage or participate or be about to engage or participate in the cultivation, production, distribution, traffic, or sale of cannabis products, medical cannabis or cannabinoid hemp in this state without obtaining the appropriate registration, license, or permit therefor, or shall traffic in cannabis products, medical cannabis or cannabinoid hemp contrary to any provision of this chapter, or otherwise unlawfully, or shall traffic in illicit cannabis or, operating either a place for profit or pecuniary gain, or a not-for-profit basis, with a capacity for the assemblage of twenty or more persons, shall permit a person or persons to come to such place of assembly for the purpose of consuming cannabis products without having the appropriate license or permit therefor, the office may present a verified petition or complaint to a justice of the supreme court at a special term of the supreme court of the judicial district in which such city, village or town is situated, for an order enjoining such person engaging or participating in such activity or from carrying on such business. Such petition or complaint shall state the facts upon which such application is based. Upon the presentation of the petition or complaint, the justice or court may grant an order temporarily restraining any person from continuing to engage in conduct as specified in the petition or complaint, and shall grant an order requiring such person to appear before such justice or court at or before a special term of the supreme court in such judicial district on the day specified therein, not more than ten days after the granting thereof, to show cause why such person should not be permanently enjoined from engaging or participating in such activity or from carrying on such business, or why such person should not be enjoined from carrying on such business contrary to the provisions of this chapter. A copy of such petition or complaint and order shall be served upon the person, in the manner directed by such order, not less than three days before the return day thereof. On the day specified in such order, the justice or court before whom the same is returnable shall hear the proofs of the parties and may, if deemed necessary or proper, take testimony in relation to the allegations of the petition or complaint. If the justice or court is satisfied that such person is about to engage or participate in the unlawful traffic in cannabis, medical cannabis or cannabinoid hemp or has unlawfully cultivated, processed, or sold cannabis products, medical cannabis or cannabinoid hemp without having obtained a registration or license or contrary to the provisions of this chapter, or has trafficked in illicit cannabis, or, is operating or is about to operate such place for profit or pecuniary gain, with such capacity, and has permitted or is about to permit a person or persons to come to such place of assembly for the purpose of consuming cannabis products without having such appropriate license, an order shall be granted enjoining such person from thereafter engaging or participating in or carrying on such activity or business, and allowing for the seizure of such illicit cannabis without limit. If, after the entry of such an order in the county clerk's office of the county in which the principal place of business of the corporation or partnership is located, or in which the individual so enjoined resides or conducts such business, and the service of a copy thereof upon such person, or such substituted service as the court may direct, such person, partnership or corporation shall, in violation of such order, cultivate, process, distribute or sell cannabis products, medical cannabis or cannabinoid hemp, or illicit cannabis, or permit a person or persons to come to such place of assembly for the purpose of consuming cannabis products, such activity shall be deemed a contempt of court and be punishable in the manner provided by the judiciary law, and, in addition to any such punishment, the justice or court before whom or which the petition or complaint is heard, may, in his or its discretion, order the seizure and forfeiture of any cannabis products and any fixtures, equipment and supplies used in the operation or promotion of such illegal activity and such property shall be subject to forfeiture pursuant to law. Costs upon the application for such injunction may be awarded in favor of and against the parties thereto in such sums as in the discretion of the justice or court before whom or which the petition or complaint is heard may seem proper.

2. The owner, lessor and lessee of a building, erection or place where cannabis products, medical cannabis or cannabinoid hemp is unlawfully cultivated, processed, distributed, sold, consumed or permitted to be unlawfully cultivated, processed, distributed, sold or consumed may be made a respondent or defendant in the proceeding or action.

3. The gift or transfer of cannabis in conjunction with the transfer of any money, consideration or value, or another item or any other services in an effort to evade laws, licensing, permitting, and registration requirements governing the sale of cannabis shall be considered an unlawful activity under this chapter.

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

(a) Except as provided in subdivision one-a of this section, a person who has been convicted of a felony, unless subsequent to such conviction such person shall have received 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;

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

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

(d) A partnership or a corporation, unless each member of the partnership, or each of the principal officers and directors of the corporation, is a citizen of the United States or an alien lawfully admitted for permanent residence in the United States, not less than twenty-one years of age, 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 twenty-one years of age;

(e) A person who shall have had any registration or license issued under this chapter revoked for cause, until no less than 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 no less than 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 no less than 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 may, upon conviction of a felony be automatically forbidden to traffic in cannabis products or medical cannabis, and the application for a registered organization or license by such a corporation may be subject to denial, and the registration or license of such a corporation may 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 applicant a fee equivalent to the expenses of an appropriate investigation under this subdivision. For any conviction rendered by a court of this state, the office may request the corporation, if the corporation is eligible for a certificate of relief from disabilities, to seek such a certificate from the court which rendered the conviction and to submit such a certificate as part of the office's discretionary review process.

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

3. No elective village officer shall be subject to the limitations set forth in subdivision two of this section unless such elective village officer shall be assigned duties directly relating to the operation or management of the police department or have direct authority over any applicable local licensing requirements or approvals.

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

§ 3. Intentionally omitted.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) by a practitioner as an incident to his or her administering or dispensing of a controlled substance in the course of his professional practice; or

(b) by a practitioner, or by his or her authorized agent under his or her 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 or her dispensing of a controlled substance in the course of his or her professional practice.

[~~21. "Marihuana" means all parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative,~~

~~mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.~~

[~~22.~~] **20.** "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

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

(c) opium poppy and poppy straw.

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

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

[~~25.~~] **23.** "Person" means individual, institution, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

[~~26.~~] **24.** "Pharmacist" means any person licensed by the state department of education to practice pharmacy.

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

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

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

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

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

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

[~~32.~~] **30.** "Sell" means to sell, exchange, give or dispose of to another, or offer or agree to do the same.

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

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

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

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

[~~37.~~] 35. "Electronic prescription" means a prescription issued with an electronic signature and transmitted by electronic means in accordance with regulations of the commissioner and the commissioner of education and consistent with federal requirements. A prescription generated on an electronic system that is printed out or transmitted via facsimile is not considered an electronic prescription and must be manually signed.

[~~38.~~] 36. "Electronic" means of or relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities. "Electronic" shall not include facsimile.

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

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

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

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

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

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

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

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

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

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

(13) [~~Marihuana.~~

~~(14)~~] Mescaline.

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

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

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

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

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

[~~(20)~~] **(19)** Psilocyn.

[~~(21)~~] **(20) Synthetic** Tetrahydrocannabinols. [~~Synthetic~~] **tetrahydrocannabinols not derived from the cannabis plant, or tetrahydrocannabinols manufactured or created from the cannabis plant but which were not produced by the cannabis plant during its cultivation or present at the time of harvest 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:

[~~Δ~~] **delta** 1 cis or trans tetrahydrocannabinol, and their optical isomers

[~~Δ~~] **delta** 6 cis or trans tetrahydrocannabinol, and their optical isomers

[~~Δ~~] **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).

Tetrahydrocannabinol created or produced by decarboxylation of tetrahydrocannabinolic acid produced from the cannabis plant through cultivation or present at the time of harvest and/or any U.S. Food and Drug Administration approved product containing tetrahydrocannabinol shall not be considered a synthetic tetrahydrocannabinol.

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

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

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

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

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

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

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

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

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

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

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

§ 6. Title 5-A of article 33 of the public health law is REPEALED.

§ 6-a. Article 29-A of the agriculture and markets 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. 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; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, or its seeds. 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, 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.

§ 10. Subdivision 4 of section 220.06 of the penal law is REPEALED.

§ 11. Subdivision 10 of section 220.09 of the penal law is REPEALED.

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

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

§ 13. Intentionally omitted.

§ 14. 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. 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 amended by chapter 131 of the laws of 2019, is amended to read as follows:

§ 221.05 Unlawful possession of [~~marihuana~~] cannabis in the second degree.

A person is guilty of unlawful possession of [~~marihuana~~] cannabis in the second degree when he 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 in the second degree is a violation punishable only by a fine of not more than fifty dollars 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 of cannabis or less than two and one-half grams of concentrated cannabis 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 of cannabis but not more than one ounce of cannabis, or more than two and one-half grams of concentrated cannabis but not more than five grams of concentrated cannabis. Unlawful possession of cannabis in the second degree 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" shall mean and include smoking and vaping as such terms are defined in section thirteen hundred ninety-nine-n of the public health law.

§ 16-a. Subdivision 8 of section 1399-n of the public health law, as amended by chapter 131 of the laws of 2019, 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 [~~marihuana~~] cannabis as defined in section [~~thirty-three hundred two of this chapter~~] 220.00 of the penal 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~~] Unlawful possession of [~~marihuana~~] cannabis in the [~~fourth~~] first degree.

A person is guilty of [~~criminal~~] unlawful possession of [~~marihuana~~] cannabis in the [~~fourth~~] first 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~~] Unlawful possession of [~~marihuana~~] cannabis in the [~~fourth~~] first 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.

A person is guilty of criminal possession of [~~marihuana~~] cannabis in the [~~third~~] second 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 [~~eight~~] two ounces of cannabis or more than ten grams of concentrated cannabis.

Criminal possession of [~~marihuana~~] cannabis in the [~~third~~] second degree is a class [~~E felony~~] A misdemeanor punishable by a fine not more than one hundred twenty-five dollars per ounce possessed in excess of two ounces of cannabis or ten grams of concentrated cannabis. However, where the defendant has previously been convicted of an offense defined in this article or article two hundred twenty of this title, 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 per ounce possessed in excess of two ounces, 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 per ounce possessed in excess of two ounces 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. The provisions of this section shall not apply to certified patients or designated caregivers as lawfully registered under article three of the cannabis law.

§ 19. Section 221.25 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:

§ 221.25 Criminal possession of [~~marihuana~~] **cannabis** in the [~~second~~] **first** degree.

A person is guilty of criminal possession of [~~marihuana~~] **cannabis** in the [~~second~~] **first** 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 [~~sixteen~~] **sixty-four** ounces **of cannabis or more than eighty grams of concentrated cannabis**.

Criminal possession of [~~marihuana~~] **cannabis** in the [~~second~~] **first** degree is a class [~~D~~] **E** felony.

§ 20. Sections 221.10 and 221.30 of the penal law are REPEALED.

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

(c) Criminal possession of a controlled substance in the seventh degree as defined in section 220.03 of the penal law, criminal possession of a controlled substance in the fifth degree as defined in section 220.06 of the penal law, criminal possession of a controlled substance in the fourth degree as defined in section 220.09 of the penal law, criminal possession of a controlled substance in the third degree as defined in section 220.16 of the penal law, criminal possession of a controlled substance in the second degree as defined in section 220.18 of the penal law, criminal possession of a controlled substance in the first degree as defined in section 220.21 of the penal law, criminal sale of a controlled substance in the fifth degree as defined in section 220.31 of the penal law, criminal sale of a controlled substance in the fourth degree as defined in section 220.34 of the penal law, criminal sale of a controlled substance in the third degree as defined in section 220.39 of the penal law, criminal sale of a controlled substance in the second degree as defined in section 220.41 of the penal law, criminal sale of a controlled substance in the first degree as defined in section 220.43 of the penal law, criminally possessing a hypodermic instrument as defined in section 220.45 of the penal law, criminal sale of a prescription for a controlled substance or a controlled substance by a practitioner or pharmacist as defined in section 220.65 of the penal law, criminal possession of methamphetamine manufacturing material in the second degree as defined in section 220.70 of the penal law, criminal possession of methamphetamine manufacturing material in the first degree as defined in section 220.71 of the penal law, criminal possession of precursors of methamphetamine as defined in section 220.72 of the penal law, unlawful manufacture of methamphetamine in the third degree as defined in section 220.73 of the penal law, unlawful manufacture of methamphetamine in the second degree as defined in section 220.74 of the penal law, unlawful manufacture of methamphetamine in the first degree as defined in section 220.75 of the penal law, unlawful disposal of methamphetamine laboratory material as defined in section 220.76 of the penal law, operating as a major trafficker as defined in section 220.77 of the penal law, [~~criminal possession of marihuana in the first degree as defined in section 221.30 of the penal law, criminal sale of marihuana in the first degree as defined in section 221.55 of the penal law,~~] promoting gambling in the second degree as defined in section 225.05 of the penal law, promoting gambling in the first degree as defined in section 225.10 of the penal law, possession of gambling records in the second degree as defined in section 225.15 of the penal law, possession of gambling records in the first degree as defined in section 225.20 of the penal law, and possession of a gambling device as defined in section 225.30 of the penal law;

§ 20-b. Paragraph (c) of subdivision 4-b and subdivisions 6 and 9 of section 1310 of the civil practice law and rules, paragraph (b) of subdivision 4-b as added by chapter 655 of the laws of 1990 and subdivisions 6 and 9 as added by chapter 669 of the laws of 1984, are amended to read as follows:

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

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

9. "Criminal defendant" means a person who has criminal liability for a crime defined in subdivisions five and six [~~hereof~~] of this section. For purposes of this article, a person has criminal liability when (a) he has been convicted of a post-conviction forfeiture crime, or (b) the claiming authority proves by clear and convincing evidence that such person has committed an act in violation of article two hundred twenty or section [~~221.30 or~~] 221.55 of the penal law.

§ 20-c. Paragraph (c) of subdivision 7 of section 480.00 of the penal law, as added by chapter 655 of the laws of 1990, is amended to read as follows:

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

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

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

§ 20-e. Subdivision 1 of section 170.56 of the criminal procedure law, as amended by chapter 360 of the laws of 1977, is amended to read as follows:

1. Upon or after arraignment in a local criminal court upon an information, a prosecutor's information or a misdemeanor complaint, where the sole remaining count or counts charge a violation or violations of section 221.05, [~~221.10,~~] 221.15, 221.35 or 221.40 of the penal law and before the entry of a plea of guilty thereto or commencement of a trial thereof, the court, upon motion of a defendant, may order that all proceedings be suspended and the action adjourned in contemplation of dismissal, or upon a finding that adjournment would not be necessary or appropriate and the setting forth in the record of the reasons for such findings, may dismiss in furtherance of justice the accusatory instrument; provided, however, that the court may not order such adjournment in contemplation of dismissal or dismiss the accusatory instrument if: (a) the defendant has previously been granted such adjournment in contemplation of dismissal, or (b) the defendant has previously been granted a dismissal under this section, or (c) the defendant has previously been convicted of any offense involving controlled substances, or (d) the defendant has previously been convicted of a crime and the district attorney does not consent or (e) the defendant has previously been adjudicated a youthful offender on the basis of any act or acts involving controlled substances and the district attorney does not consent.

§ 21. Section 221.35 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:

§ 221.35 Criminal sale of [~~marihuana~~] cannabis in the fifth degree.

A person is guilty of criminal sale of [~~marihuana~~] cannabis in the fifth degree when he or she knowingly and unlawfully sells, [~~without~~] for consideration[~~, one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are~~] cannabis or cannabis concentrate of [~~an aggregate weight of two grams or less; or one cigarette containing marihuana~~] any weight.

Criminal sale of [~~marihuana~~] cannabis in the fifth degree is a [~~class B misdemeanor~~] violation punishable by a fine not more than the greater of two-hundred and fifty dollars or two times the value of the sale.

§ 22. Section 221.40 of the penal law, as added by chapter 360 of the laws of 1977, is amended to read as follows:

§ 221.40 Criminal sale of [~~marihuana~~] cannabis in the fourth degree.

A person is guilty of criminal sale of [~~marihuana~~] cannabis in the fourth degree when he or she knowingly and unlawfully sells [~~marihuana 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~~] or an aggregate weight of more than 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. In any prosecution for unlawful sale of cannabis or concentrated cannabis to someone under twenty-one years of age pursuant to this section, it is an affirmative defense that: (a) the defendant had reasonable cause to believe that the person under twenty-one years of age involved was twenty-one years old or more; and (b) such person under twenty-one years of age exhibited to the defendant a draft card, driver's license or identification card, birth certificate or other official or apparently official document purporting to establish that such person was twenty-one years old or more.

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 article three, four or five of the cannabis law.

§ 27. Intentionally omitted.

§ 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 any substance or combination of substances that impair, to any extent, physical or mental abilities**.

§ 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:

EXCISE TAX ON MEDICAL [~~MARIHUANA~~] **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:

Driving while intoxicated or while ability impaired by drugs or while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs; aggravated driving while intoxicated; misdemeanor offenses. (i) A violation of subdivision two, three, **or** four [~~or four-a~~] of section eleven hundred ninety-two of this article shall be a misdemeanor and shall be punishable by a fine of not less than five hundred dollars nor more than one thousand dollars, or by imprisonment in a penitentiary or county jail for not more than one year, or by both such fine and imprisonment. A violation of paragraph (a) of subdivision two-a of section eleven hundred ninety-two of this article shall be a misdemeanor and shall be punishable by a fine of not less than one thousand dollars nor more than two thousand five hundred dollars or by imprisonment in a penitentiary or county jail for not more than one year, or by both such fine and imprisonment.

§ 33. Paragraph (c) of subdivision 1 of section 1193 of the vehicle and traffic law, as amended by chapter 169 of the laws of 2013, is amended by adding a new subparagraph (i-a) to read as follows:

(i-a) A violation of subdivision four-a of section eleven hundred ninety-two of this article shall be a class E felony, and shall be punishable by a fine of not less than one thousand dollars nor more than

five thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment.

§ 33-a. Subdivisions 1, 2 and 3 of section 1194 of the vehicle and traffic law, as added by chapter 47 of the laws of 1988, paragraph (a) of subdivision 2 as amended by chapter 196 of the laws of 1996, paragraphs (b) and (c) of subdivision 2 as amended by chapter 489 of the laws of 2017, clause (A) of subparagraph 1, subparagraphs 2 and 3 of paragraph (b), subparagraphs 1, 2 and 3 of paragraph (c) of subdivision 2 as amended by chapter 27 of the laws of 2018, subparagraphs 1 and 2 of paragraph (d) of subdivision 2 as amended by chapter 732 of the laws of 2006, and item (iii) of clause c of subparagraph 1 of paragraph (d) of subdivision 2 as amended by section 37 of part LL of chapter 56 of the laws of 2010, are amended to read as follows:

1. Arrest and field testing. (a) Arrest. Notwithstanding the provisions of section 140.10 of the criminal procedure law, a police officer may, without a warrant, arrest a person, in case of a violation of subdivision one of section eleven hundred ninety-two of this article, if such violation is coupled with an accident or collision in which such person is involved, which in fact has been committed, though not in the police officer's presence, when the officer has reasonable cause to believe that the violation was committed by such person.

(b) Field testing. Every person operating a motor vehicle which has been involved in an accident or which is operated in violation of any of the provisions of this chapter shall, at the request of a police officer, submit to a breath test **and/or oral/bodily fluid** to be administered by the police officer**, and/or to an evaluation by a drug recognition expert or advance roadside impairment detection enforcement certified officer**. If such test indicates that such operator has consumed alcohol **or drug or drugs**, the police officer may request such operator to submit to a chemical test **or an evaluation conducted by a drug recognition expert or advance roadside impairment detection enforcement certified officer** in the manner set forth in subdivision two of this section.

2. Chemical **and drug recognition** tests. (a) When authorized. Any person who operates a motor vehicle in this state shall be deemed to have given consent to **an evaluation conducted by a drug recognition expert or advance roadside impairment detection enforcement certified officer or any portion thereof and/or** a chemical test of one or more of the following: breath, blood, urine, or saliva, for the purpose of determining the alcoholic and/or drug content of the blood provided that such test is administered by or at the direction of a police officer with respect to a chemical test of breath, urine or saliva or, with respect to a chemical test of blood, at the direction of a police officer:

(1) having reasonable grounds to believe such person to have been operating in violation of any subdivision of section eleven hundred ninety-two of this article and within two hours after such person has been placed under arrest for any such violation; or having reasonable grounds to believe such person to have been operating in violation of section eleven hundred ninety-two-a of this article and within two hours after the stop of such person for any such violation,

(2) within two hours after a breath test **and/or oral/bodily fluid, or an evaluation conducted by a drug recognition expert or advance roadside impairment detection enforcement certified officer**, as provided in paragraph (b) of subdivision one of this section, indicates that alcohol **and/or drug or drugs,** has been consumed by such person and in accordance

with the rules and regulations established by the police force of which the officer is a member;

(3) for the purposes of this paragraph, "reasonable grounds" to believe that a person has been operating a motor vehicle after having consumed alcohol in violation of section eleven hundred ninety-two-a**, or alcohol and/or drug or drugs in violation of any other section of eleven hundred ninety-two,** of this article shall be determined by viewing the totality of circumstances surrounding the incident which, when taken together, indicate that the operator was driving in violation of such subdivision. Such circumstances may include any visible or behavioral indication of alcohol **and/or drug or drugs** consumption by the operator, the existence of an open container containing or having contained an alcoholic beverage **and/or drug or drugs** in or around the vehicle driven by the operator, **the odor of cannabis or burnt cannabis,** or any other evidence surrounding the circumstances of the incident which indicates that the operator has been operating a motor vehicle after having consumed alcohol **and/or drug or drugs** at the time of the incident; or

(4) notwithstanding any other provision of law to the contrary, no person under the age of twenty-one shall be arrested for an alleged violation of section eleven hundred ninety-two-a of this article. However, a person under the age of twenty-one for whom a chemical test **or an evaluation conducted by a drug recognition expert or advance roadside impairment detection enforcement certified officer** is authorized pursuant to this paragraph may be temporarily detained by the police solely for the purpose of requesting or administering such chemical test whenever arrest without a warrant for a petty offense would be authorized in accordance with the provisions of section 140.10 of the criminal procedure law or paragraph (a) of subdivision one of this section.

(b) Report of refusal. (1) If: (A) such person having been placed under arrest; or (B) after a breath test indicates the presence of alcohol **and/or drug or drugs** in the person's system; or (C) with regard to a person under the age of twenty-one, there are reasonable grounds to believe that such person has been operating a motor vehicle after having consumed alcohol in violation of section eleven hundred ninety-two-a of this article; and having thereafter been requested to submit to such chemical test **or an evaluation conducted by a drug recognition expert or advance roadside impairment detection enforcement certified officer** and having been informed that the person's license or permit to drive and any non-resident operating privilege shall be immediately suspended and subsequently revoked, or, for operators under the age of twenty-one for whom there are reasonable grounds to believe that such operator has been operating a motor vehicle after having consumed alcohol in violation of section eleven hundred ninety-two-a of this article, shall be revoked for refusal to submit to such chemical test or any portion thereof, **or an evaluation conducted by a drug recognition expert or advance roadside impairment detection enforcement certified officer or any portion thereof,** whether or not the person is found guilty of the charge for which such person is arrested or detained, refuses to submit to such chemical test or any portion thereof, **or an evaluation conducted by a drug recognition expert or advance roadside impairment detection enforcement certified officer or any portion thereof,** unless a court order has been granted pursuant to subdivision three of this section, the test shall not be given and a written report of such refusal shall be immediately made by the police officer before whom such refusal was made. Such report may be verified by having the report sworn to, or by affixing to such report a form notice that false statements made therein are punishable as a class A misdemeanor pursuant to section 210.45 of the penal law and such form notice together with the subscription of the deponent shall constitute a verification of the report.

(2) The report of the police officer shall set forth reasonable grounds to believe such arrested person or such detained person under the age of twenty-one had been driving in violation of any subdivision of section eleven hundred ninety-two or eleven hundred ninety-two-a of this article, that said person had refused to submit to such chemical test, **<u>or an evaluation conducted by a drug recognition expert or advance roadside impairment detection enforcement certified officer or any portion thereof,</u>** and that no chemical test **<u>or evaluation conducted by a drug recognition expert or advance roadside impairment detection enforcement certified officer</u>** was administered pursuant to the requirements of subdivision three of this section. The report shall be presented to the court upon arraignment of an arrested person, provided, however, in the case of a person under the age of twenty-one, for whom a test was authorized pursuant to the provisions of subparagraph two or three of paragraph (a) of this subdivision, and who has not been placed under arrest for a violation of any of the provisions of section eleven hundred ninety-two of this article, such report shall be forwarded to the commissioner within forty-eight hours in a manner to be prescribed by the commissioner, and all subsequent proceedings with regard to refusal to submit to such chemical test by such person shall be as set forth in subdivision three of section eleven hundred ninety-four-a of this article.

(3) For persons placed under arrest for a violation of any subdivision of section eleven hundred ninety-two of this article, the license or permit to drive and any non-resident operating privilege shall, upon the basis of such written report, be temporarily suspended by the court without notice pending the determination of a hearing as provided in paragraph (c) of this subdivision. Copies of such report must be transmitted by the court to the commissioner and such transmittal may not be waived even with the consent of all the parties. Such report shall be forwarded to the commissioner within forty-eight hours of such arraignment.

(4) The court or the police officer, in the case of a person under the age of twenty-one alleged to be driving after having consumed alcohol, shall provide such person with a scheduled hearing date, a waiver form, and such other information as may be required by the commissioner. If a hearing, as provided for in paragraph (c) of this subdivision, or subdivision three of section eleven hundred ninety-four-a of this article, is waived by such person, the commissioner shall immediately revoke the license, permit, or non-resident operating privilege, as of the date of receipt of such waiver in accordance with the provisions of paragraph (d) of this subdivision.

(c) Hearings. Any person whose license or permit to drive or any non-resident driving privilege has been suspended pursuant to paragraph (b) of this subdivision is entitled to a hearing in accordance with a hearing schedule to be promulgated by the commissioner. If the department fails to provide for such hearing fifteen days after the date of the arraignment of the arrested person, the license, permit to drive or non-resident operating privilege of such person shall be reinstated pending a hearing pursuant to this section. The hearing shall be limited to the following issues: (1) did the police officer have reasonable grounds to believe that such person had been driving in violation of any subdivision of section eleven hundred ninety-two of this article; (2)

did the police officer make a lawful arrest of such person; (3) was such person given sufficient warning, in clear or unequivocal language, prior to such refusal that such refusal to submit to such chemical test or any portion thereof **or an evaluation conducted by a drug recognition expert or advance roadside impairment detection enforcement certified officer or any portion thereof**, would result in the immediate suspension and subsequent revocation of such person's license or operating privilege whether or not such person is found guilty of the charge for which the arrest was made; and (4) did such person refuse to submit to such chemical test or any portion thereof **or an evaluation conducted by a drug recognition expert or advance roadside impairment detection enforcement certified officer or any portion thereof**. If, after such hearing, the hearing officer, acting on behalf of the commissioner, finds on any one of said issues in the negative, the hearing officer shall immediately terminate any suspension arising from such refusal. If, after such hearing, the hearing officer, acting on behalf of the commissioner finds all of the issues in the affirmative, such officer shall immediately revoke the license or permit to drive or any non-resident operating privilege in accordance with the provisions of paragraph (d) of this subdivision. A person who has had a license or permit to drive or non-resident operating privilege suspended or revoked pursuant to this subdivision may appeal the findings of the hearing officer in accordance with the provisions of article three-A of this chapter. Any person may waive the right to a hearing under this section. Failure by such person to appear for the scheduled hearing shall constitute a waiver of such hearing, provided, however, that such person may petition the commissioner for a new hearing which shall be held as soon as practicable.

(d) Sanctions. (1) Revocations. a. Any license which has been revoked pursuant to paragraph (c) of this subdivision shall not be restored for at least one year after such revocation, nor thereafter, except in the discretion of the commissioner. However, no such license shall be restored for at least eighteen months after such revocation, nor thereafter except in the discretion of the commissioner, in any case where the person has had a prior revocation resulting from refusal to submit to a chemical test **or an evaluation conducted by a drug recognition expert or advance roadside impairment detection enforcement certified officer or any portion thereof**, or has been convicted of or found to be in violation of any subdivision of section eleven hundred ninety-two or section eleven hundred ninety-two-a of this article not arising out of the same incident, within the five years immediately preceding the date of such revocation; provided, however, a prior finding that a person under the age of twenty-one has refused to submit to a chemical test pursuant to subdivision three of section eleven hundred ninety-four-a of this article shall have the same effect as a prior finding of a refusal pursuant to this subdivision solely for the purpose of determining the length of any license suspension or revocation required to be imposed under any provision of this article, provided that the subsequent offense or refusal is committed or occurred prior to the expiration of the retention period for such prior refusal as set forth in paragraph (k) of subdivision one of section two hundred one of this chapter.

b. Any license which has been revoked pursuant to paragraph (c) of this subdivision or pursuant to subdivision three of section eleven hundred ninety-four-a of this article, where the holder was under the age of twenty-one years at the time of such refusal, shall not be restored for at least one year, nor thereafter, except in the discretion of the commissioner. Where such person under the age of twenty-one years has a prior finding, conviction or youthful offender adjudication resulting from a violation of section eleven hundred ninety-two or section eleven hundred ninety-two-a of this article, not arising from the same incident, such license shall not be restored for at least one year or until such person reaches the age of twenty-one years, whichever is the greater period of time, nor thereafter, except in the discretion of the commissioner.

c. Any commercial driver's license which has been revoked pursuant to paragraph (c) of this subdivision based upon a finding of refusal to submit to a chemical test **or an evaluation conducted by a drug recognition expert or advance roadside impairment detection enforcement certified officer or any portion thereof**, where such finding occurs within or outside of this state, shall not be restored for at least eighteen months after such revocation, nor thereafter, except in the discretion of the commissioner, but shall not be restored for at least three years after such revocation, nor thereafter, except in the discretion of the commissioner, if the holder of such license was operating a commercial motor vehicle transporting hazardous materials at the time of such refusal. However, such person shall be permanently disqualified from operating a commercial motor vehicle in any case where the holder has a prior finding of refusal to submit to a chemical test **or an evaluation conducted by a drug recognition expert or advance roadside impairment detection enforcement certified officer or any portion thereof** pursuant to this section or has a prior conviction of any of the following offenses: any violation of section eleven hundred ninety-two of this article; any violation of subdivision one or two of section six hundred of this chapter; or has a prior conviction of any felony involving the use of a motor vehicle pursuant to paragraph (a) of subdivision one of section five hundred ten-a of this chapter. Provided that the commissioner may waive such permanent revocation after a period of ten years has expired from such revocation provided:

(i) that during such ten year period such person has not been found to have refused a chemical test **or an evaluation conducted by a drug recognition expert or advance roadside impairment detection enforcement certified officer; or any portion thereof** pursuant to this section and has not been convicted of any one of the following offenses: any violation of section eleven hundred ninety-two of this article; refusal to submit to a chemical test **or an evaluation conducted by a drug recognition expert or advance roadside impairment detection enforcement certified officer or any portion thereof** pursuant to this section; any violation of subdivision one or two of section six hundred of this chapter; or has a prior conviction of any felony involving the use of a motor vehicle pursuant to paragraph (a) of subdivision one of section five hundred ten-a of this chapter;

(ii) that such person provides acceptable documentation to the commissioner that such person is not in need of alcohol or drug treatment or has satisfactorily completed a prescribed course of such treatment; and

(iii) after such documentation is accepted, that such person is granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law by the court in which such person was last penalized.

d. Upon a third finding of refusal and/or conviction of any of the offenses which require a permanent commercial driver's license revocation, such permanent revocation may not be waived by the commissioner under any circumstances.

(2) Civil penalties. Except as otherwise provided, any person whose license, permit to drive, or any non-resident operating privilege is revoked pursuant to the provisions of this section shall also be liable for a civil penalty in the amount of five hundred dollars except that if such revocation is a second or subsequent revocation pursuant to this section issued within a five year period, or such person has been convicted of a violation of any subdivision of section eleven hundred ninety-two of this article within the past five years not arising out of the same incident, the civil penalty shall be in the amount of seven hundred fifty dollars. Any person whose license is revoked pursuant to the provisions of this section based upon a finding of refusal to submit to a chemical test while operating a commercial motor vehicle shall also be liable for a civil penalty of five hundred fifty dollars except that if such person has previously been found to have refused a chemical test **or an evaluation conducted by a drug recognition expert or advance roadside impairment detection enforcement certified officer or any portion thereof** pursuant to this section while operating a commercial motor vehicle or has a prior conviction of any of the following offenses while operating a commercial motor vehicle: any violation of section eleven hundred ninety-two of this article; any violation of subdivision two of section six hundred of this chapter; or has a prior conviction of any felony involving the use of a commercial motor vehicle pursuant to paragraph (a) of subdivision one of section five hundred ten-a of this chapter, then the civil penalty shall be seven hundred fifty dollars. No new driver's license or permit shall be issued, or non-resident operating privilege restored to such person unless such penalty has been paid. All penalties collected by the department pursuant to the provisions of this section shall be the property of the state and shall be paid into the general fund of the state treasury.

(3) Effect of rehabilitation program. No period of revocation arising out of this section may be set aside by the commissioner for the reason that such person was a participant in the alcohol and drug rehabilitation program set forth in section eleven hundred ninety-six of this article.

(e) Regulations. The commissioner shall promulgate such rules and regulations as may be necessary to effectuate the provisions of subdivisions one and two of this section.

(f) Evidence. Evidence of a refusal to submit to such chemical test or any portion thereof **or an evaluation conducted by a drug recognition expert or advance roadside impairment detection enforcement certified officer** shall be admissible in any trial, proceeding or hearing based upon a violation of the provisions of section eleven hundred ninety-two of this article but only upon a showing that the person was given sufficient warning, in clear and unequivocal language, of the effect of such refusal and that the person persisted in the refusal.

(g) Results. Upon the request of the person who was tested, the results of such test shall be made available to such person.

3. Compulsory chemical tests. (a) Court ordered chemical tests. Notwithstanding the provisions of subdivision two of this section, no person who operates a motor vehicle in this state may refuse to submit to a chemical test of one or more of the following: breath, blood, urine or saliva, for the purpose of determining the alcoholic and/or drug content of the blood when a court order for such chemical test has been issued in accordance with the provisions of this subdivision.

(b) When authorized. Upon refusal by any person to submit to a chemical test or any portion thereof as described above, the test shall not be given unless a police officer or a district attorney, as defined in subdivision thirty-two of section 1.20 of the criminal procedure law, requests and obtains a court order to compel a person to submit to a chemical test to determine the alcoholic or drug content of the person's blood upon a finding of reasonable cause to believe that:

(1) such person was the operator of a motor vehicle [~~and in the course of such operation a person other than the operator was killed or suffered serious physical injury as defined in section 10.00 of the penal law~~]; and

(2) a. either such person operated the vehicle in violation of any subdivision of section eleven hundred ninety-two of this article, or b. a breath **and/or oral/bodily fluid** test administered by a police officer in accordance with paragraph (b) of subdivision one of this section indicates that alcohol has been consumed by such person; and

(3) such person has been placed under lawful arrest; and

(4) such person has refused to submit to a chemical test or any portion thereof, requested in accordance with the provisions of paragraph (a) of subdivision two of this section or is unable to give consent to such a test.

(c) Reasonable cause; definition. For the purpose of this subdivision "reasonable cause" shall be determined by viewing the totality of circumstances surrounding the incident which, when taken together, indicate that the operator was driving in violation of section eleven hundred ninety-two of this article. Such circumstances may include, but are not limited to: evidence that the operator was operating a motor vehicle in violation of any provision of this article or any other moving violation at the time of the incident; any visible indication of alcohol or drug consumption or impairment by the operator; the existence of an open container containing an alcoholic beverage **and/or drug or drugs** in or around the vehicle driven by the operator; **the odor of cannabis or burnt cannabis;** any other evidence surrounding the circumstances of the incident which indicates that the operator has been operating a motor vehicle while impaired by the consumption of alcohol or drugs or intoxicated at the time of the incident.

(d) Court order; procedure. (1) An application for a court order to compel submission to a chemical test or any portion thereof, may be made to any supreme court justice, county court judge or district court judge in the judicial district in which the incident occurred, or if the incident occurred in the city of New York before any supreme court justice or judge of the criminal court of the city of New York. Such application may be communicated by telephone, radio or other means of electronic communication, or in person.

(2) The applicant must provide identification by name and title and must state the purpose of the communication. Upon being advised that an application for a court order to compel submission to a chemical test is being made, the court shall place under oath the applicant and any other person providing information in support of the application as provided in subparagraph three of this paragraph. After being sworn the applicant must state that the person from whom the chemical test was requested was the operator of a motor vehicle and in the course of such operation a person, other than the operator, has been killed or seriously injured and, based upon the totality of circumstances, there is reasonable cause to believe that such person was operating a motor vehicle in violation of any subdivision of section eleven hundred ninety-two of this article and, after being placed under lawful arrest such person refused to submit to a chemical test or any portion thereof, in accordance with the

provisions of this section or is unable to give consent to such a test or any portion thereof. The applicant must make specific allegations of fact to support such statement. Any other person properly identified, may present sworn allegations of fact in support of the applicant's statement.

(3) Upon being advised that an oral application for a court order to compel a person to submit to a chemical test is being made, a judge or justice shall place under oath the applicant and any other person providing information in support of the application. Such oath or oaths and all of the remaining communication must be recorded, either by means of a voice recording device or verbatim stenographic or verbatim longhand notes. If a voice recording device is used or a stenographic record made, the judge must have the record transcribed, certify to the accuracy of the transcription and file the original record and transcription with the court within seventy-two hours of the issuance of the court order. If the longhand notes are taken, the judge shall subscribe a copy and file it with the court within twenty-four hours of the issuance of the order.

(4) If the court is satisfied that the requirements for the issuance of a court order pursuant to the provisions of paragraph (b) of this subdivision have been met, it may grant the application and issue an order requiring the accused to submit to a chemical test to determine the alcoholic and/or drug content of his blood and ordering the withdrawal of a blood sample in accordance with the provisions of paragraph (a) of subdivision four of this section. When a judge or justice determines to issue an order to compel submission to a chemical test based on an oral application, the applicant therefor shall prepare the order in accordance with the instructions of the judge or justice. In all cases the order shall include the name of the issuing judge or justice, the name of the applicant, and the date and time it was issued. It must be signed by the judge or justice if issued in person, or by the applicant if issued orally.

(5) Any false statement by an applicant or any other person in support of an application for a court order shall subject such person to the offenses for perjury set forth in article two hundred ten of the penal law.

(6) The chief administrator of the courts shall establish a schedule to provide that a sufficient number of judges or justices will be available in each judicial district to hear oral applications for court orders as permitted by this section.

(e) Administration of compulsory chemical test. An order issued pursuant to the provisions of this subdivision shall require that a chemical test to determine the alcoholic and/or drug content of the operator's blood must be administered. The provisions of paragraphs (a), (b) and (c) of subdivision four of this section shall be applicable to any chemical test administered pursuant to this section.

§ 33-b. Subdivision 1 of section 1227 of the vehicle and traffic law, as amended by section 3 of part F of chapter 60 of the laws of 2005, is amended to read as follows:

1. The drinking of alcoholic beverages **<u>or consumption of cannabis</u>**, or the possession of an open container containing an alcoholic beverage **<u>or cannabis</u>**, in a motor vehicle located upon the public highways or right-of-way public highway is prohibited. Any operator or passenger violating this section shall be guilty of a traffic infraction.

The provisions of this section shall not be deemed to prohibit the drinking of alcoholic beverages **<u>the consumption of cannabis,</u>** or the possession of an open container containing an alcoholic beverage **or cannabis** by passengers in passenger vehicles operated pursuant to a certificate or permit issued by the department of transportation or the United States department of transportation. Furthermore, the provisions of this section shall not be deemed to prohibit the possession of wine which is: (a) resealed in accordance with the provisions of subdivision four of section eighty-one of the alcoholic beverage control law; and (b) is transported in the vehicle's trunk or is transported behind the last upright seat or in an area not normally occupied by the driver or passenger in a motor vehicle that is not equipped with a trunk.

§ 34. Subdivision 1 of section 171-a of the tax law, as amended by section 3 of part XX of chapter 59 of the laws of 2019, is amended to read as follows:

1. All taxes, interest, penalties and fees collected or received by the commissioner or the commissioner's duly authorized agent under articles nine (except section one hundred eighty-two-a thereof and except as otherwise provided in section two hundred five thereof), nine-A, twelve-A (except as otherwise provided in section two hundred eighty-four-d thereof), thirteen, thirteen-A (except as otherwise provided in section three hundred twelve thereof), eighteen, nineteen, twenty (except as otherwise provided in section four hundred eighty-two thereof), twenty-B, **twenty-C,** twenty-D, twenty-one, twenty-two, twenty-four, twenty-six, twenty-eight (except as otherwise provided in section eleven hundred two or eleven hundred three thereof), twenty-eight-A, twenty-nine-B, thirty-one (except as otherwise provided in section fourteen hundred twenty-one thereof), thirty-three and thirty-three-A of this chapter shall be deposited daily in one account with such responsible banks, banking houses or trust companies as may be designated by the comptroller, to the credit of the comptroller. Such an account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected or received under such articles of this chapter, the comptroller shall retain in the comptroller's hands such amount as the commissioner may determine to be necessary for refunds or reimbursements under such articles of this chapter out of which amount the comptroller shall pay any refunds or reimbursements to which taxpayers shall be entitled under the provisions of such articles of this chapter. The commissioner and the comptroller shall maintain a system of accounts showing the amount of revenue collected or received from each of the taxes imposed by such articles. The comptroller, after reserving the amount to pay such refunds or reimbursements, shall, on or before the tenth day of each month, pay into the state treasury to the credit of the general fund all revenue deposited under this section during the preceding calendar month and remaining to the comptroller's credit on the last day of such preceding month, (i) except that the comptroller shall pay to the state department of social services that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against past-due support pursuant to subdivision six of section one hundred seventy-one-c of this article, (ii) and except that the comptroller shall pay to the New York state higher education services corporation and the state university of New York or the city university of New York respectively that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which

is certified to the comptroller by the commissioner as the amount to be credited against the amount of defaults in repayment of guaranteed student loans and state university loans or city university loans pursuant to subdivision five of section one hundred seventy-one-d and subdivision six of section one hundred seventy-one-e of this article, (iii) and except further that, notwithstanding any law, the comptroller shall credit to the revenue arrearage account, pursuant to section ninety-one-a of the state finance law, that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter, and any interest thereon, which is certified to the comptroller by the commissioner as the amount to be credited against a past-due legally enforceable debt owed to a state agency pursuant to paragraph (a) of subdivision six of section one hundred seventy-one-f of this article, provided, however, he shall credit to the special offset fiduciary account, pursuant to section ninety-one-c of the state finance law, any such amount creditable as a liability as set forth in paragraph (b) of subdivision six of section one hundred seventy-one-f of this article, (iv) and except further that the comptroller shall pay to the city of New York that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any interest thereon that is certified to the comptroller by the commissioner as the amount to be credited against city of New York tax warrant judgment debt pursuant to section one hundred seventy-one-l of this article, (v) and except further that the comptroller shall pay to a non-obligated spouse that amount of overpayment of tax imposed by article twenty-two of this chapter and the interest on such amount which has been credited pursuant to section one hundred seventy-one-c, one hundred seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or one hundred seventy-one-l of this article and which is certified to the comptroller by the commissioner as the amount due such non-obligated spouse pursuant to paragraph six of subsection (b) of section six hundred fifty-one of this chapter; and (vi) the comptroller shall deduct a like amount which the comptroller shall pay into the treasury to the credit of the general fund from amounts subsequently payable to the department of social services, the state university of New York, the city university of New York, or the higher education services corporation, or the revenue arrearage account or special offset fiduciary account pursuant to section ninety-one-a or ninety-one-c of the state finance law, as the case may be, whichever had been credited the amount originally withheld from such overpayment, and (vii) with respect to amounts originally withheld from such overpayment pursuant to section one hundred seventy-one-l of this article and paid to the city of New York, the comptroller shall collect a like amount from the city of New York.

§ 34-a. Subdivision 1 of section 171-a of the tax law, as amended by section 4 of part XX of chapter 59 of the laws of 2019, is amended to read as follows:

1. All taxes, interest, penalties and fees collected or received by the commissioner or the commissioner's duly authorized agent under articles nine (except section one hundred eighty-two-a thereof and except as otherwise provided in section two hundred five thereof), nine-A, twelve-A (except as otherwise provided in section two hundred eighty-four-d thereof), thirteen, thirteen-A (except as otherwise provided in section three hundred twelve thereof), eighteen, nineteen, twenty (except as otherwise provided in section four hundred eighty-two thereof), **twenty-C,** twenty-D, twenty-one, twenty-two, twenty-four, twenty-

six, twenty-eight (except as otherwise provided in section eleven hundred two or eleven hundred three thereof), twenty-eight-A, twenty-nine-B, thirty-one (except as otherwise provided in section fourteen hundred twenty-one thereof), thirty-three and thirty-three-A of this chapter shall be deposited daily in one account with such responsible banks, banking houses or trust companies as may be designated by the comptroller, to the credit of the comptroller. Such an account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected or received under such articles of this chapter, the comptroller shall retain in the comptroller's hands such amount as the commissioner may determine to be necessary for refunds or reimbursements under such articles of this chapter out of which amount the comptroller shall pay any refunds or reimbursements to which taxpayers shall be entitled under the provisions of such articles of this chapter. The commissioner and the comptroller shall maintain a system of accounts showing the amount of revenue collected or received from each of the taxes imposed by such articles. The comptroller, after reserving the amount to pay such refunds or reimbursements, shall, on or before the tenth day of each month, pay into the state treasury to the credit of the general fund all revenue deposited under this section during the preceding calendar month and remaining to the comptroller's credit on the last day of such preceding month, (i) except that the comptroller shall pay to the state department of social services that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against past-due support pursuant to subdivision six of section one hundred seventy-one-c of this article, (ii) and except that the comptroller shall pay to the New York state higher education services corporation and the state university of New York or the city university of New York respectively that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against the amount of defaults in repayment of guaranteed student loans and state university loans or city university loans pursuant to subdivision five of section one hundred seventy-one-d and subdivision six of section one hundred seventy-one-e of this article, (iii) and except further that, notwithstanding any law, the comptroller shall credit to the revenue arrearage account, pursuant to section ninety-one-a of the state finance law, that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter, and any interest thereon, which is certified to the comptroller by the commissioner as the amount to be credited against a past-due legally enforceable debt owed to a state agency pursuant to paragraph (a) of subdivision six of section one hundred seventy-one-f of this article, provided, however, he shall credit to the special offset fiduciary account, pursuant to section ninety-one-c of the state finance law, any such amount creditable as a liability as set forth in paragraph (b) of subdivision six of section one hundred seventy-one-f of this article, (iv) and except further that the comptroller shall pay to the city of New York that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any interest thereon that is certified to the comptroller by the commissioner as the amount to be credited against city of New York tax warrant judgment debt pursuant to section one hundred seventy-one-l of this article, (v) and except further that the comptroller shall pay to a non-obligated spouse that amount of overpayment of tax imposed by article twenty-two of this chapter and the interest on such amount which has been credited pursuant to section one hundred seventy-one-c, one hundred seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or one hundred seventy-one-l of this article and which is certified to the comptroller by the commissioner as the amount due such non-obligated spouse pursuant to paragraph six of subsection (b) of section six hundred fifty-one of this chapter; and (vi) the comptroller shall deduct a like amount which the comptroller shall pay into the treasury to the credit of the general fund from amounts subsequently payable to the department of social services, the state university of New York, the city university of New York, or the higher education services corporation, or the revenue arrearage account or special offset fiduciary account pursuant to section ninety-one-a or ninety-one-c of the state finance law, as the case may be, whichever had been credited the amount originally withheld from such overpayment, and (vii) with respect to amounts originally withheld from such overpayment pursuant to section one hundred seventy-one-l of this article and paid to the city of New York, the comptroller shall collect a like amount from the city of New York.

§ 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 filed when due, the tax shall be due on the day on which the return is required to be filed.

5. Whenever the commissioner shall determine that any moneys received under the provisions of this article were paid in error, he may cause the same to be refunded, with interest, in accordance with such rules and regulations as he may prescribe, except that no interest shall be allowed or paid if the amount thereof would be less than one dollar. Such interest shall be at the overpayment rate set by the commissioner pursuant to subdivision twenty-sixth of section one hundred seventy-one of this chapter, or if no rate is set, at the rate of six percent per annum, from the date when the tax, penalty or interest to be refunded was paid to a date preceding the date of the refund check by not more than thirty days. Provided, however, that for the purposes of this subdivision, any tax paid before the last day prescribed for its payment shall be deemed to have been paid on such last day. Such moneys received under the provisions of this article which the commissioner shall determine were paid in error, may be refunded out of funds in the custody of the comptroller to the credit of such taxes provided an application therefor is filed with the commissioner within two years from the time the erroneous payment was made.

6. The provisions of article twenty-seven of this chapter shall apply to the tax imposed by this article in the same manner and with the same force and effect as if the language of such article had been incorporated in full into this section and had expressly referred to the tax imposed by this article, except to the extent that any provision of such article is either inconsistent with a provision of this article or is not relevant to this article.

7. All taxes, interest and penalties collected or received by the commissioner under this article shall be deposited and disposed of pursuant to the provisions of section one hundred seventy-one-a of this chapter, provided that an amount equal to one hundred percent collected under this article less any amount determined by the commissioner to be reserved by the comptroller for refunds or reimbursements shall be paid by the comptroller to the credit of the medical [~~marihuana~~] **cannabis** trust fund established by section eighty-nine-h of the state finance law.

8. A registered organization that dispenses medical [~~marihuana~~] **cannabis** shall provide to the department information on where the medical [~~marihuana~~] **cannabis** was dispensed and where the medical [~~marihuana~~] **cannabis** was manufactured. A registered organization that obtains [~~marihuana~~] **cannabis** from another registered organization shall obtain from such registered organization information on where the medical [~~marihuana~~] **cannabis** was manufactured.

§ 36. Section 491 of the tax law, as added by chapter 90 of the laws of 2014, subdivision 1 as amended by section 1 of part II of chapter 60 of the laws of 2016, is amended to read as follows:

§ 491. Returns to be secret. 1. Except in accordance with proper judicial order or as in this section or otherwise provided by law, it shall be unlawful for the commissioner, any officer or employee of the department, or any officer or person who, pursuant to this section, is permitted to inspect any return or report or to whom a copy, an abstract or a portion of any return or report is furnished, or to whom any information contained in any return or report is furnished, or any person engaged or retained by such department on an independent contract basis or any person who in any manner may acquire knowledge of the contents of a return or report filed pursuant to this article to divulge or make known in any manner the contents or any other information relating to the business of a distributor, owner or other person contained in any return or report required under this article. The officers charged with the custody of such returns or reports shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the state, [~~the state department of health~~] **office of cannabis management**, or the commissioner in an action or proceeding under the provisions of this chapter or on behalf of the state or the commissioner in any other action or proceeding involving the collection of a tax due under this chapter to which the state or the commissioner is a party or a claimant or on behalf of any party to any action or proceeding under the provisions of this article, when the returns or the reports or the facts shown thereby are directly involved in such action or proceeding, or in an action or proceeding relating to the regulation or taxation of medical [~~marihuana~~] **cannabis** on behalf of officers to whom information shall have been supplied as provided in subdivision two of this section, in any of which events the court may require the production of, and may admit in evidence so much of said returns or reports or of the facts shown thereby as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the commissioner, in his or her discretion, from allowing the inspection or delivery of a certified copy of any return or report filed under this article or of any information contained in any such return or report by or to a duly authorized officer or employee of the [~~state department of health~~] **office of cannabis management**; or by or to the attorney general or other legal representatives of the state when an action shall have been recommended or commenced pursuant to this chapter in which such returns or reports or the facts shown thereby are directly involved; or the inspection of the returns or reports required under this article by the comptroller or duly designated officer or employee of the state department of audit and control, for purposes of the audit of a refund of any tax paid by a registered organization or other person under this article; nor to prohibit the delivery to a registered organization, or a duly authorized representative of such registered organization, a certified copy of any return or report filed by such registered organization pursuant to this article, nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns or reports and the items thereof. This section shall also not be construed to prohibit the disclosure, for tax administration purposes, to the division of the budget and the office of the state comptroller, of information aggregated from the returns filed by all the registered organizations making sales of, or manufacturing, medical [~~marihuana~~] **cannabis** in a specified county, whether the number of such registered organizations is one or more. Provided further that, notwithstanding the provisions of this subdivision, the commissioner may, in his or her discretion, permit the proper officer of any county entitled to receive an allocation, following appropriation by the legislature, pursuant to this article and section eighty-nine-h of the state finance law, or the authorized representative of such officer, to inspect any return filed under this article, or may furnish to such officer or the officer's authorized representative an abstract of any such return or supply such officer or such representative with information concerning an item contained in any such return, or disclosed by any investigation of tax liability under this article.

2. The commissioner, in his or her discretion and pursuant to such rules and regulations as he or she may adopt, may permit [~~the commissioner of internal revenue of the United States, or~~] the appropriate officers of any other state which regulates or taxes medical [~~marihuana~~] **cannabis**, or the duly authorized representatives of such [~~commissioner or of any such~~] officers, to inspect returns or reports made pursuant to this article, or may furnish to such [~~commissioner or~~] other officers, or duly authorized representatives, a copy of any such return or report or an abstract of the information therein contained, or any portion thereof, or may supply [~~such commissioner or~~] any such officers or such representatives with information relating to the business of a registered organization making returns or reports hereunder. The commissioner may refuse to supply information pursuant to this subdivision [~~to the commissioner of internal revenue of the United States or~~] to the officers of any other state if the statutes [~~of the United States, or~~] of the state represented by such officers, do not grant substantially similar privileges to the commissioner, but such refusal shall not be mandatory. Information shall not be supplied to [~~the commissioner of internal revenue of the United States or~~] the appropriate officers of any other state which regulates or taxes medical [~~marihuana~~] **cannabis**, or the duly authorized representatives [~~of such commissioner or~~] of any of such officers, unless such [~~commissioner,~~] officer or other representatives shall agree not to divulge or make known in any manner the information so supplied, but such officers may transmit such information to their employees or legal representatives when necessary, who in turn shall be subject to the same restrictions as those hereby imposed upon such [~~commissioner,~~] officer or other representatives.

3. (a) Any officer or employee of the state who willfully violates the provisions of subdivision one or two of this section shall be dismissed from office and be incapable of holding any public office in this state for a period of five years thereafter.

(b) Cross-reference: For criminal penalties, see article thirty-seven of this chapter.

§ 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

496-c. Illicit cannabis penalty.

§ 492. Definitions. For purposes of this article, the following definitions shall apply:

(a) "Adult-use cannabis product" means cannabis, concentrated cannabis, and cannabis infused products. For purposes of this article, under no circumstances shall adult-use cannabis product include medical cannabis or hemp as defined in section three of the cannabis law.

(b) "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.

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

(d) "Cannabis trim" means all parts of a plant of the genus cannabis other than cannabis flowers that have been harvested, dried, and cured, and prior to any processing whereby the plant material is transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis and other ingredients.

(e) "Cultivation" has the same meaning as described in subdivision two of section sixty-eight of the cannabis law.

(f) "Cultivator" has the same meaning as described in subdivisions one and two of section sixty-eight of the cannabis law.

(g) "Illicit cannabis" means and includes any adult-use cannabis product or medical cannabis on which any tax required to have been paid under this chapter has not been paid; or any adult-use cannabis or medical cannabis product, the form, packaging, or content of which is not permitted by the office of cannabis management, as applicable.

(h) "Person" means every individual, partnership, limited liability company, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of the foregoing.

(i) "Processor" has the same meaning as described in subdivisions one and two of section sixty-nine of the cannabis law.

(j) "Retail dispensary" means a dispensary licensed to sell adult-use cannabis products pursuant to section seventy-two of the cannabis law.

(k) "Sale" means any transfer of title, possession or both, exchange or barter, rental, lease or license to use or consume, conditional or otherwise, in any manner or by any means whatsoever for a consideration or any agreement therefor.

(l) "Transfer" means to grant, convey, hand over, assign, sell, exchange or barter, in any manner or by any means, with or without consideration.

(m) "Wet cannabis" means a whole plant of the genus cannabis that has been harvested and weighed within two hours of harvesting and has not undergone any processing, including, but not limited to drying, curing, trimming or increasing the ambient temperature in the room in which such plant is held.

§ 493. Imposition of tax. (a) There is hereby imposed and shall be paid a tax on the cultivation of the following: (1) cannabis flower at the rate of one dollar per dry weight gram; (2) cannabis trim at the rate of twenty-five cents per dry-weight gram; and (3) wet cannabis at the rate of fourteen cents per gram. This tax shall be paid by the person to whom such flower, trim, or wet cannabis has been sold or transferred and shall accrue at the time of such sale or transfer. Where a person who processes or distributes cannabis flower, cannabis trim, or wet cannabis is licensed under the cannabis law as a microbusiness, cooperative or registered organization, such person shall be liable for the tax imposed by this subdivision.

(b) In addition to the tax imposed by subdivision (a) of this section, there is hereby imposed a tax on the sale or transfer of adult-use cannabis products by any person to a retail dispensary at the rate of twenty percent of the amount charged by such person for such adult-use cannabis products, which shall accrue at the time of such sale or transfer. Where the retail dispensary is operated by a person licensed under the cannabis law as a registered organization, such tax shall be paid by the retail dispensary at the rate of twenty percent of the price charged to the retail customer and shall accrue at the time of such sale.

(c) In addition to the taxes imposed by subdivisions (a) and (b) of this section, there is hereby imposed a tax on the sale or transfer of adult-use cannabis products by any person to a retail dispensary at the rate of two percent of the amount charged by such person for such adult-use cannabis products, which shall accrue at the time of such sale or transfer. The tax imposed by this subdivision shall be in trust for and on account of a city having a population of one million or more, or a county, other than a county wholly within such a city, in which the retail dispensary is located. Where the retail dispensary is operated by a person licensed under the cannabis law as a registered organization, such tax shall be paid by the retail dispensary at the rate of two percent of the price charged to the retail customer.

(d) It shall be presumed that all adult-use cannabis products within the state are subject to tax until the contrary is established, and the burden of proof that the taxes imposed by subdivisions (a), (b), and (c) of this section have been paid shall be upon the person in possession thereof where such person holds any license under the cannabis law. Every person holding a license under the cannabis law who possesses adult-use cannabis products upon which such taxes have not been paid shall be liable for the payment of such taxes, and the failure of such person to produce to the commissioner or his or her authorized representative upon demand an invoice for any adult-use cannabis products in his or her possession shall be presumptive evidence that the tax thereon has not been paid and that such person is liable for the tax thereon, unless evidence of such invoice or payment is later produced.

(e) Notwithstanding any other provision of law to the contrary, the taxes imposed by article twenty of this chapter shall not apply to any product subject to tax under this article.

§ 494. Registration and renewal. (a) Every person to whom cannabis flower, cannabis trim or wet cannabis is sold or transferred, and every person licensed as a microbusiness, cooperative or registered organization under the cannabis law must file with the commissioner a properly completed application for a certificate of registration before engaging in business. In order to apply for such certificate of registration, such person must first be in possession of a valid license from the office of cannabis management. An application for a certificate of registration must be submitted electronically, on a form prescribed by the commissioner, and must be accompanied by a non-refundable application fee of six hundred dollars. A certificate of registration shall not be assignable or transferable and shall be destroyed immediately upon such person ceasing to do business as specified in such certificate, or in the event that such business never commenced.

(b) The commissioner shall refuse to issue a certificate of registration to any applicant and shall revoke the certificate of registration of any such person who does not possess a valid license from the office of cannabis management. The commissioner may refuse to issue a certificate of registration to any applicant where such applicant: (1) has a past-due liability as that term is defined in section one hundred seventy-one-v of this chapter; (2) has had a certificate of registration under this article, a license from the office of cannabis management, or any license or registration provided for in this chapter revoked within one year from the date on which such application was filed; (3) has had a certificate of registration under this article, a license from the office of cannabis management, or any license or registration provided for in this chapter suspended where the suspension is in effect on the date the application is filed or ended less than one year from such date; (4) has been convicted of a crime provided for in this chapter within one year from the date on which such application was filed or the certificate was issued as applicable; (5) willfully fails to file a report or return required by this article; (6) willfully files, causes to be filed, gives or causes to be given a report, return, certificate or affidavit required by this article which is false; or (7) willfully fails to collect or truthfully account for or pay over any tax imposed by this article.

(c) A certificate of registration shall be valid for the period specified thereon, unless earlier suspended or revoked. Upon the expiration of the term stated on a certificate of registration, such certificate shall be null and void.

(d) Every holder of a certificate of registration must notify the commissioner of changes to any of the information stated on the certificate, or of changes to any information contained in the application for the certificate of registration. Such notification must be made on or before the last day of the month in which a change occurs and must be made electronically on a form prescribed by the commissioner.

(e) Every holder of a certificate of registration under this article shall be required to reapply prior to such certificate's expiration, during a reapplication period established by the commissioner. Such reapplication period shall not occur more frequently than every two years. Such reapplication shall be subject to the same requirements and conditions as an initial application, including grounds for refusal and the payment of the application fee.

(f) Any person who is required to obtain a certificate of registration under subdivision (a) of this section who possesses adult-use cannabis products without such certificate shall be subject to a penalty of five hundred dollars for each month or part thereof during which adult-use cannabis products are possessed without such certificate, not to exceed ten thousand dollars in the aggregate.

§ 495. Returns and payment of tax. Every person to whom cannabis flower, cannabis trim or wet cannabis is sold or transferred, and every person licensed as a microbusiness, cooperative or registered organization under the cannabis law shall, on or before the twentieth day of the month, file with the commissioner a return on forms to be prescribed by the commissioner, showing the total weight of cannabis flower, cannabis trim, and wet cannabis subject to tax pursuant to subdivision (a) of section four hundred ninety-three of this article and the total amount of tax due thereon in the preceding calendar month, and the total amount of tax due under subdivisions (b) and (c) of such section on its sales or transfers to, or sales by, a retail dispensary during the preceding calendar month, along with such other information as the commissioner may require. Every person required to file a return under this section shall, at the time of filing such return, pay to the commissioner the total amount of tax due for the period covered by such return. If a return is not filed when due, the tax shall be due on the day on which the return is required to be filed.

§ 496. Records to be kept; penalties. (a) Records to be kept. Every person to whom cannabis flower, cannabis trim or wet cannabis is sold or transferred, and every person licensed as a microbusiness, cooperative or registered organization under the cannabis law shall maintain complete and accurate records in such form as the commissioner may require including, but not limited to, such items as the weight of the cannabis flower, cannabis trim, and wet cannabis sold or transferred to or produced by such person; the geographic location of every retail dispensary to which such person sold or transferred adult-use cannabis products; and any other record or information required by the commissioner. Such records must be preserved for a period of three years after the filing of the return to which such records relate and must be provided to the commissioner upon request.

(b) Penalties. In addition to any other penalty provided in this article or otherwise imposed by law: every person to whom cannabis flower, cannabis trim or wet cannabis is sold or transferred, and every person licensed as a microbusiness, cooperative or registered organization under the cannabis law who fails to maintain or make available to the commissioner the records required by this section is subject to a penalty not to exceed five hundred dollars for the first month or part thereof for which the failure occurs. This penalty may not be imposed more than once for failures for the same monthly period or part thereof. If the commissioner determines that a failure to maintain or make available records in any month was entirely due to reasonable cause and not to willful neglect, the commissioner must remit the penalty for that month.

§ 496-a. Returns to be secret. (a) Except in accordance with proper judicial order or as in this section or otherwise provided by law, it shall be unlawful for the commissioner, any officer or employee of the department, or any officer or person who, pursuant to this section, is permitted to inspect any return or report or to whom a copy, an abstract or a portion of any return or report is furnished, or to whom any information contained in any return or report is furnished, or any person who in any manner may acquire knowledge of the contents of a return or report filed pursuant to this article to divulge or make known in any manner the content or any other information contained in any return or report required under this article. The officers charged with the custody of such returns or reports shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the state, the office of cannabis management, or the commissioner in an action or proceeding involving the collection of tax due under this chapter to which the state or the commissioner is a party or a claimant or on behalf of any party to any action or proceeding under the provisions of this article, when the returns or the reports or the facts shown thereby are directly involved in such action or proceeding, or in an action or proceeding related to the regulation or taxation of adult-use cannabis products on behalf of officers to whom information shall have been supplied as provided in this section, in any of which events the courts may require the production of, and may admit in evidence so much of said returns or reports or of the facts shown thereby as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the commissioner, in his or her discretion, from allowing the inspection or delivery of a certified copy of any return or report filed under this article or of any information contained in any such return or report by or to a duly authorized officer or employee of the office of cannabis management or by or to the attorney general or other legal representatives of the state when an action shall have been recommended or commenced pursuant to this chapter in which such returns or reports or the facts shown thereby are directly involved; or the inspection of the returns or reports required under this article by the comptroller or duly designated officer or employee of the state department of audit and control, for purposes of the audit of a refund of any tax paid by the wholesaler under this article; nor to prohibit the delivery to such person or a duly authorized representative of such person, a certified copy of any return or report filed by such person pursuant to this article, nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns or reports and the items thereof. This section shall also not be construed to prohibit the disclosure, for tax administration purposes, to the division of the budget and the office of the state comptroller, of information aggregated from the returns filed by all persons subject to the taxes imposed by this article, whether the number of such persons is one or more. Provided further that, notwithstanding the provisions of this subdivision, the commissioner may, in his or her discretion, permit the proper officer of any city having a population of one million or more and a county, other than a county wholly within such a city, entitled to receive any distribution of the monies received on account of the tax imposed by subdivision (c) of section four hundred ninety-three of this article, or the authorized representative of such officer, to inspect any return filed under this article, or may furnish to such officer or the officer's authorized representative an abstract of any such return or supply such officer or representative with information concerning an item contained in any such return, or disclosed by any investigation of tax liability under this article.

(b) The commissioner, in his or her discretion, may permit the appropriate officers of any other state that regulates or taxes cannabis or the duly authorized representatives of any such officers, to inspect returns or reports made pursuant to this article, or may furnish to such other officers, or their 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 any such officers or such representatives with information relating to the business of a person making returns or reports hereunder solely for purposes of tax administration. The commissioner may refuse to supply information pursuant to this subdivision to the officers of any other state if the statutes of the state represented by such officers do not grant substantially similar privileges to the commissioner, but such refusal shall not be mandatory. Information shall not be supplied to the officers of any state that regulates or taxes cannabis, or the duly authorized representatives of any such officers, unless such officers 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 officers or other representatives.

(c) Any officer or employee of the state who willfully violates the provisions of subdivision (a) or (b) of this section shall be dismissed from office and be incapable of holding any public office in this state for a period of five years thereafter, and subject to criminal penalties pursuant to article thirty-seven of this chapter.

§ 496-b. Administrative provisions. (a) The provisions of article twenty-seven of this chapter shall apply to the tax imposed by this article in the same manner and with the same force and effect as if the language of such article had been incorporated in full into this section and had expressly referred to the tax imposed by this article, except to the extent that any provision of such article is either inconsistent with a provision of this article or is not relevant to this article.

(b)(l) All taxes, interest, and penalties collected or received by the commissioner under this article shall be deposited and disposed of pursuant to the provisions of section one hundred seventy-one-a of this chapter, provided that an amount equal to one hundred percent collected under this article less any amount determined by the commissioner to be reserved by the comptroller for refunds or reimbursements shall be paid by the comptroller to the credit of the cannabis revenue fund established by section ninety-nine-hh of the state finance law. Of the total revenue collected or received under this article, the comptroller shall retain such amount as the commissioner may determine to be necessary for refunds. The commissioner is authorized and directed to deduct from the registration fees under subdivision (a) of section four hundred ninety-four of this article, before deposit into the cannabis revenue fund designated by the comptroller, a reasonable amount necessary to effectuate refunds of appropriations of the department to reimburse the department for the costs incurred to administer, collect, and distribute the taxes imposed by this article.

(2) Notwithstanding the foregoing, the commissioner shall certify to the comptroller the total amount of tax, penalty and interest received by him or her on account of the tax imposed by subdivision (c) of section four hundred ninety-three of this article in trust for and on account of a city having a population of one million or more and a county, other than a county wholly within such a city, in which a retail dispensary is located. On or before the twelfth day of each month, the comptroller, after reserving such refund fund, shall pay to the appropriate fiscal officer of each such city having a population of one million or more and a county, other than a county wholly within such a city, the taxes, penalties and interest received and certified by the commissioner for the preceding calendar month.

§ 496-c. Illicit cannabis penalty. (a) In addition to any other civil or criminal penalties that may apply, any person in possession of or having control over illicit cannabis, as defined in section four hundred ninety-two of this article, after notice and an opportunity for a hearing, shall be liable for a civil penalty of not less than four hundred dollars per ounce of illicit cannabis plant material, ten dollars per milligram of tetrahydrocannabinol contained in illicit cannabis infused products, one hundred dollars per gram of illicit cannabis concentrate or extract, two hundred fifty dollars per immature illicit cannabis plant, and one thousand dollars per mature cannabis plant, but not to exceed eight hundred dollars per ounce of illicit cannabis plant material, twenty dollars per milligram of tetrahydrocannabinol contained in illicit cannabis infused products, two hundred dollars per gram of illicit cannabis concentrate or extract, five hundred dollars per immature illicit cannabis plant, and two thousand dollars per mature cannabis plant for a first violation, and for a second or subsequent violation within three years following a prior violation shall be liable for a civil penalty of not less than eight hundred dollars per ounce of illicit cannabis plant material, twenty dollars per milligram of tetrahydrocannabinol contained in illicit cannabis infused products, two hundred dollars per gram of illicit cannabis concentrate or extract, five hundred dollars per immature illicit cannabis plant, and two thousand dollars per mature cannabis plant but not to exceed one thousand dollars per ounce of illicit cannabis plant material, forty dollars per milligram of tetrahydrocannabinol contained in illicit cannabis infused products, four hundred dollars per gram of illicit cannabis concentrate or extract, one thousand dollars per immature illicit cannabis plant, and four thousand dollars per mature cannabis plant.

(b) No enforcement action taken under this section shall be construed to limit any other criminal or civil liability of anyone in possession of illicit cannabis.

§ 38. Subdivision (a) of section 1115 of the tax law is amended by adding a new paragraph 3-b to read as follows:

(3-b) Adult-use cannabis products as defined by article twenty-C of this chapter.

§ 39. Intentionally omitted.

§ 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, 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 and the department of health shall conduct a study of the effectiveness of this act. Such study shall examine all aspects of the program, including the economic and fiscal aspects of the program, the impact of the program 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 as well as any recommended changes to the taxation and regulatory structure of the program. In addition, the office shall also recommend 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 temporary president of the senate and the speaker of the assembly, no later than October 1, 2023.

§ 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.

§ 44-a. Subdivision 1 of section 151 of the social services law, as amended by section 2 of part F of chapter 58 of the laws of 2014, is amended to read as follows:

1. Unauthorized transactions. Except as otherwise provided in subdivision two of this section, no person, firm, establishment, entity, or corporation (a) licensed under the provisions of the alcoholic beverage control law to sell liquor and/or wine at retail for off-premises consumption; (b) licensed to sell beer at wholesale and also authorized to sell beer at retail for off-premises consumption; (c) licensed or authorized to conduct pari-mutuel wagering activity under the racing, pari-mutuel wagering and breeding law; (d) licensed to participate in charitable gaming under article fourteen-H of the general municipal law; (e) licensed to participate in the operation of a video lottery facility under section one thousand six hundred seventeen-a of the tax law; (f) licensed to operate a gaming facility under section one thousand three hundred eleven of the racing, pari-mutuel wagering and breeding law; [~~or~~] (g) **licensed to operate an adult-use cannabis retail dispensary pursuant to the cannabis law: or (h)** providing adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment, or making available the venue in which performers disrobe or perform in an unclothed state for entertainment, shall cash or accept any public assistance check or electronic benefit transfer device issued by a public welfare official or department, or agent thereof, as and for public assistance.

§ 44-b. Subdivision 3 of section 151 of the social services law is amended by adding a new paragraph (d) to read as follows:

(d) A violation of the provisions of subdivision one of this section taking place at the licensed premises by a person, firm, establishment, entity or corporation licensed pursuant to the cannabis law to operate an adult-use cannabis retail dispensary shall subject such person, firm, establishment, entity or corporation to penalties and injunctions pursuant to section sixteen of article two of the cannabis law.

§ 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, including some members of the following: direct support staff, licensed health care practitioners, service recipients and representatives of family, consumer and other advocacy organizations, but not the director of the facility or provider agency. Such committee shall meet regularly to: (i) review the timeliness, thoroughness and appropriateness of the facility or provider agency's responses to reportable incidents; (ii) recommend additional opportunities for improvement to the director of the facility or provider agency, if appropriate; (iii) review incident trends and patterns concerning reportable incidents; and (iv) make recommendations to the director of the facility or provider agency to assist in reducing reportable incidents. Members of the committee shall be trained in confidentiality laws and regulations, and shall comply with section seventy-four of the public officers law[~~.~~]**; and**

(g) safe storage, administration, and diversion prevention policies regarding controlled substances and medical cannabis.

§ 46. Sections 179.00, 179.05, 179.10, 179.11 and 179.15 of the penal law, as added by chapter 90 of the laws of 2014, are amended to read as follows:

§ 179.00 Criminal diversion of medical [~~marihuana~~] **cannabis**; definitions.

The following definitions are applicable to this article:

1. "Medical [~~marihuana~~] **cannabis**" means medical [~~marihuana~~] **cannabis** as defined in [~~subdivision eight of section thirty-three hundred sixty of the public health law~~] **section three of the cannabis law**.

2. "Certification" means a certification, made under section [~~thirty-three hundred sixty-one of the public health law~~] **thirty of the cannabis law**.

§ 179.05 Criminal diversion of medical [~~marihuana~~] **cannabis**; limitations.

The provisions of this article shall not apply to:

1. a practitioner authorized to issue a certification who acted in good faith in the lawful course of his or her profession; or

2. a registered organization as that term is defined in [~~subdivision nine of section thirty-three hundred sixty of the public health law~~] **section thirty-four of the cannabis law** who acted in good faith in the lawful course of the practice of pharmacy; or

3. a person who acted in good faith seeking treatment for **a** medical condition or assisting another person to obtain treatment for a medical condition.

§ 179.10 Criminal diversion of medical [~~marihuana~~] **cannabis** in the first degree.

A person is guilty of criminal diversion of medical [~~marihuana~~] **cannabis** in the first degree when he or she is a practitioner, as that term is defined in [~~subdivision twelve of section thirty-three hundred sixty of the public health law~~] **section three of the cannabis law**, who issues a certification with knowledge of reasonable grounds to know that (i) the recipient has no medical need for it, or (ii) it is for a purpose other than to treat a serious condition as defined in [~~subdivision seven of section thirty-three hundred sixty of the public health law~~] **section three of the cannabis law**.

Criminal diversion of medical [~~marihuana~~] **cannabis** in the first degree is a class E felony.

§ 179.11 Criminal diversion of medical [~~marihuana~~] **cannabis** in the second degree.

A person is guilty of criminal diversion of medical [~~marihuana~~] **cannabis** in the second degree when he or she sells, trades, delivers, or otherwise provides medical [~~marihuana~~] **cannabis** to another with knowledge or reasonable grounds to know that the recipient is not registered under [~~title five-A of article thirty-three of the public health law~~] article three of the cannabis law.

Criminal diversion of medical [~~marihuana~~] cannabis in the second degree is a class B misdemeanor.

§ 179.15 Criminal retention of medical [~~marihuana~~] cannabis.

A person is guilty of criminal retention of medical [~~marihuana~~] cannabis when, being a certified patient or designated caregiver, as those terms are defined in [~~subdivisions three and five of section thirty-three hundred sixty of the public health law, respectively~~] section three of the cannabis law, he or she knowingly obtains, possesses, stores or maintains an amount of [~~marihuana~~] cannabis in excess of the amount he or she is authorized to possess under the provisions of [~~title five-A of article thirty-three of the public health law~~] article three of the cannabis law.

Criminal retention of medical [~~marihuana~~] cannabis is a class A misdemeanor.

§ 47. Section 220.78 of the penal law, as added by chapter 154 of the laws of 2011, is amended to read as follows:

§ 220.78 Witness or victim of drug or alcohol overdose.

1. A person who, in good faith, seeks health care for someone who is experiencing a drug or alcohol overdose or other life threatening medical emergency shall not be charged or prosecuted for a controlled substance offense under article two hundred twenty or a [~~marihuana~~] cannabis offense under article two hundred twenty-one of this title, other than an offense involving sale for consideration or other benefit or gain, or charged or prosecuted for possession of alcohol by a person under age twenty-one years under section sixty-five-c of the alcoholic beverage control law, or for possession of drug paraphernalia under article thirty-nine of the general business law, with respect to any controlled substance, [~~marihuana~~] cannabis, alcohol or paraphernalia that was obtained as a result of such seeking or receiving of health care.

2. A person who is experiencing a drug or alcohol overdose or other life threatening medical emergency and, in good faith, seeks health care for himself or herself or is the subject of such a good faith request for health care, shall not be charged or prosecuted for a controlled substance offense under this article or a [~~marihuana~~] cannabis offense under article two hundred twenty-one of this title, other than an offense involving sale for consideration or other benefit or gain, or charged or prosecuted for possession of alcohol by a person under age twenty-one years under section sixty-five-c of the alcoholic beverage control law, or for possession of drug paraphernalia under article thirty-nine of the general business law, with respect to any substance, [~~marihuana~~] cannabis, alcohol or paraphernalia that was obtained as a result of such seeking or receiving of health care.

3. Definitions. As used in this section the following terms shall have the following meanings:

(a) "Drug or alcohol overdose" or "overdose" means an acute condition including, but not limited to, physical illness, coma, mania, hysteria or death, which is the result of consumption or use of a controlled substance or alcohol and relates to an adverse reaction to or the quantity of the controlled substance or alcohol or a substance with which the controlled substance or alcohol was combined; provided that a patient's condition shall be deemed to be a drug or alcohol overdose if a prudent layperson, possessing an average knowledge of medicine and health, could reasonably believe that the condition is in fact a drug or alcohol overdose and (except as to death) requires health care.

(b) "Health care" means the professional services provided to a person experiencing a drug or alcohol overdose by a health care professional licensed, registered or certified under title eight of the education law or article thirty of the public health law who, acting within his or her lawful scope of practice, may provide diagnosis, treatment or emergency services for a person experiencing a drug or alcohol overdose.

4. It shall be an affirmative defense to a criminal sale controlled substance offense under this article or a criminal sale of [~~marihuana~~] **cannabis** offense under article two hundred twenty-one of this title, not covered by subdivision one or two of this section, with respect to any controlled substance or [~~marihuana~~] **cannabis** which was obtained as a result of such seeking or receiving of health care, that:

(a) the defendant, in good faith, seeks health care for someone or for him or herself who is experiencing a drug or alcohol overdose or other life threatening medical emergency; and

(b) the defendant has no prior conviction for the commission or attempted commission of a class A-I, A-II or B felony under this article.

5. Nothing in this section shall be construed to bar the admissibility of any evidence in connection with the investigation and prosecution of a crime with regard to another defendant who does not independently qualify for the bar to prosecution or for the affirmative defense; nor with regard to other crimes committed by a person who otherwise qualifies under this section; nor shall anything in this section be construed to bar any seizure pursuant to law, including but not limited to pursuant to section thirty-three hundred eighty-seven of the public health law.

6. The bar to prosecution described in subdivisions one and two of this section shall not apply to the prosecution of a class A-I felony under this article, and the affirmative defense described in subdivision four of this section shall not apply to the prosecution of a class A-I or A-II felony under this article.

§ 48. Subdivision 1 of section 260.20 of the penal law, as amended by chapter 362 of the laws of 1992, is amended as follows:

1. He knowingly permits a child less than eighteen years old to enter or remain in or upon a place, premises or establishment where sexual activity as defined by article one hundred thirty, two hundred thirty or two hundred sixty-three of this [~~chapter~~] **part** or activity involving controlled substances as defined by article two hundred twenty of this [~~chapter or involving marihuana as defined by article two hundred twenty-one of this chapter~~] **part** is maintained or conducted, and he knows or has reason to know that such activity is being maintained or conducted; or

§ 49. Section 89-h of the state finance law, as added by chapter 90 of the laws of 2014, is amended to read as follows:

§ 89-h. Medical [~~marihuana~~] **cannabis** trust fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a special fund to be known as the "medical [~~marihuana~~] **cannabis** trust fund."

2. The medical [~~marihuana~~] **cannabis** trust fund shall consist of all moneys required to be deposited in the medical [~~marihuana~~] **cannabis** trust fund pursuant to the provisions of section four hundred ninety of the tax law.

3. The moneys in the medical [~~marihuana~~] cannabis trust fund shall be kept separate and shall not be commingled with any other moneys in the custody of the commissioner of taxation and finance and the state comptroller.

4. The moneys of the medical [~~marihuana~~] cannabis trust fund, following appropriation by the legislature, shall be allocated upon a certificate of approval of availability by the director of the budget as follows: (a) Twenty-two and five-tenths percent of the monies shall be transferred to the counties in New York state in which the medical [~~marihuana~~] cannabis was manufactured and allocated in proportion to the gross sales originating from medical [~~marihuana~~] cannabis manufactured in each such county; (b) twenty-two and five-tenths percent of the moneys shall be transferred to the counties in New York state in which the medical [~~marihuana~~] cannabis was dispensed and allocated in proportion to the gross sales occurring in each such county; (c) five percent of the monies shall be transferred to the office of [~~alcoholism and substance abuse services~~] addiction services and supports, which shall use that revenue for additional drug abuse prevention, counseling and treatment services; and (d) five percent of the revenue received by the department shall be transferred to the division of criminal justice services, which shall use that revenue for a program of discretionary grants to state and local law enforcement agencies that demonstrate a need relating to [~~title five-A of article thirty-three of the public health law~~] article three of the cannabis law; said grants could be used for personnel costs of state and local law enforcement agencies. For purposes of this subdivision, the city of New York shall be deemed to be a county.

§ 50. The state finance law is amended by adding a new section 99-hh to read as follows:

§ 99-hh. New York state cannabis revenue fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a special fund to be known as the "New York state cannabis revenue fund" (the "fund").

2. Monies in the fund shall be kept separate from and shall not be commingled with any other monies in the custody of the comptroller or the commissioner of taxation and finance. Provided, however that any monies of the fund not required for immediate use may, at the discretion of the comptroller, in consultation with the director of the budget, be invested by the comptroller in obligations of the United States or the state. The proceeds of any such investment shall be retained by the fund as assets to be used for purposes of the fund.

3. Except as set forth in subdivisions two and four of this section, monies from the fund shall not be used to make payments for any purpose other than the purposes set forth in subdivisions two and four of this section.

4. The "New York state cannabis revenue fund" shall consist of monies received by the commissioner of taxation and finance pursuant to subdivisions (a) and (b) of section four hundred ninety-three of the tax law and all other monies credited or transferred thereto from any other fund or source. Monies of such fund shall be expended for the following purposes: administration of the regulated cannabis program, data gathering, monitoring and reporting, the governor's traffic safety committee, implementation and administration of the initiatives and programs of the social and economic equity plan in the office of cannabis management, substance abuse, harm reduction and mental health treatment and prevention, public health education and intervention, research on canna-

bis uses and applications, program evaluation and improvements, and any other identified purpose recommended by the executive director of the office of cannabis management and approved by the director of the budget.

§ 51. Subdivision 2 of section 3371 of the public health law, as amended by chapter 90 of the laws of 2014, is amended to read as follows:

2. The prescription monitoring program registry may be accessed, under such terms and conditions as are established by the department for purposes of maintaining the security and confidentiality of the information contained in the registry, by:

(a) a practitioner, or a designee authorized by such practitioner pursuant to paragraph (b) of subdivision two of section thirty-three hundred forty-three-a [~~or section thirty-three hundred sixty-one~~] of this article, for the purposes of: (i) informing the practitioner that a patient may be under treatment with a controlled substance by another practitioner; (ii) providing the practitioner with notifications of controlled substance activity as deemed relevant by the department, including but not limited to a notification made available on a monthly or other periodic basis through the registry of controlled substances activity pertaining to his or her patient; (iii) allowing the practitioner, through consultation of the prescription monitoring program registry, to review his or her patient's controlled substances history as required by section thirty-three hundred forty-three-a [~~or section thirty-three hundred sixty-one~~] of this article; and (iv) providing to his or her patient, or person authorized pursuant to paragraph (j) of subdivision one of this section, upon request, a copy of such patient's controlled substance history as is available to the practitioner through the prescription monitoring program registry; or

(b) a pharmacist, pharmacy intern or other designee authorized by the pharmacist pursuant to paragraph (b) of subdivision three of section thirty-three hundred forty-three-a of this article, for the purposes of: (i) consulting the prescription monitoring program registry to review the controlled substances history of an individual for whom one or more prescriptions for controlled substances or certifications for [~~marihuana~~] cannabis is presented to the pharmacist, pursuant to section thirty-three hundred forty-three-a of this article; and (ii) receiving from the department such notifications of controlled substance activity as are made available by the department; or

(c) an individual employed by a registered organization for the purpose of consulting the prescription monitoring program registry to review the controlled substances history of an individual for whom one or more certifications for [~~marihuana~~] cannabis is presented to that registered organization[~~, pursuant to section thirty-three hundred sixty-four of this article~~]. Unless otherwise authorized by this article, an individual employed by a registered organization will be provided access to the prescription monitoring program in the sole discretion of the commissioner.

§ 52. Subdivision 3 of section 853 of the general business law, as added by chapter 90 of the laws of 2014, is amended to read as follows:

3. This article shall not apply to any sale, furnishing or possession which is for a lawful purpose under [~~title five-A of article thirty-three of the public health law~~] the cannabis law.

§ 53. Subdivision 5 of section 410.91 of the criminal procedure law, as amended by chapter 90 of the laws of 2014, is amended to read as follows:

5. For the purposes of this section, a "specified offense" is an offense defined by any of the following provisions of the penal law: burglary in the third degree as defined in section 140.20, criminal mischief in the third degree as defined in section 145.05, criminal mischief in the second degree as defined in section 145.10, grand larceny in the fourth degree as defined in subdivision one, two, three, four, five, six, eight, nine or ten of section 155.30, grand larceny in the third degree as defined in section 155.35 (except where the property consists of one or more firearms, rifles or shotguns), unauthorized use of a vehicle in the second degree as defined in section 165.06, criminal possession of stolen property in the fourth degree as defined in subdivision one, two, three, five or six of section 165.45, criminal possession of stolen property in the third degree as defined in section 165.50 (except where the property consists of one or more firearms, rifles or shotguns), forgery in the second degree as defined in section 170.10, criminal possession of a forged instrument in the second degree as defined in section 170.25, unlawfully using slugs in the first degree as defined in section 170.60, criminal diversion of medical [~~marihuana~~] **cannabis** in the first degree as defined in section 179.10 or an attempt to commit any of the aforementioned offenses if such attempt constitutes a felony offense; or a class B felony offense defined in article two hundred twenty where a sentence is imposed pursuant to paragraph (a) of subdivision two of section 70.70 of the penal law; or any class C, class D or class E controlled substance [~~or marihuana~~] **cannabis** felony offense as defined in article two hundred twenty or two hundred twenty-one.

§ 54. Subdivision 5 of section 410.91 of the criminal procedure law, as amended by section 8 of part AAA of chapter 56 of the laws of 2009, is amended to read as follows:

5. For the purposes of this section, a "specified offense" is an offense defined by any of the following provisions of the penal law: burglary in the third degree as defined in section 140.20, criminal mischief in the third degree as defined in section 145.05, criminal mischief in the second degree as defined in section 145.10, grand larceny in the fourth degree as defined in subdivision one, two, three, four, five, six, eight, nine or ten of section 155.30, grand larceny in the third degree as defined in section 155.35 (except where the property consists of one or more firearms, rifles or shotguns), unauthorized use of a vehicle in the second degree as defined in section 165.06, criminal possession of stolen property in the fourth degree as defined in subdivision one, two, three, five or six of section 165.45, criminal possession of stolen property in the third degree as defined in section 165.50 (except where the property consists of one or more firearms, rifles or shotguns), forgery in the second degree as defined in section 170.10, criminal possession of a forged instrument in the second degree as defined in section 170.25, unlawfully using slugs in the first degree as defined in section 170.60, or an attempt to commit any of the aforementioned offenses if such attempt constitutes a felony offense; or a class B felony offense defined in article two hundred twenty where a sentence is imposed pursuant to paragraph (a) of subdivision two of section 70.70 of the penal law; or any class C, class D or class E controlled substance or [~~marihuana~~] **cannabis** felony offense as defined in article two hundred twenty or two hundred twenty-one.

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

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

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

2. Upon receiving a motion under subdivision one of this section the court shall presume the movant satisfies the criteria in subdivision one of this section unless the party opposing the motion proves by clear and convincing evidence that the movant does not satisfy the criteria. If the movant satisfies the criteria in subdivision one of this section, the court shall grant the motion to vacate the sentence or to resentence because it is legally invalid. In exercising its discretion, the court may consider, but shall not be limited to, the following: (a) the movant's criminal conviction history, including the type of crimes committed, the extent of injury to victims, the length of prior prison commitments, and the remoteness of the crimes. (b) the movant's disciplinary record and record of rehabilitation while incarcerated.

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

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

5. A person who has completed his or her sentence for a conviction under the former article two hundred twenty-one of the penal law, whether by trial or open or negotiated plea, who would not have been guilty of an offense or who would have been guilty of a lesser offense on and after the effective date of this section had this section been in effect at the time of his or her conviction, may file an application before the trial court that entered the judgment of conviction in his or her case to have the conviction, in accordance with article two hundred twenty-one of the penal law: (a) dismissed because the prior conviction is now legally invalid and sealed in accordance with section 160.50 of this chapter; (b) redesignated (or "reclassified") as a violation and sealed in accordance with section 160.50 of this chapter; or (c) redesignated (reclassified) as a misdemeanor.

6. The court shall presume the petitioner satisfies the criteria in subdivision five of this section unless the party opposing the application proves by clear and convincing evidence that the petitioner does not satisfy the criteria in subdivision five of this section. Once the applicant satisfies the criteria in subdivision five of this section, the court shall redesignate (or "reclassify") the conviction as a misde-

meanor, redesignate (reclassify) the conviction as a violation and seal the conviction, or dismiss and seal the conviction as legally invalid under this section had this section been in effect at the time of his or her conviction.

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

8. Any felony conviction that is vacated and resentenced under subdivision two or designated as a misdemeanor or violation under subdivision six of this section shall be considered a misdemeanor or violation for all purposes. Any misdemeanor conviction that is vacated and resentenced under subdivision two of this section or designated as a violation under subdivision six of this section shall be considered a violation for all purposes.

9. If the court that originally sentenced the movant is not available, the presiding judge shall designate another judge to rule on the petition or application.

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

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

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

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

§ 56. Transfer of employees. Notwithstanding any other provision of law, rule, or regulation to the contrary, upon the transfer of any functions from the department of health to the office of cannabis management for the regulation and control of medical cannabis pursuant to this act, employees performing those functions shall be transferred to the office of cannabis management pursuant to subdivision 2 of section 70 of the civil service law. Employees transferred pursuant to this section shall be transferred without further examination or qualification and shall retain their respective civil service classifications, status and collective bargaining unit designations and collective bargaining agreements. The civil service department may re-classify any person employed in a permanent, classified, competitive, or exempt class position immediately prior to being transferred to the office of cannabis management pursuant to subdivision 2 of section 70 of the civil service law, to align with the duties and responsibilities of their positions upon transfer. Employees whose positions are subsequently re-classified to align with the duties and responsibilities of their positions upon being transferred to the office of cannabis management shall hold such positions without further examination or qualification. Notwithstanding any other provision of this act, the names of those competitive permanent employees on promotion eligible lists in their former department shall be added and interfiled on a promotion eligible list in the new office, as the state civil service department deems appropriate.

§ 57. Transfer of records. All books, papers, and property of the department of health related to the administration of the medical marijuana program shall be deemed to be in the possession of the executive director of the office of cannabis management and shall continue to be maintained by the office of cannabis management.

§ 58. Continuity of authority. For the purpose of succession of all functions, powers, duties and obligations transferred and assigned to, devolved upon and assumed by it pursuant to this act, the office of cannabis management shall be deemed and held to constitute the continuation of the department of health's medical marijuana program.

§ 59. Completion of unfinished business. Any business or other matter undertaken or commenced by the department of health pertaining to or connected with the functions, powers, obligations and duties hereby transferred and assigned to the office of cannabis management and pending on the effective date of this act, may be conducted and completed by the office of cannabis management.

§ 60. Continuation of rules and regulations. All rules, regulations, acts, orders, determinations, and decisions of the department of health pertaining to medical marijuana, including the functions and powers transferred and assigned pursuant to this act, in force at the time of such transfer and assumption, shall continue in full force and effect as rules, regulations, acts, orders, determinations and decisions of the office of cannabis management until duly modified or abrogated by the board of the office of cannabis management.

§ 61. Terms occurring in laws, contracts and other documents. Whenever the department of health, or commissioner thereof, is referred to or designated in any law, contract or document pertaining to the functions, powers, obligations and duties hereby transferred to and assigned to the office of cannabis management, such reference or designation shall be deemed to refer to the board of cannabis management, or the executive director thereof, as applicable.

§ 62. Existing rights and remedies preserved. No existing right or remedy of any character shall be lost, impaired or affected by any provisions of this act.

§ 63. Pending actions and proceedings. No action or proceeding pending at the time when this act shall take effect, brought by or against the department of health, or the commissioner thereof, shall be affected by any provision of this act, but the same may be prosecuted or defended in the name of the executive director of the office of cannabis management. In all such actions and proceedings, the executive director of the office of cannabis management, upon application to the court, shall be substituted as a party.

§ 63-a. Severability. If any clause, sentence, paragraph, subdivision, section or part 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 part 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.

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

(i) sections 92, 93 and 109 of article 5 of the cannabis law as added by section two of this act shall take effect January 1, 2021;

(ii) section six-a of this act shall take effect on the same date as chapter 614 of the laws of 2019, takes effect;

(iii) the amendments to subdivision 1 of section 171-a of the tax law made by section thirty-four of this act shall not affect the expiration of such subdivision and shall expire therewith, when upon such date the provisions of section thirty-four-a of this act shall take effect;

(iv) the taxes imposed by section thirty-seven of this act shall apply on and after April 1, 2021 to: (1) the sale or transfer of cannabis flower, cannabis trim or wet cannabis to any person; (2) cultivation of cannabis flower, cannabis trim or wet cannabis by a person licensed under the cannabis law as a microbusiness, cooperative or registered organization; (3) the sale or transfer of adult-use cannabis products to a retail dispensary; and (4) the sale of adult-use cannabis products to a consumer by a retail dispensary operated by a person licensed under the cannabis law as a registered organization; and provided, further, that the exemption provided by section thirty-eight of this act shall apply to sales made or uses occurring on and after April 1, 2021;

(v) the amendments to article 179 of the penal law made by section forty-six of this act shall not affect the repeal of such article and shall be deemed to be repealed therewith;

(vi) the amendments to section 89-h of the state finance law made by section forty-nine of this act shall not affect the repeal of such section and shall be deemed repealed therewith;

(vii) the amendments to section 221.00 of the penal law made by section fourteen of this act shall be subject to the expiration of such section when upon such date the provisions of section fifteen of this act shall take effect;

(viii) the amendments to subdivision 2 of section 3371 of the public health law made by section fifty-one of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith;

(ix) the amendments to subdivision 3 of section 853 of the general business law made by section fifty-two of this act shall not affect the repeal of such subdivision and shall be deemed to be repealed therewith; and

(x) the amendments to subdivision 5 of section 410.91 of the criminal procedure law made by section fifty-three of this act shall not affect the repeal of such section and shall be subject to the expiration and reversion of such subdivision when upon such date the provisions of section fifty-four of this act shall take effect.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part 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 part 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 Parts A through BB of this act shall be as specifically set forth in the last section of such Parts.