

STATE OF NEW YORK

S. 1509

A. 2009

SENATE - ASSEMBLY

January 18, 2019

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

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

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

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

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

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

for both tobacco products and electronic cigarettes; prohibiting the display of tobacco products or electronic cigarettes in stores; clarifying that the department of health has the authority to promulgate regulations that restrict the sale or distribution of electronic cigarettes or electronic liquids that have a characterizing flavor, and the use of names for characterizing flavors; prohibiting smoking inside and on the grounds of all hospitals licensed or operated by the office of mental health; taxing electronic liquid; and requiring that electronic cigarettes be sold only through licensed vapor products retailers; to amend the general business law, in relation to the packaging of vapor products; to amend the tax law, in relation to imposing a supplemental tax on vapor products; to amend the state finance law, in relation to adding revenues from the supplemental tax on vapor products to the health care reform act resource fund; and repealing paragraph (e) of subdivision 1 of section 1399-cc of the public health law relating to the definitions of nicotine, electronic liquid and e-liquid (Part UU); relating to constituting a new chapter 7-A of the consolidated laws, in relation to the creation of a new office of cannabis management, as an independent entity within the division of alcoholic beverage control, providing for the licensure of persons authorized to cultivate, process, distribute and sell cannabis and the use of cannabis by persons aged twenty-one or older; to amend the public health law, in relation to the description of cannabis; to amend the vehicle and traffic law, in relation to making technical changes regarding the definition of cannabis; to amend the penal law, in relation to the qualification of certain offenses involving cannabis and to exempt certain persons from prosecution for the use, consumption, display, production or distribution of cannabis; to amend the tax law, in relation to providing for the levying taxes on cannabis; to amend the criminal procedure law, the civil practice law and rules, the general business law, the state finance law, the executive law, the penal law and the vehicle and traffic law, in relation to making conforming changes; to repeal sections 221.10 and 221.30 of the penal law relating to the criminal possession and sale of cannabis; to amend chapter 90 of the laws of 2014 amending the public health law, the tax law, the state finance law, the general business law, the penal law and the criminal procedure law relating to medical use of marihuana, in relation to the effectiveness thereof; to repeal paragraph (f) of subdivision 2 of section 850 of the general business law relating to drug related paraphernalia; and making an appropriation therefor (Part VV); and to amend the tax law, in relation to imposing a special tax on passenger car rentals outside of the metropolitan commuter transportation district (Part WW)

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

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

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

4 PART A

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

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

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

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

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

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

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

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

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

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

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

3 § 6. This act shall take effect immediately.

4 PART B

5 Section 1. Subdivision 3 of section 441 of the economic development
6 law, as amended by section 1 of part L of chapter 59 of the laws of
7 2017, is amended to read as follows:

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

10 (i) to upgrade, retrain or improve the productivity of employees;

11 (ii) provided to employees in connection with a significant capital
12 investment by a participating business entity;

13 (iii) determined by the commissioner to satisfy a business need on the
14 part of a participating business entity;

15 (iv) not designed to train or upgrade skills as required by a federal
16 or state entity;

17 (v) not training the completion of which may result in the awarding of
18 a license or certificate required by law in order to perform a job func-
19 tion; and

20 (vi) not culturally focused training; or

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

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

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

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

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

39 § 4. This act shall take effect immediately.

40 PART C

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

43 5-a. Net global intangible low-taxed income. Notwithstanding any
44 other provision of this section, net global intangible low-taxed income
45 shall be included in the apportionment fraction as provided in this
46 subdivision. Receipts constituting net global intangible low-taxed
47 income shall not be included in the numerator of the apportionment frac-
48 tion. Receipts constituting net global intangible low-taxed income shall
49 be included in the denominator of the apportionment fraction. For
50 purposes of this subdivision, the term "net global intangible low-taxed
51 income" means the amount required to be included in the taxpayer's
52 federal gross income pursuant to subsection (a) of section 951A of the

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

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

5 5-a. Notwithstanding any other provision of this section, net global
6 intangible low-taxed income shall be included in the receipts fraction
7 as provided in this subdivision. Receipts constituting net global
8 intangible low-taxed income shall not be included in the numerator of
9 the receipts fraction. Receipts constituting net global intangible low-
10 taxed income shall be included in the denominator of the receipts frac-
11 tion. For purposes of this subdivision, the term "net global intangible
12 low-taxed income" means the amount required to be included in the
13 taxpayer's federal gross income pursuant to subsection (a) of section
14 951A of the internal revenue code less the amount of the deduction
15 allowed under clause (i) of section 250(a)(1)(B) of such code.

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

18

PART D

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

22 (vi) for taxable years beginning on or after January first, two thou-
23 sand fourteen, the amount prescribed by this paragraph for a taxpayer
24 [~~which~~] that is a qualified New York manufacturer, shall be computed at
25 the rate of zero percent of the taxpayer's business income base. The
26 term "manufacturer" shall mean a taxpayer [~~which~~] that during the taxa-
27 ble year is principally engaged in the production of goods by manufac-
28 turing, processing, assembling, refining, mining, extracting, farming,
29 agriculture, horticulture, floriculture, viticulture or commercial fish-
30 ing. However, the generation and distribution of electricity, the
31 distribution of natural gas, and the production of steam associated with
32 the generation of electricity shall not be qualifying activities for a
33 manufacturer under this subparagraph. Moreover, in the case of a
34 combined report, the combined group shall be considered a "manufacturer"
35 for purposes of this subparagraph only if the combined group during the
36 taxable year is principally engaged in the activities set forth in this
37 paragraph, or any combination thereof. A taxpayer or, in the case of a
38 combined report, a combined group shall be "principally engaged" in
39 activities described above if, during the taxable year, more than fifty
40 percent of the gross receipts of the taxpayer or combined group, respec-
41 tively, are derived from receipts from the sale of goods produced by
42 such activities. In computing a combined group's gross receipts, inter-
43 corporate receipts shall be eliminated. A "qualified New York manufac-
44 turer" is a manufacturer [~~which~~] that has property in New York [~~which~~]
45 that is described in clause (A) of subparagraph (i) of paragraph (b) of
46 subdivision one of section two hundred ten-B of this article and either
47 (I) the adjusted basis of such property for [~~federal income~~] New York
48 state tax purposes at the close of the taxable year is at least one
49 million dollars or (II) all of its real and personal property is located
50 in New York. A taxpayer or, in the case of a combined report, a combined
51 group, that does not satisfy the principally engaged test may be a qual-
52 ified New York manufacturer if the taxpayer or the combined group
53 employs during the taxable year at least two thousand five hundred
54 employees in manufacturing in New York and the taxpayer or the combined

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

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

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

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

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

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

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

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

8 § 2. This act shall take effect immediately.

9

PART F

10 Section 1. Paragraph 3 of subsection (a) of section 954 of the tax
11 law, as amended by section 2 of part BB of chapter 59 of the laws of
12 2015, is amended to read as follows:

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

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

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

35 § 3. Subsection (c) of section 955 of the tax law, as added by section
36 4 of part X of chapter 59 of the laws of 2014, is amended to read as
37 follows:

38 (c) Qualified terminable interest property election.-- Except as
39 otherwise provided in this subsection, the election referred to in para-
40 graph (7) of subsection (b) of section 2056 of the internal revenue code
41 shall not be allowed under this article unless such election was made
42 with respect to the federal estate tax return required to be filed under
43 the provisions of the internal revenue code. If such election was made
44 for the purposes of the federal estate tax, then such election must also
45 be made by the executor on the return of the tax imposed by this arti-
46 cle. Where no federal estate tax return is required to be filed, the
47 executor [~~may~~] must make the election referred to in such paragraph (7)
48 with respect to the tax imposed by this article on the return of the tax
49 imposed by this article. Any election made under this subsection shall
50 be irrevocable.

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

1

PART G

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

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

8 (1) Marketplace provider. A person who, pursuant to an agreement with
9 a marketplace seller, facilitates sales of tangible personal property by
10 such marketplace seller or sellers. A person "facilitates a sale of
11 tangible personal property" for purposes of this paragraph when the
12 person meets both of the following conditions: (A) such person provides
13 the forum in which, or by means of which, the sale takes place or the
14 offer of sale is accepted, including a shop, store, or booth, an inter-
15 net website, catalog, or similar forum; and (B) such person or an affil-
16 iate of such person collects the receipts paid by a customer to a
17 marketplace seller for a sale of tangible personal property, or
18 contracts with a third party to collect such receipts. For purposes of
19 this paragraph, a "sale of tangible personal property" shall not include
20 the rental of a passenger car as described in section eleven hundred
21 sixty of this chapter but shall include a lease described in subdivision
22 (i) of section eleven hundred eleven of this article. For purposes of
23 this paragraph, persons are affiliated if one person has an ownership
24 interest of more than five percent, whether direct or indirect, in
25 another, or where an ownership interest of more than five percent,
26 whether direct or indirect, is held in each of such persons by another
27 person or by a group of other persons that are affiliated persons with
28 respect to each other.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (A) gas, electricity, refrigeration and steam, and gas, electric,
5 refrigeration and steam service of whatever nature, including the trans-
6 portation, transmission or distribution of gas or electricity, even if
7 sold separately;

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

9 § 3. Subparagraph (xi) of paragraph 4 of subdivision (a) of section
10 1210 of the tax law is REPEALED.

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

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

16 PART I

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

20 3. Where the tentative equalization rate is not within plus or minus
21 five [~~percentage points~~] percent of the locally stated level of assess-
22 ment, the assessor shall provide notice in writing to the local govern-
23 ing body of any affected town, city, village, county and school district
24 of the difference between the locally stated level of assessment and the
25 tentative equalization rate. Such notice shall be made within ten days
26 of the receipt of the tentative equalization rate, or within ten days of
27 the filing of the tentative assessment roll, whichever is later, and
28 shall provide the difference in the indicated total full value estimates
29 of the locally stated level of assessment and the tentative equalization
30 rate for the taxable property within each affected town, city, village,
31 county and school district, where applicable.

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

34 § 1211. Confirmation by commissioner of the locally stated level of
35 assessment. Notwithstanding the foregoing provisions of this title,
36 before the commissioner determines a tentative equalization rate for a
37 city, town or village, he or she shall examine the accuracy of the
38 locally stated level of assessment appearing on the tentative assessment
39 roll. If the commissioner confirms the locally stated level of assess-
40 ment, then as soon thereafter as is practicable, he or she shall estab-
41 lish and certify such locally stated level of assessment as the final
42 equalization rate for such city, town or village in the manner provided
43 by sections twelve hundred ten and twelve hundred twelve of this title.
44 The provisions of sections twelve hundred four, twelve hundred six and
45 twelve hundred eight of this title shall not apply in such cases, unless
46 the commissioner finds that the final assessment roll differs from the
47 tentative assessment roll to an extent that renders the locally stated
48 level of assessment inaccurate, and rescinds the final equalization rate
49 on that basis.

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

53 (d) (i) Such district superintendent shall also determine what propor-
54 tion of any tax to be levied in such school district for school purposes

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

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

28 § 4. This act shall take effect immediately.

29 PART J

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

42 SUBPART A

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (x) One hundred percent.

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

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

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

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

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

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

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

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

45 § 3. This act shall take effect immediately.

46 SUBPART B

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

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

54 Members shall have a knowledge of property values in the local govern-

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

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

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

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

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

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

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

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

49 § 4. This act shall take effect immediately.

50

SUBPART C

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

1 4. Notwithstanding the provisions of this subdivision or any other
2 law, the travel and other actual and necessary expenses incurred by an
3 appointed or elected assessor, or by a person appointed assessor for a
4 forthcoming term, or by an assessor-elect prior to the commencement of
5 his or her term, in satisfactorily completing courses of training as
6 required by this title or as approved by the commissioner, including
7 continuing education courses prescribed by the commissioner which are
8 satisfactorily completed by any elected assessor, shall be a state
9 charge upon audit by the comptroller. Travel and other actual and neces-
10 sary expenses incurred by an acting assessor who has been exercising the
11 powers and duties of the assessor for a period of at least six months,
12 in attending training courses no earlier than twelve months prior to the
13 date when courses of training and education are required, shall also be
14 a state charge upon audit by the comptroller. Candidates for certifi-
15 cation as eligible for the position of assessor, other than assessors
16 or assessors-elect, shall be charged for the cost of training materials
17 and shall be responsible for all other costs incurred by them in
18 connection with such training. Notwithstanding the foregoing provisions
19 of this subdivision, if the provider of a training course has asked the
20 commissioner to approve the course for credit only, so that attendees
21 who successfully complete the course would be entitled to receive credit
22 without having their expenses reimbursed by the state, and the commis-
23 sioner has agreed to do so, the travel and other actual and necessary
24 expenses incurred by such attendees shall not be a state charge.

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

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

41 § 3. This act shall take effect immediately.

42

SUBPART D

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

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

- 53 (a) The filing of exemption applications;
54 (b) The filing of petitions for administrative review of assessments;

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

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

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

28 (b) ~~Assessors and other municipal officials shall not be required to~~
29 ~~accept and respond to communications from the commissioner electron-~~
30 ~~ically.~~

31 ~~(e)]~~ The governing board of any municipal corporation may, by local
32 law, ordinance or resolution, determine that it is in the public inter-
33 est for such municipal corporation to provide electronic real property
34 tax administration. Upon adoption of such local law, ordinance or resol-
35 ution, such municipal corporation shall comply with standards set forth
36 by the commissioner.

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

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

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

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

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

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

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

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

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

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

39 § 2. This act shall take effect immediately.

40 SUBPART E

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

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

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

1 subdivision (b) of section 1 of part W of chapter 56 of the laws of
2 2010, is amended to read as follows:

3 2. In any assessing unit which has completed a revaluation since nine-
4 teen hundred fifty-three or which does not contain property that was
5 assessed in nineteen hundred fifty-three, the commissioner shall deter-
6 mine the full value of such special franchise as of the [~~valuation date~~
7 ~~of the assessing unit~~] taxable status date specified by subdivision four
8 of section three hundred two of this chapter. Such full value shall be
9 determined by the commissioner for purposes of sections six hundred
10 eight, six hundred fourteen and six hundred sixteen of this article.
11 These full values shall be entered on the assessment roll at the level
12 of assessment, which shall be the uniform percentage of value, as
13 required by section five hundred two of this chapter, appearing on the
14 tentative assessment roll upon which the assessment is entered. Whenever
15 a final state equalization rate, or, in the case of a special assessing
16 unit, a class equalization rate, is established that is different from a
17 level of assessment applied pursuant to this paragraph, any public offi-
18 cial having custody of that assessment roll is hereby authorized and
19 directed to recompute these assessments to reflect that equalization
20 rate, provided such final rate is established by the commissioner at
21 least ten days prior to the date for levy of taxes against those assess-
22 ments.

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

24 SUBPART F

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

27 § 575-a. Electric generating facility annual reports. 1. Every corpo-
28 ration, company, association, joint stock association, partnership and
29 person, their lessees, trustees or receivers appointed by any court
30 whatsoever, owning, operating or managing any electric generating facil-
31 ity in the state shall annually file with the commissioner, by April
32 thirtieth, a report showing the inventory, revenue, and expenses associ-
33 ated therewith for the most recent fiscal year. Such report shall be in
34 the form and manner prescribed by the commissioner.

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

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

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

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

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

53 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
54 sion, section or subpart of this act shall be adjudged by any court of

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

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

11 PART K

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

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

16 PART L

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

19 § 44. Employer-provided child care credit. (a) General. A taxpayer
20 subject to tax under article nine-A, twenty-two, or thirty-three of this
21 chapter shall be allowed a credit against such tax in an amount equal to
22 the portion of the credit that is allowed to the taxpayer under section
23 45F of the internal revenue code that is attributable to (i) qualified
24 child care expenditures paid or incurred with respect to a qualified
25 child care facility with a situs in the state, and to (ii) qualified
26 child care resource and referral expenditures paid or incurred with
27 respect to the taxpayer's employees working in the state. The credit
28 allowable under this subdivision for any taxable year shall not exceed
29 one hundred fifty thousand dollars. If the entity operating the quali-
30 fied child care facility is a partnership or a New York S corporation,
31 then such cap shall be applied at the entity level, so the aggregate
32 credit allowed to all the partners or shareholders of such entity in a
33 taxable year does not exceed one hundred fifty thousand dollars.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 § 5. Section 1511 of the tax law is amended by adding a new subdivi-
45 sion (dd) to read as follows:

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

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

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

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

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

10

PART M

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

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

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

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

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

25

PART N

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

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

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

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

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

3 PART O

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

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

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

30 ~~(iii) provided, further, that the provisions of this act, except~~
31 ~~section five of this act, shall expire and be deemed repealed July 1,~~
32 ~~2019, provided, that, such expiration and repeal shall not affect any~~
33 ~~requirement imposed pursuant to this act].~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 If the New York taxable income is:	The tax is:
8 Not over \$17,150	4% of the New York taxable income
9 Over \$17,150 but not over \$23,600	\$686 plus 4.5% of excess over 10 \$17,150
11 Over \$23,600 but not over \$27,900	\$976 plus 5.25% of excess over 12 \$23,600
13 Over \$27,900 but not over \$43,000	\$1,202 plus 5.9% of excess over 14 \$27,900
15 Over \$43,000 but not over \$161,550	\$2,093 plus 6.09% of excess over 16 \$43,000
17 Over \$161,550 but not over \$323,200	\$9,313 plus 6.41% of excess over 18 \$161,550
19 Over \$323,200 <u>but not over</u> 20 <u>\$2,155,350</u>	\$19,674 plus 6.85% of excess \$323,200 over
21 <u>Over \$2,155,350</u>	<u>\$145,177 plus 8.82% of excess over</u> 22 <u>\$2,155,350</u>

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

25 If the New York taxable income is:	The tax is:
26 Not over \$17,150	4% of the New York taxable income
27 Over \$17,150 but not over \$23,600	\$686 plus 4.5% of excess over 28 \$17,150
29 Over \$23,600 but not over \$27,900	\$976 plus 5.25% of excess over 30 \$23,600
31 Over \$27,900 but not over \$43,000	\$1,202 plus 5.9% of excess over 32 \$27,900
33 Over \$43,000 but not over \$161,550	\$2,093 plus 5.97% of excess over 34 \$43,000
35 Over \$161,550 but not over \$323,200	\$9,170 plus 6.33% of excess over 36 \$161,550
37 Over \$323,200 <u>but not over</u> 38 <u>\$2,155,350</u>	\$19,403 plus 6.85% of excess over \$323,200
39 <u>Over \$2,155,350</u>	<u>\$144,905 plus 8.82% of excess over</u> 40 <u>\$2,155,350</u>

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

43 If the New York taxable income is:	The tax is:
44 Not over \$17,150	4% of the New York taxable income
45 Over \$17,150 but not over \$23,600	\$686 plus 4.5% of excess over 46 \$17,150
47 Over \$23,600 but not over \$27,900	\$976 plus 5.25% of excess over 48 \$23,600
49 Over \$27,900 but not over \$161,550	\$1,202 plus 5.85% of excess over 50 \$27,900
51 Over \$161,550 but not over \$323,200	\$9,021 plus 6.25% of excess over 52 \$161,550
53 Over \$323,200 <u>but not over \$2,155,350</u>	\$19,124 plus 54 6.85% of excess over \$323,200
55 <u>Over \$2,155,350</u>	<u>\$144,626 plus 8.82% of excess over</u> 56 <u>\$2,155,350</u>

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

3 If the New York taxable income is:	The tax is:
4 Not over \$17,150	4% of the New York taxable income
5 Over \$17,150 but not over \$23,600	\$686 plus 4.5% of excess over
6	\$17,150
7 Over \$23,600 but not over \$27,900	\$976 plus 5.25% of excess over
8	\$23,600
9 Over \$27,900 but not over \$161,550	\$1,202 plus 5.73% of excess over
10	\$27,900
11 Over \$161,550 but not over \$323,200	\$8,860 plus 6.17% of excess over
12	\$161,550
13 Over \$323,200 <u>but not over</u>	\$18,834 plus 6.85% of
14 <u>\$2,155,350</u>	excess over \$323,200
15 <u>Over \$2,155,350</u>	<u>\$144,336 plus 8.82% of excess over</u>
16	<u>\$2,155,350</u>

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

19 If the New York taxable income is:	The tax is:
20 Not over \$17,150	4% of the New York taxable income
21 Over \$17,150 but not over \$23,600	\$686 plus 4.5% of excess over
22	\$17,150
23 Over \$23,600 but not over \$27,900	\$976 plus 5.25% of excess over
24	\$23,600
25 Over \$27,900 but not over \$161,550	\$1,202 plus 5.61% of excess over
26	\$27,900
27 Over \$161,550 but not over \$323,200	\$8,700 plus 6.09% of excess over
28	\$161,550
29 Over \$323,200 <u>but not over</u>	\$18,544 plus 6.85% of
30 <u>Over \$2,155,350</u>	excess over \$323,200
31 <u>Over \$2,155,350</u>	<u>\$144,047 plus 8.82% of excess over</u>
32	<u>\$2,155,350</u>

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

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

39 If the New York taxable income is:	The tax is:
40 Not over \$12,800	4% of the New York taxable income
41 Over \$12,800 but not over \$17,650	\$512 plus 4.5% of excess over \$12,800
42 Over \$17,650 but not over \$20,900	\$730 plus 5.25% of excess over
43	\$17,650
44 Over \$20,900 but not over \$32,200	\$901 plus 5.9% of excess over \$20,900
45 Over \$32,200 but not over \$107,650	\$1,568 plus 6.09% of excess over
46	\$32,200
47 Over \$107,650 but not over \$269,300	\$6,162 plus 6.41% of excess over
48	\$107,650
49 Over \$269,300 <u>but not over</u>	\$16,524 plus 6.85% of
50 <u>\$1,616,450</u>	excess over \$269,300
51 <u>Over \$1,616,450</u>	<u>\$108,804 plus 8.82% of excess over</u>
52	<u>\$1,616,450</u>

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

1	If the New York taxable income is:	The tax is:
2	Not over \$12,800	4% of the New York taxable income
3	Over \$12,800 but not over \$17,650	\$512 plus 4.5% of excess over
4		\$12,800
5	Over \$17,650 but not over \$20,900	\$730 plus 5.25% of excess over
6		\$17,650
7	Over \$20,900 but not over \$32,200	\$901 plus 5.9% of excess over
8		\$20,900
9	Over \$32,200 but not over \$107,650	\$1,568 plus 5.97% of excess over
10		\$32,200
11	Over \$107,650 but not over \$269,300	\$6,072 plus 6.33% of excess over
12		\$107,650
13	Over \$269,300 <u>but not over</u>	\$16,304 plus 6.85% of
14	<u>\$1,616,450</u>	excess over \$269,300
15	<u>Over \$1,616,450</u>	<u>\$108,584 plus 8.82% of excess over</u>
16		<u>\$1,616,450</u>

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

19	If the New York taxable income is:	The tax is:
20	Not over \$12,800	4% of the New York taxable income
21	Over \$12,800 but not over \$17,650	\$512 plus 4.5% of excess over
22		\$12,800
23	Over \$17,650 but not over \$20,900	\$730 plus 5.25% of excess over
24		\$17,650
25	Over \$20,900 but not over \$107,650	\$901 plus 5.85% of excess over
26		\$20,900
27	Over \$107,650 but not over \$269,300	\$5,976 plus 6.25% of excess over
28		\$107,650
29	Over \$269,300 <u>but not over</u>	\$16,079 plus 6.85% of excess
30	<u>\$1,616,450</u>	over \$269,300
31	<u>Over \$1,616,450</u>	<u>\$108,359 plus 8.82% of excess over</u>
32		<u>\$1,616,450</u>

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

35	If the New York taxable income is:	The tax is:
36	Not over \$12,800	4% of the New York taxable income
37	Over \$12,800 but not over \$17,650	\$512 plus 4.5% of excess over
38		\$12,800
39	Over \$17,650 but not over \$20,900	\$730 plus 5.25% of excess over
40		\$17,650
41	Over \$20,900 but not over \$107,650	\$901 plus 5.73% of excess over
42		\$20,900
43	Over \$107,650 but not over \$269,300	\$5,872 plus 6.17% of excess over
44		\$107,650
45	Over \$269,300 <u>but not over</u>	\$15,845 plus 6.85% of excess
46	<u>\$1,616,450</u>	over \$269,300
47	<u>Over \$1,616,450</u>	<u>\$108,125 plus 8.82% of excess over</u>
48		<u>\$1,616,450</u>

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

51	If the New York taxable income is:	The tax is:
52	Not over \$12,800	4% of the New York taxable income
53	Over \$12,800 but not over \$17,650	\$512 plus 4.5% of excess over
54		\$12,800
55	Over \$17,650 but not over \$20,900	\$730 plus 5.25% of excess over

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

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

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

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

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

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

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

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

1		\$11,700
2	Over \$13,900 but not over \$80,650	\$600 plus 5.85% of excess over
3		\$13,900
4	Over \$80,650 but not over \$215,400	\$4,504 plus 6.25% of excess over
5		\$80,650
6	Over \$215,400 <u>but not over</u>	\$12,926 plus 6.85% of excess
7	<u>\$1,077,550</u>	over \$215,400
8	<u>Over \$1,077,550</u>	<u>\$71,984 plus 8.82% of excess over</u>
9		<u>\$1,077,550</u>

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

12	If the New York taxable income is:	The tax is:
13	Not over \$8,500	4% of the New York taxable income
14	Over \$8,500 but not over \$11,700	\$340 plus 4.5% of excess over
15		\$8,500
16	Over \$11,700 but not over \$13,900	\$484 plus 5.25% of excess over
17		\$11,700
18	Over \$13,900 but not over \$80,650	\$600 plus 5.73% of excess over
19		\$13,900
20	Over \$80,650 but not over \$215,400	\$4,424 plus 6.17% of excess over
21		\$80,650
22	Over \$215,400 <u>but not over</u>	\$12,738 plus 6.85% of excess
23	<u>\$1,077,550</u>	over \$215,400
24	<u>Over \$1,077,550</u>	<u>\$71,796 plus 8.82% of excess over</u>
25		<u>\$1,077,550</u>

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

28	If the New York taxable income is:	The tax is:
29	Not over \$8,500	4% of the New York taxable income
30	Over \$8,500 but not over \$11,700	\$340 plus 4.5% of excess over
31		\$8,500
32	Over \$11,700 but not over \$13,900	\$484 plus 5.25% of excess over
33		\$11,700
34	Over \$13,900 but not over \$80,650	\$600 plus 5.61% of excess over
35		\$13,900
36	Over \$80,650 but not over \$215,400	\$4,344 plus 6.09% of excess over
37		\$80,650
38	Over \$215,400 <u>but not over</u>	\$12,550 plus 6.85% of excess
39	<u>\$1,077,550</u>	over \$215,400
40	<u>Over \$1,077,550</u>	<u>\$71,608 plus 8.82% of excess over</u>
41		<u>\$1,077,550</u>

42 § 4. Subparagraph (D) of paragraph 1 of subsection (d-1) of section
 43 601 of the tax law, as amended by section 4 of part R of chapter 59 of
 44 the laws of 2017, is amended to read as follows:

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

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

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

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

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

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

37 § 7. This act shall take effect immediately.

38 PART Q

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

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

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

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

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

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

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

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

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

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

36 PART R

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

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

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

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

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

11 § 3. This act shall take effect immediately.

12 PART S

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

17 § 2. This act shall take effect immediately.

18 PART T

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

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

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

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

46 § 3. This act shall take effect immediately.

47 PART U

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

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

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

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

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

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

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

51 PART V

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

1 (jj) Tangible personal property or services otherwise taxable under
2 this article sold to a related person shall not be subject to the taxes
3 imposed by section eleven hundred five of this article or the compensat-
4 ing use tax imposed under section eleven hundred ten of this article
5 where the purchaser can show that the following conditions have been met
6 to the extent they are applicable: (1)(i) the vendor and the purchaser
7 are referenced as either a "covered company" as described in section
8 243.2(f) or a "material entity" as described in section 243.2(1) of the
9 Code of Federal Regulations in a resolution plan that has been submitted
10 to an agency of the United States for the purpose of satisfying subpara-
11 graph 1 of paragraph (d) of section one hundred sixty-five of the Dodd-
12 Frank Wall Street Reform and Consumer Protection Act (the "Act") or any
13 successor law, or (ii) the vendor and the purchaser are separate legal
14 entities pursuant to a divestiture directed pursuant to subparagraph 5
15 of paragraph (d) of section one hundred sixty-five of such act or any
16 successor law; (2) the sale would not have occurred between such related
17 entities were it not for such resolution plan or divestiture; and (3) in
18 acquiring such property or services, the vendor did not claim an
19 exemption from the tax imposed by this state or another state based on
20 the vendor's intent to resell such services or property. A person is
21 related to another person for purposes of this subdivision if the person
22 bears a relationship to such person described in section two hundred
23 sixty-seven of the internal revenue code. The exemption provided by this
24 subdivision shall not apply to sales made, services rendered, or uses
25 occurring after June thirtieth, two thousand [~~nineteen~~] twenty-one,
26 except with respect to sales made, services rendered, or uses occurring
27 pursuant to binding contracts entered into on or before such date; but
28 in no case shall such exemption apply after June thirtieth, two thousand
29 twenty-four.

30 § 2. This act shall take effect immediately.

31 PART W

32 Section 1. The mental hygiene law is amended by adding a new section
33 32.38 to read as follows:

34 § 32.38 Power to administer the recovery tax credit program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 § 5. Section 1511 of the tax law is amended by adding a new subdivi-
33 sion (dd) to read as follows:

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

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

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

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

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

11 PART X

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

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

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

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

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

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

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

35 PART Y

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20

PART Z

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 PART AA

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

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

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

17 § 2. This act shall take effect immediately.

18

PART BB

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

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

43 § 2. This act shall take effect immediately.

44

PART CC

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

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

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

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

7 § 3. This act shall take effect immediately.

8

PART DD

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

22

SUBPART A

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

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

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

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

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

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

1 7. establish programs for training commission officers and employees
2 [~~regarding~~] in regard to the prevention and elimination of corruption,
3 fraud, criminal activity, conflicts of interest or abuse in the commis-
4 sion.

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

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

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

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

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

31 § 7. This act shall take effect immediately.

32 SUBPART B

33 Section 1. Subdivision 1 of section 252 of the racing, pari-mutuel
34 wagering and breeding law, as amended by section 11 of part A of chapter
35 60 of the laws of 2012, is amended to read as follows:

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

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

7 § 2. This act shall take effect immediately.

8

SUBPART C

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

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

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

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

20 § 3. This act shall take effect immediately.

21

SUBPART D

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

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

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

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

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

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

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

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

30 § 4. This act shall take effect immediately.

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

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

43 PART EE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 PART FF

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

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

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

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

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

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

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

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

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

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

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

28 § 3. This act shall take effect immediately.

29 PART GG

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

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

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

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

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

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

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

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

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

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

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

46 § 4. This act shall take effect immediately.

47 PART HH

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

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

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

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

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

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

17 The provisions of this section shall govern the simulcasting of races
18 conducted at thoroughbred tracks located in another state or country on
19 any day during which a franchised corporation is conducting a race meet-
20 ing in Saratoga county at Saratoga thoroughbred racetrack until June
21 thirtieth, two thousand [~~nineteen~~] twenty-four and on any day regardless
22 of whether or not a franchised corporation is conducting a race meeting
23 in Saratoga county at Saratoga thoroughbred racetrack after June thirti-
24 eth, two thousand [~~nineteen~~] twenty-four. On any day on which a fran-
25 chised corporation has not scheduled a racing program but a thoroughbred
26 racing corporation located within the state is conducting racing, every
27 off-track betting corporation branch office and every simulcasting
28 facility licensed in accordance with section one thousand seven (that
29 [~~have~~] has entered into a written agreement with such facility's repre-
30 sentative horsemen's organization, as approved by the commission), one
31 thousand eight, or one thousand nine of this article shall be authorized
32 to accept wagers and display the live simulcast signal from thoroughbred
33 tracks located in another state or foreign country subject to the
34 following provisions:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 For the period June first, nineteen hundred ninety-five through
38 September ninth, nineteen hundred ninety-nine, such tax on regular
39 wagers shall be three per centum and such tax on multiple wagers shall
40 be two and one-half per centum, plus twenty per centum of the breaks.
41 For the period September tenth, nineteen hundred ninety-nine through
42 March thirty-first, two thousand one, such tax on all wagers shall be
43 two and six-tenths per centum and for the period April first, two thou-
44 sand one through December thirty-first, two thousand [~~nineteen~~] twenty-
45 four, such tax on all wagers shall be one and six-tenths per centum,
46 plus, in each such period, twenty per centum of the breaks. Payment to
47 the New York state thoroughbred breeding and development fund by such
48 franchised corporation shall be one-half of one per centum of total
49 daily on-track pari-mutuel pools resulting from regular, multiple and
50 exotic bets and three per centum of super exotic bets provided, however,
51 that for the period September tenth, nineteen hundred ninety-nine
52 through March thirty-first, two thousand one, such payment shall be
53 six-tenths of one per centum of regular, multiple and exotic pools and
54 for the period April first, two thousand one through December thirty-
55 first, two thousand [~~nineteen~~] twenty-four, such payment shall be
56 seven-tenths of one per centum of such pools.

1 § 10. This act shall take effect immediately.

2 PART II

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

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

8 Section 1113. Purposes.

9 1114. Definitions.

10 1115. Composition and meetings of compact commission.

11 1116. Operation of compact commission.

12 1117. General powers and duties.

13 1118. Other powers and duties.

14 1119. Compact rule making.

15 1120. Status and relationship to member states.

16 1121. Rights and responsibilities of member states.

17 1122. Enforcement of compact.

18 1123. Legal actions against compact.

19 1124. Restrictions on authority.

20 1125. Construction, savings and severability.

21 § 1113. Purposes. The purposes of the compact are:

22 a. To enable member states to act jointly and cooperatively to create
23 more uniform, effective, and efficient breed specific rules and regu-
24 lations relating to the permitted and prohibited use of drugs and medi-
25 cations for the health and welfare of the horse and the integrity of
26 racing, and testing for such substances, in or affecting a member state;
27 and

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

30 § 1114. Definitions. For the purposes of this article, the following
31 terms shall have the following meanings:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

49 § 2. This act shall take effect immediately.

50

PART JJ

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

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

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

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

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

40 § 3. This act shall take effect immediately.

41 PART KK

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 4. For the purposes of this section, each gaming or non-gaming regis-
25 trant shall submit to the commission the registrant's name, address,
26 fingerprints and written consent for a criminal history information to
27 be performed. The commission is hereby authorized to exchange finger-
28 print data with and receive criminal history information as defined in
29 paragraph (c) of subdivision one of section eight hundred forty-five-b
30 of the executive law from the state division of criminal justice
31 services and the federal bureau of investigation consistent with appli-
32 cable state and federal laws, rules and regulations. The registrant
33 shall pay the fee for such criminal history information as established
34 pursuant to article thirty-five of the executive law. The state division
35 of criminal justice services shall promptly notify the commission in the
36 event a current or prospective licensee or registrant, who was the
37 subject of a criminal history information pursuant to this section, is
38 arrested for a crime or offense in this state after the date the check
39 was performed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 Notwithstanding the provisions aforementioned, the executive director
5 may, consistent with the public interest and the policies of this arti-
6 cle, direct that individual vendors registered pursuant to this subdivi-
7 sion be required to apply for either a casino vendor enterprise license
8 pursuant to subdivision one of this section, or an ancillary vendor
9 industry enterprise license pursuant to subdivision three of this
10 section, as directed by the commission. The executive director may also
11 order that any enterprise licensed as or required to be licensed as an
12 ancillary casino vendor enterprise pursuant to subdivision three of this
13 section be required to apply for a casino vendor enterprise license
14 pursuant to subdivision one of this section. The executive director may
15 also, in his or her discretion, order that an independent software
16 contractor not otherwise required to be registered be either registered
17 as a vendor pursuant to this subdivision or be licensed pursuant to
18 either subdivision one or three of this section.

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

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

33 6. Any applicant, licensee or qualifier of a casino vendor enterprise
34 license or of an ancillary casino vendor enterprise license under subdivi-
35 sion one of this section, and any vendor registrant under subdivision
36 five of this section shall be disqualified in accordance with the crite-
37 ria contained in section [~~one thousand three~~ thirteen] hundred eighteen
38 of this article, except that no such [~~ancillary casino vendor enterprise~~
39 ~~license under subdivision three of this section or vendor registration~~
40 ~~under subdivision five of this section] applicant, licensee or qualifier
41 shall be denied or revoked if such [~~vendor registrant~~] applicant, licen-
42 see or qualifier can affirmatively demonstrate rehabilitation pursuant
43 to article twenty-three-A of the correction law.~~

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

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

1 § 14. This act shall take effect immediately.

2 PART LL

3 Section 1. Subparagraph (i) of paragraph (a) of subdivision 2 of
4 section 1306-a of the real property tax law, as amended by section 6 of
5 part N of chapter 58 of the laws of 2011, is amended to read as follows:
6 (i) The tax savings for each parcel receiving the exemption authorized
7 by section four hundred twenty-five of this chapter shall be computed by
8 subtracting the amount actually levied against the parcel from the
9 amount that would have been levied if not for the exemption, provided
10 however, that [~~beginning with~~] for the two thousand eleven-two thousand
11 twelve through two thousand eighteen-two thousand nineteen school [~~year~~]
12 years, the tax savings applicable to any "portion" (which as used herein
13 shall mean that part of an assessing unit located within a school
14 district) shall not exceed the tax savings applicable to that portion in
15 the prior school year multiplied by one hundred two percent, with the
16 result rounded to the nearest dollar; and provided further that begin-
17 ning with the two thousand nineteen-two thousand twenty school year: (A)
18 for purposes of the exemption authorized by section four hundred twen-
19 ty-five of this chapter, the tax savings applicable to any portion shall
20 not exceed the tax savings for the prior year, and (B) for purposes of
21 the credit authorized by subsection (eee) of section six hundred six of
22 the tax law, the tax savings applicable to any portion shall not exceed
23 the tax savings applicable to that portion in the prior school year
24 multiplied by one hundred two percent, with the result rounded to the
25 nearest dollar. The tax savings attributable to the basic and enhanced
26 exemptions shall be calculated separately. It shall be the responsibil-
27 ity of the commissioner to calculate tax savings limitations for
28 purposes of this subdivision.

29 § 2. Subparagraph (G) of paragraph 1 of subsection (eee) of section
30 606 of the tax law, as amended by section 8 of part A of chapter 73 of
31 the laws of 2016, is amended to read as follows:

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

37 § 3. This act shall take effect immediately.

38 PART MM

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

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

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

49 PART NN

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

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

7 If household gross income	Excess real property	The credit amount is
8 for the taxable year is:	taxes are the excess	the following
9	of real property tax	percentage of excess
10	equivalent or the	property taxes:
11	excess of qualifying	
12	real property taxes	
13	over the following	
14	percentage of	
15	household gross	
16	income:	

17 Less than \$100,000	4	4.5
18 \$100,000 to less than	5	3.0
19 \$150,000		
20 \$150,000 to less than	6	1.5
21 \$200,000		

22 Notwithstanding the foregoing provisions, the maximum credit deter-
 23 mined under this subparagraph may not exceed five hundred dollars.

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

29 PART OO

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

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

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

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

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

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

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

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

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

6 § 3. This act shall take effect immediately.

7 PART PP

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 § 5. This act shall take effect immediately.

4 PART QQ

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 § 5. This act shall take effect immediately.

42 PART RR

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

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

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

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

13 § 2. Subparagraph (A) of paragraph 3 of subsection (eee) of section
14 606 of the tax law, as added by section 8 of part A of chapter 73 of the
15 laws of 2016, is amended to read as follows:

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

24 § 3. This act shall take effect immediately.

25 PART SS

26 Section 1. Subdivision 6 of section 1306-a of the real property tax
27 law, as amended by section 3 of part TT of chapter 59 of the laws of
28 2017, is amended to read as follows:

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

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

50 § 2. This act shall take effect immediately.

51 PART TT

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

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

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

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

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

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

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

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

15 § 5. This act shall take effect immediately.

16 PART UU

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

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

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

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

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

40 14. "Price reduction instrument" means any coupon, voucher, rebate,
41 card, paper, note, form, statement, ticket, image, or other issue,
42 whether in paper, digital, or any other form, used for commercial
43 purposes to receive an article, product, service, or accommodation with-
44 out charge or at a discounted price.

45 15. "Dealer" means a dealer, as defined in section four hundred seven-
46 ty of the tax law or a vapor products dealer as defined in section elev-
47 en hundred eighty of the tax law.

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (d) sell, offer for sale, or otherwise provide tobacco products,
7 herbal cigarettes, vapor products, or electronic cigarettes to a consum-
8 er for less than the listed price.

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

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

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

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

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

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

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

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

34 4. No person engaged in the business of selling or otherwise distrib-
35 uting vapor products or electronic cigarettes for commercial purposes,
36 or any agent or employee of such person, shall knowingly, in furtherance
37 of such business, distribute without charge any vapor products or elec-
38 tronic cigarettes to any individual under [~~eighteen~~] twenty-one years of
39 age.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (6) techniques used to refuse a sale;

19 (7) the penalties arising out of unlawful sales to underage individ-
20 uals; and

21 (8) the significant disciplinary action or loss of employment that may
22 be imposed by the [~~retail~~] dealer for a violation of the law or a devi-
23 ation from the policies of the [~~retail~~] dealer in respect to compliance
24 with such law.

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

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

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

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

55 § 1399-hh. Tobacco vapor product and electronic cigarette enforcement.
56 The commissioner shall develop, plan and implement a comprehensive

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

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

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

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

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

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

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

41 1. No person shall knowingly sell or provide gutka to any other person
42 under [~~eighteen~~] twenty-one years of age. No other provision of law
43 authorizing the sale of tobacco products, other than subdivision two of
44 this section, shall authorize the sale of gutka. Any person who
45 violates the provisions of this subdivision shall be subject to a civil
46 penalty of not more than five hundred dollars.

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

54 § 12. The public health law is amended by adding a new section
55 1399-mm-1 to read as follows:

1 § 1399-mm-1. Sale in pharmacies. No tobacco products, herbal ciga-
2 rettes, vapor products, or electronic cigarettes shall be sold in a
3 pharmacy or in a retail establishment that contains a pharmacy operated
4 as a department as defined in paragraph f of subdivision two of section
5 sixty-eight hundred eight of the education law.

6 § 13. The public health law is amended by adding a new section
7 1399-mm-2 to read as follows:

8 § 1399-mm-2. Electronic cigarette and vapor products; characterizing
9 flavors. The commissioner is authorized to promulgate regulations
10 governing the sale and distribution of electronic cigarettes or vapor
11 products. Such regulations may, to the extent deemed necessary for the
12 protection of public health, prohibit or restrict: (i) the selling,
13 offering for sale, possessing with intent to sell or offering for sale,
14 or distributing of refills, cartridges, or other components of electron-
15 ic cigarettes or vapor products that imparts a characterizing flavor; or
16 (ii) the use of trademarks, names or descriptions of characterizing
17 flavors that are clearly intended to appeal to minors.

18 § 14. Paragraph n of subdivision 1 of section 1399-o of the public
19 health law, as amended by chapter 335 of the laws of 2017, is amended to
20 read as follows:

21 n. general hospitals and residential health care facilities as defined
22 in article twenty-eight of this chapter, hospitals and residential
23 facilities licensed by or operated by the office of mental health pursu-
24 ant to the mental hygiene law, and other health care facilities licensed
25 by the state in which persons reside; provided, however, that the
26 provisions of this subdivision shall not prohibit smoking [~~and vaping~~]
27 by patients in separate enclosed rooms of residential health care facil-
28 ities, adult care facilities established or certified under title two of
29 article seven of the social services law, [~~community mental health resi-~~
30 ~~dences established under section 41.44 of the mental hygiene law~~], or
31 facilities where day treatment programs are provided, which are desig-
32 nated as smoking [~~and vaping~~] rooms for patients of such facilities or
33 programs;

34 § 15. Subdivision 2 of section 1399-o of the public health law is
35 amended by adding a new paragraph c to read as follows:

36 c. on the grounds of hospitals licensed by or operated by the office
37 of mental health pursuant to the mental hygiene law.

38 § 16. Section 399-gg of the general business law, as added by chapter
39 542 of the laws of 2014, is amended to read as follows:

40 § 399-gg. Packaging of [~~electronic liquid~~] vapor products. 1. No
41 person, firm or corporation shall sell or offer for sale any [~~electronic~~
42 ~~liquid~~] vapor products, as defined in [~~paragraph (e) of~~] subdivision
43 [~~one~~] sixteen of section [~~thirteen hundred ninety-nine-cc~~] thirteen
44 hundred ninety-nine-aa of the public health law, unless the [~~electronic~~
45 ~~liquid~~] vapor products is sold or offered for sale in a child resistant
46 bottle which is designed to prevent accidental exposure of children to
47 [~~electronic liquids~~] vapor products.

48 2. Any violation of this section shall be punishable by a civil penal-
49 ty not to exceed one thousand dollars.

50 § 17. The tax law is amended by adding a new article 28-C to read as
51 follows:

52 ARTICLE 28-C

53 SUPPLEMENTAL TAX ON VAPOR PRODUCTS

54 Section 1180. Definitions.

1 1181. Imposition of tax.

2 1182. Imposition of compensating use tax.

3 1183. Vapor products dealer registration and renewal.

4 1184. Administrative provisions.

5 1185. Criminal penalties.

6 1186. Deposit and disposition of revenue.

7 § 1180. Definitions. For the purposes of the taxes imposed by this
8 article, the following terms shall mean:

9 (a) "Vapor product" means any noncombustible liquid or gel, regardless
10 of the presence of nicotine therein, that is manufactured in to a
11 finished product for use in an electronic cigarette, electronic cigar,
12 electronic cigarillo, electronic pipe, vaping pen, hookah pen or other
13 similar device. "Vapor product" shall not include any product approved
14 by the United States food and drug administration as a drug or medical
15 device, or manufactured and dispensed pursuant to title five-A of arti-
16 cle thirty-three of the public health law.

17 (b) "Vapor products dealer" means a person licensed by the commission-
18 er to sell vapor products in this state.

19 § 1181. Imposition of Tax. In addition to any other tax imposed by
20 this chapter or other law, there is hereby imposed a tax of twenty
21 percent on receipts from the retail sale of vapor products sold in this
22 state. The tax imposed on the purchaser and collected by the vapor
23 products dealer as defined in subdivision (b) of section eleven hundred
24 eighty of this article, in trust for and on account of the state.

25 § 1182. Imposition of compensating use tax. (a) Except to the extent
26 that vapor products have already been or will be subject to the tax
27 imposed by section eleven hundred eighty-one of this article, or are
28 otherwise exempt under this article, there is hereby imposed a use tax
29 on every use of vapor products by resident of this state.

30 (b) The tax imposed by this section shall be at the rate of twenty
31 percent of (1) the consideration given or contracted to be given for
32 such vapor product purchased at retail; (2) the price at which items of
33 the same kind of vapor products are sold by a manufacturer of such vapor
34 products in the regular course of his or her business.

35 (c) The tax due pursuant to this section shall be paid and reported no
36 later than twenty days after such use on a form prescribed by the
37 commissioner.

38 § 1183. Vapor products dealer registration and renewal. (a) Every
39 person who intends to sell vapor products in this state must receive
40 from the commissioner a certificate of registration prior to engaging in
41 business. Such person must electronically submit a properly completed
42 application for a certificate of registration for each location at which
43 vapor products will be sold in this state, on a form prescribed by the
44 commissioner, and shall be accompanied by a non-refundable application
45 fee of three hundred dollars.

46 (b) A vapor products dealer certificate of registration shall be
47 valid for the calendar year for which it is issued unless earlier
48 suspended or revoked. Upon the expiration of the term stated on the
49 certificate of registration, such certificate shall be null and void. A
50 certificate of registration shall not be assignable or transferable and
51 shall be destroyed immediately upon the vapor products dealer ceasing to
52 do business as specified in such certificate or in the event that such
53 business never commenced.

54 (c) Every vapor product dealer shall publicly display a vapor products
55 dealer certificate of registration in each place of business in this
56 state where vapor products are sold at retail. A vapor products dealer

1 who has no regular place of business shall publicly display such valid
2 certificate on each of its carts, stands, trucks or other merchandising
3 devices through which it sells vapor products.

4 (d) (1) The commissioner shall refuse to issue a certificate of regis-
5 tration to any applicant who does not possess a valid certificate of
6 authority under section eleven hundred thirty-four of this chapter. In
7 addition, the commissioner may refuse to issue a certificate of regis-
8 tration, or suspend, cancel or revoke a certificate of registration
9 issued to any person who: (A) has a past-due liability as that term is
10 defined in section one hundred seventy-one-v of this chapter; (B) has
11 had a certificate of registration under this article or any license or
12 registration provided for in this chapter revoked within one year from
13 the date on which such application was filed; (C) has been convicted of
14 a crime provided for in this chapter within one year from the date on
15 which such application was filed; (D) willfully fails to file a report
16 or return required by this article; (E) willfully files, causes to be
17 filed, gives or causes to be given a report, return, certificate or
18 affidavit required by this article which is false; (F) willfully fails
19 to collect or truthfully account for or pay over any tax imposed by this
20 article; or (G) whose place of business is at the same premises as that
21 of a person whose vapor produces dealer registration has been revoked
22 and where such revocation is still in effect, unless the applicant or
23 vapor products dealer provides the commissioner with adequate documenta-
24 tion demonstrating that such applicant or vapor products dealer acquired
25 the premises or business through an arm's length transaction as defined
26 in paragraph (e) of subdivision one of section four hundred eighty-a of
27 this chapter.

28 (2) In addition to the grounds provided in paragraph one of this
29 subdivision, the commissioner shall refuse to issue a certificate of
30 registration and shall cancel or suspend a certificate of registration
31 as directed by an enforcement officer pursuant to article thirteen-F of
32 the public health law. Notwithstanding any provision of law to the
33 contrary, an applicant whose application for a certificate of registra-
34 tion is refused or a vapor products dealer whose registration is
35 cancelled or suspended under this paragraph shall have no right to a
36 hearing under this chapter and shall have no right to commence a court
37 action or proceeding or to any other legal recourse against the commis-
38 sioner with respect to such refusal, suspension or cancellation;
39 provided, however, that nothing herein shall be construed to deny a
40 vapor products dealer a hearing under article thirteen-F of the public
41 health law or to prohibit vapor products dealers from commencing a court
42 action or proceeding against an enforcement officer as defined in
43 section thirteen hundred ninety-nine-aa of the public health law.

44 (e) If a vapor products dealer is suspended, cancelled or revoked and
45 such vapor products dealer sells vapor products through more than one
46 place of business in this state, the vapor products dealer's certificate
47 of registration issued to that place of business, cart, stand, truck or
48 other merchandising device, where such violation occurred, shall be
49 suspended, revoked or cancelled. Provided, however, upon a vapor
50 products dealer's third suspension, cancellation or revocation within a
51 five-year period for any one or more businesses owned or operated by the
52 vapor products dealer, such suspension, cancellation, or revocation of
53 the vapor products dealer's certificate of registration shall apply to
54 all places of business where he or she sells vapor products in this
55 state.

1 (f) Every holder of a certificate of registration must notify the
2 commissioner of changes to any of the information stated on the certifi-
3 cate or changes to any information contained in the application for the
4 certificate of authority. Such notification must be made on or before
5 the last day of the month in which a change occurs and must be made
6 electronically on a form prescribed by the commissioner.

7 (g) Every vapor products dealer who holds a certificate of registra-
8 tion under this article shall be required to reapply for a certificate
9 of registration for the following calendar year on or before the twenti-
10 eth day of September and such reapplication shall be subject to the same
11 requirements and conditions, including grounds for refusal, as an
12 initial registration under this article, including but not limited to
13 the payment of the three hundred dollar application fee for each retail
14 location.

15 (h) In addition to any other penalty imposed by this chapter, any
16 vapor products dealer who violates the provisions of this section, (1)
17 for a first violation is liable for a civil fine not less than five
18 thousand dollars but not to exceed twenty-five thousand dollars and such
19 certificate of registration may be suspended for a period of not more
20 than six months; and (2) for a second or subsequent violation within
21 three years following a prior violation of this section, is liable for a
22 civil fine not less than ten thousand dollars but not to exceed thirty-
23 five thousand dollars and such certificate of registration may be
24 suspended for a period of up to thirty-six months; or (3) for a third
25 violation within a period of five years, its vapor products certificate
26 or certificates of registration issued to each place of business owned
27 or operated by the vapor products dealer in this state, shall be revoked
28 for a period of up to five years.

29 § 1184. Administrative provisions. (a) Except as otherwise provided
30 for in this article, the taxes imposed by this article shall be adminis-
31 tered and collected in a like manner as and jointly with the taxes
32 imposed by sections eleven hundred five and eleven hundred ten of this
33 chapter. In addition, except as otherwise provided in this article, all
34 of the provisions of article twenty-eight of this chapter (except
35 sections eleven hundred seven, eleven hundred eight, eleven hundred
36 nine, and eleven hundred forty-eight) relating to or applicable to the
37 administration, collection and review of the taxes imposed by such
38 sections eleven hundred five and eleven hundred ten, including, but not
39 limited to, the provisions relating to definitions, returns, exemptions,
40 penalties, tax secrecy, personal liability for the tax, and collection
41 of tax from the customer, shall apply to the taxes imposed by this arti-
42 cle so far as such provisions can be made applicable to the taxes
43 imposed by this article with such limitations as set forth in this arti-
44 cle and such modifications as may be necessary in order to adapt such
45 language to the taxes so imposed. Such provisions shall apply with the
46 same force and effect as if the language of those provisions had been
47 set forth in full in this article except to the extent that any
48 provision is either inconsistent with a provision of this article or is
49 not relevant to the taxes imposed by this article.

50 (b) Notwithstanding the provisions of subdivision (a) of this section,
51 the exemptions provided in paragraph ten of subdivision (a) of section
52 eleven hundred fifteen of this chapter, and the provisions of section
53 eleven hundred sixteen, except those provided in paragraphs one, two,
54 three and six of subdivision (a) of such section, shall not apply to the
55 taxes imposed by this article.

1 (c) Notwithstanding the provisions of this section or section eleven
2 hundred forty-six of this chapter, the commissioner may, in his or her
3 discretion, permit the commissioner of health or his or her authorized
4 representative to inspect any return related to the tax imposed by this
5 article and may furnish to the commissioner of health any such return
6 or supply him or her with information concerning an item contained in
7 any such return, or disclosed by any investigation of a liability under
8 this article.

9 § 1185. Criminal penalties. The criminal penalties in sections eigh-
10 teen hundred one through eighteen hundred seven and eighteen hundred
11 seventeen of this chapter shall apply to this article with the same
12 force and effect as if the language of those provisions had been set
13 forth in full in this article except to the extent that any provision is
14 either inconsistent with a provision of this article or is not relevant
15 to the taxes imposed by this article.

16 § 1186. Deposit and disposition of revenue. The taxes, interest, and
17 penalties imposed by this article and collected or received by the
18 commissioner shall be deposited daily with such responsible banks, bank-
19 ing houses or trust companies, as may be designated by the comptroller,
20 to the credit of the comptroller in trust for the tobacco control and
21 insurance initiatives pool established by section ninety-two-dd of the
22 state finance law and distributed by the commissioner of health in
23 accordance with section twenty-eight hundred seven-v of the public
24 health law. Such deposits will be kept separate and apart from all other
25 money in the possession of the comptroller. The comptroller shall
26 require adequate security from all such depositories. Of the total
27 revenue collected or received under this article, the comptroller shall
28 retain such amount as the commissioner may determine to be necessary for
29 refunds under this article. Provided, however that the commissioner is
30 authorized and directed to deduct from the amounts he or she receives
31 from the registration fees under section eleven hundred eighty-three of
32 this article, before deposit into the tobacco control and insurance
33 initiatives pool, a reasonable amount necessary to effectuate refunds of
34 appropriations of the department to reimburse the department for the
35 costs incurred to administer, collect and distribute the taxes imposed
36 by this article.

37 § 18. Subsection (a) of section 92-dd of the state finance law, as
38 amended by section 3 of part T of chapter 61 of the laws of 2011, is
39 amended to read as follows:

40 (a) On and after April first, two thousand five, such fund shall
41 consist of the revenues heretofore and hereafter collected or required
42 to be deposited pursuant to paragraph (a) of subdivision eighteen of
43 section twenty-eight hundred seven-c, and sections twenty-eight hundred
44 seven-j, twenty-eight hundred seven-s and twenty-eight hundred seven-t
45 of the public health law, subdivision (b) of section four hundred eight-
46 y-two and section eleven hundred eighty-six of the tax law and required
47 to be credited to the tobacco control and insurance initiatives pool,
48 subparagraph (O) of paragraph four of subsection (j) of section four
49 thousand three hundred one of the insurance law, section twenty-seven of
50 part A of chapter one of the laws of two thousand two and all other
51 moneys credited or transferred thereto from any other fund or source
52 pursuant to law.

53 § 19. Severability clause. If any clause, sentence, paragraph, subdi-
54 vision, section or part of this act shall be adjudged by any court of
55 competent jurisdiction to be invalid, such judgment shall not affect,
56 impair, or invalidate the remainder thereof, but shall be confined in

1 its operation to the clause, sentence, paragraph, subdivision, section
2 or part thereof directly involved in the controversy in which such judg-
3 ment shall have been rendered. It is hereby declared to be the intent of
4 the legislature that this act would have been enacted even if such
5 invalid provisions had not been included herein.

6 § 20. This act shall take effect on the one hundred eightieth day
7 after it shall have become a law; provided, however that section seven-
8 teen of this act shall take effect on the first day of a quarterly peri-
9 od described in subdivision (b) of section 1136 of the tax law next
10 commencing at least one hundred eighty days after this act shall become
11 a law, and shall apply to sales and uses of vapor products on or after
12 such date.

13 PART VV

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

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

18 CHAPTER 7-A OF THE CONSOLIDATED LAWS

19 CANNABIS LAW

20 ARTICLE 1

21 SHORT TITLE; POLICY OF STATE AND PURPOSE OF CHAPTER;

22 DEFINITIONS

23 Section 1. Short title.

24 2. Policy of state and purpose of chapter.

25 3. Definitions.

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

28 § 2. Policy of state and purpose of chapter. It is hereby declared as
29 policy of the state of New York that it is necessary to properly regu-
30 late and control the cultivation, processing, manufacture, wholesale,
31 and retail production, distribution, transportation, and sale of canna-
32 bis, cannabis related products, medical cannabis, and hemp cannabis
33 within the state of New York, for the purposes of fostering and promot-
34 ing temperance in their consumption, to properly protect the public
35 health, safety, and welfare, and to promote social equality. It is here-
36 by declared that such policy will best be carried out by empowering the
37 state office of cannabis management and its executive director, to
38 determine whether public convenience and advantage will be promoted by
39 the issuance of registrations, licenses and/or permits granting the
40 privilege to produce, distribute, transport, sell, or traffic in canna-
41 bis, medical cannabis, or hemp cannabis, to increase or decrease in the
42 number thereof and the location of premises registered, licensed, or
43 permitted thereby, subject only to the right of judicial review herein-
44 after provided for. It is the purpose of this chapter to carry out that
45 policy in the public interest. The restrictions, regulations, and
46 provisions contained in this chapter are enacted by the legislature for
47 the protection of the health, safety, and welfare of the people of the
48 state.

49 § 3. Definitions. Whenever used in this chapter, unless otherwise
50 expressly stated or unless the context or subject matter requires a

1 different meaning, the following terms shall have the representative
2 meanings hereinafter set forth or indicated:

3 1. "Applicant" means a for-profit entity or not-for-profit corporation
4 and includes: board members, officers, managers, owners, partners, prin-
5 cipal stakeholders and members who submit an application to become a
6 registered organization, licensee or permittee.

7 2. "Bona fide cannabis retailer association" shall mean an association
8 of retailers holding licenses under this chapter, organized under the
9 non-profit or not-for-profit laws of this state.

10 3. "Cannabis" means all parts of the plant of the genus cannabis,
11 whether growing or not; the seeds thereof; the resin extracted from any
12 part of the plant; and every compound, manufacture, salt, derivative,
13 mixture, or preparation of the plant, its seeds or resin.

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

21 5. "Cannabis consumer" means a person, twenty-one years of age or
22 older, who purchases cannabis or cannabis products for personal use by
23 persons twenty-one years of age or older, but not for resale to others.

24 6. "Adult-use cannabis processor" means a person licensed by the
25 office to purchase cannabis and concentrated cannabis from cannabis
26 cultivators, to process cannabis, concentrated cannabis, and cannabis
27 infused products, package and label cannabis, concentrated cannabis and
28 cannabis infused products for sale in retail outlets, and sell cannabis,
29 concentrated cannabis and cannabis infused products at wholesale to
30 licensed adult-use cannabis distributors.

31 7. "Cannabis product" or "adult-use cannabis" means cannabis, concen-
32 trated cannabis, and cannabis-infused products for use by a cannabis
33 consumer.

34 8. "Adult-use cannabis retail dispenser" means a person licensed by
35 the executive director to purchase cannabis, concentrated cannabis, and
36 cannabis-infused products from cannabis processors and cannabis distrib-
37 utors, and sell cannabis, concentrated cannabis and cannabis-infused
38 products in a retail outlet.

39 9. "Certified medical use" means the acquisition, possession, use, or
40 transportation of medical cannabis by a certified patient, or the acqui-
41 sition, possession, delivery, transportation or administration of
42 medical cannabis by a designated caregiver or designated caregiver
43 facility, for use as part of the treatment of the patient's serious
44 condition, as authorized in a certification under this chapter including
45 enabling the patient to tolerate treatment for the serious condition.

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

49 11. "Certified patient" means a patient who is a resident of New York
50 state or receiving care and treatment in New York state as determined by
51 the executive director in regulation, and is certified under section
52 thirty of this chapter.

53 12. "Certification" means a certification, made under this chapter.

54 13. "Cultivation" shall include, but not be limited to, the planting,
55 growing, cloning, harvesting, drying, curing, grading and trimming of
56 cannabis.

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

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

7 16. "Designated caregiver" means an individual designated by a certi-
8 fied patient in a registry application. A certified patient may desig-
9 nate up to five designated caregivers.

10 17. "Designated caregiver facility" means a general hospital or resi-
11 dential health care facility operating pursuant to article twenty-eight
12 of the public health law; an adult care facility operating pursuant to
13 title two of article seven of the social services law; a community
14 mental health residence established pursuant to section 41.44 of the
15 mental hygiene Law; a hospital operating pursuant to section 7.17 of the
16 mental hygiene law; a mental hygiene facility operating pursuant to
17 article thirty-one of the mental hygiene law; an inpatient or residen-
18 tial treatment program certified pursuant to article thirty-two of the
19 mental hygiene law; a residential facility for the care and treatment of
20 persons with developmental disabilities operating pursuant to article
21 sixteen of the mental hygiene law; a residential treatment facility for
22 children and youth operating pursuant to article thirty-one of the
23 mental hygiene law; a private or public school; research institution
24 with an internal review board; or any other facility as determined by
25 the executive director in regulation; that registers with the office of
26 cannabis management to assist one or more certified patients with the
27 acquisition, possession, delivery, transportation or administration of
28 medical cannabis.

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

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

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

42 21. "Industrial hemp" means the plant *Cannabis sativa* L. and any part
43 of such plant, including the seeds thereof and all derivatives,
44 extracts, cannabinoids, isomers, acids, salts, and salts of isomers,
45 whether growing or not, with a delta-9 tetrahydrocannabinol concen-
46 tration of not more than three-tenths of one percent on a dry weight
47 basis, used or intended for an industrial purpose or those food and/or
48 food ingredients that are generally recognized as safe, as further
49 defined and regulated in the agriculture and markets law.

50 22. "Hemp cannabis" means the plant *Cannabis sativa* L. and any part of
51 such plant, including the seeds thereof and all derivatives, extracts,
52 cannabinoids, isomers, acids, salts, and salts of isomers, whether grow-
53 ing or not, with a delta-9 tetrahydrocannabinol concentration of not
54 more than an amount determined by the office in regulation, used or
55 intended for human or animal consumption or use for its cannabinoid
56 content, as determined by the executive director in regulation. Hemp

1 cannabis excludes industrial hemp used or intended exclusively for an
2 industrial purpose and those food and/or food ingredients that are
3 generally recognized as safe, as governed by the Agriculture and Markets
4 Law, and shall not be regulated as "hemp" or "hemp cannabis" within the
5 meaning of this section.

6 23. "Cannabinoid grower" means a person licensed by the office, and in
7 compliance with article twenty-nine of the agriculture and markets law,
8 to acquire, possess, cultivate, and sell hemp cannabis for its cannabi-
9 noid content.

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

15 25. "Individual dose" means a single measure of raw cannabis, medical
16 cannabis or non-infused concentrate or medical concentrate.

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

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

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

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

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

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

31 33. "Person" means individual, institution, corporation, government or
32 governmental subdivision or agency, business trust, estate, trust, part-
33 nership or association, or any other legal entity.

34 34. "Practitioner" means a practitioner who: (i) is authorized to
35 prescribe controlled substances within the state, (ii) by training or
36 experience is qualified to treat a serious condition as defined in
37 subdivision forty-four of this section; and (iii) completes, at a mini-
38 mum, a two-hour course as determined by the executive director in regu-
39 lation; provided however, the executive director may revoke a practi-
40 tioner's ability to certify patients for cause.

41 35. "Processing" includes, but is not limited to, blending, extract-
42 ing, infusing, packaging, labeling, branding and otherwise making or
43 preparing cannabis products. Processing shall not include the culti-
44 vation of cannabis.

45 36. "Public place" means a public place as defined in regulation by
46 the executive director.

47 37. "Registered organization" means an organization registered under
48 article three of this chapter.

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

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

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

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

4 42. "Sale" means any transfer, exchange or barter in any manner or by
5 any means whatsoever, and includes and means all sales made by any
6 person, whether principal, proprietor, agent, servant or employee of any
7 cannabis product.

8 43. "To sell" includes to solicit or receive an order for, to keep or
9 expose for sale, and to keep with intent to sell and shall include the
10 transportation or delivery of any cannabis product in the state.

11 44. "Serious condition" means having one of the following severe
12 debilitating or life-threatening conditions: cancer, positive status for
13 human immunodeficiency virus or acquired immune deficiency syndrome,
14 amyotrophic lateral sclerosis, Parkinson's disease, multiple sclerosis,
15 damage to the nervous tissue of the spinal cord with objective neurolog-
16 ical indication of intractable spasticity, epilepsy, inflammatory bowel
17 disease, neuropathies, Huntington's disease, post-traumatic stress
18 disorder, pain that degrades health and functional capability where the
19 use of medical cannabis is an alternative to opioid use, substance use
20 disorder, Alzheimer's, muscular dystrophy, dystonia, rheumatoid arthri-
21 tis, autism, any condition authorized as part of a cannabis research
22 license, or any other condition as added by the executive director.

23 45. "Traffic in" includes to cultivate, process, manufacture, distrib-
24 ute or sell any cannabis, cannabis product, medical cannabis or hemp at
25 wholesale or retail.

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

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

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

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

36 ARTICLE 2

37 NEW YORK STATE OFFICE OF CANNABIS MANAGEMENT

38 Section 9. Establishment of an office of cannabis management.

39 10. Executive director.

40 11. Executive director's authority.

41 12. Rulemaking authority.

42 13. State cannabis advisory board.

43 14. Disposition of moneys received for license fees.

44 15. Legal presumptions.

45 16. Violations of cannabis laws or regulations; penalties and
46 injunctions.

47 17. Formal hearings; notice and procedure.

48 18. Ethics, transparency and accountability.

49 19. Public health management campaign.

50 § 9. Establishment of an office of cannabis management. Pursuant to a
51 chapter of the laws of two thousand nineteen which added this chapter,
52 there is hereby established, within the division of alcoholic beverage
53 control, an independent office of cannabis management, which shall have
54 exclusive jurisdiction to exercise the powers and duties provided by

1 this chapter. The office shall exercise its authority by and through an
2 executive director.

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

8 § 11. Functions, powers and duties of the office and executive direc-
9 tor. The office of cannabis management, by and through its executive
10 director, shall have the following powers and duties:

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

13 2. To limit, or not to limit, in the executive director's discretion,
14 the number of registrations, licenses and permits of each class to be
15 issued within the state or any political subdivision thereof, and in
16 connection therewith to prohibit the acceptance of applications for such
17 classes which have been so limited.

18 3. To revoke, cancel or suspend for cause any registration, license,
19 or permit issued under this chapter and/or to impose a civil penalty for
20 cause against any holder of a registration, license, or permit issued
21 pursuant to this chapter. Any civil penalty so imposed shall be in addi-
22 tion to and separate and apart from the terms and provisions of the bond
23 required pursuant to section thirty-six of this chapter.

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

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

36 6. To limit or prohibit, at any time of public emergency and without
37 previous notice or advertisement, the cultivation, processing, distrib-
38 ution or sale of any or all cannabis products, medical cannabis or hemp
39 cannabis, for and during the period of such emergency.

40 7. To appoint any necessary directors, deputies, counsels, assistants,
41 investigators, and other employees within the limits provided by appro-
42 priation. Investigators so employed by the office shall be deemed to be
43 peace officers for the purpose of enforcing the provisions of the canna-
44 bis control law or judgements or orders obtained for violation thereof,
45 with all the powers set forth in section 2.20 of the criminal procedure
46 law.

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

51 9. To inspect or provide for the inspection at any time of any prem-
52 ises where cannabis or hemp cannabis is cultivated, processed, stored,
53 distributed or sold.

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

1 11. To delegate the powers provided in this section to such other
2 officers or employees or other state agencies as may be deemed appropri-
3 ate by the executive director.

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

7 13. To exercise the powers and perform the duties in relation to the
8 administration of the office as are necessary but not specifically vest-
9 ed by this chapter, including but not limited to budgetary and fiscal
10 matters.

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

14 15. To enter into contracts, memoranda of understanding, and agree-
15 ments as deemed appropriate by the executive director to effectuate the
16 policy and purpose of this chapter.

17 16. To issue and administer low interest or zero-interest loans to
18 qualified social equity applicants provided the office has sufficient
19 funds available for such purposes.

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

30 18. To issue regulations, declaratory rulings, guidance and industry
31 advisories.

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

36 2. The office shall have the power to promulgate any and all necessary
37 rules and regulations governing the production, processing, transporta-
38 tion, distribution, and sale of medical cannabis, recreational cannabis,
39 and hemp cannabis, including but not limited to the registration of
40 organizations authorized to traffic in medical cannabis, the licensing
41 and/or permitting of adult-use cannabis cultivators, processors, cooper-
42 atives, distributors, and retail dispensaries, and the licensing of
43 cannabinoid growers and extractors, including, but not limited to:

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

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

48 (c) the books and records to be created and maintained by registered
49 organizations, licensees, and permittees, including the reports to be
50 made thereon to the office, and inspection of any and all books and
51 records maintained by any registered organization, licensee, or permit-
52 tee;

53 (d) methods of producing, processing, and packaging cannabis, medical
54 cannabis, cannabis-infused products, and concentrated cannabis; condi-
55 tions of sanitation, and standards of ingredients, quality, and identity
56

1 of cannabis products cultivated, processed, packaged, or sold by regis-
2 tered organizations and licensees;

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

7 (f) hearing procedures and additional causes for cancellation, revoca-
8 tion, and/or civil penalties against any person registered, licensed, or
9 permitted by the authority.

10 3. The office shall promulgate rules and regulations that are calcu-
11 lated to:

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

14 (b) prevent the revenue from the sale of cannabis from going to crimi-
15 nal enterprises, gangs, and cartels;

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

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

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

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

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

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

28 4. The office, in consultation with the department of agriculture and
29 markets and the department of environmental conservation, shall promul-
30 gate necessary rules and regulations governing the safe production of
31 cannabis, including environmental and energy standards and restrictions
32 on the use of pesticides.

33 § 13. State cannabis advisory board. 1. The executive director shall
34 have the authority to establish within the office a state cannabis advi-
35 sory board, which may advise the office on cannabis cultivation, proc-
36 essing, distribution, transport, testing and sale and consider all
37 matters submitted to it by the executive director.

38 2. The executive director of the office shall serve as the chairperson
39 of the board. The vice chairperson shall be elected from among the
40 members of the board by the members of such board, and shall represent
41 the board in the absence of the chairperson at all official board func-
42 tions.

43 3. The members of the board shall receive no compensation for their
44 services but shall be allowed their actual and necessary expenses
45 incurred in the performance of their duties as board members.

46 4. The executive director shall be authorized to promulgate regu-
47 lations establishing the number of members on the board, the term of the
48 board members and any other terms or conditions regarding the state
49 cannabis advisory board.

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

54 1. The office shall charge each registered organization, licensee and
55 permittee a registration, licensure or permit fee, and renewal fee, as

1 applicable. The fees may vary depending upon the nature and scope of
2 the different registration, licensure and permit activities.

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

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

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

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

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

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

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

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

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

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

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

55 § 17. Formal hearings; notice and procedure. 1. The executive direc-
56 tor, or any person designated by him or her for this purpose, may issue

1 subpoenas and administer oaths in connection with any hearing or inves-
2 tigation under or pursuant to this chapter, and it shall be the duty of
3 the executive director and any persons designated by him or her for such
4 purpose to issue subpoenas at the request of and upon behalf of the
5 respondent.

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

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

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

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

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

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

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

37 § 18. Ethics, transparency and accountability. No member of the
38 office or any officer, deputy, assistant, inspector or employee thereof
39 shall have any interest, direct or indirect, either proprietary or by
40 means of any loan, mortgage or lien, or in any other manner, in or on
41 any premises where cannabis, medical cannabis or hemp is cultivated,
42 processed, distributed or sold; nor shall he or she have any interest,
43 direct or indirect, in any business wholly or partially devoted to the
44 cultivation, processing, distribution, sale, transportation or storage
45 of cannabis, medical cannabis or hemp, or own any stock in any corpo-
46 ration which has any interest, proprietary or otherwise, direct or indi-
47 rect, in any premises where cannabis, medical cannabis or hemp is culti-
48 vated, processed, distributed or sold, or in any business wholly or
49 partially devoted to the cultivation, processing, distribution, sale,
50 transportation or storage of cannabis, medical cannabis or hemp, or
51 receive any commission or profit whatsoever, direct or indirect, from
52 any person applying for or receiving any license or permit provided for
53 in this chapter, or hold any other elected or appointed public office in
54 the state or in any political subdivision. Anyone who violates any of
55 the provisions of this section shall be removed or shall divulge him or
56 herself of such direct or indirect interests.

1 § 19. Public health campaign. The office, in consultation with the
2 commissioners of the department of health, office of alcoholism and
3 substance abuse services and office of mental health, shall develop and
4 implement a comprehensive public health campaign regarding adult-use
5 cannabis.

6 ARTICLE 3
7 MEDICAL CANNABIS

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

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

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

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

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

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

38 2. The certification shall include: (a) the name, date of birth and
39 address of the patient; (b) a statement that the patient has a serious
40 condition and the patient is under the practitioner's care for the seri-
41 ous condition; (c) a statement attesting that all requirements of subdi-
42 vision one of this section have been satisfied; (d) the date; and (e)
43 the name, address, telephone number, and the signature of the certifying
44 practitioner. The executive director may require by regulation that the
45 certification shall be on a form provided by the office. The practition-
46 er may state in the certification that, in the practitioner's profes-
47 sional opinion, the patient would benefit from medical cannabis only
48 until a specified date. The practitioner may state in the certification
49 that, in the practitioner's professional opinion, the patient is termi-
50 nally ill and that the certification shall not expire until the patient
51 dies.

52 3. In making a certification, the practitioner may consider the form
53 of medical cannabis the patient should consume, including the method of
54 consumption and any particular strain, variety, and quantity or percent-

1 age of cannabis or particular active ingredient, and appropriate dosage.
2 The practitioner may state in the certification any recommendation or
3 limitation the practitioner makes, in his or her professional opinion,
4 concerning the appropriate form or forms of medical cannabis and dosage.

5 4. Every practitioner shall consult the prescription monitoring
6 program registry prior to making or issuing a certification, for the
7 purpose of reviewing a patient's controlled substance history. For
8 purposes of this section, a practitioner may authorize a designee to
9 consult the prescription monitoring program registry on his or her
10 behalf, provided that such designation is in accordance with section
11 thirty-three hundred forty-three-a of the public health law.

12 5. The practitioner shall give the certification to the certified
13 patient, and place a copy in the patient's health care record.

14 6. No practitioner shall issue a certification under this section for
15 himself or herself.

16 7. A registry identification card based on a certification shall
17 expire one year after the date the certification is signed by the prac-
18 titioner.

19 8. (a) If the practitioner states in the certification that, in the
20 practitioner's professional opinion, the patient would benefit from
21 medical cannabis only until a specified earlier date, then the registry
22 identification card shall expire on that date; (b) if the practitioner
23 states in the certification that in the practitioner's professional
24 opinion the patient is terminally ill and that the certification shall
25 not expire until the patient dies, then the registry identification card
26 shall state that the patient is terminally ill and that the registration
27 card shall not expire until the patient dies; (c) if the practitioner
28 re-issues the certification to terminate the certification on an earlier
29 date, then the registry identification card shall expire on that date
30 and shall be promptly destroyed by the certified patient; (d) if the
31 certification so provides, the registry identification card shall state
32 any recommendation or limitation by the practitioner as to the form or
33 forms of medical cannabis or dosage for the certified patient; and (e)
34 the executive director shall make regulations to implement this subdivi-
35 sion.

36 § 31. Lawful medical use. 1. The possession, acquisition, use, deliv-
37 ery, transfer, transportation, or administration of medical cannabis by
38 a certified patient, designated caregiver or designated caregiver facil-
39 ity, for certified medical use, shall be lawful under this article
40 provided that:

41 (a) the cannabis that may be possessed by a certified patient shall
42 not exceed a sixty-day supply of the dosage as determined by the practi-
43 tioner, consistent with any guidance and regulations issued by the exec-
44 utive director, provided that during the last seven days of any sixty-
45 day period, the certified patient may also possess up to such amount for
46 the next sixty-day period;

47 (b) the cannabis that may be possessed by designated caregivers does
48 not exceed the quantities referred to in paragraph (a) of this subdivi-
49 sion for each certified patient for whom the caregiver possesses a valid
50 registry identification card, up to five certified patients;

51 (c) the cannabis that may be possessed by designated caregiver facili-
52 ties does not exceed the quantities referred to in paragraph (a) of this
53 subdivision for each certified patient under the care or treatment of
54 the facility;

55 (d) the form or forms of medical cannabis that may be possessed by the
56 certified patient, designated caregiver or designated caregiver facility

1 pursuant to a certification shall be in compliance with any recommenda-
2 tion or limitation by the practitioner as to the form or forms of
3 medical cannabis or dosage for the certified patient in the certif-
4 ication; and

5 (e) the medical cannabis shall be kept in the original package in
6 which it was dispensed under this article, except for the portion
7 removed for immediate consumption for certified medical use by the
8 certified patient.

9 2. Notwithstanding subdivision one of this section:

10 (a) possession of medical cannabis shall not be lawful under this
11 article if it is smoked or grown in a public place, regardless of the
12 form of medical cannabis stated in the patient's certification.

13 (b) a person possessing medical cannabis under this chapter shall
14 possess his or her registry identification card at all times when in
15 immediate possession of medical cannabis.

16 § 32. Registry identification cards. 1. Upon approval of the certif-
17 ication, the office shall issue registry identification cards for certi-
18 fied patients and designated caregivers. A registry identification card
19 shall expire as provided in this article or as otherwise provided in
20 this section. The office shall begin issuing registry identification
21 cards as soon as practicable after the certifications required by this
22 chapter are granted. The office may specify a form for a registry appli-
23 cation, in which case the office shall provide the form on request,
24 reproductions of the form may be used, and the form shall be available
25 for downloading from the office's website.

26 2. To obtain, amend or renew a registry identification card, a certi-
27 fied patient or designated caregiver shall file a registry application
28 with the office, unless otherwise exempted by the executive director in
29 regulation. The registry application or renewal application shall
30 include:

31 (a) in the case of a certified patient:

32 (i) the patient's certification, a new written certification shall be
33 provided with a renewal application;

34 (ii) the name, address, and date of birth of the patient;

35 (iii) the date of the certification;

36 (iv) if the patient has a registry identification card based on a
37 current valid certification, the registry identification number and
38 expiration date of that registry identification card;

39 (v) the specified date until which the patient would benefit from
40 medical cannabis, if the certification states such a date;

41 (vi) the name, address, and telephone number of the certifying practi-
42 tioner;

43 (vii) any recommendation or limitation by the practitioner as to the
44 form or forms of medical cannabis or dosage for the certified patient;

45 (viii) if the certified patient designates a designated caregiver, the
46 name, address, and date of birth of the designated caregiver, and other
47 individual identifying information required by the office; and

48 (ix) other individual identifying information required by the office;

49 (b) in the case of a designated caregiver:

50 (i) the name, address, and date of birth of the designated caregiver;

51 (ii) if the designated caregiver has a registry identification card,
52 the registry identification number and expiration date of that registry
53 identification card; and

54 (iii) other individual identifying information required by the office;

55 (c) a statement that a false statement made in the application is
56 punishable under section 210.45 of the penal law;

1 (d) the date of the application and the signature of the certified
2 patient or designated caregiver, as the case may be;

3 (e) any other requirements determined by the executive director.

4 3. Where a certified patient is under the age of eighteen or otherwise
5 incapable of consent:

6 (a) The application for a registry identification card shall be made
7 by an appropriate person over eighteen years of age. The application
8 shall state facts demonstrating that the person is appropriate.

9 (b) The designated caregiver shall be: (i) a parent or legal guardian
10 of the certified patient; (ii) a person designated by a parent or legal
11 guardian; (iii) a designated caregiver facility; or (iv) an appropriate
12 person approved by the office upon a sufficient showing that no parent
13 or legal guardian is appropriate or available.

14 4. No person may be a designated caregiver if the person is under
15 twenty-one years of age unless a sufficient showing is made to the
16 office that the person should be permitted to serve as a designated
17 caregiver. The requirements for such a showing shall be determined by
18 the executive director.

19 5. No person may be a designated caregiver for more than five certi-
20 fied patients at one time.

21 6. If a certified patient wishes to change or terminate his or her
22 designated caregiver, for whatever reason, the certified patient shall
23 notify the office as soon as practicable. The office shall issue a
24 notification to the designated caregiver that their registration card is
25 invalid and must be promptly destroyed. The newly designated caregiver
26 must comply with all requirements set forth in this section.

27 7. If the certification so provides, the registry identification card
28 shall contain any recommendation or limitation by the practitioner as to
29 the form or forms of medical cannabis or dosage for the certified
30 patient.

31 8. The office shall issue separate registry identification cards for
32 certified patients and designated caregivers as soon as reasonably prac-
33 ticable after receiving a complete application under this section,
34 unless it determines that the application is incomplete or factually
35 inaccurate, in which case it shall promptly notify the applicant.

36 9. If the application of a certified patient designates an individual
37 as a designated caregiver who is not authorized to be a designated care-
38 giver, that portion of the application shall be denied by the office but
39 that shall not affect the approval of the balance of the application.

40 10. A registry identification card shall:

41 (a) contain the name of the certified patient or the designated care-
42 giver as the case may be;

43 (b) contain the date of issuance and expiration date of the registry
44 identification card;

45 (c) contain a registry identification number for the certified patient
46 or designated caregiver, as the case may be and a registry identifica-
47 tion number;

48 (d) contain a photograph of the individual to whom the registry iden-
49 tification card is being issued, which shall be obtained by the office
50 in a manner specified by the executive director in regulations;
51 provided, however, that if the office requires certified patients to
52 submit photographs for this purpose, there shall be a reasonable accom-
53 modation of certified patients who are confined to their homes due to
54 their medical conditions and may therefore have difficulty procuring
55 photographs;

56 (e) be a secure document as determined by the office;

1 (f) plainly state any recommendation or limitation by the practitioner
2 as to the form or forms of medical cannabis or dosage for the certified
3 patient; and

4 (g) any other requirements determined by the executive director.

5 11. A certified patient or designated caregiver who has been issued a
6 registry identification card shall notify the office of any change in
7 his or her name or address or, with respect to the patient, if he or she
8 ceases to have the serious condition noted on the certification within
9 ten days of such change. The certified patient's or designated
10 caregiver's registry identification card shall be deemed invalid and
11 shall be promptly destroyed.

12 12. If a certified patient or designated caregiver loses his or her
13 registry identification card, he or she shall notify the office within
14 ten days of losing the card. The office shall issue a new registry iden-
15 tification card as soon as practicable, which may contain a new registry
16 identification number, to the certified patient or designated caregiver,
17 as the case may be.

18 13. The office shall maintain a confidential list of the persons to
19 whom it has issued registry identification cards. Individual identifying
20 information obtained by the office under this article shall be confiden-
21 tial and exempt from disclosure under article six of the public officers
22 law. Notwithstanding this subdivision, the office may notify any appro-
23 priate law enforcement agency of information relating to any violation
24 or suspected violation of this article.

25 14. The office shall verify to law enforcement personnel in an appro-
26 priate case whether a registry identification card is valid.

27 15. If a certified patient or designated caregiver willfully violates
28 any provision of this article as determined by the executive director,
29 his or her certification and registry identification card may be
30 suspended or revoked. This is in addition to any other penalty that may
31 apply.

32 § 33. Registration as a designated caregiver facility. 1. To obtain,
33 amend or renew a registration as a designated caregiver facility, the
34 facility shall file a registry application with the office. The registry
35 application or renewal application shall include:

36 (a) the facility's full name and address;

37 (b) operating certificate or license number where appropriate;

38 (c) printed name, title, and signature of an authorized facility
39 representative;

40 (d) a statement that the facility agrees to secure and ensure proper
41 handling of all medical cannabis products;

42 (e) an acknowledgement that a false statement in the application is
43 punishable under section 210.45 of the penal law; and

44 (f) any other information that may be required by the executive direc-
45 tor.

46 2. Prior to issuing or renewing a designated caregiver facility regis-
47 tration, the office may verify the information submitted by the appli-
48 cant. The applicant shall provide, at the office's request, such infor-
49 mation and documentation, including any consents or authorizations that
50 may be necessary for the office to verify the information.

51 3. The office shall approve, deny or determine incomplete or inaccur-
52 ate an initial or renewal application within thirty days of receipt of
53 the application. If the application is approved within the 30-day peri-
54 od, the office shall issue a registration as soon as is reasonably prac-
55 ticable.

1 4. An applicant shall have thirty days from the date of a notification
2 of an incomplete or factually inaccurate application to submit the mate-
3 rials required to complete, revise or substantiate information in the
4 application. If the applicant fails to submit the required materials
5 within such thirty-day time period, the application shall be denied by
6 the office.

7 5. Registrations issued under this section shall remain valid for two
8 years from the date of issuance.

9 § 34. Registered organizations. 1. A registered organization shall be
10 a for-profit business entity or not-for-profit corporation organized for
11 the purpose of acquiring, possessing, manufacturing, selling, deliver-
12 ing, transporting, distributing or dispensing cannabis for certified
13 medical use.

14 2. The acquiring, possession, manufacture, sale, delivery, transport-
15 ing, distributing or dispensing of medical cannabis by a registered
16 organization under this article in accordance with its registration
17 under this article or a renewal thereof shall be lawful under this chap-
18 ter.

19 3. Each registered organization shall contract with an independent
20 laboratory permitted by the office to test the medical cannabis produced
21 by the registered organization. The executive director shall approve the
22 laboratory used by the registered organization and may require that the
23 registered organization use a particular testing laboratory.

24 4. (a) A registered organization may lawfully, in good faith, sell,
25 deliver, distribute or dispense medical cannabis to a certified patient
26 or designated caregiver upon presentation to the registered organization
27 of a valid registry identification card for that certified patient or
28 designated caregiver. When presented with the registry identification
29 card, the registered organization shall provide to the certified patient
30 or designated caregiver a receipt, which shall state: the name, address,
31 and registry identification number of the registered organization; the
32 name and registry identification number of the certified patient and the
33 designated caregiver, if any; the date the cannabis was sold; any recom-
34 mendation or limitation by the practitioner as to the form or forms of
35 medical cannabis or dosage for the certified patient; and the form and
36 the quantity of medical cannabis sold. The registered organization shall
37 retain a copy of the registry identification card and the receipt for
38 six years.

39 (b) The proprietor of a registered organization shall file or cause to
40 be filed any receipt and certification information with the office by
41 electronic means on a real-time basis as the executive director shall
42 require by regulation. When filing receipt and certification information
43 electronically pursuant to this paragraph, the proprietor of the regis-
44 tered organization shall dispose of any electronically recorded
45 prescription information in such manner as the executive director shall
46 by regulation require.

47 5. (a) No registered organization may sell, deliver, distribute or
48 dispense to any certified patient or designated caregiver a quantity of
49 medical cannabis larger than that individual would be allowed to possess
50 under this chapter.

51 (b) When dispensing medical cannabis to a certified patient or desig-
52 nated caregiver, the registered organization: (i) shall not dispense an
53 amount greater than a sixty-day supply to a certified patient until the
54 certified patient has exhausted all but a seven day supply provided
55 pursuant to a previously issued certification; and (ii) shall verify the

1 information in subparagraph (i) of this paragraph by consulting the
2 prescription monitoring program registry under this article.

3 (c) Medical cannabis dispensed to a certified patient or designated
4 caregiver by a registered organization shall conform to any recommenda-
5 tion or limitation by the practitioner as to the form or forms of
6 medical cannabis or dosage for the certified patient.

7 6. When a registered organization sells, delivers, distributes or
8 dispenses medical cannabis to a certified patient or designated caregiv-
9 er, it shall provide to that individual a safety insert, which will be
10 developed by the registered organization and approved by the executive
11 director and include, but not be limited to, information on:

- 12 (a) methods for administering medical cannabis in individual doses,
- 13 (b) any potential dangers stemming from the use of medical cannabis,
- 14 (c) how to recognize what may be problematic usage of medical cannabis
15 and obtain appropriate services or treatment for problematic usage, and
- 16 (d) other information as determined by the executive director.

17 7. Registered organizations shall not be managed by or employ anyone
18 who has been convicted of any felony other than for the sale or
19 possession of drugs, narcotics, or controlled substances, and provided
20 that this subdivision only applies to (a) managers or employees who come
21 into contact with or handle medical cannabis, and (b) a conviction less
22 than ten years, not counting time spent in incarceration, prior to being
23 employed, for which the person has not received a certificate of relief
24 from disabilities or a certificate of good conduct under article twenty-
25 three of the correction law.

26 8. Manufacturing of medical cannabis by a registered organization
27 shall only be done in an indoor, enclosed, secure facility located in
28 New York state, which may include a greenhouse. The executive director
29 shall promulgate regulations establishing requirements for such facili-
30 ties.

31 9. Dispensing of medical cannabis by a registered organization shall
32 only be done in an indoor, enclosed, secure facility located in New York
33 state, which may include a greenhouse. The executive director shall
34 promulgate regulations establishing requirements for such facilities.

35 10. A registered organization shall determine the quality, safety, and
36 clinical strength of medical cannabis manufactured or dispensed by the
37 registered organization, and shall provide documentation of that quali-
38 ty, safety and clinical strength to the office and to any person or
39 entity to which the medical cannabis is sold or dispensed.

40 11. A registered organization shall be deemed to be a "health care
41 provider" for the purposes of article two-D of article two of the public
42 health law.

43 12. Medical cannabis shall be dispensed to a certified patient or
44 designated caregiver in a sealed and properly labeled package. The
45 labeling shall contain: (a) the information required to be included in
46 the receipt provided to the certified patient or designated caregiver by
47 the registered organization; (b) the packaging date; (c) any applicable
48 date by which the medical cannabis should be used; (d) a warning stat-
49 ing, "This product is for medicinal use only. Women should not consume
50 during pregnancy or while breastfeeding except on the advice of the
51 certifying health care practitioner, and in the case of breastfeeding
52 mothers, including the infant's pediatrician. This product might impair
53 the ability to drive. Keep out of reach of children."; (e) the amount of
54 individual doses contained within; and (f) a warning that the medical
55 cannabis must be kept in the original container in which it was
56 dispensed.

1 13. The executive director is authorized to make rules and regulations
2 restricting the advertising and marketing of medical cannabis.

3 § 35. Registering of registered organizations. 1. Application for
4 initial registration. (a) An applicant for registration as a registered
5 organization under section thirty-four of this article shall include
6 such information prepared in such manner and detail as the executive
7 director may require, including but not limited to:

8 (i) a description of the activities in which it intends to engage as a
9 registered organization;

10 (ii) that the applicant:

11 (A) is of good moral character;

12 (B) possesses or has the right to use sufficient land, buildings, and
13 other premises, which shall be specified in the application, and equip-
14 ment to properly carry on the activity described in the application, or
15 in the alternative posts a bond of not less than two million dollars;

16 (C) is able to maintain effective security and control to prevent
17 diversion, abuse, and other illegal conduct relating to the cannabis;
18 and

19 (D) is able to comply with all applicable state laws and regulations
20 relating to the activities in which it intends to engage under the
21 registration;

22 (iii) that the applicant has entered into a labor peace agreement with
23 a bona fide labor organization that is actively engaged in representing
24 or attempting to represent the applicant's employees and the maintenance
25 of such a labor peace agreement shall be an ongoing material condition
26 of certification;

27 (iv) the applicant's status as a for-profit business entity or not-
28 for-profit corporation; and

29 (v) the application shall include the name, residence address and
30 title of each of the officers and directors and the name and residence
31 address of any person or entity that is a member of the applicant. Each
32 such person, if an individual, or lawful representative if a legal enti-
33 ty, shall submit an affidavit with the application setting forth:

34 (A) any position of management or ownership during the preceding ten
35 years of a ten per centum or greater interest in any other business,
36 located in or outside this state, manufacturing or distributing drugs;

37 (B) whether such person or any such business has been convicted of a
38 felony or had a registration or license suspended or revoked in any
39 administrative or judicial proceeding; and

40 (C) such other information as the executive director may reasonably
41 require.

42 2. The applicant shall be under a continuing duty to report to the
43 office any change in facts or circumstances reflected in the application
44 or any newly discovered or occurring fact or circumstance which is
45 required to be included in the application.

46 3. (a) The executive director shall grant a registration or amendment
47 to a registration under this section if he or she is satisfied that:

48 (i) the applicant will be able to maintain effective control against
49 diversion of cannabis;

50 (ii) the applicant will be able to comply with all applicable state
51 laws;

52 (iii) the applicant and its officers are ready, willing and able to
53 properly carry on the manufacturing or distributing activity for which a
54 registration is sought;

1 (iv) the applicant possesses or has the right to use sufficient land,
2 buildings and equipment to properly carry on the activity described in
3 the application;

4 (v) it is in the public interest that such registration be granted,
5 including but not limited to:

6 (A) whether the number of registered organizations in an area will be
7 adequate or excessive to reasonably serve the area;

8 (B) whether the registered organization is a minority and/or woman
9 owned business enterprise or a service-disabled veteran-owned business;

10 (C) whether the registered organization provides education and
11 outreach to practitioners;

12 (D) whether the registered organization promotes the research and
13 development of medical cannabis and patient outreach; and

14 (E) the affordability medical cannabis products offered by the regis-
15 tered organization;

16 (vi) the applicant and its managing officers are of good moral charac-
17 ter;

18 (vii) the applicant has entered into a labor peace agreement with a
19 bona fide labor organization that is actively engaged in representing or
20 attempting to represent the applicant's employees; and

21 (viii) the applicant satisfies any other conditions as determined by
22 the executive director.

23 (b) If the executive director is not satisfied that the applicant
24 should be issued a registration, he or she shall notify the applicant in
25 writing of those factors upon which the denial is based. Within thirty
26 days of the receipt of such notification, the applicant may submit a
27 written request to the executive director to appeal the decision.

28 (c) The fee for a registration under this section shall be an amount
29 determined by the office in regulations; provided, however, if the
30 registration is issued for a period greater than two years the fee shall
31 be increased, pro rata, for each additional month of validity.

32 (d) Registrations issued under this section shall be effective only
33 for the registered organization and shall specify:

34 (i) the name and address of the registered organization;

35 (ii) which activities of a registered organization are permitted by
36 the registration;

37 (iii) the land, buildings and facilities that may be used for the
38 permitted activities of the registered organization; and

39 (iv) such other information as the executive director shall reasonably
40 provide to assure compliance with this article.

41 (e) Upon application of a registered organization, a registration may
42 be amended to allow the registered organization to relocate within the
43 state or to add or delete permitted registered organization activities
44 or facilities. The fee for such amendment shall be two hundred fifty
45 dollars.

46 4. A registration issued under this section shall be valid for two
47 years from the date of issue, except that in order to facilitate the
48 renewals of such registrations, the executive director may upon the
49 initial application for a registration, issue some registrations which
50 may remain valid for a period of time greater than two years but not
51 exceeding an additional eleven months.

52 5. (a) An application for the renewal of any registration issued
53 under this section shall be filed with the office not more than six
54 months nor less than four months prior to the expiration thereof. A
55 late-filed application for the renewal of a registration may, in the

1 discretion of the executive director, be treated as an application for
2 an initial license.

3 (b) The application for renewal shall include such information
4 prepared in the manner and detail as the executive director may require,
5 including but not limited to:

6 (i) any material change in the circumstances or factors listed in
7 subdivision one of this section; and

8 (ii) every known charge or investigation, pending or concluded during
9 the period of the registration, by any governmental or administrative
10 agency with respect to:

11 (A) each incident or alleged incident involving the theft, loss, or
12 possible diversion of cannabis manufactured or distributed by the appli-
13 cant; and

14 (B) compliance by the applicant with the laws of the state with
15 respect to any substance listed in section thirty-three hundred six of
16 the public health law.

17 (c) An applicant for renewal shall be under a continuing duty to
18 report to the office any change in facts or circumstances reflected in
19 the application or any newly discovered or occurring fact or circum-
20 stance which is required to be included in the application.

21 (d) If the executive director is not satisfied that the registered
22 organization applicant is entitled to a renewal of the registration, he
23 or she shall within a reasonably practicable time as determined by the
24 executive director, serve upon the registered organization or its attor-
25 ney of record in person or by registered or certified mail an order
26 directing the registered organization to show cause why its application
27 for renewal should not be denied. The order shall specify in detail the
28 respects in which the applicant has not satisfied the executive director
29 that the registration should be renewed.

30 6. (a) The executive director shall renew a registration unless he or
31 she determines and finds that:

32 (i) the applicant is unlikely to maintain or be able to maintain
33 effective control against diversion;

34 (ii) the applicant is unlikely to comply with all state laws applica-
35 ble to the activities in which it may engage under the registration;

36 (iii) it is not in the public interest to renew the registration
37 because the number of registered organizations in an area is excessive
38 to reasonably serve the area; or

39 (iv) the applicant has either violated or terminated its labor peace
40 agreement.

41 (b) For purposes of this section, proof that a registered organiza-
42 tion, during the period of its registration, has failed to maintain
43 effective control against diversion, violates any provision of this
44 article, or has knowingly or negligently failed to comply with applica-
45 ble state laws relating to the activities in which it engages under the
46 registration, shall constitute grounds for suspension, termination or
47 limitation of the registered organization's registration or as deter-
48 mined by the executive director. The registered organization shall also
49 be under a continuing duty to report to the authority any material
50 change or fact or circumstance to the information provided in the regis-
51 tered organization's application.

52 7. The office may suspend or terminate the registration of a regis-
53 tered organization, on grounds and using procedures under this article
54 relating to a license, to the extent consistent with this article. The
55 authority shall suspend or terminate the registration in the event that
56 a registered organization violates or terminates the applicable labor

1 peace agreement. Conduct in compliance with this article which may
2 violate conflicting federal law, shall not be grounds to suspend or
3 terminate a registration.

4 8. The office shall begin issuing registrations for registered organ-
5 izations as soon as practicable after the certifications required by
6 this article are given.

7 9. The executive director shall register at least ten registered
8 organizations that manufacture medical cannabis with no more than four
9 dispensing sites wholly owned and operated by such registered organiza-
10 tion. The executive director shall ensure that such registered organiza-
11 tions and dispensing sites are geographically distributed across the
12 state. The executive director may register additional registered organ-
13 izations.

14 § 36. Expedited registration of registered organizations. 1. There is
15 hereby established in the office an emergency medical cannabis access
16 program, referred to in this section as the "program", under this
17 section. The purpose of the program is to expedite the availability of
18 medical cannabis to avoid suffering and loss of life, during the period
19 before full implementation of and production under this article, espe-
20 cially in the case of patients whose serious condition is progressive
21 and degenerative or is such that delay in the patient's medical use of
22 cannabis poses a serious risk to the patient's life or health. The
23 executive director shall implement the program as expeditiously as prac-
24 ticable, including by emergency regulation.

25 2. For the purposes of this section, and for specified limited times,
26 the executive director may waive or modify the requirements of this
27 article relating to registered organizations, consistent with the legis-
28 lative intent and purpose of this article and this section. Where an
29 entity seeking to be a registered organization under the program oper-
30 ates in a jurisdiction other than the state of New York, under licensure
31 or other governmental recognition of that jurisdiction, and the laws of
32 that jurisdiction are acceptable to the executive director as consistent
33 with the legislative intent and purpose of this article and this
34 section, then the executive director may accept that licensure or recog-
35 nition as wholly or partially satisfying the requirements of this arti-
36 cle, for purposes of the registration and operation of the registered
37 organization under the program and this section.

38 3. In considering an application for registration as a registered
39 organization under this section, the executive director shall give pref-
40 erence to the following:

41 (a) an applicant that is currently producing or providing or has a
42 history of producing or providing medical cannabis in another jurisdic-
43 tion in full compliance with the laws of the jurisdiction;

44 (b) an applicant that is able and qualified to both produce, distrib-
45 ute, and dispense medical cannabis to patients expeditiously; and

46 (c) an applicant that proposes a location or locations for dispensing
47 by the registered organization, which ensure, to the greatest extent
48 possible, that certified patients have access to a registered organiza-
49 tion.

50 4. The executive director may make regulations under this section:

51 (a) limiting registered organizations registered under this section;
52 or

53 (b) limiting the allowable levels of cannabidiol and tetrahydrocanna-
54 binol that may be contained in medical cannabis authorized under this
55 article, based on therapeutics and patient safety.

1 5. A registered organization under this section may apply under this
2 article to receive or renew registration.

3 § 37. Reports of registered organizations. 1. The executive director
4 shall, by regulation, require each registered organization to file
5 reports by the registered organization during a particular period. The
6 executive director shall determine the information to be reported and
7 the forms, time, and manner of the reporting.

8 2. The executive director shall, by regulation, require each regis-
9 tered organization to adopt and maintain security, tracking, record
10 keeping, record retention and surveillance systems, relating to all
11 medical cannabis at every stage of acquiring, possession, manufacture,
12 sale, delivery, transporting, distributing, or dispensing by the regis-
13 tered organization, subject to regulations of the executive director.

14 § 38. Evaluation; research programs; report by office. 1. The execu-
15 tive director may provide for the analysis and evaluation of the opera-
16 tion of this title. The executive director may enter into agreements
17 with one or more persons, not-for-profit corporations or other organiza-
18 tions, for the performance of an evaluation of the implementation and
19 effectiveness of this title.

20 2. The office may develop, seek any necessary federal approval for,
21 and carry out research programs relating to medical use of cannabis.
22 Participation in any such research program shall be voluntary on the
23 part of practitioners, patients, and designated caregivers.

24 3. The office shall report every two years, beginning two years after
25 the effective date of this chapter, to the governor and the legislature
26 on the medical use of cannabis under this title and make appropriate
27 recommendations.

28 § 39. Cannabis research license. 1. The executive director shall
29 establish a cannabis research license that permits a licensee to
30 produce, process, purchase and possess cannabis for the following limit-
31 ed research purposes:

32 (a) to test chemical potency and composition levels;

33 (b) to conduct clinical investigations of cannabis-derived drug
34 products;

35 (c) to conduct research on the efficacy and safety of administering
36 cannabis as part of medical treatment; and

37 (d) to conduct genomic or agricultural research.

38 2. As part of the application process for a cannabis research license,
39 an applicant must submit to the office a description of the research
40 that is intended to be conducted as well as the amount of cannabis to be
41 grown or purchased. The office shall review an applicant's research
42 project and determine whether it meets the requirements of subsection
43 one of this section. In addition, the office shall assess the applica-
44 tion based on the following criteria:

45 (a) project quality, study design, value, and impact;

46 (b) whether the applicant has the appropriate personnel, expertise,
47 facilities and infrastructure, funding, and human, animal, or other
48 approvals in place to successfully conduct the project; and

49 (c) whether the amount of cannabis to be grown or purchased by the
50 applicant is consistent with the project's scope and goals. If the
51 office determines that the research project does not meet the require-
52 ments of subsection one of this section, the application must be denied.

53 3. A cannabis research licensee may only sell cannabis grown or within
54 its operation to other cannabis research licensees. The office may
55 revoke a cannabis research license for violations of this subsection.

1 4. A cannabis research licensee may contract with the higher education
2 institutions to perform research in conjunction with the university. All
3 research projects, entered into under this section must be approved by
4 the office and meet the requirements of subsection one of this section.

5 5. In establishing a cannabis research license, the executive director
6 may adopt regulations on the following:

7 (a) application requirements;

8 (b) cannabis research license renewal requirements, including whether
9 additional research projects may be added or considered;

10 (c) conditions for license revocation;

11 (d) security measures to ensure cannabis is not diverted to purposes
12 other than research;

13 (e) amount of plants, useable cannabis, cannabis concentrates, or
14 cannabis-infused products a licensee may have on its premises;

15 (f) licensee reporting requirements;

16 (g) conditions under which cannabis grown by licensed cannabis produc-
17 ers and other product types from licensed cannabis processors may be
18 donated to cannabis research licensees; and

19 (h) any additional requirements deemed necessary by the office.

20 6. A cannabis research license issued pursuant to this section must be
21 issued in the name of the applicant, specify the location at which the
22 cannabis researcher intends to operate, which must be within the state
23 of New York, and the holder thereof may not allow any other person to
24 use the license.

25 7. The application fee for a cannabis research license shall be deter-
26 mined by the executive director on an annual basis.

27 8. Each cannabis research licensee shall issue an annual report to the
28 office. The office shall review such report and make a determination as
29 to whether the research project continues to meet the research quali-
30 fications under this section.

31 § 40. Registered organizations and adult-use cannabis. 1. The execu-
32 tive director shall have the authority to grant some or all of the
33 registered organizations previously registered with the department of
34 health and currently registered and in good standing with the office,
35 the ability to be licensed to cultivate, process, distribute and sell
36 adult-use cannabis and cannabis products, pursuant to any fees, rules or
37 conditions prescribed by the executive director in regulation, but
38 exempt from the restrictions on licensed adult-use cultivators, process-
39 ors, and distributors from having any ownership interest in a licensed
40 adult-use retail dispensary pursuant to article four of this chapter.

41 2. The office shall have the authority to hold a competitive bidding
42 process, including an auction, to determine the registered
43 organization(s) authorized to be licensed to cultivate, process,
44 distribute and sell adult-use cannabis and to collect the fees generated
45 from such auction to administer incubators and low or zero-interest
46 loans to qualified social equity applicants. The timing and manner in
47 which registered organizations may be granted such authority shall be
48 determined by the executive director in regulation.

49 3. Alternatively, registered organizations may apply for licensure as
50 an adult-use cannabis cultivator, adult-use cannabis processor, and
51 adult-use cannabis distributor, or apply for licensure as an adult-use
52 cannabis retail dispensary, subject to all of the restrictions and limi-
53 tations set forth in article four of this chapter.

54 § 41. Home cultivation of medical cannabis. 1. Certified patients and
55 their designated caregiver(s) twenty-one years of age or older may apply
56 for registration with the office to grow, possess or transport no more

1 than four cannabis plants per certified patient with no more than eight
2 cannabis plants per household.

3 2. All medical cannabis cultivated at home must be grown in an
4 enclosed, locked space, not open or viewable to the public. Such homeg-
5 rown medical cannabis must only be for use by the certified patient and
6 may not be distributed, sold, or gifted.

7 3. The executive director shall develop rules and regulations govern-
8 ing this section.

9 § 42. Relation to other laws. 1. The provisions of this article shall
10 apply, except that where a provision of this article conflicts with
11 another provision of this chapter, this article shall apply.

12 2. Medical cannabis shall not be deemed to be a "drug" for purposes of
13 article one hundred thirty-seven of the education law.

14 § 43. Protections for the medical use of cannabis. 1. Certified
15 patients, designated caregivers, designated caregiver facilities, prac-
16 titioners, registered organizations and the employees of registered
17 organizations, and cannabis researchers shall not be subject to arrest,
18 prosecution, or penalty in any manner, or denied any right or privilege,
19 including but not limited to civil penalty or disciplinary action by a
20 business or occupational or professional licensing board or bureau,
21 solely for the certified medical use or manufacture of cannabis, or for
22 any other action or conduct in accordance with this article.

23 2. Being a certified patient shall be deemed to be having a "disabili-
24 ty" under article fifteen of the executive law, section forty-c of the
25 civil rights law, sections 240.00, 485.00, and 485.05 of the penal law,
26 and section 200.50 of the criminal procedure law. This subdivision shall
27 not bar the enforcement of a policy prohibiting an employee from
28 performing his or her employment duties while impaired by a controlled
29 substance. This subdivision shall not require any person or entity to do
30 any act that would put the person or entity in direct violation of
31 federal law or cause it to lose a federal contract or funding.

32 3. The fact that a person is a certified patient and/or acting in
33 accordance with this article, shall not be a consideration in a proceed-
34 ing pursuant to applicable sections of the domestic relations law, the
35 social services law and the family court act.

36 4. (a) Certification applications, certification forms, any certified
37 patient information contained within a database, and copies of registry
38 identification cards shall be deemed exempt from public disclosure under
39 sections eighty-seven and eighty-nine of the public officers law.

40 (b) The name, contact information, and other information relating to
41 practitioners registered with the office under this article shall be
42 public information and shall be maintained by the executive director on
43 the office's website accessible to the public in searchable form. Howev-
44 er, if a practitioner notifies the office in writing that he or she does
45 not want his or her name and other information disclosed, that practi-
46 tioner's name and other information shall thereafter not be public
47 information or maintained on the office's website, unless the practi-
48 tioner cancels the request.

49 § 44. Regulations. The executive director shall make regulations to
50 implement this article.

51 § 45. Suspend; terminate. Based upon the recommendation of the execu-
52 tive director and/or the superintendent of state police that there is a
53 risk to the public health or safety, the governor may immediately termi-
54 nate all licenses issued to registered organizations.

55 § 46. Pricing. 1. Every sale of medical cannabis shall be at or below
56 the price approved by the executive director. Every charge made or

1 demanded for medical cannabis not in accordance with the price approved
2 by the executive director, is prohibited.

3 2. The executive director is hereby authorized to set the per dose
4 price of each form of medical cannabis sold by any registered organiza-
5 tion. In reviewing the per dose price of each form of medical cannabis,
6 the executive director may consider the fixed and variable costs of
7 producing the form of cannabis and any other factor the executive direc-
8 tor, in his or her discretion, deems relevant in reviewing the per dose
9 price of each form of medical cannabis.

10 § 47. Severability. If any clause, sentence, paragraph, section or
11 part of this article shall be adjudged by any court of competent juris-
12 diction to be invalid, the judgment shall not affect, impair, or invali-
13 date the remainder thereof, but shall be confined in its operation to
14 the clause, sentence, paragraph, section or part thereof directly
15 involved in the controversy in which the judgment shall have been
16 rendered.

17 ARTICLE 4
18 ADULT-USE CANNABIS

19 Section 60. Licenses issued.

20 61. License application.

21 62. Information to be requested in applications for licenses.

22 63. Fees.

23 64. Selection criteria.

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48 84. Minority, women-owned businesses and disadvantaged farmers;
49 incubator program.

50 85. Collective bargaining.

51 86. Regulations.

52 § 60. Licenses issued. The following kinds of licenses shall be
53 issued by the executive director for the cultivation, processing,
54 distribution and sale of cannabis to cannabis consumers:

- 1 1. Adult-use cultivator license;
- 2 2. Adult-use processor license;
- 3 3. Adult-use cooperative license;
- 4 4. Adult-use distributor license;
- 5 5. Adult-use retail dispensary license;
- 6 6. On-site consumption license; and
- 7 7. Any other type of license as prescribed by the executive director
- 8 in regulation.

9 § 61. License Application. 1. Any person may apply to the office for
10 a license to cultivate, process, distribute or dispense cannabis within
11 this state for sale. Such application shall be in writing and verified
12 and shall contain such information as the office shall require. Such
13 application shall be accompanied by a check or draft for the amount
14 required by this article for such license. If the office shall approve
15 the application, it shall issue a license in such form as shall be
16 determined by its rules. Such license shall contain a description of the
17 licensed premises and in form and in substance shall be a license to the
18 person therein specifically designated to cultivate, process, distribute
19 or dispense cannabis in the premises therein specifically licensed.

20 2. Except as otherwise provided in this article, a separate license
21 shall be required for each facility at which cultivation, processing,
22 distribution or retail dispensing is conducted.

23 3. An applicant shall not be denied a license under this article based
24 solely on a conviction for a violation of article two hundred twenty or
25 section 240.36 of the penal law, prior to the date article two hundred
26 twenty-one of the penal law took effect, or a conviction for a violation
27 of article two hundred twenty-one of the penal law after the effective
28 date of this chapter.

29 § 62. Information to be requested in applications for licenses. 1.
30 The office shall have the authority to prescribe the manner and form in
31 which an application must be submitted to the office for licensure under
32 this article.

33 2. The executive director is authorized to adopt regulations, includ-
34 ing by emergency rule, establishing information which must be included
35 on an application for licensure under this article. Such information may
36 include, but is not limited to: information about the applicant's iden-
37 tity, including racial and ethnic diversity; ownership and investment
38 information, including the corporate structure; evidence of good moral
39 character, including the submission of fingerprints by the applicant to
40 the division of criminal justice services; information about the prem-
41 ises to be licensed; financial statements; and any other information
42 prescribed by in regulation.

43 3. All license applications shall be signed by the applicant (if an
44 individual), by a managing partner (if a limited liability corporation),
45 by an officer (if a corporation), or by all partners (if a partnership).
46 Each person signing such application shall verify it or affirm it as
47 true under the penalties of perjury.

48 4. All license or permit applications shall be accompanied by a check,
49 draft or other forms of payment as the office may require or authorize
50 in the amount required by this article for such license or permit.

51 5. If there be any change, after the filing of the application or the
52 granting of a license, in any of the facts required to be set forth in
53 such application, a supplemental statement giving notice of such change,
54 cost and source of money involved in the change, duly verified, shall be
55 filed with the office within ten days after such change. Failure to do

1 so shall, if willful and deliberate, be cause for revocation of the
2 license.

3 6. In giving any notice, or taking any action in reference to a regis-
4 tered organization or licensee of a licensed premises, the office may
5 rely upon the information furnished in such application and in any
6 supplemental statement connected therewith, and such information may be
7 presumed to be correct, and shall be binding upon a registered organiza-
8 tions, licensee or licensed premises as if correct. All information
9 required to be furnished in such application or supplemental statements
10 shall be deemed material in any prosecution for perjury, any proceeding
11 to revoke, cancel or suspend any license, and in the office's determi-
12 nation to approve or deny the license.

13 7. The office may, in its discretion, waive the submission of any
14 category of information described in this section for any category of
15 license or permit, provided that it shall not be permitted to waive the
16 requirement for submission of any such category of information solely
17 for an individual applicant or applicants.

18 § 63. Fees. 1. The office shall have the authority to charge appli-
19 cants for licensure under this article a non-refundable application fee
20 and/or to auction licenses to bidders determined by the office to be
21 qualified for such licensure based on the selection criteria in section
22 sixty-four of this article. Such fee may be based on the type of licen-
23 sure sought, cultivation and/or production volume, or any other factors
24 deemed reasonable and appropriate by the office to achieve the policy
25 and purpose of this chapter.

26 2. The office shall have the authority to charge licensees a biennial
27 license fee. Such fee shall be based on the amount of cannabis to be
28 cultivated, processed, distributed and/or dispensed by the licensee or
29 the gross annual receipts of the licensee for the previous license peri-
30 od, and any other factors deemed reasonable and appropriate by the
31 office.

32 § 64. Selection criteria. 1. The executive director shall develop
33 regulations for determining whether or not an applicant should be grant-
34 ed the privilege of an adult-use cannabis license, based on, but not
35 limited to, the following criteria:

36 (a) the applicant will be able to maintain effective control against
37 the illegal diversion of cannabis;

38 (b) the applicant will be able to comply with all applicable state
39 laws and regulations;

40 (c) the applicant and its officers are ready, willing, and able to
41 properly carry on the activities for which a license is sought;

42 (d) the applicant possesses or has the right to use sufficient land,
43 buildings, and equipment to properly carry on the activity described in
44 the application;

45 (e) it is in the public interest that such license be granted, taking
46 into consideration, but not limited to, the following criteria:

47 (i) that it is a privilege, and not a right, to cultivate, process,
48 distribute, and sell cannabis;

49 (ii) the number, classes, and character of other licenses in proximity
50 to the location and in the particular municipality or subdivision there-
51 of;

52 (iii) evidence that all necessary licenses and permits have been
53 obtained from the state and all other governing bodies;

54 (iv) effect of the grant of the license on pedestrian or vehicular
55 traffic, and parking, in proximity to the location;

1 (v) the existing noise level at the location and any increase in noise
2 level that would be generated by the proposed premises;

3 (vi) the history of violations under the alcoholic beverage control
4 law or the cannabis law at the location, as well as any pattern of
5 violations under the alcoholic beverage control law or the cannabis law,
6 and reported criminal activity at the proposed premises;

7 (vii) the effect on the production, price and availability of cannabis
8 and cannabis products; and

9 (viii) any other factors specified by law or regulation that are rele-
10 vant to determine that granting a license would promote public conven-
11 ience and advantage and the public interest of the community;

12 (f) the applicant and its managing officers are of good moral charac-
13 ter and do not have an ownership or controlling interest in more
14 licenses or permits than allowed by this chapter;

15 (g) the applicant has entered into a labor peace agreement with a
16 bona-fide labor organization that is actively engaged in representing or
17 attempting to represent the applicant's employees. In evaluating appli-
18 cations from entities with twenty-five or more employees, the office
19 shall give priority to applicants that are a party to a collective
20 bargaining agreement with a bona-fide labor organization in New York or
21 in another state, or uses union labor to construct its licensed facili-
22 ty;

23 (h) the applicant will contribute to communities and people dispropor-
24 tionately harmed by cannabis law enforcement;

25 (i) if the application is for an adult-use cultivator license, the
26 environmental impact of the facility to be licensed; and

27 (j) the applicant satisfies any other conditions as determined by the
28 executive director.

29 2. If the executive director is not satisfied that the applicant
30 should be issued a license, the executive director shall notify the
31 applicant in writing of the specific reason or reasons for denial.

32 3. The executive director shall have authority and sole discretion to
33 determine the number of licenses issued pursuant to this article.

34 § 65. Limitations of licensure; duration. 1. No license of any kind
35 may be issued to a person under the age of twenty-one years, nor shall
36 any licensee employ anyone under the age of twenty-one years.

37 2. No person shall sell, deliver, or give away or cause or permit or
38 procure to be sold, delivered or given away any cannabis to any person,
39 actually or apparently, under the age of twenty-one years, any visibly
40 intoxicated person, or any habitually intoxicated person known to be
41 such by the person authorized to manufacture, traffic, or sell any
42 cannabis.

43 3. The office shall have the authority to limit, by canopy, plant
44 count, square footage or other means, the amount of cannabis allowed to
45 be grown, processed, distributed or sold by a licensee.

46 4. All licenses under this article shall expire two years after the
47 date of issue.

48 § 66. License renewal. 1. Each license, issued pursuant to this arti-
49 cle, may be renewed upon application therefore by the licensee and the
50 payment of the fee for such license as prescribed by this article. In
51 the case of applications for renewals, the office may dispense with the
52 requirements of such statements as it deems unnecessary in view of those
53 contained in the application made for the original license, but in any
54 event the submission of photographs of the licensed premises shall be
55 dispensed with, provided the applicant for such renewal shall file a
56 statement with the office to the effect that there has been no alter-

1 ation of such premises since the original license was issued. The office
2 may make such rules as it deems necessary, not inconsistent with this
3 chapter, regarding applications for renewals of licenses and permits and
4 the time for making the same.

5 2. Each applicant must submit to the office documentation of the
6 racial, ethnic, and gender diversity of the applicant's employees and
7 owners prior to a license being renewed. In addition, the office may
8 create a social responsibility framework agreement and make the adher-
9 ence to such agreement a conditional requirement of license renewal.

10 3. The office shall provide an application for renewal of a license
11 issued under this article not less than ninety days prior to the expira-
12 tion of the current license.

13 4. The office may only issue a renewal license upon receipt of the
14 prescribed renewal application and renewal fee from a licensee if, in
15 addition to the criteria in this section, the licensee's license is not
16 under suspension and has not been revoked.

17 § 67. Amendments; changes in ownership and organizational structure.

18 1. Licenses issued pursuant to this article shall specify:

19 (a) the name and address of the licensee;

20 (b) the activities permitted by the license;

21 (c) the land, buildings and facilities that may be used for the
22 licensed activities of the licensee;

23 (d) a unique license number issued by the office to the licensee; and

24 (e) such other information as the executive director shall deem neces-
25 sary to assure compliance with this chapter.

26 2. Upon application of a licensee to the office, a license may be
27 amended to allow the licensee to relocate within the state, to add or
28 delete licensed activities or facilities, or to amend the ownership or
29 organizational structure of the entity that is the licensee. The fee for
30 such amendment shall be two hundred fifty dollars.

31 3. A license shall become void by a change in ownership, substantial
32 corporate change or location without prior written approval of the execu-
33 tive director. The executive director may promulgate regulations allow-
34 ing for certain types of changes in ownership without the need for prior
35 written approval.

36 4. For purposes of this section, "substantial corporate change" shall
37 mean:

38 (a) for a corporation, a change of eighty percent or more of the offi-
39 cers and/or directors, or a transfer of eighty percent or more of stock
40 of such corporation, or an existing stockholder obtaining eighty percent
41 or more of the stock of such corporation; or

42 (b) for a limited liability company, a change of eighty percent or
43 more of the managing members of the company, or a transfer of eighty
44 percent or more of ownership interest in said company, or an existing
45 member obtaining a cumulative of eighty percent or more of the ownership
46 interest in said company.

47 § 68. Adult-use cultivator license. 1. An adult-use cultivator's
48 license shall authorize the acquisition, possession, cultivation and
49 sale of cannabis from the licensed premises of the adult-use cultivator
50 by such licensee to duly licensed processors in this state. The execu-
51 tive director may establish regulations allowing licensed adult-use
52 cultivators to perform certain types of minimal processing without the
53 need for an adult-use processor license.

54 2. For purposes of this section, cultivation shall include, but not be
55 limited to, the planting, growing, cloning, harvesting, drying, curing,
56 grading and trimming of cannabis.

1 3. A person holding an adult-use cultivator's license may apply for,
2 and obtain, one processor's license and one distributor's license.

3 4. A person holding an adult-use cultivator's license may not also
4 hold a retail dispensary license pursuant to this article and no adult-
5 use cannabis cultivator shall have a direct or indirect interest,
6 including by stock ownership, interlocking directors, mortgage or lien,
7 personal or real property, or any other means, in any premises licensed
8 as an adult-use cannabis retail dispensary or in any business licensed
9 as an adult-use cannabis retail dispensary pursuant to this article.

10 5. A person holding an adult-use cultivator's license may not hold a
11 license to distribute cannabis under this article unless the licensed
12 cultivator is also licensed as a processor under this article.

13 6. No person may have a direct or indirect financial or controlling
14 interest in more than one adult-use cultivator license issued pursuant
15 to this chapter.

16 7. The executive director shall have the authority to issue microbusi-
17 ness cultivator licenses, allowing microbusiness licensees to cultivate,
18 process, and distribute adult-use cannabis direct to licensed cannabis
19 retailers, under a single license. The executive director shall estab-
20 lish through regulation a production limit of total cannabis cultivated,
21 processed and/or distributed annually for microbusiness cultivator
22 licenses.

23 § 69. Adult-use processor license. 1. A processor's license shall
24 authorize the acquisition, possession, processing and sale of cannabis
25 from the licensed premises of the adult-use cultivator by such licensee
26 to duly licensed distributors.

27 2. For purposes of this section, processing shall include, but not be
28 limited to, blending, extracting, infusing, packaging, labeling, brand-
29 ing and otherwise making or preparing cannabis products. Processing
30 shall not include the cultivation of cannabis.

31 3. No processor shall be engaged in any other business on the premises
32 to be licensed; except that nothing contained in this chapter shall
33 prevent a cannabis cultivator, cannabis processor, and cannabis distrib-
34 utor from operating on the same premises and from a person holding all
35 three licenses.

36 4. No cannabis processor licensee may hold more than three cannabis
37 processor licenses.

38 5. No adult-use cannabis processor shall have a direct or indirect
39 interest, including by stock ownership, interlocking directors, mortgage
40 or lien, personal or real property, or any other means, in any premises
41 licensed as an adult-use cannabis retail dispensary or in any business
42 licensed as an adult-use cannabis retail dispensary pursuant to this
43 article.

44 § 70. Adult-use cooperative license. 1. A cooperative license shall
45 authorize the acquisition, possession, cultivation, processing and sale
46 from the licensed premises of the adult-use cooperative by such licensee
47 to duly licensed distributors and/or retail dispensaries; but not
48 directly to cannabis consumers.

49 2. To be licensed as an adult-use cooperative, the cooperative must:

50 (i) be comprised of residents of the state of New York as a limited
51 liability company or limited liability partnership under the laws of the
52 state, or an appropriate business structure as determined by the execu-
53 tive director;

54 (ii) at least one member of the cooperative must have filed a Federal
55 Schedule F (Form 1040) for three of the past five years; and

1 (iii) the cooperative must operate according to the seven cooperative
2 principles published by the International Cooperative Alliance in nine-
3 teen hundred ninety-five.

4 3. No person shall be a member of more than one adult-use cooperative
5 licensed pursuant to this section.

6 4. No person or member of an adult-use cooperative license may have a
7 direct or indirect financial or controlling interest in any other
8 adult-use cannabis license issued pursuant to this chapter.

9 5. No adult-use cannabis cooperative shall have a direct or indirect
10 interest, including by stock ownership, interlocking directors, mortgage
11 or lien, personal or real property, or any other means, in any premises
12 licensed as an adult-use cannabis retail dispensary or in any business
13 licensed as an adult-use cannabis retail dispensary pursuant to this
14 article.

15 6. The executive director shall promulgate regulations governing coop-
16 erative licenses, including, but not limited to, the establishment of
17 canopy limits on the size and scope of cooperative licensees, and other
18 measures designed to incentivize the use and licensure of cooperatives.

19 § 71. Adult-use distributor license. 1. A distributor's license shall
20 authorize the acquisition, possession, distribution and sale of cannabis
21 from the licensed premises of a licensed adult-use processor, microbusi-
22 ness cultivator, or registered organization authorized to sell adult-use
23 cannabis, to duly licensed retail dispensaries.

24 2. No distributor shall have a direct or indirect economic interest in
25 any adult-use retail dispensary licensed pursuant to this article, or in
26 any registered organization registered pursuant to article three of this
27 chapter. This restriction shall not prohibit a registered organization
28 authorized pursuant to section forty of this chapter, from being granted
29 licensure by the office to distribute adult-use cannabis products culti-
30 vated and processed by the registered organization to the registered
31 organization's own licensed adult-use retail dispensaries.

32 3. Nothing in subdivision two of this section shall prevent a distrib-
33 utor from charging an appropriate fee for the distribution of cannabis,
34 including based on the volume of cannabis distributed.

35 § 72. Adult-use retail dispensary license. 1. A retail dispensary
36 license shall authorize the acquisition, possession and sale of cannabis
37 from the licensed premises of the retail dispensary by such licensee to
38 cannabis consumers.

39 2. No person may have a direct or indirect financial or controlling
40 interest in more than three retail dispensary licenses issued pursuant
41 to this chapter. This restriction shall not prohibit a registered organ-
42 ization, authorized pursuant to section forty of this chapter, from
43 being granted licensure by the office to sell adult-use cannabis at
44 locations previously registered by the department of health and in oper-
45 ation as of April first, two thousand nineteen; subject to any condi-
46 tions, limitations or restrictions established by the office.

47 3. No person holding a retail dispensary license may also hold an
48 adult-use cultivation, processor, microbusiness cultivator, cooperative
49 or distributor license pursuant to this article.

50 4. No retail license shall be granted for any premises, unless the
51 applicant shall be the owner thereof, or shall be in possession of said
52 premises under a lease, management agreement or other agreement giving
53 the applicant control over the premises, in writing, for a term not less
54 than the license period.

55 5. No premises shall be licensed to sell cannabis products, unless
56 said premises shall be located in a store, the principal entrance to

1 which shall be from the street level and located on a public thorough-
2 fare in premises which may be occupied, operated or conducted for busi-
3 ness, trade or industry or on an arcade or sub-surface thoroughfare
4 leading to a railroad terminal.

5 6. No cannabis retail license shall be granted for any premises where
6 a licensee would not be allowed to sell at retail for consumption of
7 alcohol off the premises based on its proximity to a building occupied
8 exclusively as a school, church, synagogue or other place of worship
9 pursuant to the provisions of section one hundred five of the alcohol
10 beverage control law.

11 § 73. Notification to municipalities of adult-use retail dispensary.

12 1. Not less than thirty days nor more than two hundred seventy days
13 before filing an application for licensure as an adult-use cannabis
14 retail dispensary, an applicant shall notify the municipality in which
15 the premises is located of such applicant's intent to file such an
16 application.

17 2. Such notification shall be made to the clerk of the village, town
18 or city, as the case may be, wherein the premises is located. For
19 purposes of this section:

20 (a) notification need only be given to the clerk of a village when the
21 premises is located within the boundaries of the village, town or city;
22 and

23 (b) in the city of New York, the community board established pursuant
24 to section twenty-eight hundred of the New York city charter with juris-
25 diction over the area in which the premises is located shall be consid-
26 ered the appropriate public body to which notification shall be given.

27 3. Such notification shall be made in such form as shall be prescribed
28 by the rules of the office.

29 4. A municipality may express an opinion for or against the granting
30 of such application. Any such opinion shall be deemed part of the record
31 upon which the office makes its determination to grant or deny the
32 application.

33 5. Such notification shall be made by: (a) certified mail, return
34 receipt requested; (b) overnight delivery service with proof of mailing;
35 or (c) personal service upon the offices of the clerk or community
36 board.

37 6. The office shall require such notification to be on a standardized
38 form that can be obtained on the internet or from the office and such
39 notification to include:

40 (a) the trade name or "doing business as" name, if any, of the estab-
41 lishment;

42 (b) the full name of the applicant;

43 (c) the street address of the establishment, including the floor
44 location or room number, if applicable;

45 (d) the mailing address of the establishment, if different than the
46 street address;

47 (e) the name, address and telephone number of the attorney or repre-
48 sentative of the applicant, if any;

49 (f) a statement indicating whether the application is for:

50 (i) a new establishment;

51 (ii) a transfer of an existing licensed business;

52 (iii) a renewal of an existing license; or

53 (iv) an alteration of an existing licensed premises;

54 (g) if the establishment is a transfer or previously licensed prem-
55 ises, the name of the old establishment and such establishment's regis-
56 tration or license number;

1 (h) in the case of a renewal or alteration application, the registra-
2 tion or license number of the applicant; and

3 (i) the type of license.

4 § 74. On-site consumption license; provisions governing on-site
5 consumption licenses. 1. No licensed adult-use cannabis retail dispen-
6 sary shall be granted a cannabis on-site consumption license for any
7 premises, unless the applicant shall be the owner thereof, or shall be
8 in possession of said premises under a lease, in writing, for a term not
9 less than the license period except, however, that such license may
10 thereafter be renewed without the requirement of a lease as provided in
11 this section. This subdivision shall not apply to premises leased from
12 government agencies, as defined under subdivision twenty of section
13 three of this chapter; provided, however, that the appropriate adminis-
14 trator of such government agency provides some form of written documen-
15 tation regarding the terms of occupancy under which the applicant is
16 leasing said premises from the government agency for presentation to the
17 office at the time of the license application. Such documentation shall
18 include the terms of occupancy between the applicant and the government
19 agency, including, but not limited to, any short-term leasing agreements
20 or written occupancy agreements.

21 2. No adult-use cannabis retail dispensary shall be granted a cannabis
22 on-site consumption license for any premises where a license would not
23 be allowed to sell at retail for consumption of alcohol on the premises
24 based on its proximity to a building occupied exclusively as a school,
25 church, synagogue or other place of worship pursuant to the provisions
26 of section one hundred five of the alcoholic beverage control law.

27 3. The office may consider any or all of the following in determining
28 whether public convenience and advantage and the public interest will be
29 promoted by the granting of a license for an on-site cannabis consump-
30 tion at a particular location:

31 (a) that it is a privilege, and not a right, to cultivate, process,
32 distribute, and sell cannabis;

33 (b) the number, classes, and character of other licenses in proximity
34 to the location and in the particular municipality or subdivision there-
35 of;

36 (c) evidence that all necessary licenses and permits have been
37 obtained from the state and all other governing bodies;

38 (d) effect of the grant of the license on pedestrian or vehicular
39 traffic, and parking, in proximity to the location;

40 (e) the existing noise level at the location and any increase in noise
41 level that would be generated by the proposed premises;

42 (f) the history of violations under the alcoholic beverage control law
43 or this chapter at the location, as well as any pattern of violations
44 under the alcoholic beverage control law or this chapter, and reported
45 criminal activity at the proposed premises; and

46 (g) any other factors specified by law or regulation that are relevant
47 to determine that granting a license would promote public convenience
48 and advantage and the public interest of the community;

49 4. If the office shall disapprove an application for an on-site
50 consumption license, it shall state and file in its offices the reasons
51 therefor and shall notify the applicant thereof. Such applicant may
52 thereupon apply to the office for a review of such action in a manner to
53 be prescribed by the rules of the office.

54 5. No adult-use cannabis on-site consumption licensee shall keep upon
55 the licensed premises any adult-use cannabis products except those
56 purchased from a licensed distributor, microbusiness cultivator or

1 registered organization authorized to sell adult-use cannabis, and only
2 in containers approved by the office. Such containers shall have affixed
3 thereto such labels as may be required by the rules of the office. No
4 cannabis retail licensee for on-site consumption shall reuse, refill,
5 tamper with, adulterate, dilute or fortify the contents of any container
6 of cannabis products as received from the manufacturer or distributor.

7 6. No cannabis on-site consumption licensee shall sell, deliver or
8 give away, or cause or permit or procure to be sold, delivered or given
9 away any cannabis for consumption on the premises where sold in a
10 container or package containing more than one gram of cannabis.

11 7. Except where a permit to do so is obtained pursuant to section
12 405.10 of the penal law, no cannabis on-site consumption licensee shall
13 suffer, permit, or promote an event on its premises wherein any person
14 shall use, explode, or cause to explode, any fireworks or other pyro-
15 technics in a building as defined in paragraph e of subdivision one of
16 section 405.10 of the penal law, that is covered by such license or
17 possess such fireworks or pyrotechnics for such purpose. In addition to
18 any other penalty provided by law, a violation of this subdivision shall
19 constitute an adequate ground for instituting a proceeding to suspend,
20 cancel, or revoke the license of the violator in accordance with the
21 applicable procedures specified in this chapter; provided however, if
22 more than one licensee is participating in a single event, upon approval
23 by the office, only one licensee must obtain such permit.

24 8. No premises licensed to sell adult-use cannabis for on-site
25 consumption under this chapter shall be permitted to have any opening or
26 means of entrance or passageway for persons or things between the
27 licensed premises and any other room or place in the building containing
28 the licensed premises, or any adjoining or abutting premises, unless
29 ingress and egress is restricted by an employee, agent of the licensee,
30 or other method approved by the office of controlling access to the
31 facility.

32 9. Each cannabis on-site consumption licensee shall keep and maintain
33 upon the licensed premises, adequate records of all transactions involv-
34 ing the business transacted by such licensee which shall show the amount
35 of cannabis products, in an applicable metric measurement, purchased by
36 such licensee together with the names, license numbers and places of
37 business of the persons from whom the same were purchased, the amount
38 involved in such purchases, as well as the sales of cannabis products
39 made by such licensee. The office is hereby authorized to promulgate
40 rules and regulations permitting an on-site licensee operating two or
41 more premises separately licensed to sell cannabis products for on-site
42 consumption to inaugurate or retain in this state methods or practices
43 of centralized accounting, bookkeeping, control records, reporting,
44 billing, invoicing or payment respecting purchases, sales or deliveries
45 of cannabis products, or methods and practices of centralized receipt or
46 storage of cannabis products within this state without segregation or
47 earmarking for any such separately licensed premises, wherever such
48 methods and practices assure the availability, at such licensee's
49 central or main office in this state, of data reasonably needed for the
50 enforcement of this chapter. Such records shall be available for
51 inspection by any authorized representative of the office.

52 10. All retail licensed premises shall be subject to inspection by any
53 peace officer, acting pursuant to his or her special duties, or police
54 officer and by the duly authorized representatives of the office, during
55 the hours when the said premises are open for the transaction of busi-
56 ness.

1 11. A cannabis on-site consumption licensee shall not provide cannabis
2 products to any person under the age of twenty-one or to anyone visibly
3 intoxicated.

4 § 75. Record keeping and tracking. 1. The executive director shall, by
5 regulation, require each licensee pursuant to this article to adopt and
6 maintain security, tracking, record keeping, record retention and
7 surveillance systems, relating to all cannabis at every stage of acquir-
8 ing, possession, manufacture, sale, delivery, transporting, or distrib-
9 uting by the licensee, subject to regulations of the executive director.

10 2. Every licensee shall keep and maintain upon the licensed premises
11 adequate books and records of all transactions involving the licensee
12 and sale of its products, which shall include, but is not limited to,
13 all information required by any rules promulgated by the office.

14 3. Each sale shall be recorded separately on a numbered invoice, which
15 shall have printed thereon the number, the name of the licensee, the
16 address of the licensed premises, and the current license number.
17 Licensed producers shall deliver to the licensed distributor a true
18 duplicate invoice stating the name and address of the purchaser, the
19 quantity purchased, description and the price of the product, and a
20 true, accurate and complete statement of the terms and conditions on
21 which such sale is made.

22 4. Such books, records and invoices shall be kept for a period of five
23 years and shall be available for inspection by any authorized represen-
24 tative of the office.

25 5. Each adult-use cannabis retail dispensary and on-site consumption
26 licensee shall keep and maintain upon the licensed premises, adequate
27 records of all transactions involving the business transacted by such
28 licensee which shall show the amount of cannabis, in weight, purchased
29 by such licensee together with the names, license numbers and places of
30 business of the persons from whom the same were purchased, the amount
31 involved in such purchases, as well as the sales of cannabis made by
32 such licensee.

33 § 76. Inspections and ongoing requirements. All licensed or permitted
34 premises, regardless of the type of premises, shall be subject to
35 inspection by the office, by the duly authorized representatives of the
36 office, by any peace officer acting pursuant to his or her special
37 duties, or by a police officer, during the hours when the said premises
38 are open for the transaction of business. The office shall make reason-
39 able accommodations so that ordinary business is not interrupted and
40 safety and security procedures are not compromised by the inspection. A
41 person who holds a license or permit must make himself or herself, or an
42 agent thereof, available and present for any inspection required by the
43 office. Such inspection may include, but is not limited to, ensuring
44 compliance by the licensee or permittee with all other applicable build-
45 ing codes, fire, health, safety, and governmental regulations, including
46 at the municipal, county, and state level.

47 § 77. Adult-use cultivators, processors or distributors not to be
48 interested in retail dispensaries. 1. It shall be unlawful for a culti-
49 vator, processor, cooperative or distributor licensed under this article
50 to:

51 (a) be interested directly or indirectly in any premises where any
52 cannabis product is sold at retail; or in any business devoted wholly or
53 partially to the sale of any cannabis product at retail by stock owner-
54 ship, interlocking directors, mortgage or lien or any personal or real
55 property, or by any other means.

1 (b) make, or cause to be made, any loan to any person engaged in the
2 manufacture or sale of any cannabis product at wholesale or retail.

3 (c) make any gift or render any service of any kind whatsoever,
4 directly or indirectly, to any person licensed under this chapter which
5 in the judgment of the office may tend to influence such licensee to
6 purchase the product of such cultivator or processor or distributor.

7 (d) enter into any contract with any retail licensee whereby such
8 licensee agrees to confine his sales to cannabis products manufactured
9 or sold by one or more such cultivator or processors or distributors.
10 Any such contract shall be void and subject the licenses of all parties
11 concerned to revocation for cause.

12 2. The provisions of this section shall not prohibit a registered
13 organization authorized pursuant to section forty of this chapter, from
14 cultivating, processing, distributing and selling adult-use cannabis
15 under this article, at facilities wholly owned and operated by such
16 registered organization, subject to any conditions, limitations or
17 restrictions established by the office.

18 3. The office shall have the power to create rules and regulations in
19 regard to this section.

20 § 78. Packaging and labeling of adult-use cannabis products. 1. The
21 office is hereby authorized to promulgate rules and regulations govern-
22 ing the packaging and labeling of cannabis products, sold or possessed
23 for sale in New York state.

24 2. Such regulations shall include, but not be limited to, requiring
25 that:

26 (a) packaging meets requirements similar to the federal "poison
27 prevention packaging act of 1970," 15 U.S.C. Sec 1471 et seq.;

28 (b) all cannabis-infused products shall have a separate packaging for
29 each serving;

30 (c) prior to delivery or sale at a retailer, cannabis and cannabis
31 products shall be labeled and placed in a resealable, child-resistant
32 package; and

33 (d) packages and labels shall not be made to be attractive to minors.

34 3. Such regulations shall include requiring labels warning consumers
35 of any potential impact on human health resulting from the consumption
36 of cannabis products that shall be affixed to those products when sold,
37 if such labels are deemed warranted by the office.

38 4. Such rules and regulations shall establish methods and procedures
39 for determining serving sizes for cannabis-infused products, active
40 cannabis concentration per serving size, and number of servings per
41 container. Such regulations shall also require a nutritional fact panel
42 that incorporates data regarding serving sizes and potency thereof.

43 5. The packaging, sale, or possession by any licensee of any cannabis
44 product not labeled or offered in conformity with rules and regulations
45 promulgated in accordance with this section shall be grounds for the
46 imposition of a fine, and/or the suspension, revocation or cancellation
47 of a license.

48 § 79. Laboratory testing. 1. Every processor of adult-use cannabis
49 shall contract with an independent laboratory permitted pursuant to
50 section one hundred twenty-nine of this chapter, to test the cannabis
51 products it produces pursuant to rules and regulations prescribed by the
52 office. The executive director may assign an approved testing laborato-
53 ry, which the processor of adult-use cannabis must use.

54 2. Adult-use cannabis processors shall make laboratory test reports
55 available to licensed distributors and retail dispensaries for all
56 cannabis products manufactured by the processor.

1 3. Licensed retail dispensaries shall maintain accurate documentation
2 of laboratory test reports for each cannabis product offered for sale to
3 cannabis consumers. Such documentation shall be made publicly available
4 by the licensed retail dispensary.

5 4. Onsite laboratory testing by licensees is permissible; however,
6 such testing shall not be certified by the office and does not exempt
7 the licensee from the requirements of quality assurance testing at a
8 testing laboratory pursuant to this section.

9 5. An owner of a cannabis laboratory testing permit shall not hold a
10 license in any other category within this article and shall not own or
11 have ownership interest in a registered organization registered pursuant
12 to article three of this chapter.

13 6. The office shall have the authority to require any licensee under
14 this article to submit cannabis or cannabis products to one or more
15 independent laboratories for testing.

16 § 80. Provisions governing the cultivation and processing of adult-use
17 cannabis. 1. Cultivation of cannabis must not be visible from a public
18 place by normal unaided vision.

19 2. No cultivator or processor of adult-use cannabis shall sell, or
20 agree to sell or deliver in the state any cannabis products, as the case
21 may be, except in sealed containers containing quantities in accordance
22 with size standards pursuant to rules adopted by the office. Such
23 containers shall have affixed thereto such labels as may be required by
24 the rules of the office.

25 3. No cultivator or processor of adult-use cannabis shall furnish or
26 cause to be furnished to any licensee, any exterior or interior sign,
27 printed, painted, electric or otherwise, except as authorized by the
28 office. The office may make such rules as it deems necessary to carry
29 out the purpose and intent of this subdivision.

30 4. Cultivators of adult-use cannabis shall only use pesticides that
31 are registered by the department of environmental conservation or that
32 specifically meet the United States environmental protection agency
33 registration exemption criteria for minimum risk pesticides, and only in
34 compliance with regulations, standards and guidelines issued by the
35 department of environmental conservation.

36 5. No cultivator or processor of adult-use cannabis shall transport
37 cannabis products in any vehicle owned and operated or hired and oper-
38 ated by such cultivator or processor, unless there shall be attached to
39 or inscribed upon both sides of such vehicle a sign, showing the name
40 and address of the licensee, together with the following inscription:
41 "New York State Cannabis Cultivator (or Processor) License No. _____" in
42 uniform letters not less than three and one-half inches in height. In
43 lieu of such sign a cultivator or processor may have in the cab of such
44 vehicle a photostatic copy of its current license issued by the office,
45 and such copy duly authenticated by the office.

46 6. No cultivator or processor of adult-use cannabis shall deliver any
47 cannabis products, except in vehicles owned and operated by such culti-
48 vator, processor, or hired and operated by such cultivator or processor
49 from a trucking or transportation company registered with the office,
50 and shall only make deliveries at the licensed premises of the purchas-
51 er.

52 7. No cultivator or processor of adult-use cannabis, including an
53 adult-use cannabis cooperative or microbusiness cultivator, may offer
54 any incentive, payment or other benefit to a licensed cannabis retail
55 dispensary in return for carrying the cultivator, processor, cooperative
56 or microbusiness cultivator's products, or preferential shelf placement.

1 8. All cannabis products shall be processed in accordance with good
2 manufacturing processes, pursuant to Part 111 of Title 21 of the Code of
3 Federal Regulations, as may be modified by the executive director in
4 regulation.

5 9. No processor of adult-use cannabis shall produce any product which,
6 in the discretion of the office, is designed to appeal to anyone under
7 the age of twenty-one years.

8 10. The use or integration of alcohol or nicotine in cannabis products
9 is strictly prohibited.

10 § 81. Provisions governing the distribution of adult-use cannabis. 1.
11 No distributor shall sell, or agree to sell or deliver any cannabis
12 products, as the case may be, in any container, except in a sealed pack-
13 age. Such containers shall have affixed thereto such labels as may be
14 required by the rules of the office.

15 2. No distributor shall deliver any cannabis products, except in vehi-
16 cles owned and operated by such distributor, or hired and operated by
17 such distributor from a trucking or transportation company registered
18 with the office, and shall only make deliveries at the licensed premises
19 of the purchaser.

20 3. Each distributor shall keep and maintain upon the licensed prem-
21 ises, adequate books and records of all transactions involving the busi-
22 ness transacted by such distributor, which shall show the amount of
23 cannabis products purchased by such distributor together with the names,
24 license numbers and places of business of the persons from whom the same
25 was purchased and the amount involved in such purchases, as well as the
26 amount of cannabis products sold by such distributor together with the
27 names, addresses, and license numbers of such purchasers. Each sale
28 shall be recorded separately on a numbered invoice, which shall have
29 printed thereon the number, the name of the licensee, the address of the
30 licensed premises, and the current license number. Such distributor
31 shall deliver to the purchaser a true duplicate invoice stating the name
32 and address of the purchaser, the quantity of cannabis products,
33 description by brands and the price of such cannabis products, and a
34 true, accurate and complete statement of the terms and conditions on
35 which such sale is made. Such books, records and invoices shall be kept
36 for a period of five years and shall be available for inspection by any
37 authorized representative of the office.

38 4. No distributor shall furnish or cause to be furnished to any licen-
39 see, any exterior or interior sign, printed, painted, electric or other-
40 wise, unless authorized by the office.

41 5. No distributor shall provide any discount, rebate or customer
42 loyalty program to any licensed retailer, except as otherwise allowed by
43 the office.

44 6. The executive director is authorized to promulgate regulations
45 establishing a maximum margin for which a distributor may mark up a
46 cannabis product for sale to a retail dispensary. Any adult-use cannabis
47 product sold by a distributor for more than the maximum markup allowed
48 in regulation, shall be unlawful.

49 7. Each distributor shall keep and maintain upon the licensed prem-
50 ises, adequate books and records to demonstrate the distributor's actual
51 cost of doing business, using accounting standards and methods regularly
52 employed in the determination of costs for the purpose of federal income
53 tax reporting, for the total operation of the licensee. Such books,
54 records and invoices shall be kept for a period of five years and shall
55 be available for inspection by any authorized representative of the

1 office for use in determining the maximum markup allowed in regulation
2 pursuant to subdivision six of this section.

3 § 82. Provisions governing adult-use cannabis retail dispensaries. 1.
4 No cannabis retail licensee shall sell, deliver, or give away or cause
5 or permit or procure to be sold, delivered or given away any cannabis to
6 any person, actually or apparently, under the age of twenty-one years,
7 any visibly intoxicated person, or any habitually intoxicated person
8 known to be such by the person authorized to sell, deliver, or give away
9 any cannabis.

10 2. No cannabis retail licensee shall sell more than one ounce of
11 cannabis per cannabis consumer per day; nor more than five grams of
12 cannabis concentrate per cannabis consumer per day.

13 3. No cannabis retail licensee shall sell alcoholic beverages, nor
14 have or possess a license or permit to sell alcoholic beverages, on the
15 same premises where cannabis products are sold.

16 4. No sign of any kind printed, painted or electric, advertising any
17 brand shall be permitted on the exterior or interior of such premises,
18 except by permission of the office.

19 5. No cannabis retail licensee shall sell or deliver any cannabis
20 products to any person with knowledge of, or with reasonable cause to
21 believe, that the person to whom such cannabis products are being sold,
22 has acquired the same for the purpose of peddling them from place to
23 place, or of selling or giving them away in violation of the provisions
24 of this chapter or in violation of the rules and regulations of the
25 office.

26 6. All premises licensed under this section shall be subject to
27 inspection by any peace officer described in subdivision four of section
28 2.10 of the criminal procedure law acting pursuant to his or her special
29 duties, or police officer or any duly authorized representative of the
30 office, during the hours when the said premises are open for the trans-
31 action of business.

32 7. No cannabis retail licensee shall be interested, directly or indi-
33 rectly, in any cultivator, processor or distributor licensed pursuant to
34 this article, by stock ownership, interlocking directors, mortgage or
35 lien on any personal or real property or by any other means. Any lien,
36 mortgage or other interest or estate, however, now held by such retailer
37 on or in the personal or real property of such manufacturer or distribu-
38 tor, which mortgage, lien, interest or estate was acquired on or before
39 December thirty-first, two thousand eighteen, shall not be included
40 within the provisions of this subdivision; provided, however, the burden
41 of establishing the time of the accrual of the interest comprehended by
42 this subdivision, shall be upon the person who claims to be entitled to
43 the protection and exemption afforded hereby.

44 8. No cannabis retail licensee shall make or cause to be made any loan
45 to any person engaged in the cultivation, processing or distribution of
46 cannabis pursuant to this article.

47 9. Each cannabis retail licensee shall designate the price of each
48 item of cannabis by attaching to or otherwise displaying immediately
49 adjacent to each such item displayed in the interior of the licensed
50 premises where sales are made a price tag, sign or placard setting forth
51 the price at which each such item is offered for sale therein.

52 10. No person licensed to sell cannabis products at retail, shall
53 allow or permit any gambling, or offer any gambling on the licensed
54 premises, or allow or permit illicit drug activity on the licensed prem-
55 ises. The use of the licensed premises or any part thereof for the sale

1 of lottery tickets, when duly authorized and lawfully conducted thereon,
2 shall not constitute gambling within the meaning of this subdivision.

3 11. If an employee of a cannabis retail licensee suspects that a
4 cannabis consumer may be abusing cannabis, such an employee shall have a
5 duty to encourage such cannabis consumer to seek the help of a regis-
6 tered practitioner and become a certified patient. Cannabis retail
7 licensees shall develop standard operating procedures and written mate-
8 rials for employees to utilize when consulting consumers for purposes of
9 this subdivision.

10 12. The executive director is authorized to promulgate regulations
11 governing licensed adult-use dispensing facilities, including but not
12 limited to, the hours of operation, size and location of the licensed
13 facility, potency and types of products offered and establishing a mini-
14 mum margin for which a retail dispensary must markup a cannabis
15 product(s) before selling to a cannabis consumer. Any adult-use cannabis
16 product sold by a retail dispensary for less than the minimum markup
17 allowed in regulation, shall be unlawful.

18 § 83. Adult-use cannabis advertising. 1. The office is hereby author-
19 ized to promulgate rules and regulations governing the advertising of
20 licensed adult-use cannabis cultivators, processors, cooperatives,
21 distributors, retailers, and any cannabis related products or services.

22 2. The office shall promulgate explicit rules prohibiting advertising
23 that:

24 (a) is false, deceptive, or misleading;
25 (b) promotes overconsumption;
26 (c) depicts consumption by children or other minors;
27 (d) is designed in any way to appeal to children or other minors;
28 (e) is within two hundred feet of the perimeter of a school grounds,
29 playground, child care center, public park, or library;
30 (f) is in public transit vehicles and stations;
31 (g) is in the form of an unsolicited internet pop-up;
32 (h) is on publicly owned or operated property; or
33 (i) makes medical claims or promotes adult-use cannabis for a medical
34 or wellness purpose.

35 3. The office shall promulgate explicit rules prohibiting all market-
36 ing strategies and implementation including, but not limited to, brand-
37 ing, packaging, labeling, location of cannabis retailers, and advertise-
38 ments that are designed to:

39 (a) appeal to persons less than twenty-one years of age; or
40 (b) disseminate false or misleading information to customers.

41 4. The office shall promulgate explicit rules requiring that:

42 (a) all advertisements and marketing accurately and legibly identify
43 the licensee responsible for its content; and
44 (b) any broadcast, cable, radio, print and digital communications
45 advertisements only be placed where the audience is reasonably expected
46 to be twenty-one years of age or older, as determined by reliable,
47 up-to-date audience composition data.

48 § 84. Minority, women-owned businesses and disadvantaged farmers;
49 incubator program. 1. The office shall implement a social and economic
50 equity plan and actively promote racial, ethnic, and gender diversity
51 when issuing licenses for adult-use cannabis related activities, includ-
52 ing by prioritizing consideration of applications by applicants who
53 qualify as a minority and women-owned business or disadvantaged farmers.
54 Such qualifications shall be determined by the office in regulation.

1 2. The office shall create a social and economic equity plan to
2 promote diversity in ownership and employment in the adult-use cannabis
3 industry and ensure inclusion of:

- 4 (a) minority-owned businesses;
- 5 (b) women-owned businesses;
- 6 (c) minority and women-owned businesses, as defined in subdivision
7 five of this section; and
- 8 (d) disadvantaged farmers, as defined in subdivision five of this
9 section.

10 3. The social and economic equity plan shall consider additional
11 criteria in its licensing determinations. Under the social and economic
12 equity plan, extra weight shall be given to applications that demon-
13 strate that an applicant:

- 14 (a) is a member of a community group that has been disproportionately
15 impacted by the enforcement of cannabis prohibition;
- 16 (b) has an income lower than eighty percent of the median income of
17 the county in which the applicant resides; and
- 18 (c) was convicted of a cannabis-related offense prior to the effective
19 date of this chapter.

20 4. The office shall also create an incubator program to provide direct
21 support to social and economic equity applicants after they have been
22 granted licenses. The program shall provide direct support in the form
23 of counseling services, education, small business coaching, and compli-
24 ance assistance.

25 5. For the purposes of this section, the following definitions shall
26 apply:

27 (a) "minority-owned business" shall mean a business enterprise,
28 including a sole proprietorship, partnership, limited liability company
29 or corporation that is:

- 30 (i) at least fifty-one percent owned by one or more minority group
31 members;
- 32 (ii) an enterprise in which such minority ownership is real, substan-
33 tial and continuing;
- 34 (iii) an enterprise in which such minority ownership has and exercises
35 the authority to control independently the day-to-day business decisions
36 of the enterprise;
- 37 (iv) an enterprise authorized to do business in this state and inde-
38 pendently owned and operated; and
- 39 (v) an enterprise that is a small business.

40 (b) "minority group member" shall mean a United States citizen or
41 permanent resident alien who is and can demonstrate membership in one of
42 the following groups:

- 43 (i) black persons having origins in any of the black African racial
44 groups;
- 45 (ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban,
46 Central or South American of either Indian or Hispanic origin, regard-
47 less of race;
- 48 (iii) Native American or Alaskan native persons having origins in any
49 of the original peoples of North America; or
- 50 (iv) Asian and Pacific Islander persons having origins in any of the
51 far east countries, south east Asia, the Indian subcontinent or the
52 Pacific islands.

53 (c) "women-owned business" shall mean a business enterprise, including
54 a sole proprietorship, partnership, limited liability company or corpo-
55 ration that is:

1 (i) at least fifty-one percent owned by one or more United States
2 citizens or permanent resident aliens who are women;

3 (ii) an enterprise in which the ownership interest of such women is
4 real, substantial and continuing;

5 (iii) an enterprise in which such women ownership has and exercises
6 the authority to control independently the day-to-day business decisions
7 of the enterprise;

8 (iv) an enterprise authorized to do business in this state and inde-
9 pendently owned and operated; and

10 (v) an enterprise that is a small business.

11 (d) a firm owned by a minority group member who is also a woman may be
12 defined as a minority-owned business, a women-owned business, or both.

13 (e) "disadvantaged farmer" shall mean a New York state resident or
14 business enterprise, including a sole proprietorship, partnership,
15 limited liability company or corporation, that has reported at least
16 two-thirds of its federal gross income as income from farming, in at
17 least one of the past five preceding tax years, and who:

18 (i) farms in a county that has greater than ten percent rate of pover-
19 ty according to the latest U.S. Census Bureau's American Communities
20 Survey;

21 (ii) has been disproportionately impacted by low commodity prices or
22 faces the loss of farmland through development or suburban sprawl; and

23 (iii) meets any other qualifications as defined in regulation by the
24 office.

25 6. The office shall actively promote applicants that foster racial,
26 ethnic, and gender diversity in their workforce.

27 7. Licenses issued to minority and women-owned businesses or under the
28 social and economic equity plan shall not be transferable except to
29 qualified minority and women-owned businesses or social and economic
30 equity applicants and only upon prior written approval of the executive
31 director.

32 8. The office shall collect demographic data on owners and employees
33 in the adult-use cannabis industry and shall annually publish such data.

34 § 85. Collective bargaining. 1. The executive director shall require
35 all licensees under this article with more than twenty-five employees,
36 including registered organizations authorized pursuant to section forty
37 of this chapter to cultivate, process, distribute and sell adult-use
38 cannabis products, to enter into a bona-fide collective bargaining
39 agreement with a bona-fide labor organization.

40 2. The maintenance of such a collective bargaining agreement shall be
41 an ongoing material condition of the entity's license.

42 § 86. Regulations. The executive director shall make regulations to
43 implement this article.

44 ARTICLE 5
45 HEMP CANNABIS

46 Section 90. Cannabinoid related hemp licensing.

47 91. Cannabinoid grower licenses.

48 92. Cannabinoid extractor license.

49 93. Cannabinoid license applications.

50 94. Information to be requested in applications for licenses.

51 95. Fees.

52 96. Selection criteria.

53 97. Limitations of licensure; duration.

54 98. License renewal.

- 1 99. Form of license.
- 2 100. Amendments to license and duty to update information
- 3 submitted for licensing.
- 4 101. Record keeping and tracking.
- 5 102. Inspections and ongoing requirements.
- 6 103. Packaging and labeling of hemp cannabis.
- 7 104. Provisions governing the growing and extracting of hemp
- 8 cannabis.
- 9 105. Laboratory testing.
- 10 106. Advertising.
- 11 107. Research.
- 12 108. Regulations.

13 § 90. Cannabinoid related hemp licensing. 1. Persons growing, proc-
14 essing, extracting, and/or manufacturing hemp cannabis or producing hemp
15 cannabis products distributed, sold or marketed for cannabinoid content
16 and used or intended for human or animal consumption or use, shall be
17 required to obtain the following license or licenses from the office,
18 depending upon the operation:

- 19 (a) cannabinoid grower license and/or;
- 20 (b) cannabinoid extractor license.

21 2. Notwithstanding subsection one of this section, those persons grow-
22 ing, processing or manufacturing food or food ingredients from hemp,
23 which food or food ingredients are generally recognized as safe, shall
24 be subject to regulation and/or licensing under the agriculture and
25 markets law.

26 § 91. Cannabinoid grower licenses. 1. A cannabinoid grower's license
27 authorizes the acquisition, possession, cultivation and sale of hemp
28 cannabis grown or used for its cannabinoid content on the licensed prem-
29 ises of the grower.

30 2. A person holding a cannabinoid grower's license shall not sell hemp
31 products marketed, distributed or sold for its cannabinoid content and
32 intended for human consumption or use without also being licensed as an
33 extractor pursuant to this article.

34 3. Persons growing industrial hemp pursuant to article twenty-nine of
35 the agriculture and markets law are not authorized to and shall not sell
36 hemp cannabis for human or animal consumption or use, other than as food
37 or a food ingredient that has been generally recognized as safe in
38 accordance with the U.S. food and drug administration or determined by
39 the state to be safe for human consumption as food or a food ingredient.

40 4. A person licensed under article twenty-nine of the agriculture and
41 markets law as a hemp grower may apply for a cannabinoid grower's
42 license provided that it can demonstrate to the office that its culti-
43 vation of hemp meets all the requirements for hemp cultivated under a
44 cannabinoid grower's license.

45 § 92. Cannabinoid extractor license. 1. A cannabinoid extractor
46 license authorizes the licensee's acquisition, possession, extraction
47 and manufacture of hemp from a licensed cannabinoid grower for the proc-
48 essing of hemp or the production of hemp products marketed, distributed
49 or sold for cannabinoid content and used or intended for human or animal
50 consumption or use.

51 2. No cannabinoid extractor licensee shall engage in any other busi-
52 ness on the licensed premises; except that nothing contained in this
53 chapter shall prevent a cannabinoid extractor licensee from also being
54 licensed as a cannabinoid grower on the same premises.

1 3. Notwithstanding subdivisions one and two of this section, nothing
2 shall prevent a cannabinoid extractor from manufacturing hemp products
3 not used or intended for human or animal consumption or use.

4 § 93. Cannabinoid license applications. 1. Persons shall apply for a
5 cannabinoid grower license and/or a cannabinoid extractor license by
6 submitting an application upon a form supplied by the office, providing
7 all the requested information, verified by the applicant or an author-
8 ized representative of the applicant.

9 2. A separate license shall be required for each facility at which
10 growing or extracting is conducted.

11 3. Each application shall remit with its application the fee for each
12 requested license.

13 § 94. Information to be requested in applications for licenses. 1.
14 The office shall have the authority to prescribe the manner and form in
15 which an application must be submitted to the office for licensure under
16 this article.

17 2. The executive director is authorized to adopt regulations, includ-
18 ing by emergency rule, establishing information which must be included
19 on an application for licensure under this article. Such information may
20 include, but is not limited to: information about the applicant's iden-
21 tity, including racial and ethnic diversity; ownership and investment
22 information, including the corporate structure; evidence of good moral
23 character, including the submission of fingerprints by the applicant to
24 the division of criminal justice services; information about the prem-
25 ises to be licensed; financial statements; and any other information
26 prescribed by in regulation.

27 3. All license applications shall be signed by the applicant (if an
28 individual), by a managing partner (if a limited liability corporation),
29 by an officer (if a corporation), or by all partners (if a partnership).
30 Each person signing such application shall verify it or affirm it as
31 true under the penalties of perjury.

32 4. All license or permit applications shall be accompanied by a check,
33 draft or other forms of payment as the office may require or authorize
34 in the amount required by this article for such license or permit.

35 5. If there be any change, after the filing of the application or the
36 granting of a license, in any of the facts required to be set forth in
37 such application, a supplemental statement giving notice of such change,
38 cost and source of money involved in the change, duly verified, shall be
39 filed with the office within ten days after such change. Failure to do
40 so shall, if willful and deliberate, be cause for revocation of the
41 license.

42 6. In giving any notice, or taking any action in reference to a licen-
43 see of a licensed premises, the office may rely upon the information
44 furnished in such application and in any supplemental statement
45 connected therewith, and such information may be presumed to be correct,
46 and shall be binding upon a registered organization, licensee or
47 licensed premises as if correct. All information required to be
48 furnished in such application or supplemental statements shall be deemed
49 material in any prosecution for perjury, any proceeding to revoke,
50 cancel or suspend any license, and in the office's determination to
51 approve or deny the license.

52 7. The office may, in its discretion, waive the submission of any
53 category of information described in this section for any category of
54 license or permit, provided that it shall not be permitted to waive the
55 requirement for submission of any such category of information solely
56 for an individual applicant or applicants.

1 § 95. Fees. The office shall have the authority to charge licensees a
2 biennial license fee. Such fee may be based on the amount of hemp canna-
3 bis to be grown, processed or extracted by the licensee, the gross annu-
4 al receipts of the licensee for the previous license period, or any
5 other factors deemed appropriate by the office.

6 § 96. Selection criteria. 1. An applicant shall furnish evidence:

7 (a) its ability to effectively maintain a delta-9-tetrahydrocannabinol
8 concentration that does not exceed a percentage of delta-9-tetrahydro-
9 cannabinol cannabis set by the executive director on a dry weight basis
10 of any part of the plant of the genus cannabis, or per volume or weight
11 of cannabis product, or the combined percent of delta-9-tetrahydrocanna-
12 binol and tetrahydrocannabinolic acid in any part of the plant of the
13 genus cannabis regardless of moisture content, for all hemp cannabis and
14 hemp derived products cultivated, processed or extracted by the appli-
15 cant;

16 (b) its ability to comply with all applicable state laws and regu-
17 lations, including, without limitation, the provisions of article four-
18 teen of the agriculture and markets law;

19 (c) that the applicant is ready, willing and able to properly carry on
20 the activities for which a license is sought; and

21 (d) that the applicant is in possession of or has the right to use
22 land, buildings and equipment sufficient to properly carry on the activ-
23 ity described in the application.

24 2. The office, in considering whether to grant the license applica-
25 tion, shall consider whether:

26 (a) it is in the public interest that such license be granted, taking
27 into consideration whether the number of licenses will be adequate or
28 excessive to reasonably serve demand;

29 (b) the applicant and its managing officers are of good moral charac-
30 ter and do not have an ownership or controlling interest in more
31 licenses or permits than allowed by this chapter; and

32 (c) the applicant satisfies any other conditions as determined by the
33 office.

34 3. If the executive director is not satisfied that the applicant
35 should be issued a license, the executive director shall notify the
36 applicant in writing of the specific reason or reasons for denial.

37 4. The executive director shall have authority and sole discretion to
38 determine the number of licenses issued pursuant to this article.

39 § 97. Limitations of licensure; duration. 1. No license pursuant to
40 this article may be issued to a person under the age of twenty-one
41 years.

42 2. The office shall have the authority to limit, by canopy, plant
43 count or other means, the amount of hemp cannabis allowed to be culti-
44 vated, processed, extracted or sold by a licensee.

45 3. All licenses under this article shall expire two years after the
46 date of issue and be subject to any rules or limitations prescribed by
47 the executive director in regulation.

48 § 98. License renewal. 1. Each license, issued pursuant to this arti-
49 cle, may be renewed upon application therefor by the licensee and the
50 payment of the fee for such license as prescribed by this article.

51 2. In the case of applications for renewals, the office may dispense
52 with the requirements of such statements as it deems unnecessary in view
53 of those contained in the application made for the original license, but
54 in any event the submission of photographs of the licensed premises
55 shall be dispensed with, provided the applicant for such renewal shall

1 file a statement with the office to the effect that there has been no
2 alteration of such premises since the original license was issued.

3 3. The office may make such rules as may be necessary, not inconsis-
4 ent with this chapter, regarding applications for renewals of licenses
5 and permits and the time for making the same.

6 4. The office shall provide an application for renewal of a license
7 issued under this article not less than ninety days prior to the expira-
8 tion of the current license.

9 5. The office may only issue a renewal license upon receipt of the
10 prescribed renewal application and renewal fee from a licensee if, in
11 addition to the criteria in section ninety-four of this article, the
12 license's license is not under suspension and has not been revoked.

13 6. The office shall have the authority to charge applicants for licen-
14 sure under this article a non-refundable application fee. Such fee may
15 be based on the type of licensure sought, cultivation and/or production
16 volume, or any other factors deemed reasonable and appropriate by the
17 office to achieve the policy and purpose of this chapter.

18 § 99. Form of license. Licenses issued pursuant to this article shall
19 specify:

- 20 1. the name and address of the licensee;
- 21 2. the activities permitted by the license;
- 22 3. the land, buildings and facilities that may be used for the
23 licensed activities of the licensee;
- 24 4. a unique license number issued by the office to the licensee; and
- 25 5. such other information as the executive director shall deem neces-
26 sary to assure compliance with this chapter.

27 § 100. Amendments to license and duty to update information submitted
28 for licensing. 1. Upon application of a licensee to the office, a
29 license may be amended to allow the licensee to relocate within the
30 state, to add or delete licensed activities or facilities, or to amend
31 the ownership or organizational structure of the entity that is the
32 licensee. The fee for such amendment shall be two hundred fifty dollars.

33 2. In the event that any of the information provided by the applicant
34 changes either while the application is pending or after the license is
35 granted, within ten days of any such change, the applicant or licensee
36 shall submit to the office a verified statement setting forth the change
37 in circumstances of facts set forth in the application. Failure to do so
38 shall, if willful and deliberate, be cause for revocation of the
39 license.

40 3. A license shall become void by a change in ownership, substantial
41 corporate change or location without prior written approval of the exec-
42 utive director. The executive director may promulgate regulations
43 allowing for certain types of changes in ownership without the need for
44 prior written approval.

45 4. For purposes of this section, "substantial corporate change" shall
46 mean:

47 (a) for a corporation, a change of eighty percent or more of the offi-
48 cers and/or directors, or a transfer of eighty percent or more of stock
49 of such corporation, or an existing stockholder obtaining eighty percent
50 or more of the stock of such corporation; and

51 (b) for a limited liability company, a change of eighty percent or
52 more of the managing members of the company, or a transfer of eighty
53 percent or more of ownership interest in said company, or an existing
54 member obtaining a cumulative of eighty percent or more of the ownership
55 interest in said company.

1 § 101. Record keeping and tracking. 1. The executive director shall,
2 by regulation, require each licensee pursuant to this article to adopt
3 and maintain security, tracking, record keeping, record retention and
4 surveillance systems, relating to all hemp cannabis at every stage of
5 acquiring, possession, manufacture, transport, sale, or delivery, or
6 distribution by the licensee, subject to regulations of the executive
7 director.

8 2. Every licensee shall keep and maintain upon the licensed premises,
9 adequate books and records of all transactions involving the licensee
10 and sale of its products, which shall include all information required
11 by rules promulgated by the office.

12 3. Each sale shall be recorded separately on a numbered invoice, which
13 shall have printed thereon the number, the name of the licensee, the
14 address of the licensed premises, and the current license number.

15 4. Such books, records and invoices shall be kept for a period of five
16 years and shall be available for inspection by any authorized represen-
17 tative of the office.

18 § 102. Inspections and ongoing requirements. All licensees shall be
19 subject to reasonable inspection by the office, and a person who holds a
20 license must make himself or herself, or an agent thereof, available and
21 present for any inspection required by the office. The office shall make
22 reasonable accommodations so that ordinary business is not interrupted
23 and safety and security procedures are not compromised by the
24 inspection.

25 § 103. Packaging and labeling of hemp cannabis. 1. The office is
26 hereby authorized to promulgate rules and regulations governing the
27 packaging and labeling of hemp cannabis products, sold or possessed for
28 sale in New York state.

29 2. Such regulations shall include, but not be limited to, requiring
30 labels warning consumers of any potential impact on human health result-
31 ing from the consumption of hemp cannabis products that shall be affixed
32 to those products when sold, if such labels are deemed warranted by the
33 office.

34 3. Such rules and regulations shall establish methods and procedures
35 for determining, among other things, serving sizes for hemp cannabis
36 products, active cannabinoid concentration per serving size, and number
37 of servings per container. Such regulations shall also require a nutri-
38 tional fact panel that incorporates data regarding serving sizes and
39 potency thereof.

40 4. The packaging, sale, or possession by any licensee of any hemp
41 product intended for human or animal consumption or use not labeled or
42 offered in conformity with rules and regulations promulgated in accord-
43 ance with this section shall be grounds for the imposition of a fine,
44 and/or the suspension, revocation or cancellation of a license.

45 § 104. Provisions governing the growing and extracting of hemp canna-
46 bis. 1. No licensed cannabinoid grower or extractor shall sell, or
47 agree to sell or deliver in the state any hemp cannabis products, as the
48 case may be, except in sealed containers containing quantities in
49 accordance with size standards pursuant to rules adopted by the office.
50 Such containers shall have affixed thereto such labels as may be
51 required by the rules of the office.

52 2. Licensed cannabinoid growers shall only use pesticides that are
53 registered by the New York state department of environmental conserva-
54 tion or that specifically meet the United States Environmental
55 Protection Agency registration exemption criteria for minimum risk

1 pesticides, and only in compliance with regulations, standards and
2 guidelines issued by the department of environmental conservation.

3 3. All hemp cannabis products shall be extracted and manufactured in
4 accordance with good manufacturing processes, pursuant to Part 111 of
5 Title 21 of the Code of Federal Regulations as may be modified by the
6 executive director in regulation.

7 4. The use or integration of alcohol or nicotine in hemp cannabis
8 products is strictly prohibited.

9 § 105. Laboratory testing. 1. Every cannabinoid extractor shall
10 contract with an independent laboratory to test the cannabis products
11 produced by the licensed extractor. The executive director, in consulta-
12 tion with the commissioner of health, shall approve the laboratory and
13 require that the laboratory report testing results in a manner deter-
14 mined by the executive director. The executive director is authorized to
15 issue regulations requiring the laboratory to perform certain tests and
16 services.

17 2. Cannabinoid extractors shall make laboratory test reports available
18 to persons holding a cannabinoid permit pursuant to article six of this
19 chapter for all cannabis products manufactured by the licensee.

20 3. On-site laboratory testing by licensees is permissible; however,
21 such testing shall not be certified by the office and does not exempt
22 the licensee from the requirements of quality assurance testing at a
23 testing laboratory pursuant to this section.

24 § 106. Advertising. The office shall promulgate rules and regulations
25 governing the advertising of hemp cannabis and any other related
26 products or services as determined by the executive director.

27 § 107. Research. 1. The office shall promote research and development
28 through public-private partnerships to bring new hemp cannabis and
29 industrial hemp derived products to market within the state.

30 2. The executive director may develop and carry out research programs
31 relating to industrial hemp and hemp cannabis.

32 § 108. Regulations. The executive director shall make regulations to
33 implement this article.

34 ARTICLE 6
35 GENERAL PROVISIONS

36 Section 125. General prohibitions and restrictions.

37 126. License to be confined to premises licensed; premises for
38 which no license shall be granted; transporting cannabis.

39 127. Protections for the use of cannabis; unlawful discrimi-
40 nations prohibited.

41 128. Registrations and licenses.

42 129. Laboratory testing permit.

43 130. Special use permits.

44 131. Professional and medical record keeping.

45 132. County opt-out; municipal control and preemption.

46 133. Executive director to be necessary party to certain
47 proceedings.

48 134. Penalties for violation of this chapter.

49 135. Revocation of registrations, licenses and permits for
50 cause; procedure for revocation or cancellation.

51 136. Lawful actions pursuant to this chapter.

52 137. Review by courts.

53 138. Illicit cannabis.

1 139. Injunction for unlawful manufacture, sale or consumption of
2 cannabis.

3 140. Persons forbidden to traffic cannabis products; certain
4 officials not to be interested in manufacture or sale of
5 cannabis products.

6 141. Access to criminal history information through the division
7 of criminal justice services.

8 § 125. General prohibitions and restrictions. 1. No person shall
9 cultivate, process, or distribute for sale or sell at wholesale or
10 retail any cannabis, cannabis product, medical cannabis or hemp cannabis
11 product within the state without obtaining the appropriate registration,
12 license, or permit therefor required by this chapter.

13 2. No registered organization, licensee, or permittee shall sell, or
14 agree to sell or deliver in this state any cannabis or hemp cannabis for
15 the purposes of resale to any person who is not duly registered,
16 licensed or permitted pursuant to this chapter to sell such product, at
17 wholesale or retail, as the case may be, at the time of such agreement
18 and sale.

19 3. No registered organization, licensee, or permittee shall employ, or
20 permit to be employed, or shall allow to work, on any premises regis-
21 tered or licensed for retail sale hereunder, any person under the age of
22 eighteen years in any capacity where the duties of such person require
23 or permit such person to sell, dispense or handle cannabis or hemp
24 cannabis.

25 4. No registered organization, licensee, or permittee shall sell,
26 deliver or give away, or cause, permit or procure to be sold, delivered
27 or given away any cannabis, cannabis product, medical cannabis or hemp
28 cannabis on credit; except that a registered organization, licensee or
29 permittee may accept third party credit cards for the sale of any canna-
30 bis, cannabis product, medical cannabis or hemp cannabis for which it is
31 registered, licensed or permitted to dispense or sell to patients or
32 cannabis consumers. This includes, but is not limited to, any consign-
33 ment sale of any kind.

34 5. No registered organization, licensee, or permittee shall cease to
35 be operated as a bona fide or legitimate premises within the contem-
36 plation of the registration, license, or permit issued for such prem-
37 ises, as determined within the judgment of the office.

38 6. No registered organization, licensee, or permittee shall refuse,
39 nor any person holding a registration, license, or permit refuse, nor
40 any officer or director of any corporation or organization holding a
41 registration, license, or permit refuse, to appear and/or testify under
42 oath at an inquiry or hearing held by the office, with respect to any
43 matter bearing upon the registration, license, or permit, the conduct of
44 any people at the licensed premises, or bearing upon the character or
45 fitness of such registrant, licensee, or permittee to continue to hold
46 any registration, license, or permit. Nor shall any of the above offer
47 false testimony under oath at such inquiry or hearing.

48 7. No registered organization, licensee, or permittee shall engage,
49 participate in, or aid or abet any violation or provision of this chap-
50 ter, or the rules or regulations of the office.

51 8. The proper conduct of registered, licensed, or permitted premises
52 is essential to the public interest. Failure of a registered organiza-
53 tion, licensee, or permittee to exercise adequate supervision over the
54 registered, licensed, or permitted location poses a substantial risk not
55 only to the objectives of this chapter but imperils the health, safety,
56 and welfare of the people of this state. It shall be the obligation of

1 each person registered, licensed, or permitted under this chapter to
2 ensure that a high degree of supervision is exercised over any and all
3 conduct at any registered, licensed, or permitted location at any and
4 all times in order to safeguard against abuses of the privilege of being
5 registered, licensed, or permitted, as well as other violations of law,
6 statute, rule, or regulation. Persons registered, licensed, or permitted
7 shall be held strictly accountable for any and all violations that occur
8 upon any registered, licensed, or permitted premises, and for any and
9 all violations committed by or permitted by any manager, agent or
10 employee of such registered, licensed, or permitted person.

11 9. It shall be unlawful for any person, partnership or corporation
12 operating a place for profit or pecuniary gain, with a capacity for the
13 assemblage of twenty or more persons to permit a person or persons to
14 come to the place of assembly for the purpose of cultivating, process-
15 ing, distributing, or retail distribution or sale of cannabis on said
16 premises. This includes, but is not limited, to, cannabis that is either
17 provided by the operator of the place of assembly, his agents, servants
18 or employees, or cannabis that is brought onto said premises by the
19 person or persons assembling at such place, unless an appropriate regis-
20 tration, license, or permit has first been obtained from the office of
21 cannabis management by the operator of said place of assembly.

22 10. As it is a privilege under the law to be registered, licensed, or
23 permitted to cultivate, process, distribute, traffic, or sell cannabis,
24 the office may impose any such further restrictions upon any registrant,
25 licensee, or permittee in particular instances as it deems necessary to
26 further state policy and best serve the public interest. A violation or
27 failure of any person registered, licensed, or permitted to comply with
28 any condition, stipulation, or agreement, upon which any registration,
29 license, or permit was issued or renewed by the office shall subject the
30 registrant, licensee, or permittee to suspension, cancellation, revoca-
31 tion, and/or civil penalties as determined by the office.

32 11. No adult-use cannabis or medical cannabis may be imported to, or
33 exported out of, New York state by a registered organization, licensee
34 or person holding a license and/or permit pursuant to this chapter,
35 until such time as it may become legal to do so under federal law.
36 Should it become legal to do so under federal law, the office is granted
37 the power to promulgate such rules and regulations as it deems necessary
38 to protect the public and the policy of the state.

39 12. No registered organization, licensee or any of its agents, serv-
40 ants or employees shall peddle any cannabis product, medical cannabis or
41 hemp cannabis from house to house by means of a truck or otherwise,
42 where the sale is consummated and delivery made concurrently at the
43 residence or place of business of a cannabis consumer. This subdivision
44 shall not prohibit the delivery by a registered organization to certi-
45 fied patients or their designated caregivers, pursuant to article three
46 of this chapter.

47 13. No licensee shall employ any canvasser or solicitor for the
48 purpose of receiving an order from a certified patient, designated care-
49 giver or cannabis consumer for any cannabis product, medical cannabis or
50 hemp cannabis at the residence or place of business of such patient,
51 caregiver or consumer, nor shall any licensee receive or accept any
52 order, for the sale of any cannabis product, medical cannabis or hemp
53 cannabis which shall be solicited at the residence or place of business
54 of a patient, caregiver or consumer. This subdivision shall not prohibit
55 the solicitation by a distributor of an order from any licensee at the
56 licensed premises of such licensee.

1 14. No premises registered, licensed, or permitted by the office
2 shall:

- 3 (a) permit or allow any gambling on the premises;
4 (b) permit or allow the premises to become disorderly;
5 (c) permit or allow the use, by any person, of any fireworks or other
6 pyrotechnics on the premises; or
7 (d) permit or allow to appear as an entertainer, on any part of the
8 premises registered, licensed, or permitted, any person under the age of
9 eighteen years.

10 § 126. License to be confined to premises licensed; premises for which
11 no license shall be granted; transporting cannabis. 1. A registration,
12 license, or permit issued to any person, pursuant to this chapter, for
13 any registered, licensed, or permitted premises shall not be transfera-
14 ble to any other person, to any other location or premises, or to any
15 other building or part of the building containing the licensed premises
16 except in the discretion of the office. All privileges granted by any
17 registration, license, or permit shall be available only to the person
18 therein specified, and only for the premises licensed and no other
19 except if authorized by the office. Provided, however, that the
20 provisions of this section shall not be deemed to prohibit the amendment
21 of a registration or license as provided for in this chapter. A
22 violation of this section shall subject the registration, license, or
23 permit to revocation for cause.

24 2. Where a registration or license for premises has been revoked, the
25 office in its discretion may refuse to issue a registration, license, or
26 permit under this chapter, for a period of up to five years after such
27 revocation, for such premises or for any part of the building containing
28 such premises and connected therewith.

29 3. In determining whether to issue such a proscription against grant-
30 ing any registration, license, or permit for such five-year period, in
31 addition to any other factors deemed relevant to the office, the office
32 shall, in the case of a license revoked due to the illegal sale of
33 cannabis to a minor, determine whether the proposed subsequent licensee
34 has obtained such premises through an arm's length transaction, and, if
35 such transaction is not found to be an arm's length transaction, the
36 office shall deny the issuance of such license.

37 4. For purposes of this section, "arm's length transaction" shall mean
38 a sale of a fee of all undivided interests in real property, lease,
39 management agreement, or other agreement giving the applicant control
40 over the cannabis at the premises, or any part thereof, in the open
41 market, between an informed and willing buyer and seller where neither
42 is under any compulsion to participate in the transaction, unaffected by
43 any unusual conditions indicating a reasonable possibility that the sale
44 was made for the purpose of permitting the original licensee to avoid
45 the effect of the revocation. The following sales shall be presumed not
46 to be arm's length transactions unless adequate documentation is
47 provided demonstrating that the sale, lease, management agreement, or
48 other agreement giving the applicant control over the cannabis at the
49 premises, was not conducted, in whole or in part, for the purpose of
50 permitting the original licensee to avoid the effect of the revocation:

- 51 (a) a sale between relatives;
52 (b) a sale between related companies or partners in a business; or
53 (c) a sale, lease, management agreement, or other agreement giving the
54 applicant control over the cannabis at the premises, affected by other
55 facts or circumstances that would indicate that the sale, lease, manage-
56 ment agreement, or other agreement giving the applicant control over the

1 cannabis at the premises, is entered into for the primary purpose of
2 permitting the original licensee to avoid the effect of the revocation.

3 5. No registered organization, licensee or permittee shall transport
4 cannabis products or medical cannabis except in vehicles owned and oper-
5 ated by such registered organization, licensee or permittee, or hired
6 and operated by such registered organization, licensee or permittee from
7 a trucking or transportation company permitted and registered with the
8 office.

9 6. No common carrier or person operating a transportation facility in
10 this state, other than the United States government, shall receive for
11 transportation or delivery within the state any cannabis products or
12 medical cannabis unless the shipment is accompanied by copy of a bill of
13 lading, or other document, showing the name and address of the consig-
14 nor, the name and address of the consignee, the date of the shipment,
15 and the quantity and kind of cannabis products or medical cannabis
16 contained therein.

17 § 127. Protections for the use of cannabis; unlawful discriminations
18 prohibited. 1. No person, registered organization, licensee or permit-
19 tee shall be subject to arrest, prosecution, or penalty in any manner,
20 or denied any right or privilege, including but not limited to civil
21 liability or disciplinary action by a business or occupational or
22 professional licensing board or office, solely for conduct permitted
23 under this chapter. For the avoidance of doubt, the appellate division
24 of the supreme court of the state of New York, and any disciplinary or
25 character and fitness committees established by them are occupational
26 and professional licensing boards within the meaning of this section.
27 State or local law enforcement agencies shall not cooperate with or
28 provide assistance to the government of the United States or any agency
29 thereof in enforcing the federal controlled substances act, 21 U.S.C. et
30 seq., solely for actions consistent with this chapter, except as pursu-
31 ant to a valid court order.

32 2. No school or landlord may refuse to enroll or lease to and may not
33 otherwise penalize a person solely for conduct allowed under this chap-
34 ter, except as exempted:

35 (a) if failing to do so would cause the school or landlord to lose a
36 monetary or licensing related benefit under federal law or regulations;

37 (b) if the institution has adopted a code of conduct prohibiting
38 cannabis use on the basis of religious belief; or

39 (c) if a property is registered with the New York smoke-free housing
40 registry, it is not required to permit the smoking of cannabis products
41 on its premises.

42 3. For the purposes of medical care, including organ transplants, a
43 certified patient's authorized use of medical cannabis must be consid-
44 ered the equivalent of the use of any other medication under the direc-
45 tion of a practitioner and does not constitute the use of an illicit
46 substance or otherwise disqualify a registered qualifying patient from
47 medical care.

48 4. Unless an employer establishes that the lawful use of cannabis has
49 impaired the employee's ability to perform the employee's job responsi-
50 bilities, it shall be unlawful to take any adverse employment action
51 against an employee based on conduct allowed under this chapter.

52 5. For the purposes of this section, an employer may consider an
53 employee's ability to perform the employee's job responsibilities to be
54 impaired when the employee manifests specific articulable symptoms while
55 working that decrease or lessen the employee's performance of the duties
56 or tasks of the employee's job position.

1 6. Nothing in this section shall restrict an employer's ability to
2 prohibit or take adverse employment action for the possession or use of
3 intoxicating substances during work hours, or require an employer to
4 commit any act that would cause the employer to be in violation of
5 federal law, or that would result in the loss of a federal contract or
6 federal funding.

7 7. As used in this section, "adverse employment action" means refusing
8 to hire or employ, barring or discharging from employment, requiring a
9 person to retire from employment, or discriminating against in compen-
10 sation or in terms, conditions, or privileges of employment.

11 8. A person currently under parole, probation or other state super-
12 vision, or released on bail awaiting trial may not be punished or other-
13 wise penalized for conduct allowed under this chapter.

14 § 128. Registrations and licenses. 1. No registration or license
15 shall be transferable or assignable except that notwithstanding any
16 other provision of law, the registration or license of a sole proprietor
17 converting to corporate form, where such proprietor becomes the sole
18 stockholder and only officer and director of such new corporation, may
19 be transferred to the subject corporation if all requirements of this
20 chapter remain the same with respect to such registration or license as
21 transferred and, further, the registered organization or licensee shall
22 transmit to the office, within ten days of the transfer of license
23 allowable under this subdivision, on a form prescribed by the office,
24 notification of the transfer of such license.

25 2. No registration or license shall be pledged or deposited as collat-
26 eral security for any loan or upon any other condition; and any such
27 pledge or deposit, and any contract providing therefor, shall be void.

28 3. Licenses issued under this chapter shall contain, in addition to
29 any further information or material to be prescribed by the rules of the
30 office, the following information:

31 (a) name of the person to whom the license is issued;

32 (b) kind of license and what kind of traffic in cannabis is thereby
33 permitted;

34 (c) description by street and number, or otherwise, of licensed prem-
35 ises; and

36 (d) a statement in substance that such license shall not be deemed a
37 property or vested right, and that it may be revoked at any time pursu-
38 ant to law.

39 § 129. Laboratory testing permit. 1. The executive director shall
40 approve and permit one or more independent cannabis testing laboratories
41 to test medical cannabis, adult-use cannabis and/or hemp cannabis.

42 2. To be permitted as an independent cannabis laboratory, a laboratory
43 must apply to the office, on a form and in a manner prescribed by the
44 office, and must demonstrate the following to the satisfaction of the
45 executive director:

46 (a) the owners and directors of the laboratory are of good moral char-
47 acter;

48 (b) the laboratory and its staff has the skills, resources and exper-
49 tise needed to accurately and consistently perform all of the testing
50 required for adult-use cannabis, medical cannabis and/or hemp cannabis;

51 (c) the laboratory has in place and will maintain adequate policies,
52 procedures, and facility security to ensure proper: collection, label-
53 ing, accessioning, preparation, analysis, result reporting, disposal and
54 storage of adult-use cannabis, medical cannabis and/or hemp cannabis;

55 (d) the laboratory is physically located in New York state;

1 (e) the laboratory has been approved by the department of health
2 pursuant to Part 55-2 of Title 10 of the New York Codes, Rules and Regu-
3 lations, pertaining to laboratories performing environmental analysis;
4 and

5 (f) the laboratory meets any and all requirements prescribed by this
6 chapter and by the executive director in regulation.

7 3. The owner of a laboratory testing permit under this section shall
8 not hold a registration or license in any category of this chapter and
9 shall not have any direct or indirect ownership interest in such regis-
10 tered organization or licensee. No board member, officer, manager,
11 owner, partner, principal stakeholder or member of a registered organ-
12 ization or licensee under this chapter, or such person's immediate fami-
13 ly member, shall have an interest or voting rights in any laboratory
14 testing permittee.

15 4. The executive director shall require that the permitted laboratory
16 report testing results to the office in a manner, form and timeframe as
17 determined by the executive director.

18 5. The executive director is authorized to promulgate regulations, in
19 consultation with the commissioner of the department of health, requir-
20 ing permitted laboratories to perform certain tests and services.

21 § 130. Special Use Permits. The office is hereby authorized to issue
22 the following kinds of permits for carrying on activities consistent
23 with the policy and purpose of this chapter with respect to cannabis.
24 The executive director has the authority to set fees for all permits
25 issued pursuant to this section, to establish the periods during which
26 permits are authorized, and to make rules and regulations, including
27 emergency regulations, to implement this section.

28 1. Industrial cannabis permit - to purchase cannabis for use in the
29 manufacture and sale of any of the following, when such cannabis is not
30 otherwise suitable for consumption purposes, namely: (a) apparel, ener-
31 gy, paper, and tools; (b) scientific, chemical, mechanical and indus-
32 trial products; or (c) any other industrial use as determined by the
33 executive director in regulation.

34 2. Nursery permit - to produce clones, immature plants, seeds, and
35 other agricultural products used specifically for the planting, propa-
36 gation, and cultivation of cannabis, and to sell such to licensed
37 adult-use cultivators, registered organizations, and certified patients
38 or their designated caregivers.

39 3. Solicitor's permit - to offer for sale or to solicit orders for the
40 sale of any cannabis products, medical cannabis and/or hemp cannabis, as
41 a representative of a registered organization or licensee under this
42 chapter.

43 4. Broker's permit - to act as a broker in the purchase and sale of
44 cannabis products, medical cannabis and/or hemp cannabis for a fee or
45 commission, for or on behalf of a person authorized to cultivate, proc-
46 ess, distribute or dispense cannabis products, medical cannabis or hemp
47 cannabis within the state.

48 5. Trucking permit - to allow for the trucking or transportation of
49 cannabis products, medical cannabis or hemp cannabis by a person other
50 than a registered organization or licensee under this chapter.

51 6. Warehouse permit - to allow for the storage of cannabis, cannabis
52 products, medical cannabis or hemp cannabis at a location not otherwise
53 registered or licensed by the office.

54 7. Delivery permit - to authorize licensed adult-use cannabis dispen-
55 saries to deliver adult-use cannabis and cannabis products directly to
56 cannabis consumers.

1 8. Cannabinoid permit - to sell cannabinoid products derived from hemp
2 cannabis for off-premises consumption.

3 9. Temporary retail cannabis permit - to authorize the retail sale of
4 adult-use cannabis to cannabis consumers, for a limited purpose or dura-
5 tion.

6 10. Caterer's permit - to authorize the service of cannabis products
7 at a function, occasion or event in a hotel, restaurant, club, ballroom
8 or other premises, which shall authorize within the hours fixed by the
9 office, during which cannabis may lawfully be sold or served on the
10 premises in which such function, occasion or event is held.

11 11. Packaging permit - to authorize a licensed cannabis distributor to
12 sort, package, label and bundle cannabis products from one or more
13 registered organizations or licensed processors, on the premises of the
14 licensed cannabis distributor or at a warehouse for which a permit has
15 been issued under this section.

16 12. Miscellaneous permits - to purchase, receive or sell cannabis,
17 cannabis products or medical cannabis, or receipts, certificates,
18 contracts or other documents pertaining to cannabis, cannabis products,
19 or medical cannabis, in cases not expressly provided for by this chap-
20 ter, when in the judgment of the office it would be appropriate and
21 consistent with the policy and purpose of this chapter.

22 § 131. Professional and medical record keeping. Any professional
23 providing services in connection with a licensed or potentially licensed
24 business under this chapter, or in connection with other conduct permit-
25 ted under this chapter, and any medical professional providing medical
26 care to a patient, other than a certified patient, may agree with their
27 client or patient to maintain no record, or any reduced level of record
28 keeping that professional and client or patient may agree. In case of
29 such agreement, the professional's only obligation shall be to keep such
30 records as agreed, and to keep a record of the agreement. Such reduced
31 record keeping is conduct permitted under this chapter.

32 § 132. County opt-out; municipal control and preemption. 1. The
33 provisions of article four of this chapter, authorizing the cultivation,
34 processing, distribution and sale of adult-use cannabis to cannabis
35 consumers, shall not be applicable to a county, or city having a popu-
36 lation of one-hundred thousand or more residents, which adopts a local
37 law, ordinance or resolution by a majority vote of its governing body to
38 completely prohibit the establishment or operation of one or more types
39 of licenses contained in article four of this chapter, within the juris-
40 diction of the county or city.

41 2. Except as provided for in subdivision one of this section, all
42 county, town, city and village municipalities are hereby preempted from
43 adopting any rule, ordinance, regulation or prohibition pertaining to
44 the operation or licensure of registered organizations, adult-use canna-
45 bis licenses or hemp licenses. However, municipalities may pass ordi-
46 nances or regulations governing the time, place and manner of licensed
47 adult-use cannabis retail dispensaries, provided such ordinance or regu-
48 lation does not make the operation of such licensed retail dispensaries
49 unreasonably impracticable as determined by the executive director in
50 his or her sole discretion.

51 § 133. Executive director to be necessary party to certain
52 proceedings. The executive director shall be made a party to all
53 actions and proceedings affecting in any manner the ability of a regis-
54 tered organization or licensee to operate within a municipality, or the
55 result of any vote thereupon; to all actions and proceedings relative to
56 issuance or revocation of registrations, licenses or permits; to all

1 injunction proceedings, and to all other civil actions or proceedings
2 which in any manner affect the enjoyment of the privileges or the opera-
3 tion of the restrictions provided for in this chapter.

4 § 134. Penalties for violation of this chapter. 1. Any person who
5 cultivates for sale or sells cannabis, cannabis products, medical canna-
6 bis or hemp cannabis without having an appropriate registration, license
7 or permit therefor, or whose registration, license, or permit has been
8 revoked, surrendered or cancelled, shall be guilty of a misdemeanor, and
9 upon first conviction thereof shall be punished by a fine not more than
10 five thousand dollars per instance or by imprisonment in a county jail
11 or penitentiary for a term of not less than thirty days nor more than
12 one year or both and upon second conviction thereof shall be punished by
13 a fine not less than ten thousand dollars or by imprisonment in a county
14 jail or penitentiary for a term of not less than thirty days nor more
15 than one year or both and upon all subsequent convictions thereof shall
16 be punished by a fine not less twenty-five thousand dollars or peniten-
17 tiary for a term of not less than thirty days nor more than one year or
18 both provided, however, that in default of payment of any fine imposed,
19 such person shall be imprisoned in a county jail or penitentiary for a
20 term of not less than thirty days.

21 2. Any registered organization or licensee, whose registration or
22 license has been suspended pursuant to the provisions of this chapter,
23 who sells cannabis, cannabis products, medical cannabis or hemp cannabis
24 during the suspension period, shall be guilty of a misdemeanor, and upon
25 conviction thereof shall be punished by a fine of not more than five
26 thousand dollars per instance or by imprisonment in a county jail or
27 penitentiary for a term of not more than six months, or by both such
28 fine and imprisonment.

29 3. Any person who shall make any false statement in the application
30 for a registration, license or a permit under this chapter shall be
31 guilty of a misdemeanor, and upon conviction thereof shall be punishable
32 by a fine of not more than five thousand dollars, or by imprisonment in
33 a county jail or penitentiary for a term of not more than six months or
34 both.

35 4. Any violation by any person of any provision of this chapter for
36 which no punishment or penalty is otherwise provided shall be a misde-
37 meanor.

38 § 135. Revocation of registrations, licenses and permits for cause;
39 procedure for revocation or cancellation. 1. Any registration, license
40 or permit issued pursuant to this chapter may be revoked, cancelled,
41 suspended and/or subjected to the imposition of a civil penalty for
42 cause, and must be revoked for the following causes:

43 (a) conviction of the registered organization, licensee, permittee or
44 his or her agent or employee for selling any illegal cannabis on the
45 premises registered, licensed or permitted; or

46 (b) for transferring, assigning or hypothecating a registration,
47 license or permit without prior written approval of the office.

48 2. Notwithstanding the issuance of a registration, license or permit
49 by way of renewal, the office may revoke, cancel or suspend such regis-
50 tration, license or permit and/or may impose a civil penalty against any
51 holder of such registration, license or permit, as prescribed by this
52 section, for causes or violations occurring during the license period
53 immediately preceding the issuance of such registration, license or
54 permit.

55 3. (a) As used in this section, the term "for cause" shall also
56 include the existence of a sustained and continuing pattern of miscon-

1 duct, failure to adequately prevent diversion or disorder on or about
2 the registered, licensed or permitted premises, or in the area in front
3 of or adjacent to the registered or licensed premises, or in any parking
4 lot provided by the registered organization or licensee for use by
5 registered organization or licensee's patrons, which, in the judgment of
6 the office, adversely affects or tends to affect the protection, health,
7 welfare, safety, or repose of the inhabitants of the area in which the
8 registered or licensed premises is located, or results in the licensed
9 premises becoming a focal point for police attention, or is offensive to
10 public decency.

11 (b) (i) As used in this section, the term "for cause" shall also
12 include deliberately misleading the authority:

13 (A) as to the nature and character of the business to be operated by
14 the registered organization, licensee or permittee; or

15 (B) by substantially altering the nature or character of such business
16 during the registration or licensing period without seeking appropriate
17 approvals from the office.

18 (ii) As used in this subdivision, the term "substantially altering the
19 nature or character" of such business shall mean any significant alter-
20 ation in the scope of business activities conducted by a registered
21 organization, licensee or permittee that would require obtaining an
22 alternate form of registration, license or permit.

23 4. As used in this chapter, the existence of a sustained and continu-
24 ing pattern of misconduct, failure to adequately prevent diversion or
25 disorder on or about the premises may be presumed upon the sixth inci-
26 dent reported to the office by a law enforcement agency, or discovered
27 by the office during the course of any investigation, of misconduct,
28 diversion or disorder on or about the premises or related to the opera-
29 tion of the premises, absent clear and convincing evidence of either
30 fraudulent intent on the part of any complainant or a factual error with
31 respect to the content of any report concerning such complaint relied
32 upon by the office.

33 5. Notwithstanding any other provision of this chapter to the contra-
34 ry, a suspension imposed under this section against the holder of a
35 registration issued pursuant to article three of this chapter, shall
36 only suspend the licensed activities related to the type of cannabis,
37 medical cannabis or adult-use cannabis involved in the violation result-
38 ing in the suspension.

39 6. Any registration, license or permit issued by the office pursuant
40 to this chapter may be revoked, cancelled or suspended and/or be
41 subjected to the imposition of a monetary penalty in the manner
42 prescribed by this section and by the executive director in regulation.

43 7. The office may on its own initiative, or on complaint of any
44 person, institute proceedings to revoke, cancel or suspend any adult-use
45 cannabis retail dispensary license or adult-use cannabis on-site
46 consumption license and may impose a civil penalty against the licensee
47 after a hearing at which the licensee shall be given an opportunity to
48 be heard. Such hearing shall be held in such manner and upon such notice
49 as may be prescribed in regulation by the executive director.

50 8. All other registrations, licenses or permits issued under this
51 chapter may be revoked, cancelled, suspended and/or made subject to the
52 imposition of a civil penalty by the office after a hearing to be held
53 in such manner and upon such notice as may be prescribed in regulation
54 by the executive director.

55 9. Where a licensee or permittee is convicted of two or more qualify-
56 ing offenses within a five-year period, the office, upon receipt of

1 notification of such second or subsequent conviction, shall, in addition
2 to any other sanction or civil or criminal penalty imposed pursuant to
3 this chapter, impose on such licensee a civil penalty not to exceed ten
4 thousand dollars. For purposes of this subdivision, a qualifying
5 offense shall mean the unlawful sale of cannabis to a person under the
6 age of twenty-one. For purposes of this subdivision, a conviction of a
7 licensee or an employee or agent of such licensee shall constitute a
8 conviction of such licensee.

9 § 136. Lawful actions pursuant to this chapter. 1. Contracts related
10 to the operation of registered organizations, licenses and permits under
11 this chapter shall be lawful and shall not be deemed unenforceable on
12 the basis that the actions permitted pursuant to the registration,
13 license or permit are prohibited by federal law.

14 2. The following actions are not unlawful as provided under this chap-
15 ter, shall not be an offense under any state or local law, and shall not
16 result in any civil fine, seizure, or forfeiture of assets against any
17 person acting in accordance with this chapter:

18 (a) Actions of a registered organization, licensee, or permittee, or
19 the employees or agents of such registered organization, licensee or
20 permittee, as permitted by this chapter and consistent with rules and
21 regulations of the office, pursuant to a valid registration, license or
22 permit issued by the office.

23 (b) Actions of those who allow property to be used by a registered
24 organization, licensee, or permittee, or the employees or agents of such
25 registered organization, licensee or permittee, as permitted by this
26 chapter and consistent with rules and regulations of the office, pursu-
27 ant to a valid registration, license or permit issued by the office.

28 (c) Actions of any person or entity, their employees, or their agents
29 providing a service to a registered organization, licensee, permittee or
30 a potential registered organization, licensee, or permittee, as permit-
31 ted by this chapter and consistent with rules and regulations of the
32 office, relating to the formation of a business.

33 (d) The purchase, possession, or consumption of cannabis, medical
34 cannabis and hemp, as permitted by this chapter and consistent with
35 rules and regulations of the office, obtained from a validly registered,
36 licensed or permitted retailer.

37 § 137. Review by courts. 1. The following actions by the office, and
38 only the following actions by the office, shall be subject to review by
39 the supreme court in the manner provided in article seventy-eight of the
40 civil practice law and rules:

41 (a) Refusal by the office to issue a registration, license, or a
42 permit.

43 (b) The revocation, cancellation or suspension of a registration,
44 license, or permit by the office.

45 (c) The failure or refusal by the office to render a decision upon any
46 application or hearing submitted to or held by the office within sixty
47 days after such submission or hearing.

48 (d) The transfer by the office of a registration, license, or permit
49 to any other entity or premises, or the failure or refusal by the office
50 to approve such a transfer.

51 (e) Refusal to approve alteration of premises.

52 (f) Refusal to approve a corporate change in stockholders, stockhold-
53 ings, officers or directors.

54 2. No stay shall be granted pending the determination of such matter
55 except on notice to the office and only for a period of less than thirty
56 days. In no instance shall a stay be granted where the office has issued

1 a summary suspension of a registration, license, or permit for the
2 protection of the public health, safety, and welfare.

3 § 138. Illicit cannabis. 1. "Illicit cannabis" means and includes any
4 cannabis product, medical cannabis or hemp cannabis owned, cultivated,
5 distributed, bought, sold, packaged, rectified, blended, treated, forti-
6 fied, mixed, processed, warehoused, possessed or transported, or on
7 which any tax required to have been paid under any applicable state law
8 has not been paid.

9 2. Any person who shall knowingly possess or have under his or her
10 control any illicit cannabis is guilty of a misdemeanor.

11 3. Any person who shall knowingly barter or exchange with, or sell,
12 give or offer to sell or to give another any illicit cannabis is guilty
13 of a misdemeanor.

14 4. Any person who shall possess or have under his or her control or
15 transport any illicit cannabis with intent to barter or exchange with,
16 or to sell or give to another the same or any part thereof is guilty of
17 a misdemeanor. Such intent is presumptively established by proof that
18 the person knowingly possessed or had under his or her control one or
19 more ounces of illicit cannabis. This presumption may be rebutted.

20 5. Any person who, being the owner, lessee, or occupant of any room,
21 shed, tenement, booth or building, float or vessel, or part thereof,
22 knowingly permits the same to be used for the cultivation, processing,
23 distribution, purchase, sale, warehousing, transportation, or storage of
24 any illicit cannabis, is guilty of a misdemeanor.

25 § 139. Injunction for unlawful manufacturing, sale or consumption of
26 cannabis. 1. If any person shall engage or participate or be about to
27 engage or participate in the cultivation, production, distribution,
28 traffic, or sale of cannabis products, medical cannabis or hemp cannabis
29 in this state without obtaining the appropriate registration, license,
30 or permit therefor, or shall traffic in cannabis products, medical
31 cannabis or hemp cannabis contrary to any provision of this chapter, or
32 otherwise unlawfully, or shall traffic in illegal cannabis products,
33 medical cannabis or hemp cannabis, or, operating a place for profit or
34 pecuniary gain, with a capacity for the assemblage of twenty or more
35 persons, shall permit a person or persons to come to such place of
36 assembly for the purpose of consuming cannabis products without having
37 the appropriate license or permit therefor, the office may present a
38 verified petition or complaint to a justice of the supreme court at a
39 special term of the supreme court of the judicial district in which such
40 city, village or town is situated, for an order enjoining such person
41 engaging or participating in such activity or from carrying on such
42 business. Such petition or complaint shall state the facts upon which
43 such application is based. Upon the presentation of the petition or
44 complaint, the justice or court may grant an order temporarily restrain-
45 ing any person from continuing to engage in conduct as specified in the
46 petition or complaint, and shall grant an order requiring such person to
47 appear before such justice or court at or before a special term of the
48 supreme court in such judicial district on the day specified therein,
49 not more than ten days after the granting thereof, to show cause why
50 such person should not be permanently enjoined from engaging or partic-
51 ipating in such activity or from carrying on such business, or why such
52 person should not be enjoined from carrying on such business contrary to
53 the provisions of this chapter. A copy of such petition or complaint and
54 order shall be served upon the person, in the manner directed by such
55 order, not less than three days before the return day thereof. On the
56 day specified in such order, the justice or court before whom the same

1 is returnable shall hear the proofs of the parties and may, if deemed
2 necessary or proper, take testimony in relation to the allegations of
3 the petition or complaint. If the justice or court is satisfied that
4 such person is about to engage or participate in the unlawful traffic in
5 cannabis, medical cannabis or hemp cannabis or has unlawfully culti-
6 vated, processed, or sold cannabis products, medical cannabis or hemp
7 cannabis without having obtained a registration or license or contrary
8 to the provisions of this chapter, or has trafficked in illegal canna-
9 bis, or, is operating or is about to operate such place for profit or
10 pecuniary gain, with such capacity, and has permitted or is about to
11 permit a person or persons to come to such place of assembly for the
12 purpose of consuming cannabis products without having such appropriate
13 license, an order shall be granted enjoining such person from thereafter
14 engaging or participating in or carrying on such activity or business.
15 If, after the entry of such an order in the county clerk's office of the
16 county in which the principal place of business of the corporation or
17 partnership is located, or in which the individual so enjoined resides
18 or conducts such business, and the service of a copy thereof upon such
19 person, or such substituted service as the court may direct, such
20 person, partnership or corporation shall, in violation of such order,
21 cultivate, process, distribute or sell cannabis products, medical canna-
22 bis or hemp cannabis, or illegal cannabis products, medical cannabis or
23 hemp cannabis, or permit a person or persons to come to such place of
24 assembly for the purpose of consuming cannabis products, such activity
25 shall be deemed a contempt of court and be punishable in the manner
26 provided by the judiciary law, and, in addition to any such punishment,
27 the justice or court before whom or which the petition or complaint is
28 heard, may, in his or its discretion, order the seizure and forfeiture
29 of any cannabis products and any fixtures, equipment and supplies used
30 in the operation or promotion of such illegal activity and such property
31 shall be subject to forfeiture pursuant to law. Costs upon the applica-
32 tion for such injunction may be awarded in favor of and against the
33 parties thereto in such sums as in the discretion of the justice or
34 court before whom or which the petition or complaint is heard may seem
35 proper.

36 2. The owner, lessor and lessee of a building, erection or place where
37 cannabis products, medical cannabis or hemp cannabis is unlawfully
38 cultivated, processed, distributed, sold, consumed or permitted to be
39 unlawfully cultivated, processed, distributed, sold or consumed may be
40 made a respondent or defendant in the proceeding or action.

41 § 140. Persons forbidden to traffic cannabis; certain officials not to
42 be interested in manufacture or sale of cannabis products. 1. The
43 following are forbidden to traffic in cannabis:

44 (a) Except as provided in subdivision one-a of this section, a person
45 who has been convicted of a felony, unless subsequent to such conviction
46 such person shall have received an executive pardon therefor removing
47 this disability, a certificate of good conduct granted by the department
48 of corrections and community supervision, or a certificate of relief
49 from disabilities granted by the department of corrections and community
50 supervision or a court of this state pursuant to the provisions of arti-
51 cle twenty-three of the correction law to remove the disability under
52 this section because of such conviction;

53 (b) A person under the age of twenty-one years;

54 (c) A person who is not a citizen of the United States or an alien
55 lawfully admitted for permanent residence in the United States;

1 (d) A partnership or a corporation, unless each member of the partner-
2 ship, or each of the principal officers and directors of the corpo-
3 ration, is a citizen of the United States or an alien lawfully admitted
4 for permanent residence in the United States, not less than twenty-one
5 years of age, and has not been convicted of any felony, or if so
6 convicted has received, subsequent to such conviction, an executive
7 pardon therefor removing this disability a certificate of good conduct
8 granted by the department of corrections and community supervision, or a
9 certificate of relief from disabilities granted by the department of
10 corrections and community supervision or a court of this state pursuant
11 to the provisions of article twenty-three of the correction law to
12 remove the disability under this section because of such conviction;
13 provided however that a corporation which otherwise conforms to the
14 requirements of this section and chapter may be licensed if each of its
15 principal officers and more than one-half of its directors are citizens
16 of the United States or aliens lawfully admitted for permanent residence
17 in the United States; and provided further that a corporation organized
18 under the not-for-profit corporation law or the education law which
19 otherwise conforms to the requirements of this section and chapter may
20 be licensed if each of its principal officers and more than one-half of
21 its directors are not less than twenty-one years of age and none of its
22 directors are less than eighteen years of age; and provided further that
23 a corporation organized under the not-for-profit corporation law or the
24 education law and located on the premises of a college as defined by
25 section two of the education law which otherwise conforms to the
26 requirements of this section and chapter may be licensed if each of its
27 principal officers and each of its directors are not less than eighteen
28 years of age;

29 (e) A person who shall have had any registration or license issued
30 under this chapter revoked for cause, until the expiration of two years
31 from the date of such revocation;

32 (f) A person not registered or licensed under the provisions of this
33 chapter, who has been convicted of a violation of this chapter, until
34 the expiration of two years from the date of such conviction; or

35 (g) A corporation or partnership, if any officer and director or any
36 partner, while not licensed under the provisions of this chapter, has
37 been convicted of a violation of this chapter, or has had a registration
38 or license issued under this chapter revoked for cause, until the expi-
39 ration of two years from the date of such conviction or revocation.

40 1-a. Notwithstanding the provision of subdivision one of this section,
41 a corporation holding a registration or license to traffic cannabis
42 products or medical cannabis shall not, upon conviction of a felony be
43 automatically forbidden to traffic in cannabis products or medical
44 cannabis, but the application for a registered organization or license
45 by such a corporation shall be subject to denial, and the registration
46 or license of such a corporation shall be subject to revocation or
47 suspension by the office pursuant, consistent with the provisions of
48 article twenty-three-A of the correction law. For any felony conviction
49 by a court other than a court of this state, the office may request the
50 department of corrections and community supervision to investigate and
51 review the facts and circumstances concerning such a conviction, and
52 such department shall, if so requested, submit its findings to the
53 office as to whether the corporation has conducted itself in a manner
54 such that discretionary review by the office would not be inconsistent
55 with the public interest. The department of corrections and community
56 supervision may charge the registered organization, licensee or appli-

1 cant a fee equivalent to the expenses of an appropriate investigation
2 under this subdivision. For any conviction rendered by a court of this
3 state, the office may request the corporation, if the corporation is
4 eligible for a certificate of relief from disabilities, to seek such a
5 certificate from the court which rendered the conviction and to submit
6 such a certificate as part of the office's discretionary review process.

7 2. Except as may otherwise be provided for in regulation, it shall be
8 unlawful for any police commissioner, police inspector, captain,
9 sergeant, roundsman, patrolman or other police official or subordinate
10 of any police department in the state, to be either directly or indi-
11 rectly interested in the cultivation, processing, distribution, or sale
12 of cannabis products or to offer for sale, or recommend to any regis-
13 tered organization or licensee any cannabis products. A person may not
14 be denied any registration or license granted under the provisions of
15 this chapter solely on the grounds of being the spouse of a public serv-
16 ant described in this section. The solicitation or recommendation made
17 to any registered organization or licensee, to purchase any cannabis
18 products by any police official or subordinate as hereinabove described,
19 shall be presumptive evidence of the interest of such official or subor-
20 dinate in the cultivation, processing, distribution, or sale of cannabis
21 products.

22 3. No elective village officer shall be subject to the limitations set
23 forth in subdivision two of this section unless such elective village
24 officer shall be assigned duties directly relating to the operation or
25 management of the police department.

26 § 141. Access to criminal history information through the division of
27 criminal justice services. In connection with the administration of
28 this chapter, the executive director is authorized to request, receive
29 and review criminal history information through the division of criminal
30 justice services with respect to any person seeking a registration,
31 license, permit or authorization to cultivate, process, distribute or
32 sell medical cannabis, adult use cannabis or hemp cannabis. At the exec-
33 utive director's request, each person, member, principal and/or officer
34 of the applicant shall submit to the office his or her fingerprints in
35 such form and in such manner as specified by the division, for the
36 purpose of conducting a criminal history search and returning a report
37 thereon in accordance with the procedures and requirements established
38 by the division pursuant to the provisions of article thirty-five of the
39 executive law, which shall include the payment of the prescribed proc-
40 essing fees for the cost of the division's full search and retain proce-
41 dures and a national criminal history record check. The executive direc-
42 tor, or his or her designee, shall submit such fingerprints and the
43 processing fee to the division. The division shall forward to the execu-
44 tive director a report with respect to the applicant's previous criminal
45 history, if any, or a statement that the applicant has no previous crim-
46 inal history according to its files. Fingerprints submitted to the divi-
47 sion pursuant to this subdivision may also be submitted to the federal
48 bureau of investigation for a national criminal history record check. If
49 additional copies of fingerprints are required, the applicant shall
50 furnish them upon request.

51 § 3. Intentionally omitted.

52 § 4. Section 3302 of the public health law, as added by chapter 878 of
53 the laws of 1972, subdivisions 1, 14, 16, 17 and 27 as amended and
54 subdivisions 4, 5, 6, 7, 8, 11, 12, 13, 15, 18, 19, 20, 21, 22, 23, 24,
55 25, 26, 28, 29 and 30 as renumbered by chapter 537 of the laws of 1998,
56 subdivisions 9 and 10 as amended and subdivisions 34, 35, 36, 37, 38, 39

1 and 40 as added by chapter 178 of the laws of 2010, paragraph (a) of
2 subdivision 20, the opening paragraph of subdivision 22 and subdivision
3 29 as amended by chapter 163 of the laws of 1973, subdivision 31 as
4 amended by section 4 of part A of chapter 58 of the laws of 2004, subdi-
5 vision 41 as added by section 6 of part A of chapter 447 of the laws of
6 2012, and subdivisions 42 and 43 as added by section 13 of part D of
7 chapter 60 of the laws of 2014, is amended to read as follows:

8 § 3302. Definitions of terms of general use in this article. Except
9 where different meanings are expressly specified in subsequent
10 provisions of this article, the following terms have the following mean-
11 ings:

12 1. "Addict" means a person who habitually uses a controlled substance
13 for a non-legitimate or unlawful use, and who by reason of such use is
14 dependent thereon.

15 2. "Administer" means the direct application of a controlled
16 substance, whether by injection, inhalation, ingestion, or any other
17 means, to the body of a patient or research subject.

18 3. "Agent" means an authorized person who acts on behalf of or at the
19 direction of a manufacturer, distributor, or dispenser. No person may be
20 authorized to so act if under title VIII of the education law such
21 person would not be permitted to engage in such conduct. It does not
22 include a common or contract carrier, public warehouseman, or employee
23 of the carrier or warehouseman when acting in the usual and lawful
24 course of the carrier's or warehouseman's business.

25 4. ~~["Concentrated Cannabis" means~~
26 ~~(a) the separated resin, whether crude or purified, obtained from a~~
27 ~~plant of the genus Cannabis, or~~
28 ~~(b) a material, preparation, mixture, compound or other substance~~
29 ~~which contains more than two and one-half percent by weight of delta-9~~
30 ~~tetrahydrocannabinol, or its isomer, delta-8 dibenzopyran numbering~~
31 ~~system, or delta-1 tetrahydrocannabinol or its isomer, delta-1-(6) mono-~~
32 ~~terpene numbering system.~~

33 ~~5.]~~ "Controlled substance" means a substance or substances listed in
34 section thirty-three hundred six of this ~~[chapter]~~ title.

35 ~~[6.]~~ 5. "Commissioner" means commissioner of health of the state of
36 New York.

37 ~~[7.]~~ 6. "Deliver" or "delivery" means the actual, constructive or
38 attempted transfer from one person to another of a controlled substance,
39 whether or not there is an agency relationship.

40 ~~[8.]~~ 7. "Department" means the department of health of the state of
41 New York.

42 ~~[9.]~~ 8. "Dispense" means to deliver a controlled substance to an ulti-
43 mate user or research subject by lawful means, including by means of the
44 internet, and includes the packaging, labeling, or compounding necessary
45 to prepare the substance for such delivery.

46 ~~[10.]~~ 9. "Distribute" means to deliver a controlled substance, includ-
47 ing by means of the internet, other than by administering or dispensing.

48 ~~[11.]~~ 10. "Distributor" means a person who distributes a controlled
49 substance.

50 ~~[12.]~~ 11. "Diversion" means manufacture, possession, delivery or use
51 of a controlled substance by a person or in a manner not specifically
52 authorized by law.

53 ~~[13.]~~ 12. "Drug" means

54 (a) substances recognized as drugs in the official United States Phar-
55 macopoeia, official Homeopathic Pharmacopoeia of the United States, or
56 official National Formulary, or any supplement to any of them;

1 (b) substances intended for use in the diagnosis, cure, mitigation,
2 treatment, or prevention of disease in man or animals; and

3 (c) substances (other than food) intended to affect the structure or a
4 function of the body of man or animal. It does not include devices or
5 their components, parts, or accessories.

6 [~~14.~~] 13. "Federal agency" means the Drug Enforcement Administration,
7 United States Department of Justice, or its successor agency.

8 [~~15.~~] 14. "Federal controlled substances act" means the Comprehensive
9 Drug Abuse Prevention and Control Act of 1970, Public Law 91-513, and
10 any act or acts amendatory or supplemental thereto or regulations
11 promulgated thereunder.

12 [~~16.~~] 15. "Federal registration number" means such number assigned by
13 the Federal agency to any person authorized to manufacture, distribute,
14 sell, dispense or administer controlled substances.

15 [~~17.~~] 16. "Habitual user" means any person who is, or by reason of
16 repeated use of any controlled substance for non-legitimate or unlawful
17 use is in danger of becoming, dependent upon such substance.

18 [~~18.~~] 17. "Institutional dispenser" means a hospital, veterinary
19 hospital, clinic, dispensary, maternity home, nursing home, mental
20 hospital or similar facility approved and certified by the department as
21 authorized to obtain controlled substances by distribution and to
22 dispense and administer such substances pursuant to the order of a prac-
23 titioner.

24 [~~19.~~] 18. "License" means a written authorization issued by the
25 department or the New York state department of education permitting
26 persons to engage in a specified activity with respect to controlled
27 substances.

28 [~~20.~~] 19. "Manufacture" means the production, preparation, propa-
29 gation, compounding, cultivation, conversion or processing of a
30 controlled substance, either directly or indirectly or by extraction
31 from substances of natural origin, or independently by means of chemical
32 synthesis, or by a combination of extraction and chemical synthesis, and
33 includes any packaging or repackaging of the substance or labeling or
34 relabeling of its container, except that this term does not include the
35 preparation, compounding, packaging or labeling of a controlled
36 substance:

37 (a) by a practitioner as an incident to his administering or dispens-
38 ing of a controlled substance in the course of his professional prac-
39 tice; or

40 (b) by a practitioner, or by his authorized agent under his super-
41 vision, for the purpose of, or as an incident to, research, teaching, or
42 chemical analysis and not for sale; or

43 (c) by a pharmacist as an incident to his dispensing of a controlled
44 substance in the course of his professional practice.

45 [~~21. "Marihuana" means all parts of the plant of the genus Cannabis,
46 whether growing or not, the seeds thereof, the resin extracted from any
47 part of the plant, and every compound, manufacture, salt, derivative,
48 mixture, or preparation of the plant, its seeds or resin. It does not
49 include the mature stalks of the plant, fiber produced from the stalks,
50 oil or cake made from the seeds of the plant, any other compound, manu-
51 facture, salt, derivative, mixture, or preparation of the mature stalks
52 (except the resin extracted therefrom), fiber, oil, or cake, or the
53 sterilized seed of the plant which is incapable of germination.~~

54 22.] 20. "Narcotic drug" means any of the following, whether produced
55 directly or indirectly by extraction from substances of vegetable

1 origin, or independently by means of chemical synthesis, or by a combi-
2 nation of extraction and chemical synthesis:

3 (a) opium and opiate, and any salt, compound, derivative, or prepara-
4 tion of opium or opiate;

5 (b) any salt, compound, isomer, derivative, or preparation thereof
6 which is chemically equivalent or identical with any of the substances
7 referred to in [~~subdivision~~] paragraph (a) of this subdivision, but not
8 including the isoquinoline alkaloids of opium;

9 (c) opium poppy and poppy straw.

10 [~~23-~~] 21. "Opiate" means any substance having an addiction-forming or
11 addiction-sustaining liability similar to morphine or being capable of
12 conversion into a drug having addiction-forming or addiction-sustaining
13 liability. It does not include, unless specifically designated as
14 controlled under section [~~3306~~] thirty-three hundred six of this [~~arti-~~
15 ~~cle~~] title, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and
16 its salts (dextromethorphan). It does include its racemic and levorota-
17 tory forms.

18 [~~24-~~] 22. "Opium poppy" means the plant of the species *Papaver*
19 *somniferum* L., except its seeds.

20 [~~25-~~] 23. "Person" means individual, institution, corporation, govern-
21 ment or governmental subdivision or agency, business trust, estate,
22 trust, partnership or association, or any other legal entity.

23 [~~26-~~] 24. "Pharmacist" means any person licensed by the state depart-
24 ment of education to practice pharmacy.

25 [~~27-~~] 25. "Pharmacy" means any place registered as such by the New
26 York state board of pharmacy and registered with the Federal agency
27 pursuant to the federal controlled substances act.

28 [~~28-~~] 26. "Poppy straw" means all parts, except the seeds, of the
29 opium poppy, after mowing.

30 [~~29-~~] 27. "Practitioner" means:

31 A physician, dentist, podiatrist, veterinarian, scientific investi-
32 gator, or other person licensed, or otherwise permitted to dispense,
33 administer or conduct research with respect to a controlled substance in
34 the course of a licensed professional practice or research licensed
35 pursuant to this article. Such person shall be deemed a "practitioner"
36 only as to such substances, or conduct relating to such substances, as
37 is permitted by his license, permit or otherwise permitted by law.

38 [~~30-~~] 28. "Prescribe" means a direction or authorization, by
39 prescription, permitting an ultimate user lawfully to obtain controlled
40 substances from any person authorized by law to dispense such
41 substances.

42 [~~31-~~] 29. "Prescription" shall mean an official New York state
43 prescription, an electronic prescription, an oral prescription[~~7~~] or
44 an out-of-state prescription[~~7~~, ~~or any one~~].

45 [~~32-~~] 30. "Sell" means to sell, exchange, give or dispose of to anoth-
46 er, or offer or agree to do the same.

47 [~~33-~~] 31. "Ultimate user" means a person who lawfully obtains and
48 possesses a controlled substance for his own use or the use by a member
49 of his household or for an animal owned by him or in his custody. It
50 shall also mean and include a person designated, by a practitioner on a
51 prescription, to obtain such substance on behalf of the patient for whom
52 such substance is intended.

53 [~~34-~~] 32. "Internet" means collectively computer and telecommuni-
54 cations facilities which comprise the worldwide network of networks that
55 employ a set of industry standards and protocols, or any predecessor or
56 successor protocol to such protocol, to exchange information of all

1 kinds. "Internet," as used in this article, also includes other
2 networks, whether private or public, used to transmit information by
3 electronic means.

4 ~~[35-]~~ 33. "By means of the internet" means any sale, delivery,
5 distribution, or dispensing of a controlled substance that uses the
6 internet, is initiated by use of the internet or causes the internet to
7 be used.

8 ~~[36-]~~ 34. "Online dispenser" means a practitioner, pharmacy, or person
9 in the United States that sells, delivers or dispenses, or offers to
10 sell, deliver, or dispense, a controlled substance by means of the
11 internet.

12 ~~[37-]~~ 35. "Electronic prescription" means a prescription issued with
13 an electronic signature and transmitted by electronic means in accord-
14 ance with regulations of the commissioner and the commissioner of educa-
15 tion and consistent with federal requirements. A prescription generated
16 on an electronic system that is printed out or transmitted via facsimile
17 is not considered an electronic prescription and must be manually
18 signed.

19 ~~[38-]~~ 36. "Electronic" means of or relating to technology having elec-
20 trical, digital, magnetic, wireless, optical, electromagnetic or similar
21 capabilities. "Electronic" shall not include facsimile.

22 ~~[39-]~~ 37. "Electronic record" means a paperless record that is
23 created, generated, transmitted, communicated, received or stored by
24 means of electronic equipment and includes the preservation, retrieval,
25 use and disposition in accordance with regulations of the commissioner
26 and the commissioner of education and in compliance with federal law and
27 regulations.

28 ~~[40-]~~ 38. "Electronic signature" means an electronic sound, symbol, or
29 process, attached to or logically associated with an electronic record
30 and executed or adopted by a person with the intent to sign the record,
31 in accordance with regulations of the commissioner and the commissioner
32 of education.

33 ~~[41-]~~ 39. "Registry" or "prescription monitoring program registry"
34 means the prescription monitoring program registry established pursuant
35 to section thirty-three hundred forty-three-a of this article.

36 ~~[42-]~~ 40. "Compounding" means the combining, admixing, mixing, dilut-
37 ing, pooling, reconstituting, or otherwise altering of a drug or bulk
38 drug substance to create a drug with respect to an outsourcing facility
39 under section 503B of the federal Food, Drug and Cosmetic Act and
40 further defined in this section.

41 ~~[43-]~~ 41. "Outsourcing facility" means a facility that:

42 (a) is engaged in the compounding of sterile drugs as defined in
43 section sixty-eight hundred two of the education law;

44 (b) is currently registered as an outsourcing facility pursuant to
45 article one hundred thirty-seven of the education law; and

46 (c) complies with all applicable requirements of federal and state
47 law, including the Federal Food, Drug and Cosmetic Act.

48 Notwithstanding any other provision of law to the contrary, when an
49 outsourcing facility distributes or dispenses any drug to any person
50 pursuant to a prescription, such outsourcing facility shall be deemed to
51 be providing pharmacy services and shall be subject to all laws, rules
52 and regulations governing pharmacies and pharmacy services.

53 § 5. Paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25,
54 26, 27, 28, 29, 30, 31 and 32 of subdivision (d) of schedule I of
55 section 3306 of the public health law, paragraphs 13, 14, 15, 16, 17,
56 18, 19, 20, 21, 22, 23 and 24 as added by chapter 664 of the laws of

1 1985, paragraphs 25, 26, 27, 28, 29 and 30 as added by chapter 589 of
2 the laws of 1996 and paragraphs 31 and 32 as added by chapter 457 of the
3 laws of 2006, are amended to read as follows:

4 (13) [~~Marihuana,~~

5 ~~(14)] Mescaline.~~

6 [~~(15)] (14) Parahexyl. Some trade or other names: 3-Hexyl-1-hydroxy-
7 7,8,9,10-tetra hydro-6,6,9-trimethyl-6H-dibenfo{b,d} pyran.~~

8 [~~(16)] (15) Peyote. Meaning all parts of the plant presently classi-
9 fied botanically as Lophophora williamsii Lemaire, whether growing or
10 not, the seeds thereof, any extract from any part of such plant, and
11 every compound, manufacture, salts, derivative, mixture, or preparation
12 of such plant, its seeds or extracts.~~

13 [~~(17)] (16) N-ethyl-3-piperidyl benzilate.~~

14 [~~(18)] (17) N-methyl-3-piperidyl benzilate.~~

15 [~~(19)] (18) Psilocybin.~~

16 [~~(20)] (19) Psilocyn.~~

17 [~~(21)] (20) Tetrahydrocannabinols. Synthetic tetrahydrocannabinols not
18 derived from the cannabis plant that are equivalents of the substances
19 contained in the plant, or in the resinous extractives of cannabis, sp.
20 and/or synthetic substances, derivatives, and their isomers with similar
21 chemical structure and pharmacological activity such as the following:~~

22 [~~(\)] delta 1 cis or trans tetrahydrocannabinol, and their optical
23 isomers~~

24 [~~(\)] delta 6 cis or trans tetrahydrocannabinol, and their optical
25 isomers~~

26 [~~(\)] delta 3, 4 cis or trans tetrahydrocannabinol, and its optical
27 isomers (since nomenclature of these substances is not internationally
28 standardized, compounds of these structures, regardless of numerical
29 designation of atomic positions covered).~~

30 [~~(22)] (21) Ethylamine analog of phencyclidine. Some trade or other
31 names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethyla-
32 mine, N-(1-phenylcyclohexyl) ethylamine cyclohexamine, PCE.~~

33 [~~(23)] (22) Pyrrolidine analog of phencyclidine. Some trade or other
34 names 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy, PHP.~~

35 [~~(24)] (23) Thiophene analog of phencyclidine. Some trade or other
36 names: 1-{1-(2-thienyl)-cyclohexyl}-piperidine, 2-thienylanalog of
37 phencyclidine, TPCP, TCP.~~

38 [~~(25)] (24) 3,4-methylenedioxyamphetamine (MDMA).~~

39 [~~(26)] (25) 3,4-methylenedioxy-N-ethylamphetamine (also known as
40 N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA,
41 MDE, MDEA.~~

42 [~~(27)] (26) N-hydroxy-3,4-methylenedioxyamphetamine (also known as
43 N-hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and
44 N-hydroxy MDA.~~

45 [~~(28)] (27) 1-{1-(2-thienyl) cyclohexyl} pyrrolidine. Some other
46 names: TCPY.~~

47 [~~(29)] (28) Alpha-ethyltryptamine. Some trade or other names:
48 etryptamine; Monase; Alpha-ethyl-1H-indole-3-ethanamine;
49 3-(2-aminobutyl) indole; Alpha-ET or AET.~~

50 [~~(30)] (29) 2,5-dimethoxy-4-ethylamphetamine. Some trade or other
51 names: DOET.~~

52 [~~(31)] (30) 4-Bromo-2,5-dimethoxyphenethylamine. Some trade or other
53 names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl
54 DOB; 2C-B, Nexus.~~

55 [~~(32)] (31) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7), its
56 optical isomers, salts and salts of isomers.~~

1 § 6. Title 5-A of article 33 of the public health law is REPEALED.

2 § 7. Section 3382 of the public health law, as added by chapter 878 of
3 the laws of 1972, is amended to read as follows:

4 § 3382. Growing of the plant known as Cannabis by unlicensed persons.
5 A person who, without being licensed so to do under this article or
6 articles three, four or five of the cannabis law, grows the plant of the
7 genus Cannabis or knowingly allows it to grow on his land without
8 destroying the same, shall be guilty of a class A misdemeanor.

9 § 8. Subdivision 1 of section 3397-b of the public health law, as
10 added by chapter 810 of the laws of 1980, is amended to read as follows:

11 1. [~~"Marijuana"~~] "Cannabis" means [~~marijuana~~] cannabis as defined in
12 [~~section thirty-three hundred two of this chapter~~] subdivision three of
13 section three of the cannabis law and shall also include tetrahydrocannabi-
14 nabinols or a chemical derivative of tetrahydrocannabinol.

15 § 9. Subdivision 8 of section 1399-n of the public health law, as
16 amended by chapter 13 of the laws of 2003, is amended to read as
17 follows:

18 8. "Smoking" means the burning of a lighted cigar, cigarette, pipe or
19 any other matter or substance which contains tobacco or cannabis.

20 § 10. Subdivisions 5, 6 and 9 of section 220.00 of the penal law,
21 subdivision 5 as amended by chapter 537 of the laws of 1998, subdivision
22 6 as amended by chapter 1051 of the laws of 1973 and subdivision 9 as
23 amended by chapter 664 of the laws of 1985, are amended and a new subdi-
24 vision 21 is added to read as follows:

25 5. "Controlled substance" means any substance listed in schedule I,
26 II, III, IV or V of section thirty-three hundred six of the public
27 health law other than [~~marihuana~~] cannabis as defined in subdivision six
28 of this section, but including concentrated cannabis as defined in
29 [~~paragraph (a) of subdivision four of section thirty-three hundred two~~
30 ~~of such law~~] subdivision twenty-one of this section.

31 6. [~~"Marihuana"~~] "Cannabis" means [~~"marihuana" or "concentrated canna-~~
32 ~~big" as those terms are defined in section thirty-three hundred two of~~
33 ~~the public health law~~] all parts of the plant of the genus cannabis,
34 whether growing or not; the seeds thereof; the resin extracted from any
35 part of the plant; and every compound, manufacture, salt, derivative,
36 mixture, or preparation of the plant, its seeds or resin. It does not
37 include the mature stalks of the plant, fiber produced from the stalks,
38 oil or cake made from the seeds of the plant, any other compound, manu-
39 facture, salt, derivative, mixture, or preparation of the mature stalks
40 (except the resin extracted therefrom), fiber, oil, or cake, or the
41 sterilized seed of the plant which is incapable of germination. It does
42 not include all parts of the plant cannabis sativa L., whether growing
43 or not, having no more than three-tenths of one percent tetrahydrocanna-
44 binol (THC).

45 9. "Hallucinogen" means any controlled substance listed in schedule
46 I(d) (5), [~~(18), (19), (20), (21) and (22)~~] (17), (18), (19), (20) and
47 (21).

48 21. "Concentrated cannabis" means: (a) the separated resin, whether
49 crude or purified, obtained from a plant of the genus cannabis; or (b) a
50 material, preparation, mixture, compound or other substance which
51 contains more than three percent by weight of delta-9 tetrahydrocannabi-
52 nol, or its isomer, delta-8 dibenzopyran numbering system, or delta-1
53 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpene numbering
54 system.

55 § 11. Subdivision 4 of section 220.06 of the penal law, as amended by
56 chapter 537 of the laws of 1998, is amended to read as follows:

1 4. one or more preparations, compounds, mixtures or substances
2 containing concentrated cannabis as defined in [~~paragraph (a) of subdi-~~
3 ~~vision four of section thirty-three hundred two of the public health~~
4 ~~law~~] subdivision twenty-one of section 220.00 of this article and said
5 preparations, compounds, mixtures or substances are of an aggregate
6 weight of one-fourth ounce or more; or

7 § 12. Subdivision 10 of section 220.09 of the penal law, as amended by
8 chapter 537 of the laws of 1998, is amended to read as follows:

9 10. one or more preparations, compounds, mixtures or substances
10 containing concentrated cannabis as defined in [~~paragraph (a) of subdi-~~
11 ~~vision four of section thirty-three hundred two of the public health~~
12 ~~law~~] subdivision twenty-one of section 220.00 of this article and said
13 preparations, compounds, mixtures or substances are of an aggregate
14 weight of one ounce or more; or

15 § 13. Subdivision 3 of section 220.34 of the penal law, as amended by
16 chapter 537 of the laws of 1998, is amended to read as follows:

17 3. concentrated cannabis as defined in [~~paragraph (a) of subdivision~~
18 ~~four of section thirty-three hundred two of the public health law~~]
19 subdivision twenty-one of section 220.00 of this article; or

20 § 14. Section 220.50 of the penal law, as amended by chapter 627 of
21 the laws of 1990, is amended to read as follows:

22 § 220.50 Criminally using drug paraphernalia in the second degree.

23 A person is guilty of criminally using drug paraphernalia in the
24 second degree when he knowingly possesses or sells:

25 1. Diluents, dilutants or adulterants, including but not limited to,
26 any of the following: quinine hydrochloride, mannitol, mannite, lactose
27 or dextrose, adapted for the dilution of narcotic drugs or stimulants
28 under circumstances evincing an intent to use, or under circumstances
29 evincing knowledge that some person intends to use, the same for
30 purposes of unlawfully mixing, compounding, or otherwise preparing any
31 narcotic drug or stimulant, other than cannabis or concentrated
32 cannabis; or

33 2. Gelatine capsules, glassine envelopes, vials, capsules or any other
34 material suitable for the packaging of individual quantities of narcotic
35 drugs or stimulants under circumstances evincing an intent to use, or
36 under circumstances evincing knowledge that some person intends to use,
37 the same for the purpose of unlawfully manufacturing, packaging or
38 dispensing of any narcotic drug or stimulant, other than cannabis or
39 concentrated cannabis; or

40 3. Scales and balances used or designed for the purpose of weighing or
41 measuring controlled substances, under circumstances evincing an intent
42 to use, or under circumstances evincing knowledge that some person
43 intends to use, the same for purpose of unlawfully manufacturing, pack-
44 aging or dispensing of any narcotic drug or stimulant, other than canna-
45 bis or concentrated cannabis.

46 Criminally using drug paraphernalia in the second degree is a class A
47 misdemeanor.

48 § 15. Section 221.00 of the penal law, as amended by chapter 90 of the
49 laws of 2014, is amended to read as follows:

50 § 221.00 [~~Marihuana~~] Cannabis; definitions.

51 Unless the context in which they are used clearly otherwise requires,
52 the terms occurring in this article shall have the same meaning ascribed
53 to them in article two hundred twenty of this chapter. Any act that is
54 lawful under [~~title five-A of article thirty-three of the public health~~]
55 articles three, four or five, of the cannabis law is not a violation of
56 this article.

1 § 15-a. Section 221.00 of the penal law, as added by chapter 360 of
2 the laws of 1977, is amended to read as follows:

3 § 221.00 [~~Marihuana~~] Cannabis; definitions.

4 Unless the context in which they are used clearly otherwise requires,
5 the terms occurring in this article shall have the same meaning ascribed
6 to them in article two hundred twenty of this chapter.

7 § 16. Section 221.05 of the penal law, as added by chapter 360 of the
8 laws of 1977, is amended to read as follows:

9 § 221.05 Unlawful possession of [~~marihuana~~] cannabis.

10 A person is guilty of unlawful possession of [~~marihuana~~] cannabis when
11 he or she knowingly and unlawfully possesses [~~marihuana~~]:

- 12 1. cannabis and is less than twenty-one years of age; or
13 2. cannabis in a public place, as defined in section 240.00 of this
14 part, and such cannabis is burning.

15 Unlawful possession of [~~marihuana~~] cannabis is a violation punishable
16 only by a fine of not more than one hundred fifty dollars[~~-. However,~~
17 ~~where the defendant has previously been convicted of an offense defined~~
18 ~~in this article or article 220 of this chapter, committed within the~~
19 ~~three years immediately preceding such violation, it shall be punishable~~
20 ~~(a) only by a fine of not more than two hundred dollars, if the defend-~~
21 ~~ant was previously convicted of one such offense committed during such~~
22 ~~period, and (b) by a fine of not more than two hundred fifty dollars or~~
23 ~~a term of imprisonment not in excess of fifteen days or both, if the~~
24 ~~defendant was previously convicted of two such offenses committed during~~
25 ~~such period] when such possession is by a person less than twenty-one
26 years of age and of an aggregate weight of less than one-half of one
27 ounce or a fine of not more than one hundred dollars when such
28 possession is by a person less than twenty-one years of age and of an
29 aggregate weight more than one-half of one ounce but not more than one
30 ounce. Unlawful possession of marijuana is punishable by a fine of not
31 more than one hundred twenty-five dollars when such possession is in a
32 public place and such cannabis is burning. The term burning in this
33 section shall have the same meaning as the term vaping as defined in
34 subdivision eight of section thirteen hundred ninety-nine-n of the
35 public health law.~~

36 § 17. Section 221.15 of the penal law, as amended by chapter 265 of
37 the laws of 1979, the opening paragraph as amended by chapter 75 of the
38 laws of 1995, is amended to read as follows:

39 § 221.15 Criminal possession of [~~marihuana~~] cannabis in the [~~fourth~~]
40 third degree.

41 A person is guilty of criminal possession of [~~marihuana~~] cannabis in
42 the [~~fourth~~] third degree when he or she knowingly and unlawfully
43 possesses [~~one or more preparations, compounds, mixtures or substances~~
44 ~~containing marihuana and the preparations, compounds, mixtures or~~
45 ~~substances are of~~] an aggregate weight of more than [~~two ounces~~] one
46 ounce of cannabis or more than five grams of concentrated cannabis.

47 Criminal possession of [~~marihuana~~] cannabis in the [~~fourth~~] third
48 degree is a [~~class A misdemeanor~~] violation punishable by a fine of not
49 more than one hundred twenty-five dollars. The provisions of this
50 section shall not apply to certified patients or designated caregivers
51 as lawfully registered under article three of the cannabis law.

52 § 18. Section 221.20 of the penal law, as amended by chapter 265 of
53 the laws of 1979, the opening paragraph as amended by chapter 75 of the
54 laws of 1995, is amended to read as follows:

55 § 221.20 Criminal possession of [~~marihuana~~] cannabis in the [~~third~~]
56 second degree.

1 A person is guilty of criminal possession of [~~marihuana~~] cannabis in
2 the [~~third~~] second degree when he or she knowingly and unlawfully
3 possesses [~~one or more preparations, compounds, mixtures or substances~~
4 ~~containing marihuana and the preparations, compounds, mixtures or~~
5 ~~substances are of~~] an aggregate weight of more than [~~eight~~] two ounces
6 of cannabis or more than ten ounces of concentrated cannabis.

7 Criminal possession of [~~marihuana~~] cannabis in the [~~third~~] second
8 degree is a class [~~E-felony~~] A misdemeanor punishable by a fine not more
9 than one hundred twenty-five dollars per ounce possessed in excess of
10 two ounces. However, where the defendant has previously been convicted
11 of an offense defined in this article or article two hundred twenty of
12 this title, committed within the three years immediately preceding such
13 violation, it shall be punishable (a) only by a fine of not more than
14 two hundred dollars per ounce possessed in excess of two ounces, if the
15 defendant was previously convicted of one such offense committed during
16 such period, and (b) by a fine of not more than two hundred fifty
17 dollars per ounce possessed in excess of two ounces or a term of impri-
18 sonment not in excess of fifteen days or both, if the defendant was
19 previously convicted of two such offenses committed during such period.
20 The provisions of this section shall not apply to certified patients or
21 designated caregivers as lawfully registered under article three of the
22 cannabis law.

23 § 19. Section 221.25 of the penal law, as amended by chapter 265 of
24 the laws of 1979, the opening paragraph as amended by chapter 75 of the
25 laws of 1995, is amended to read as follows:

26 § 221.25 Criminal possession of [~~marihuana~~] cannabis in the [~~second~~]
27 first degree.

28 A person is guilty of criminal possession of [~~marihuana~~] cannabis in
29 the [~~second~~] first degree when he or she knowingly and unlawfully
30 possesses [~~one or more preparations, compounds, mixtures or substances~~
31 ~~containing marihuana and the preparations, compounds, mixtures or~~
32 ~~substances are of~~] an aggregate weight of more than [~~sixteen~~] sixty-four
33 ounces of cannabis or more than eighty grams of concentrated cannabis.

34 Criminal possession of [~~marihuana~~] cannabis in the [~~second~~] first
35 degree is a class [~~D~~] E felony.

36 § 20. Sections 221.10 and 221.30 of the penal law are REPEALED.

37 § 21. Section 221.35 of the penal law, as amended by chapter 265 of
38 the laws of 1979, the opening paragraph as amended by chapter 75 of the
39 laws of 1995, is amended to read as follows:

40 § 221.35 Criminal sale of [~~marihuana~~] cannabis in the fifth degree.

41 A person is guilty of criminal sale of [~~marihuana~~] cannabis in the
42 fifth degree when he or she knowingly and unlawfully sells, [~~without~~]
43 for consideration[~~, one or more preparations, compounds, mixtures or~~
44 ~~substances containing marihuana and the preparations, compounds,~~
45 ~~mixtures or substances are~~] cannabis or cannabis concentrate of [~~an~~
46 ~~aggregate weight of two grams or less, or one cigarette containing mari-~~
47 ~~huana~~] any weight.

48 Criminal sale of [~~marihuana~~] cannabis in the fifth degree is a [~~class~~
49 ~~B-misdemeanor~~] violation punishable by a fine not more than the greater
50 of two-hundred and fifty dollars or two times the value of the sale.

51 § 22. Section 221.40 of the penal law, as added by chapter 360 of the
52 laws of 1977, is amended to read as follows:

53 § 221.40 Criminal sale of [~~marihuana~~] cannabis in the fourth degree.

54 A person is guilty of criminal sale of [~~marihuana~~] cannabis in the
55 fourth degree when he or she knowingly and unlawfully sells [~~marihuana~~
56 ~~except as provided in section 221.35 of this article~~] cannabis of an

1 aggregate weight of more than one ounce or more than five grams of
2 cannabis concentrate.

3 Criminal sale of [~~marihuana~~] cannabis in the fourth degree is a [~~class~~
4 ~~A~~] misdemeanor punishable by a fine of not more than the greater of five
5 hundred dollars or two times the value of the sale or a maximum of three
6 months imprisonment, or both.

7 § 23. Section 221.45 of the penal law, as amended by chapter 265 of
8 the laws of 1979, the opening paragraph as amended by chapter 75 of the
9 laws of 1995, is amended to read as follows:

10 § 221.45 Criminal sale of [~~marihuana~~] cannabis in the third degree.

11 A person is guilty of criminal sale of [~~marihuana~~] cannabis in the
12 third degree when he or she knowingly and unlawfully sells [~~one or more~~
13 ~~preparations, compounds, mixtures or substances containing marihuana and the~~
14 ~~preparations, compounds, mixtures or substances are of an aggregate~~
15 ~~weight of more than twenty-five grams~~] four ounces of cannabis or more
16 than twenty grams of concentrated cannabis.

17 Criminal sale of [~~marihuana~~] cannabis in the third degree is a [~~class~~
18 ~~E felony~~] misdemeanor punishable by a fine of not more than the greater
19 of one thousand dollars or two times the value of the sale or a maximum
20 of one year imprisonment or both.

21 § 24. Section 221.50 of the penal law, as amended by chapter 265 of
22 the laws of 1979, the opening paragraph as amended by chapter 75 of the
23 laws of 1995, is amended to read as follows:

24 § 221.50 Criminal sale of [~~marihuana~~] cannabis in the second degree.

25 A person is guilty of criminal sale of [~~marihuana~~] cannabis in the
26 second degree when he knowingly and unlawfully sells [~~one or more prepa-~~
27 ~~rations, compounds, mixtures or substances containing marihuana and the~~
28 ~~preparations, compounds, mixtures or substances are of an aggregate~~
29 ~~weight of~~] more than [~~four ounces, or knowingly and unlawfully sells one~~
30 ~~or more preparations, compounds, mixtures or substances containing mari-~~
31 ~~huana to a person less than eighteen years of age~~] sixteen ounces of
32 cannabis or more than eighty grams of concentrated cannabis or any
33 amount of cannabis or concentrated cannabis to any person under twenty-
34 one years of age.

35 Criminal sale of [~~marihuana~~] cannabis in the second degree is a class
36 D felony.

37 § 25. Section 221.55 of the penal law, as amended by chapter 265 of
38 the laws of 1979, the opening paragraph as amended by chapter 75 of the
39 laws of 1995, is amended to read as follows:

40 § 221.55 Criminal sale of [~~marihuana~~] cannabis in the first degree.

41 A person is guilty of criminal sale of [~~marihuana~~] cannabis in the
42 first degree when he knowingly and unlawfully sells [~~one or more prepa-~~
43 ~~rations, compounds, mixtures or substances containing marihuana and the~~
44 ~~preparations, compounds, mixtures or substances are of an aggregate~~
45 ~~weight of~~] more than [~~sixteen~~] sixty-four ounces of cannabis or three
46 hundred and twenty grams of cannabis concentrate.

47 Criminal sale of [~~marihuana~~] cannabis in the first degree is a class C
48 felony.

49 § 26. The penal law is amended by adding a new section 221.60 to read
50 as follows:

51 § 221.60 Licensing of cannabis production and distribution.

52 The provisions of this article and of article two hundred twenty of
53 this title shall not apply to any person exempted from criminal penal-
54 ties pursuant to the provisions of this chapter or possessing, manufac-
55 turing, transporting, distributing, selling or transferring cannabis or

1 concentrated cannabis, or engaged in any other action that is in compli-
2 ance with articles three, four or five of the cannabis law.

3 § 27. Paragraphs (i), (j) and (k) of subdivision 3 of section 160.50
4 of the criminal procedure law, paragraphs (i) and (j) as added by chap-
5 ter 905 of the laws of 1977, paragraph (k) as added by chapter 835 of
6 the laws of 1977 and as relettered by chapter 192 of the laws of 1980
7 and such subdivision as renumbered by chapter 142 of the laws of 1991,
8 are amended to read as follows:

9 (i) prior to the filing of an accusatory instrument in a local crimi-
10 nal court against such person, the prosecutor elects not to prosecute
11 such person. In such event, the prosecutor shall serve a certification
12 of such disposition upon the division of criminal justice services and
13 upon the appropriate police department or law enforcement agency which,
14 upon receipt thereof, shall comply with the provisions of paragraphs
15 (a), (b), (c) and (d) of subdivision one of this section in the same
16 manner as is required thereunder with respect to an order of a court
17 entered pursuant to said subdivision one[~~+~~]; or

18 (j) following the arrest of such person, the arresting police agency,
19 prior to the filing of an accusatory instrument in a local criminal
20 court but subsequent to the forwarding of a copy of the fingerprints of
21 such person to the division of criminal justice services, elects not to
22 proceed further. In such event, the head of the arresting police agency
23 shall serve a certification of such disposition upon the division of
24 criminal justice services which, upon receipt thereof, shall comply with
25 the provisions of paragraphs (a), (b), (c) and (d) of subdivision one of
26 this section in the same manner as is required thereunder with respect
27 to an order of a court entered pursuant to said subdivision one[~~+~~]; or

28 (k) (i) The accusatory instrument alleged a violation of article two
29 hundred twenty or section 240.36 of the penal law, prior to the taking
30 effect of article two hundred twenty-one of the penal law, or a
31 violation of article two hundred twenty-one of the penal law; (ii) the
32 sole controlled substance involved is [~~marijuana~~] cannabis; and (iii)
33 the conviction was only for a violation or violations[~~+~~ ~~and (iv) at~~
34 ~~least three years have passed since the offense occurred~~].

35 § 28. Paragraph (f) of subdivision 2 of section 850 of the general
36 business law is REPEALED.

37 § 29. Paragraph (h) of subdivision 2 of section 850 of the general
38 business law, as amended by chapter 812 of the laws of 1980, is amended
39 to read as follows:

40 (h) Objects, used or designed for the purpose of ingesting, inhaling,
41 or otherwise introducing [~~marihuana,~~] cocaine, hashish, or hashish oil
42 into the human body.

43 § 30. Section 114-a of the vehicle and traffic law, as added by chap-
44 ter 163 of the laws of 1973, is amended to read as follows:

45 § 114-a. Drug. The term "drug" when used in this chapter, means and
46 includes any substance listed in section thirty-three hundred six of the
47 public health law and cannabis and concentrated cannabis as defined in
48 section 220.00 of the penal law.

49 § 31. The article heading of article 20-B of the tax law, as added by
50 chapter 90 of the laws of 2014, is amended to read as follows:

ARTICLE 20-B

EXCISE TAX ON MEDICAL [~~MARIHUANA~~] CANNABIS

53 § 32. The paragraph heading and subparagraph (i) of paragraph (b) of
54 subdivision 1 of section 1193 of the vehicle and traffic law, as amended
55 by chapter 169 of the laws of 2013, are amended to read as follows:

1 Driving while intoxicated or while ability impaired by drugs or while
2 ability impaired by the combined influence of drugs or of alcohol and
3 any drug or drugs; aggravated driving while intoxicated; misdemeanor
4 offenses. (i) A violation of subdivision two, three, or four [~~or four-a~~]
5 of section eleven hundred ninety-two of this article shall be a misde-
6 meanor and shall be punishable by a fine of not less than five hundred
7 dollars nor more than one thousand dollars, or by imprisonment in a
8 penitentiary or county jail for not more than one year, or by both such
9 fine and imprisonment. A violation of paragraph (a) of subdivision two-a
10 of section eleven hundred ninety-two of this article shall be a misde-
11 meanor and shall be punishable by a fine of not less than one thousand
12 dollars nor more than two thousand five hundred dollars or by imprison-
13 ment in a penitentiary or county jail for not more than one year, or by
14 both such fine and imprisonment.

15 § 33. The paragraph heading and subparagraph (i) of paragraph (c) of
16 subdivision 1 of section 1193 of the vehicle and traffic law, as amended
17 by chapter 169 of the laws of 2013, are amended to read as follows:

18 Felony offenses. (i) A person who operates a vehicle (A) in violation
19 of subdivision four-a of section eleven hundred ninety-two of this arti-
20 cle or in violation of subdivision two, two-a, three, or four [~~or~~
21 ~~four-a~~] of section eleven hundred ninety-two of this article after
22 having been convicted of a violation of subdivision two, two-a, three,
23 four or four-a of such section or of vehicular assault in the second or
24 first degree, as defined, respectively, in sections 120.03 and 120.04
25 and aggravated vehicular assault as defined in section 120.04-a of the
26 penal law or of vehicular manslaughter in the second or first degree, as
27 defined, respectively, in sections 125.12 and 125.13 and aggravated
28 vehicular homicide as defined in section 125.14 of such law, within the
29 preceding ten years, or (B) in violation of paragraph (b) of subdivision
30 two-a of section eleven hundred ninety-two of this article shall be
31 guilty of a class E felony, and shall be punished by a fine of not less
32 than one thousand dollars nor more than five thousand dollars or by a
33 period of imprisonment as provided in the penal law, or by both such
34 fine and imprisonment.

35 § 34. Subdivision 1 of section 171-a of the tax law, as amended by
36 section 3 of part MM of chapter 59 of the laws of 2018, is amended to
37 read as follows:

38 1. All taxes, interest, penalties and fees collected or received by
39 the commissioner or the commissioner's duly authorized agent under arti-
40 cles nine (except section one hundred eighty-two-a thereof and except as
41 otherwise provided in section two hundred five thereof), nine-A,
42 twelve-A (except as otherwise provided in section two hundred eighty-
43 four-d thereof), thirteen, thirteen-A (except as otherwise provided in
44 section three hundred twelve thereof), eighteen, nineteen, twenty
45 (except as otherwise provided in section four hundred eighty-two there-
46 of), twenty-B, twenty-C, twenty-one, twenty-two, twenty-four, twenty-
47 six, twenty-eight (except as otherwise provided in section eleven
48 hundred two or eleven hundred three thereof), twenty-eight-A, twenty-
49 nine-B, thirty-one (except as otherwise provided in section fourteen
50 hundred twenty-one thereof), thirty-three and thirty-three-A of this
51 chapter shall be deposited daily in one account with such responsible
52 banks, banking houses or trust companies as may be designated by the
53 comptroller, to the credit of the comptroller. Such an account may be
54 established in one or more of such depositories. Such deposits shall be
55 kept separate and apart from all other money in the possession of the
56 comptroller. The comptroller shall require adequate security from all

1 such depositories. Of the total revenue collected or received under such
2 articles of this chapter, the comptroller shall retain in the comp-
3 troller's hands such amount as the commissioner may determine to be
4 necessary for refunds or reimbursements under such articles of this
5 chapter out of which amount the comptroller shall pay any refunds or
6 reimbursements to which taxpayers shall be entitled under the provisions
7 of such articles of this chapter. The commissioner and the comptroller
8 shall maintain a system of accounts showing the amount of revenue
9 collected or received from each of the taxes imposed by such articles.
10 The comptroller, after reserving the amount to pay such refunds or
11 reimbursements, shall, on or before the tenth day of each month, pay
12 into the state treasury to the credit of the general fund all revenue
13 deposited under this section during the preceding calendar month and
14 remaining to the comptroller's credit on the last day of such preceding
15 month, (i) except that the comptroller shall pay to the state department
16 of social services that amount of overpayments of tax imposed by article
17 twenty-two of this chapter and the interest on such amount which is
18 certified to the comptroller by the commissioner as the amount to be
19 credited against past-due support pursuant to subdivision six of section
20 one hundred seventy-one-c of this article, (ii) and except that the
21 comptroller shall pay to the New York state higher education services
22 corporation and the state university of New York or the city university
23 of New York respectively that amount of overpayments of tax imposed by
24 article twenty-two of this chapter and the interest on such amount which
25 is certified to the comptroller by the commissioner as the amount to be
26 credited against the amount of defaults in repayment of guaranteed
27 student loans and state university loans or city university loans pursu-
28 ant to subdivision five of section one hundred seventy-one-d and subdivi-
29 sion six of section one hundred seventy-one-e of this article, (iii)
30 and except further that, notwithstanding any law, the comptroller shall
31 credit to the revenue arrearage account, pursuant to section
32 ninety-one-a of the state finance law, that amount of overpayment of tax
33 imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B
34 or thirty-three of this chapter, and any interest thereon, which is
35 certified to the comptroller by the commissioner as the amount to be
36 credited against a past-due legally enforceable debt owed to a state
37 agency pursuant to paragraph (a) of subdivision six of section one
38 hundred seventy-one-f of this article, provided, however, he shall cred-
39 it to the special offset fiduciary account, pursuant to section ninety-
40 one-c of the state finance law, any such amount creditable as a liabil-
41 ity as set forth in paragraph (b) of subdivision six of section one
42 hundred seventy-one-f of this article, (iv) and except further that the
43 comptroller shall pay to the city of New York that amount of overpayment
44 of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A,
45 thirty-B or thirty-three of this chapter and any interest thereon that
46 is certified to the comptroller by the commissioner as the amount to be
47 credited against city of New York tax warrant judgment debt pursuant to
48 section one hundred seventy-one-l of this article, (v) and except
49 further that the comptroller shall pay to a non-obligated spouse that
50 amount of overpayment of tax imposed by article twenty-two of this chap-
51 ter and the interest on such amount which has been credited pursuant to
52 section one hundred seventy-one-c, one hundred seventy-one-d, one
53 hundred seventy-one-e, one hundred seventy-one-f or one hundred seven-
54 ty-one-l of this article and which is certified to the comptroller by
55 the commissioner as the amount due such non-obligated spouse pursuant to
56 paragraph six of subsection (b) of section six hundred fifty-one of this

1 chapter; and (vi) the comptroller shall deduct a like amount which the
2 comptroller shall pay into the treasury to the credit of the general
3 fund from amounts subsequently payable to the department of social
4 services, the state university of New York, the city university of New
5 York, or the higher education services corporation, or the revenue
6 arrearage account or special offset fiduciary account pursuant to
7 section ninety-one-a or ninety-one-c of the state finance law, as the
8 case may be, whichever had been credited the amount originally withheld
9 from such overpayment, and (vii) with respect to amounts originally
10 withheld from such overpayment pursuant to section one hundred seventy-
11 one-1 of this article and paid to the city of New York, the comptroller
12 shall collect a like amount from the city of New York.

13 § 35. Section 490 of the tax law, as added by chapter 90 of the laws
14 of 2014, is amended to read as follows:

15 § 490. [~~Definitions~~] Excise tax on medical cannabis. 1. (a) [~~All~~
16 ~~definitions of terms applicable to title five-A of article thirty-three~~
17 ~~of the public health law shall apply to this article.~~] For purposes of
18 this article, the terms "medical cannabis," "registered organization,"
19 "certified patient," and "designated caregiver" shall have the same
20 definitions as in section three of the cannabis law.

21 (b) As used in this section, where not otherwise specifically defined
22 and unless a different meaning is clearly required "gross receipt" means
23 the amount received in or by reason of any sale, conditional or other-
24 wise, of medical [~~marihuana~~] cannabis or in or by reason of the furnish-
25 ing of medical [~~marihuana~~] cannabis from the sale of medical [~~marihuana~~]
26 cannabis provided by a registered organization to a certified patient or
27 designated caregiver. Gross receipt is expressed in money, whether paid
28 in cash, credit or property of any kind or nature, and shall be deter-
29 mined without any deduction therefrom on account of the cost of the
30 service sold or the cost of materials, labor or services used or other
31 costs, interest or discount paid, or any other expenses whatsoever.
32 "Amount received" for the purpose of the definition of gross receipt, as
33 the term gross receipt is used throughout this article, means the amount
34 charged for the provision of medical [~~marihuana~~] cannabis.

35 2. There is hereby imposed an excise tax on the gross receipts from
36 the sale of medical [~~marihuana~~] cannabis by a registered organization to
37 a certified patient or designated caregiver, to be paid by the regis-
38 tered organization, at the rate of seven percent. The tax imposed by
39 this article shall be charged against and be paid by the registered
40 organization and shall not be added as a separate charge or line item on
41 any sales slip, invoice, receipt or other statement or memorandum of the
42 price given to the retail customer.

43 3. The commissioner may make, adopt and amend rules, regulations,
44 procedures and forms necessary for the proper administration of this
45 article.

46 4. Every registered organization that makes sales of medical [~~marihua-~~
47 ~~na~~] cannabis subject to the tax imposed by this article shall, on or
48 before the twentieth date of each month, file with the commissioner a
49 return on forms to be prescribed by the commissioner, showing its
50 receipts from the retail sale of medical [~~marihuana~~] cannabis during the
51 preceding calendar month and the amount of tax due thereon. Such returns
52 shall contain such further information as the commissioner may require.
53 Every registered organization required to file a return under this
54 section shall, at the time of filing such return, pay to the commission-
55 er the total amount of tax due on its retail sales of medical [~~marihua-~~
56 ~~na~~] cannabis for the period covered by such return. If a return is not

1 filed when due, the tax shall be due on the day on which the return is
2 required to be filed.

3 5. Whenever the commissioner shall determine that any moneys received
4 under the provisions of this article were paid in error, he may cause
5 the same to be refunded, with interest, in accordance with such rules
6 and regulations as he may prescribe, except that no interest shall be
7 allowed or paid if the amount thereof would be less than one dollar.
8 Such interest shall be at the overpayment rate set by the commissioner
9 pursuant to subdivision twenty-sixth of section one hundred seventy-one
10 of this chapter, or if no rate is set, at the rate of six percent per
11 annum, from the date when the tax, penalty or interest to be refunded
12 was paid to a date preceding the date of the refund check by not more
13 than thirty days. Provided, however, that for the purposes of this
14 subdivision, any tax paid before the last day prescribed for its payment
15 shall be deemed to have been paid on such last day. Such moneys received
16 under the provisions of this article which the commissioner shall deter-
17 mine were paid in error, may be refunded out of funds in the custody of
18 the comptroller to the credit of such taxes provided an application
19 therefor is filed with the commissioner within two years from the time
20 the erroneous payment was made.

21 6. The provisions of article twenty-seven of this chapter shall apply
22 to the tax imposed by this article in the same manner and with the same
23 force and effect as if the language of such article had been incorpo-
24 rated in full into this section and had expressly referred to the tax
25 imposed by this article, except to the extent that any provision of such
26 article is either inconsistent with a provision of this article or is
27 not relevant to this article.

28 7. All taxes, interest and penalties collected or received by the
29 commissioner under this article shall be deposited and disposed of
30 pursuant to the provisions of section one hundred seventy-one-a of this
31 chapter, provided that an amount equal to one hundred percent collected
32 under this article less any amount determined by the commissioner to be
33 reserved by the comptroller for refunds or reimbursements shall be paid
34 by the comptroller to the credit of the medical [~~marihuana~~] cannabis
35 trust fund established by section eighty-nine-h of the state finance
36 law.

37 8. A registered organization that dispenses medical [~~marihuana~~] canna-
38 bis shall provide to the department information on where the medical
39 [~~marihuana~~] cannabis was dispensed and where the medical [~~marihuana~~]
40 cannabis was manufactured. A registered organization that obtains [~~mari-~~
41 huana] cannabis from another registered organization shall obtain from
42 such registered organization information on where the medical [~~marihua-~~
43 na] cannabis was manufactured.

44 § 36. Section 491 of the tax law, as added by chapter 90 of the laws
45 of 2014, subdivision 1 as amended by section 1 of part II of chapter 60
46 of the laws of 2016, is amended to read as follows:

47 § 491. Returns to be secret. 1. Except in accordance with proper judi-
48 cial order or as in this section or otherwise provided by law, it shall
49 be unlawful for the commissioner, any officer or employee of the depart-
50 ment, or any officer or person who, pursuant to this section, is permit-
51 ted to inspect any return or report or to whom a copy, an abstract or a
52 portion of any return or report is furnished, or to whom any information
53 contained in any return or report is furnished, or any person engaged or
54 retained by such department on an independent contract basis or any
55 person who in any manner may acquire knowledge of the contents of a
56 return or report filed pursuant to this article to divulge or make known

1 in any manner the contents or any other information relating to the
2 business of a distributor, owner or other person contained in any return
3 or report required under this article. The officers charged with the
4 custody of such returns or reports shall not be required to produce any
5 of them or evidence of anything contained in them in any action or
6 proceeding in any court, except on behalf of the state, [~~the state~~
7 ~~department of health~~] office of cannabis management, or the commissioner
8 in an action or proceeding under the provisions of this chapter or on
9 behalf of the state or the commissioner in any other action or proceed-
10 ing involving the collection of a tax due under this chapter to which
11 the state or the commissioner is a party or a claimant or on behalf of
12 any party to any action or proceeding under the provisions of this arti-
13 cle, when the returns or the reports or the facts shown thereby are
14 directly involved in such action or proceeding, or in an action or
15 proceeding relating to the regulation or taxation of medical [~~marihuana~~
16 cannabis] on behalf of officers to whom information shall have been
17 supplied as provided in subdivision two of this section, in any of which
18 events the court may require the production of, and may admit in
19 evidence so much of said returns or reports or of the facts shown there-
20 by as are pertinent to the action or proceeding and no more. Nothing
21 herein shall be construed to prohibit the commissioner, in his or her
22 discretion, from allowing the inspection or delivery of a certified copy
23 of any return or report filed under this article or of any information
24 contained in any such return or report by or to a duly authorized offi-
25 cer or employee of the [~~state department of health~~] office of cannabis
26 management; or by or to the attorney general or other legal represen-
27 tatives of the state when an action shall have been recommended or
28 commenced pursuant to this chapter in which such returns or reports or
29 the facts shown thereby are directly involved; or the inspection of the
30 returns or reports required under this article by the comptroller or
31 duly designated officer or employee of the state department of audit and
32 control, for purposes of the audit of a refund of any tax paid by a
33 registered organization or other person under this article; nor to
34 prohibit the delivery to a registered organization, or a duly authorized
35 representative of such registered organization, a certified copy of any
36 return or report filed by such registered organization pursuant to this
37 article, nor to prohibit the publication of statistics so classified as
38 to prevent the identification of particular returns or reports and the
39 items thereof. This section shall also not be construed to prohibit the
40 disclosure, for tax administration purposes, to the division of the
41 budget and the office of the state comptroller, of information aggre-
42 gated from the returns filed by all the registered organizations making
43 sales of, or manufacturing, medical [~~marihuana~~] cannabis in a specified
44 county, whether the number of such registered organizations is one or
45 more. Provided further that, notwithstanding the provisions of this
46 subdivision, the commissioner may, in his or her discretion, permit the
47 proper officer of any county entitled to receive an allocation, follow-
48 ing appropriation by the legislature, pursuant to this article and
49 section eighty-nine-h of the state finance law, or the authorized repre-
50 sentative of such officer, to inspect any return filed under this arti-
51 cle, or may furnish to such officer or the officer's authorized repre-
52 sentative an abstract of any such return or supply such officer or such
53 representative with information concerning an item contained in any such
54 return, or disclosed by any investigation of tax liability under this
55 article.

1 2. The commissioner, in his or her discretion and pursuant to such
 2 rules and regulations as he or she may adopt, may permit [~~the commis-~~
 3 ~~sioner of internal revenue of the United States, or~~] the appropriate
 4 officers of any other state which regulates or taxes medical [~~marihuana~~
 5 ~~cannabis~~, or the duly authorized representatives of such [~~commissioner~~
 6 ~~or of any such~~] officers, to inspect returns or reports made pursuant to
 7 this article, or may furnish to such [~~commissioner or~~] other officers,
 8 or duly authorized representatives, a copy of any such return or report
 9 or an abstract of the information therein contained, or any portion
 10 thereof, or may supply [~~such commissioner or~~] any such officers or such
 11 representatives with information relating to the business of a regis-
 12 tered organization making returns or reports hereunder. The commissioner
 13 may refuse to supply information pursuant to this subdivision [~~to the~~
 14 ~~commissioner of internal revenue of the United States or~~] to the offi-
 15 cers of any other state if the statutes [~~of the United States, or~~] of
 16 the state represented by such officers, do not grant substantially simi-
 17 lar privileges to the commissioner, but such refusal shall not be manda-
 18 tory. Information shall not be supplied to [~~the commissioner of internal~~
 19 ~~revenue of the United States or~~] the appropriate officers of any other
 20 state which regulates or taxes medical [~~marihuana~~ ~~cannabis~~, or the duly
 21 authorized representatives [~~of such commissioner or~~] of any of such
 22 officers, unless such [~~commissioner,~~] officer or other representatives
 23 shall agree not to divulge or make known in any manner the information
 24 so supplied, but such officers may transmit such information to their
 25 employees or legal representatives when necessary, who in turn shall be
 26 subject to the same restrictions as those hereby imposed upon such
 27 [~~commissioner,~~] officer or other representatives.

28 3. (a) Any officer or employee of the state who willfully violates the
 29 provisions of subdivision one or two of this section shall be dismissed
 30 from office and be incapable of holding any public office in this state
 31 for a period of five years thereafter.

32 (b) Cross-reference: For criminal penalties, see article thirty-seven
 33 of this chapter.

34 § 37. The tax law is amended by adding a new article 20-C to read as
 35 follows:

ARTICLE 20-C

TAX ON ADULT-USE CANNABIS PRODUCTS

Section 492. Definitions.

493. Tax on cannabis.

494. Registration and renewal.

495. Returns and payment of tax.

496. Returns to be kept secret.

43 § 492. Definitions. For purposes of this article, the following defi-
 44 initions shall apply:

45 (a) "Cannabis" means all parts of a plant of the genus cannabis,
 46 whether growing or not; the seeds thereof; the resin extracted from any
 47 part of the plant; and every compound, manufacture, salt, derivative,
 48 mixture, or preparation of the plant, its seeds or resin. For purposes
 49 of this article, cannabis does not include medical cannabis or hemp as
 50 defined in section three of the cannabis law.

51 (b) "Cannabis flower" means the flower of a plant of the genus canna-
 52 bis that has been harvested, dried, and cured, and prior to any process-
 53 ing whereby the plant material is transformed into a concentrate,
 54 including, but not limited to, concentrated cannabis, or an edible or

1 topical product containing cannabis or concentrated cannabis and other
2 ingredients. Cannabis flower excludes leaves and stem.

3 (c) "Cannabis trim" means all parts of a plant of the genus cannabis
4 other than cannabis flowers that have been harvested, dried, and cured,
5 and prior to any processing whereby the plant material is transformed
6 into a concentrate, including, but not limited to, concentrated canna-
7 bis, or an edible or topical product containing cannabis and other
8 ingredients.

9 (d) "Adult-use cannabis product" means a cannabis product as defined
10 in section three of the cannabis law. For purposes of this article,
11 under no circumstances shall adult-use cannabis product include medical
12 cannabis or hemp cannabis as defined in section three of the cannabis
13 law.

14 (e) "Person" means every individual, partnership, limited liability
15 company, society, association, joint stock company, corporation, estate,
16 receiver, trustee, assignee, referee, and any other person acting in a
17 fiduciary or representative capacity, whether appointed by a court or
18 otherwise, and any combination of the foregoing.

19 (f) "Wholesaler" means any person that sells or transfers adult-use
20 cannabis products to a retail dispensary licensed pursuant to section
21 seventy-two of the cannabis law. Where the cultivator or processor is
22 also the retail dispensary, the retail dispensary shall be the whole-
23 saler for purposes of this article.

24 (g) "Cultivation" has the same meaning as described in subdivision two
25 of section sixty-eight of the cannabis law.

26 (h) "Retail dispensary" means a dispensary licensed to sell adult-use
27 cannabis products pursuant to section seventy-two of the cannabis law.

28 (i) "Transfer" means to grant, convey, hand over, assign, sell,
29 exchange or barter, in any manner or by any means, with or without
30 consideration.

31 (j) "Sale" means any transfer of title, possession or both, exchange
32 or barter, rental, lease or license to use or consume, conditional or
33 otherwise, in any manner or by any means whatsoever for a consideration
34 or any agreement therefor.

35 (k) "Processor" has the same meaning as described in subdivision two
36 of section sixty-nine of the cannabis law.

37 § 493. Tax on cannabis. (a) There is hereby imposed and shall be paid
38 a tax on the cultivation of cannabis flower and cannabis trim cannabis
39 pursuant to the cannabis law at the rate of one dollar per dry-weight
40 gram of cannabis flower and twenty-five cents per dry-weight gram of
41 cannabis trim. Where the wholesaler is not the cultivator, such tax
42 shall be collected from the cultivator by the wholesaler at the time
43 such flower or trim is transferred to the wholesaler. Where the whole-
44 saler is the cultivator, such tax shall be paid by the wholesaler and
45 shall accrue at the time of sale or transfer to a retail dispensary.
46 Where the cultivator is also the retail dispensary, such tax shall
47 accrue at the time of the sale to the retail customer.

48 (b) In addition to the tax imposed by subdivision (a) of this section,
49 there is hereby imposed a tax on the sale or transfer by a wholesaler to
50 a retail dispensary of adult-use cannabis products, to be paid by such
51 wholesaler. Where the wholesaler is not the retail dispensary, such tax
52 shall be at the rate of twenty percent of the invoice price charged by
53 the wholesaler to a retail dispensary, and shall accrue at the time of
54 such sale. Where the wholesaler is the retail dispensary, such tax shall
55 be at the rate of twenty percent of the price charged to the retail
56 customer and shall accrue at the time of such sale.

1 (c) In addition to the taxes imposed by subdivisions (a) and (b) of
2 this section, there is hereby imposed a tax on the sale or transfer by a
3 wholesaler to a retail dispensary of adult-use cannabis products, in
4 trust for and on account of the county in which the retail dispensary is
5 located. Such tax shall be paid by the wholesaler and shall accrue at
6 the time of such sale. Where the wholesaler is not the retail dispen-
7 sary, such tax shall be at the rate of two percent of the invoice price
8 charged by the wholesaler to a retail dispensary. Where the wholesaler
9 is the retail dispensary, such tax shall be at the rate of two percent
10 of the price charged to the retail customer.

11 (d) Notwithstanding any other provision of law to the contrary, the
12 taxes imposed by article twenty of this chapter shall not apply to any
13 product subject to tax under this article.

14 § 494. Registration and renewal. (a) Every wholesaler must file with
15 the commissioner a properly completed application for a certificate of
16 registration before engaging in business. In order to apply for such
17 certificate of registration, such person must first be in possession of
18 a valid license from the office of cannabis management. An application
19 for a certificate of registration must be submitted electronically, on a
20 form prescribed by the commissioner, and must be accompanied by a non-
21 refundable application fee of six hundred dollars. A certificate of
22 registration shall not be assignable or transferable and shall be
23 destroyed immediately upon such person ceasing to do business as speci-
24 fied in such certificate, or in the event that such business never
25 commenced.

26 (b) The commissioner shall refuse to issue a certificate of registra-
27 tion to any applicant and shall revoke the certificate of registration
28 of any such person who does not possess a valid license from the office
29 of cannabis management. The commissioner may refuse to issue a certif-
30 icate of registration to any applicant where such applicant: (1) has a
31 past-due liability as that term is defined in section one hundred seven-
32 ty-one-v of this chapter; (2) has had a certificate of registration
33 under this article, a license from the office of cannabis management, or
34 any license or registration provided for in this chapter revoked within
35 one year from the date on which such application was filed; (3) has been
36 convicted of a crime provided for in this chapter within one year from
37 the date on which such application was filed of the certificate's issu-
38 ance; (4) willfully fails to file a report or return required by this
39 article; (5) willfully files, causes to be filed, gives or causes to be
40 given a report, return, certificate or affidavit required by this arti-
41 cle which is false; or (6) willfully fails to collect or truthfully
42 account for or pay over any tax imposed by this article.

43 (c) A certificate of registration shall be valid for the period speci-
44 fied thereon, unless earlier suspended or revoked. Upon the expiration
45 of the term stated on a certificate of registration, such certificate
46 shall be null and void.

47 (d) Every holder of a certificate of registration must notify the
48 commissioner of changes to any of the information stated on the certif-
49 icate, or of changes to any information contained in the application for
50 the certificate of registration. Such notification must be made on or
51 before the last day of the month in which a change occurs and must be
52 made electronically on a form prescribed by the commissioner.

53 (e) Every holder of a certificate of registration under this article
54 shall be required to reapply prior to such certificate's expiration,
55 during a reapplication period established by the commissioner. Such
56 reapplication period shall not occur more frequently than every two

1 years. Such reapplication shall be subject to the same requirements and
2 conditions, including grounds for refusal, as an initial application,
3 including the payment of the application fee.

4 (f) Penalties. A person to whom adult-use cannabis products have been
5 transferred or who sells adult-use cannabis products without a valid
6 certificate of registration pursuant to subdivision (a) of this section
7 shall be subject to a penalty of five hundred dollars for each month or
8 part thereof during which such person continues to possess adult-use
9 cannabis products that have been transferred to such person or who sells
10 such products after the expiration of the first month after which such
11 person operates without a valid certificate of registration, not to
12 exceed ten thousand dollars in the aggregate.

13 § 495. Returns and payment of tax. (a) 1. Every wholesaler shall, on
14 or before the twentieth date of the month, file with the commissioner a
15 return on forms to be prescribed by the commissioner, showing the total
16 weight of cannabis flower and cannabis trim subject to tax pursuant to
17 subdivision (a) of section four hundred ninety-three of this article and
18 the total amount of tax due thereon in the preceding calendar month, and
19 the total amount of tax due under subdivisions (b) and (c) of such
20 section on its sales to a retail dispensary during the preceding calen-
21 dar month, along with such other information as the commissioner may
22 require. Every person required to file a return under this section
23 shall, at the time of filing such return, pay to the commissioner the
24 total amount of tax due for the period covered by such return. If a
25 return is not filed when due, the tax shall be due on the day on which
26 the return is required to be filed.

27 2. The wholesaler shall maintain such records in such form as the
28 commissioner may require regarding such items as: where the wholesaler
29 is not the cultivator, the weight of the cannabis flower and cannabis
30 trim transferred to it by a cultivator or, where the wholesaler is the
31 cultivator, the weight of such flower and trim produced by it; the
32 geographic location of every retail dispensary to which it sold adult-
33 use cannabis products; and any other record or information required by
34 the commissioner. This information must be kept by such person for a
35 period of three years after the return was filed.

36 (b) The provisions of article twenty-seven of this chapter shall apply
37 to the tax imposed by this article in the same manner and with the same
38 force and effect as if the language of such article had been incorpo-
39 rated in full into this section and had expressly referred to the tax
40 imposed by this article, except to the extent that any provision of such
41 article is either inconsistent with a provision of this article or is
42 not relevant to this article.

43 (c) 1. All taxes, interest, and penalties collected or received by the
44 commissioner under this article shall be deposited and disposed of
45 pursuant to the provisions of section one hundred seventy-one-a of this
46 chapter, provided that an amount equal to one hundred percent collected
47 under this article less any amount determined by the commissioner to be
48 reserved by the comptroller for refunds or reimbursements shall be paid
49 by the comptroller to the credit of the cannabis revenue fund estab-
50 lished by section ninety-nine-ff of the state finance law. Of the total
51 revenue collected or received under this article, the comptroller shall
52 retain such amount as the commissioner may determine to be necessary for
53 refunds. The commissioner is authorized and directed to deduct from the
54 registration fees under subdivision (a) of section four hundred ninety-
55 four of this article, before deposit into the cannabis revenue fund
56 designated by the comptroller, a reasonable amount necessary to effectu-

1 ate refunds of appropriations of the department to reimburse the depart-
2 ment for the costs incurred to administer, collect, and distribute the
3 taxes imposed by this article.

4 2. Notwithstanding the foregoing, the commissioner shall certify to
5 the comptroller the total amount of tax, penalty and interest received
6 by him or her on account of the tax imposed by subdivision (c) of
7 section four hundred ninety-three of this article in trust for and on
8 account of each county in which a retail dispensary is located. On or
9 before the twelfth day of each month, the comptroller, after reserving
10 such refund fund, shall pay to the appropriate fiscal officer of each
11 such county the taxes, penalties and interest received and certified by
12 the commissioner for the preceding calendar month.

13 § 496. Returns to be kept secret. (a) Except in accordance with proper
14 judicial order or as in this section or otherwise provided by law, it
15 shall be unlawful for the commissioner, any officer or employee of the
16 department, or any officer or person who, pursuant to this section, is
17 permitted to inspect any return or report or to whom a copy, an abstract
18 or a portion of any return or report is furnished, or to whom any infor-
19 mation contained in any return or report is furnished, or any person who
20 in any manner may acquire knowledge of the contents of a return or
21 report filed pursuant to this article to divulge or make known in any
22 manner the content or any other information related to the business of
23 the wholesaler contained in any return or report required under this
24 article. The officers charged with the custody of such returns or
25 reports shall not be required to produce any of them or evidence of
26 anything contained in them in any action or proceeding in any court,
27 except on behalf of the state, the office of cannabis management, or the
28 commissioner in an action or proceeding involving the collection of tax
29 due under this chapter to which the state or the commissioner is a party
30 or a claimant or on behalf of any party to any action or proceeding
31 under the provisions of this article, when the returns or the reports or
32 the facts shown thereby are directly involved in such action or proceed-
33 ing, or in an action or proceeding related to the regulation or taxation
34 of adult-use cannabis products on behalf of officers to whom information
35 shall have been supplied as provided in this section, in any of which
36 events the courts may require the production of, and may admit in
37 evidence so much of said returns or reports or of the facts shown there-
38 by as are pertinent to the action or proceeding and no more. Nothing
39 herein shall be construed to prohibit the commissioner, in his or her
40 discretion, from allowing the inspection or delivery of a certified copy
41 of any return or report filed under this article or of any information
42 contained in any such return or report by or to a duly authorized offi-
43 cer or employee of the office of cannabis management or by or to the
44 attorney general or other legal representatives of the state when an
45 action shall have been recommended or commenced pursuant to this chapter
46 in which such returns or reports or the facts shown thereby are directly
47 involved; or the inspection of the returns or reports required under
48 this article by the comptroller or duly designated officer or employee
49 of the state department of audit and control, for purposes of the audit
50 of a refund of any tax paid by the wholesaler under this article; nor to
51 prohibit the delivery to such person or a duly authorized representative
52 of such person, a certified copy of any return or report filed by such
53 person pursuant to this article, nor to prohibit the publication of
54 statistics so classified as to prevent the identification of particular
55 returns or reports and the items thereof. This section shall also not be
56 construed to prohibit the disclosure, for tax administration purposes,

1 to the division of the budget and the office of the state comptroller,
2 of information aggregated from the returns filed by all wholesalers
3 purchasing and selling such products in the state, whether the number of
4 such persons is one or more. Provided further that, notwithstanding the
5 provisions of this subdivision, the commissioner may in his or her
6 discretion, permit the proper officer of any county entitled to receive
7 any distribution of the monies received on account of the tax imposed by
8 subdivision (c) of section four hundred ninety-three of this article, or
9 the authorized representative of such officer, to inspect any return
10 filed under this article, or may furnish to such officer or the offi-
11 cer's authorized representative an abstract of any such return or supply
12 such officer or representative with information concerning an item
13 contained in any such return, or disclosed by any investigation of tax
14 liability under this article.

15 (b) The commissioner, in his or her discretion, may permit the appro-
16 priate officers of any other state that regulates or taxes cannabis or
17 the duly authorized representatives of such commissioner or of any such
18 officers, to inspect returns or reports made pursuant to this article,
19 or may furnish to the commissioner or other officer, or duly authorized
20 representatives, a copy of any such return or report or an abstract of
21 the information therein contained, or any portion thereof, or may supply
22 such commissioner or any such officers or such representatives with
23 information relating to the business of a wholesaler making returns or
24 reports hereunder solely for purposes of tax administration. The commis-
25 sioner may refuse to supply information pursuant to this subdivision to
26 the officers of any other state if the statutes of the state represented
27 by such officers do not grant substantially similar privileges to the
28 commissioner, but such refusal shall not be mandatory. Information shall
29 not be supplied to the appropriate officers of any state that regulates
30 or taxes cannabis, or the duly authorized representatives of such
31 commissioner or of any such officers, unless such commissioner, officer,
32 or other representatives shall agree not to divulge or make known in any
33 manner the information so supplied, but such officers may transmit such
34 information to their employees or legal representatives when necessary,
35 who in turn shall be subject to the same restrictions as those hereby
36 imposed upon such commissioner, officer or other representatives.

37 (c) 1. Any officer or employee of the state who willfully violates the
38 provisions of subdivision one or two of this section shall be dismissed
39 from office and be incapable of holding any public office in the state
40 for a period of five years thereafter.

41 2. For criminal penalties, see article thirty-seven of this chapter.

42 § 38. Subdivision (a) of section 1115 of the tax law is amended by
43 adding a new paragraph 3-b to read as follows:

44 (3-b) Adult-use cannabis products as defined by article twenty-C of
45 this chapter.

46 § 39. Section 1825 of the tax law, as amended by section 3 of part NNN
47 of chapter 59 of the laws of 2018, is amended to read as follows:

48 § 1825. Violation of secrecy provisions of the tax law.--Any person
49 who violates the secrecy provisions of [~~subdivision (b) of section twen-~~
50 ~~ty one, subdivision one of section two hundred two, subdivision eight of~~
51 ~~section two hundred eleven, subdivision (a) of section three hundred~~
52 ~~fourteen, subdivision one or two of section four hundred thirty seven,~~
53 ~~section four hundred eighty seven, subdivision one or two of section~~
54 ~~five hundred fourteen, subsection (e) of section six hundred ninety sev-~~
55 ~~en, subsection (a) of section nine hundred ninety four, subdivision (a)~~
56 ~~of section eleven hundred forty six, section twelve hundred eighty sev-~~

~~en, section twelve hundred ninety six, section twelve hundred ninety nine F, subdivision (a) of section fourteen hundred eighteen, subdivision (a) of section fifteen hundred eighteen, subdivision (a) of section fifteen hundred fifty five of~~ this chapter, [~~and~~] ~~or~~ subdivision (e) of section 11-1797 of the administrative code of the city of New York shall be guilty of a misdemeanor.

§ 40. Section 12 of chapter 90 of the laws of 2014 amending the public health law, the tax law, the state finance law, the general business law, the penal law and the criminal procedure law relating to medical use of marihuana, is amended to read as follows:

§ 12. This act shall take effect immediately [~~and~~]; provided, however that sections one, three, five, six, seven-a, eight, nine, ten and eleven of this act shall expire and be deemed repealed seven years after such date; provided that the amendments to section 171-a of the tax law made by section seven of this act shall take effect on the same date and in the same manner as section 54 of part A of chapter 59 of the laws of 2014 takes effect and shall not expire and be deemed repealed; and provided, further, that the amendments to subdivision 5 of section 410.91 of the criminal procedure law made by section eleven of this act shall not affect the expiration and repeal of such section and shall expire and be deemed repealed therewith.

§ 41. The office of cannabis management, in consultation with the division of the budget, the department of taxation and finance, the department of health, office of alcoholism and substance abuse services, office of mental health, New York state police and the division of criminal justice services, shall conduct a study of the effectiveness of this act. Such study shall examine all aspects of this act, including economic and fiscal impacts, the impact on the public health and safety of New York residents and the progress made in achieving social justice goals and toward eliminating the illegal market for cannabis products in New York. The office shall make recommendations regarding the appropriate level of taxation of adult-use cannabis, as well as changes, if any, necessary to improve and protect the public health and safety of New Yorkers. Such study shall be conducted two years after the effective date of this act and shall be presented to the governor, the majority leader of the senate and the speaker of the assembly, no later than October 1, 2022.

§ 42. Section 102 of the alcoholic beverage control law is amended by adding a new subdivision 8 to read as follows:

8. No alcoholic beverage retail licensee shall sell cannabis, nor have or possess a license or permit to sell cannabis, on the same premises where alcoholic beverages are sold.

§ 43. Subdivisions 1, 4, 5, 6, 7 and 13 of section 12-102 of the general obligations law, as added by chapter 406 of the laws of 2000, are amended to read as follows:

1. "Illegal drug" means any controlled substance [~~or marijuana~~] the possession of which is an offense under the public health law or the penal law.

4. "Grade one violation" means possession of one-quarter ounce or more, but less than four ounces, or distribution of less than one ounce of an illegal drug [~~other than marijuana, or possession of one pound or twenty five plants or more, but less than four pounds or fifty plants, or distribution of less than one pound of marijuana~~].

5. "Grade two violation" means possession of four ounces or more, but less than eight ounces, or distribution of one ounce or more, but less than two ounces, of an illegal drug [~~other than marijuana, or possession~~

1 ~~of four pounds or more or fifty plants or distribution of more than one~~
2 ~~pound but less than ten pounds of marijuana~~].

3 6. "Grade three violation" means possession of eight ounces or more,
4 but less than sixteen ounces, or distribution of two ounces or more, but
5 less than four ounces, of a specified illegal drug [~~or possession of~~
6 ~~eight pounds or more or seventy-five plants or more, but less than~~
7 ~~sixteen pounds or one hundred plants, or distribution of more than five~~
8 ~~pounds but less than ten pounds of marijuana~~].

9 7. "Grade four violation" means possession of sixteen ounces or more
10 or distribution of four ounces or more of a specified illegal drug [~~or~~
11 ~~possession of sixteen pounds or more or one hundred plants or more or~~
12 ~~distribution of ten pounds or more of marijuana~~].

13 13. "Drug trafficker" means a person convicted of a class A or class B
14 felony controlled substance [~~or marijuana offense~~] who, in connection
15 with the criminal conduct for which he or she stands convicted,
16 possessed, distributed, sold or conspired to sell a controlled substance
17 [~~or marijuana~~] which, by virtue of its quantity, the person's prominent
18 role in the enterprise responsible for the sale or distribution of such
19 controlled substance and other circumstances related to such criminal
20 conduct indicate that such person's criminal possession, sale or
21 conspiracy to sell such substance was not an isolated occurrence and was
22 part of an ongoing pattern of criminal activity from which such person
23 derived substantial income or resources and in which such person played
24 a leadership role.

25 § 44. Paragraph (g) of subdivision 1 of section 488 of the social
26 services law, as added by section 1 of part B of chapter 501 of the laws
27 of 2012, is amended to read as follows:

28 (g) "Unlawful use or administration of a controlled substance," which
29 shall mean any administration by a custodian to a service recipient of:
30 a controlled substance as defined by article thirty-three of the public
31 health law, without a prescription; or other medication not approved for
32 any use by the federal food and drug administration, except for the
33 administration of medical cannabis when such administration is in
34 accordance with article three of the cannabis law and any regulations
35 promulgated thereunder as well as the rules, regulations, policies, or
36 procedures of the state oversight agency or agencies governing such
37 custodians. It also shall include a custodian unlawfully using or
38 distributing a controlled substance as defined by article thirty-three
39 of the public health law, at the workplace or while on duty.

40 § 45. Paragraphs (e) and (f) of subdivision 1 of section 490 of the
41 social services law, as added by section 1 of part B of chapter 501 of
42 the laws of 2012, are amended and a new paragraph (g) is added to read
43 as follows:

44 (e) information regarding individual reportable incidents, incident
45 patterns and trends, and patterns and trends in the reporting and
46 response to reportable incidents is shared, consistent with applicable
47 law, with the justice center, in the form and manner required by the
48 justice center and, for facilities or provider agencies that are not
49 state operated, with the applicable state oversight agency which shall
50 provide such information to the justice center; ~~and~~

51 (f) incident review committees are established; provided, however,
52 that the regulations may authorize an exemption from this requirement,
53 when appropriate, based on the size of the facility or provider agency
54 or other relevant factors. Such committees shall be composed of members
55 of the governing body of the facility or provider agency and other
56 persons identified by the director of the facility or provider agency,

1 including some members of the following: direct support staff, licensed
2 health care practitioners, service recipients and representatives of
3 family, consumer and other advocacy organizations, but not the director
4 of the facility or provider agency. Such committee shall meet regularly
5 to: (i) review the timeliness, thoroughness and appropriateness of the
6 facility or provider agency's responses to reportable incidents; (ii)
7 recommend additional opportunities for improvement to the director of
8 the facility or provider agency, if appropriate; (iii) review incident
9 trends and patterns concerning reportable incidents; and (iv) make
10 recommendations to the director of the facility or provider agency to
11 assist in reducing reportable incidents. Members of the committee shall
12 be trained in confidentiality laws and regulations, and shall comply
13 with section seventy-four of the public officers law[~~+~~]; and

14 (g) safe storage, administration, and diversion prevention policies
15 regarding controlled substances and medical marihuana.

16 § 46. Subdivision 1 of section 505 of the agriculture and markets law,
17 as added by chapter 524 of the laws of 2014, is amended to read as
18 follows:

19 1. "Industrial hemp" means the plant Cannabis sativa L. and any part
20 of such plant, including the seeds thereof and all derivatives,
21 extracts, cannabinoids, isomers, acids, salts, and salts of isomers,
22 whether growing or not, with a delta-9 tetrahydrocannabinol concen-
23 tration of not more than 0.3 percent on a dry weight basis.

24 § 47. Section 506 of the agriculture and markets law, as amended by
25 section 1 of part 00 of chapter 58 of the laws of 2017, is amended to
26 read as follows:

27 § 506. Growth, sale, distribution, transportation and processing of
28 industrial hemp and products derived from such hemp permitted. [~~Notwith-~~
29 ~~standing any provision of law to the contrary, industrial~~] 1. Industrial
30 hemp and products derived from such hemp are agricultural products which
31 may be grown, produced [and], possessed [~~in the state, and~~], sold,
32 distributed, transported [~~or~~] and/or processed [~~either~~] in [~~or out of~~]
33 state [~~as part of agricultural pilot programs pursuant to authorization~~
34 ~~under federal law and the provisions of this article~~] pursuant to
35 authorization under federal law, the provisions of this article and/or
36 the the cannabis law. [~~Notwithstanding any provision of law to the~~
37 ~~contrary restricting the growing or cultivating, sale, distribution,~~
38 ~~transportation or processing of industrial hemp and products derived~~
39 ~~from such hemp, and subject to authorization under federal law, the~~]

40 2. The commissioner may authorize the growing or cultivating of indus-
41 trial hemp as part of agricultural pilot programs conducted by the
42 department and/or an institution of higher education to study the growth
43 and cultivation, sale, distribution, transportation and processing of
44 such hemp and products derived from such hemp provided that the sites
45 and programs used for growing or cultivating industrial hemp are certi-
46 fied by, and registered with, the department.

47 3. In addition to the department's licensing authority hereinafter
48 provided in this article, the office of cannabis management shall
49 license and regulate the growth, extraction, processing and/or manufac-
50 turing of hemp for derivatives, extracts, cannabinoids, isomers, acids,
51 salts and salts or isomers and/or hemp products for human or animal
52 consumption or use (except for those food and/or food ingredients that
53 are generally recognized as safe).

54 4. Nothing in this section shall limit the jurisdiction of the depart-
55 ment under any other article of the agriculture and markets law.

1 § 48. Section 507 of the agriculture and markets law is REPEALED and a
2 new section 507 is added to read as follows:

3 § 507. Licensing; fees. 1. No person shall: (a) grow industrial hemp
4 in the state and/or sell or distribute industrial hemp grown in the
5 state unless licensed biennially by the commissioner or (b) grow, proc-
6 ess and/or produce industrial hemp and products derived from hemp in the
7 state or sell or distribute unless authorized by the commissioner as
8 part of an agricultural research pilot program established under this
9 article.

10 2. Application for a license to grow industrial hemp shall be made
11 upon a form prescribed by the commissioner, accompanied by a non-refund-
12 able application fee of five hundred dollars.

13 3. The applicant shall furnish evidence of his or her good character,
14 experience and competency, that the applicant has adequate facilities,
15 equipment, process controls, testing capability and security to grow
16 hemp.

17 4. Growers who intend to cultivate hemp for cannabinoids shall also be
18 required to obtain a license from the office of cannabis management.

19 5. A renewal application shall be submitted to the commissioner at
20 least thirty days prior to the commencement of the next license period.

21 § 49. Section 508 of the agriculture and markets law is REPEALED and a
22 new section 508 is added to read as follows:

23 § 508. Compliance action plan. If the commissioner determines, after
24 notice and an opportunity for hearing, that a licensee has negligently
25 violated a provision of this article, that licensee shall be required to
26 comply with a corrective action plan established by the commissioner to
27 correct the violation by a reasonable date and to periodically report to
28 the commissioner with respect to the licensee's compliance with this
29 article for a period of no less than the next two calendar years follow-
30 ing the commencement date of the compliance action plan. The provisions
31 of this section shall not be applicable to research partners conducting
32 hemp research pursuant to a research partner agreement, the terms of
33 which shall control.

34 § 50. Section 509 of the agriculture and markets law is REPEALED and a
35 new section 509 is added to read as follows:

36 § 509. Granting, suspending or revoking licenses. The commissioner
37 may decline to grant a new license, may decline to renew a license, may
38 suspend or revoke a license already granted after due notice and oppor-
39 tunity for hearing whenever he or she finds that:

40 (1) any statement contained in an application for an applicant or
41 licensee is or was false or misleading;

42 (2) the applicant or licensee does not have good character, the
43 required experience and/or competency, adequate facilities, equipment,
44 process controls, testing capability and/or security to produce hemp or
45 products derived from hemp;

46 (3) the applicant or licensee has failed or refused to produce any
47 records or provide any information demanded by the commissioner reason-
48 ably related to the administration and enforcement of this article; or

49 (4) the applicant or licensee, or any officer, director, partner,
50 holder of ten percent of the voting stock, or any other person exercis-
51 ing any position of management or control has failed to comply with any
52 of the provisions of this article or rules and regulations promulgated
53 pursuant thereto.

54 § 51. Section 510 of the agriculture and markets law is REPEALED and a
55 new section 510 is added to read as follows:

1 § 510. Regulations. The commissioner may develop regulations consist-
2 ent with the provisions of this article for the growing and cultivation,
3 sale, distribution, and transportation of industrial hemp grown in the
4 state, including:

5 (a) the authorization or licensing of any person who may: acquire or
6 possess hemp plants or seeds; grow or cultivate hemp plants; and/or
7 sell, purchase, distribute, or transport such plants, plant parts, or
8 seeds;

9 (b) maintaining relevant information regarding land on which indus-
10 trial hemp is produced within the state, including the legal description
11 of the land, for a period of not less than three calendar years;

12 (c) the procedure for testing of industrial hemp produced in the state
13 for delta-9 tetrahydrocannabinol levels, using post decarboxylation or
14 other similarly reliable methods;

15 (d) the procedure for effective disposal of industrial hemp plants or
16 products derived from hemp that are produced in violation of this arti-
17 cle;

18 (e) a procedure for conducting at least a random sample of industrial
19 hemp producers to verify that hemp is not produced in violation of this
20 article;

21 (f) any required security measures; and

22 (g) such other and further regulation as the commissioner deems appro-
23 priate or necessary.

24 § 52. Section 511 of the agriculture and markets law is REPEALED and a
25 new section 511 is added to read as follows:

26 § 511. Prohibitions. Except as authorized by state law, and regu-
27 lations promulgated thereunder, the growth, cultivation, processing,
28 sale, and/or distribution of industrial hemp is prohibited.

29 § 53. Section 512 of the agriculture and markets law is REPEALED and a
30 new section 512 is added to read as follows:

31 § 512. Industrial hemp data collection and best farming practices.
32 The commissioner shall have the power to collect and publish data and
33 research concerning, among other things, the growth, cultivation,
34 production and processing methods of industrial hemp and products
35 derived from industrial hemp and work with the cornell cooperative
36 extension to promote best farming practices for industrial hemp which
37 are compatible with state water quality and other environmental objec-
38 tives.

39 § 54. Sections 513 and 514 of the agriculture and markets law are
40 REPEALED and a new section 513 is added to read as follows:

41 § 513. Access to criminal history information through the division of
42 criminal justice services. In connection with the administration of
43 this article, the commissioner is authorized to request, receive and
44 review criminal history information through the division of criminal
45 justice services (division) with respect to any person seeking a license
46 or authorization to undertake a hemp pilot project. At the commission-
47 er's request, each researcher, principal and/or officer of the applicant
48 shall submit to the department his or her fingerprints in such form and
49 in such manner as specified by the division, for the purpose of conduct-
50 ing a criminal history search and returning a report thereon in accord-
51 ance with the procedures and requirements established by the division
52 pursuant to the provisions of article thirty-five of the executive law,
53 which shall include the payment of the prescribed processing fees for
54 the cost of the division's full search and retain procedures and a
55 national criminal history record check. The commissioner, or his or her
56 designee, shall submit such fingerprints and the processing fee to the

1 division. The division shall forward to the commissioner a report with
2 respect to the applicant's previous criminal history, if any, or a
3 statement that the applicant has no previous criminal history according
4 to its files. Fingerprints submitted to the division of criminal justice
5 services pursuant to this subdivision may also be submitted to the
6 federal bureau of investigation for a national criminal history record
7 check. If additional copies of fingerprints are required, the applicant
8 shall furnish them upon request.

9 § 55. Sections 179.00, 179.05, 179.10, 179.11 and 179.15 of the penal
10 law, as added by chapter 90 of the laws of 2014, are amended to read as
11 follows:

12 § 179.00 Criminal diversion of medical [~~marihuana~~] cannabis; defi-
13 nitions.

14 The following definitions are applicable to this article:

15 1. "Medical [~~marihuana~~] cannabis" means medical [~~marihuana~~] cannabis
16 as defined in [~~subdivision eight of section thirty three hundred sixty~~
17 ~~of the public health law~~] section three of the cannabis law.

18 2. "Certification" means a certification, made under section [~~thirty-~~
19 ~~three hundred sixty-one of the public health law~~] thirty of the cannabis
20 law.

21 § 179.05 Criminal diversion of medical [~~marihuana~~] cannabis; limita-
22 tions.

23 The provisions of this article shall not apply to:

24 1. a practitioner authorized to issue a certification who acted in
25 good faith in the lawful course of his or her profession; or

26 2. a registered organization as that term is defined in [~~subdivision~~
27 ~~nine of section thirty three hundred sixty of the public health law~~]
28 section thirty-four of the cannabis law who acted in good faith in the
29 lawful course of the practice of pharmacy; or

30 3. a person who acted in good faith seeking treatment for a medical
31 condition or assisting another person to obtain treatment for a medical
32 condition.

33 § 179.10 Criminal diversion of medical [~~marihuana~~] cannabis in the first
34 degree.

35 A person is guilty of criminal diversion of medical [~~marihuana~~] canna-
36 bis in the first degree when he or she is a practitioner, as that term
37 is defined in [~~subdivision twelve of section thirty three hundred sixty~~
38 ~~of the public health law~~] section three of the cannabis law, who issues
39 a certification with knowledge of reasonable grounds to know that (i)
40 the recipient has no medical need for it, or (ii) it is for a purpose
41 other than to treat a serious condition as defined in [~~subdivision seven~~
42 ~~of section thirty three hundred sixty of the public health law~~] section
43 three of the cannabis law.

44 Criminal diversion of medical [~~marihuana~~] cannabis in the first degree
45 is a class E felony.

46 § 179.11 Criminal diversion of medical [~~marihuana~~] cannabis in the
47 second degree.

48 A person is guilty of criminal diversion of medical [~~marihuana~~] canna-
49 bis in the second degree when he or she sells, trades, delivers, or
50 otherwise provides medical [~~marihuana~~] cannabis to another with know-
51 ledge or reasonable grounds to know that the recipient is not registered
52 under [~~title five A of article thirty three of the public health law~~]
53 article three of the cannabis law.

54 Criminal diversion of medical [~~marihuana~~] cannabis in the second
55 degree is a class B misdemeanor.

56 § 179.15 Criminal retention of medical [~~marihuana~~] cannabis.

1 A person is guilty of criminal retention of medical [~~marihuana~~ canna-
2 bis] when, being a certified patient or designated caregiver, as those
3 terms are defined in [~~subdivisions three and five of section thirty-~~
4 ~~three hundred sixty of the public health law, respectively~~] section
5 three of the cannabis law, he or she knowingly obtains, possesses,
6 stores or maintains an amount of [~~marihuana~~ cannabis] in excess of the
7 amount he or she is authorized to possess under the provisions of [~~title~~
8 ~~five-A of article thirty-three of the public health law~~] article three
9 of the cannabis law.

10 Criminal retention of medical [~~marihuana~~ cannabis] is a class A misde-
11 meanor.

12 § 56. Section 220.78 of the penal law, as added by chapter 154 of the
13 laws of 2011, is amended to read as follows:

14 § 220.78 Witness or victim of drug or alcohol overdose.

15 1. A person who, in good faith, seeks health care for someone who is
16 experiencing a drug or alcohol overdose or other life threatening
17 medical emergency shall not be charged or prosecuted for a controlled
18 substance offense under article two hundred twenty or a [~~marihuana~~
19 cannabis] offense under article two hundred twenty-one of this title,
20 other than an offense involving sale for consideration or other benefit
21 or gain, or charged or prosecuted for possession of alcohol by a person
22 under age twenty-one years under section sixty-five-c of the alcoholic
23 beverage control law, or for possession of drug paraphernalia under
24 article thirty-nine of the general business law, with respect to any
25 controlled substance, [~~marihuana~~ cannabis], alcohol or paraphernalia
26 that was obtained as a result of such seeking or receiving of health
27 care.

28 2. A person who is experiencing a drug or alcohol overdose or other
29 life threatening medical emergency and, in good faith, seeks health care
30 for himself or herself or is the subject of such a good faith request
31 for health care, shall not be charged or prosecuted for a controlled
32 substance offense under this article or a [~~marihuana~~ cannabis] offense
33 under article two hundred twenty-one of this title, other than an
34 offense involving sale for consideration or other benefit or gain, or
35 charged or prosecuted for possession of alcohol by a person under age
36 twenty-one years under section sixty-five-c of the alcoholic beverage
37 control law, or for possession of drug paraphernalia under article thir-
38 ty-nine of the general business law, with respect to any substance,
39 [~~marihuana~~ cannabis], alcohol or paraphernalia that was obtained as a
40 result of such seeking or receiving of health care.

41 3. Definitions. As used in this section the following terms shall have
42 the following meanings:

43 (a) "Drug or alcohol overdose" or "overdose" means an acute condition
44 including, but not limited to, physical illness, coma, mania, hysteria
45 or death, which is the result of consumption or use of a controlled
46 substance or alcohol and relates to an adverse reaction to or the quan-
47 tity of the controlled substance or alcohol or a substance with which
48 the controlled substance or alcohol was combined; provided that a
49 patient's condition shall be deemed to be a drug or alcohol overdose if
50 a prudent layperson, possessing an average knowledge of medicine and
51 health, could reasonably believe that the condition is in fact a drug or
52 alcohol overdose and (except as to death) requires health care.

53 (b) "Health care" means the professional services provided to a person
54 experiencing a drug or alcohol overdose by a health care professional
55 licensed, registered or certified under title eight of the education law
56 or article thirty of the public health law who, acting within his or her

1 lawful scope of practice, may provide diagnosis, treatment or emergency
2 services for a person experiencing a drug or alcohol overdose.

3 4. It shall be an affirmative defense to a criminal sale controlled
4 substance offense under this article or a criminal sale of [~~marihuana~~]
5 ~~cannabis~~ offense under article two hundred twenty-one of this title, not
6 covered by subdivision one or two of this section, with respect to any
7 controlled substance or [~~marihuana~~] ~~cannabis~~ which was obtained as a
8 result of such seeking or receiving of health care, that:

9 (a) the defendant, in good faith, seeks health care for someone or for
10 him or herself who is experiencing a drug or alcohol overdose or other
11 life threatening medical emergency; and

12 (b) the defendant has no prior conviction for the commission or
13 attempted commission of a class A-I, A-II or B felony under this arti-
14 cle.

15 5. Nothing in this section shall be construed to bar the admissibility
16 of any evidence in connection with the investigation and prosecution of
17 a crime with regard to another defendant who does not independently
18 qualify for the bar to prosecution or for the affirmative defense; nor
19 with regard to other crimes committed by a person who otherwise quali-
20 fies under this section; nor shall anything in this section be construed
21 to bar any seizure pursuant to law, including but not limited to pursu-
22 ant to section thirty-three hundred eighty-seven of the public health
23 law.

24 6. The bar to prosecution described in subdivisions one and two of
25 this section shall not apply to the prosecution of a class A-I felony
26 under this article, and the affirmative defense described in subdivision
27 four of this section shall not apply to the prosecution of a class A-I
28 or A-II felony under this article.

29 § 57. Subdivision 1 of section 260.20 of the penal law, as amended by
30 chapter 362 of the laws of 1992, is amended as follows:

31 1. He knowingly permits a child less than eighteen years old to enter
32 or remain in or upon a place, premises or establishment where sexual
33 activity as defined by article one hundred thirty, two hundred thirty or
34 two hundred sixty-three of this [~~chapter~~] ~~part~~ or activity involving
35 controlled substances as defined by article two hundred twenty of this
36 [~~chapter or involving marihuana as defined by article two hundred twen-~~
37 ~~ty one of this chapter~~] ~~part~~ is maintained or conducted, and he knows or
38 has reason to know that such activity is being maintained or conducted;
39 or

40 § 58. Section 89-h of the state finance law, as added by chapter 90 of
41 the laws of 2014, is amended to read as follows:

42 § 89-h. Medical [~~marihuana~~] ~~cannabis~~ trust fund. 1. There is hereby
43 established in the joint custody of the state comptroller and the
44 commissioner of taxation and finance a special fund to be known as the
45 "medical [~~marihuana~~] ~~cannabis~~ trust fund."

46 2. The medical [~~marihuana~~] ~~cannabis~~ trust fund shall consist of all
47 moneys required to be deposited in the medical [~~marihuana~~] ~~cannabis~~
48 trust fund pursuant to the provisions of section four hundred ninety of
49 the tax law.

50 3. The moneys in the medical [~~marihuana~~] ~~cannabis~~ trust fund shall be
51 kept separate and shall not be commingled with any other moneys in the
52 custody of the commissioner of taxation and finance and the state comp-
53 troller.

54 4. The moneys of the medical [~~marihuana~~] ~~cannabis~~ trust fund, follow-
55 ing appropriation by the legislature, shall be allocated upon a certifi-
56 cate of approval of availability by the director of the budget as

1 follows: (a) Twenty-two and five-tenths percent of the monies shall be
2 transferred to the counties in New York state in which the medical
3 [~~marihuana~~] cannabis was manufactured and allocated in proportion to the
4 gross sales originating from medical [~~marihuana~~] cannabis manufactured
5 in each such county; (b) twenty-two and five-tenths percent of the
6 moneys shall be transferred to the counties in New York state in which
7 the medical [~~marihuana~~] cannabis was dispensed and allocated in propor-
8 tion to the gross sales occurring in each such county; (c) five percent
9 of the monies shall be transferred to the office of alcoholism and
10 substance abuse services, which shall use that revenue for additional
11 drug abuse prevention, counseling and treatment services; and (d) five
12 percent of the revenue received by the department shall be transferred
13 to the division of criminal justice services, which shall use that
14 revenue for a program of discretionary grants to state and local law
15 enforcement agencies that demonstrate a need relating to [~~title five-A~~
16 ~~of article thirty-three of the public health law~~] article three of the
17 cannabis law; said grants could be used for personnel costs of state and
18 local law enforcement agencies. For purposes of this subdivision, the
19 city of New York shall be deemed to be a county.

20 § 59. Intentionally omitted.

21 § 60. The state finance law is amended by adding a new section 99-ff
22 to read as follows:

23 § 99-ff. New York state cannabis revenue fund. 1. There is hereby
24 established in the joint custody of the state comptroller and the
25 commissioner of taxation and finance a special fund to be known as the
26 "New York state cannabis revenue fund" (the "fund").

27 2. Monies in the fund shall be kept separate from and shall not be
28 commingled with any other monies in the custody of the comptroller or
29 the commissioner of taxation and finance. Provided, however that any
30 monies of the fund not required for immediate use may, at the discretion
31 of the comptroller, in consultation with the director of the budget, be
32 invested by the comptroller in obligations of the United States or the
33 state. The proceeds of any such investment shall be retained by the fund
34 as assets to be used for purposes of the fund.

35 3. Except as set forth in subdivisions two and four of this section,
36 monies from the fund shall not be used to make payments for any purpose
37 other than the purposes set forth in subdivisions two and four of this
38 section.

39 4. The "New York state cannabis revenue fund" shall consist of monies
40 received by the commissioner of taxation and finance pursuant to subdi-
41 visions (a) and (b) of section four hundred ninety-three of the tax law
42 and all other monies credited or transferred thereto from any other fund
43 or source. Monies of such fund shall be expended for the following
44 purposes: administration of the regulated cannabis program, data gather-
45 ing, monitoring and reporting, the governor's traffic safety committee,
46 small business development and loans, substance abuse, harm reduction
47 and mental health treatment and prevention, public health education and
48 intervention, research on cannabis uses and applications, program evalu-
49 ation and improvements, and any other identified purpose recommended by
50 the executive director of the office of cannabis management and approved
51 by the director of the budget.

52 § 61. Subdivision 2 of section 3371 of the public health law, as
53 amended by chapter 90 of the laws of 2014, is amended to read as
54 follows:

55 2. The prescription monitoring program registry may be accessed, under
56 such terms and conditions as are established by the department for

1 purposes of maintaining the security and confidentiality of the informa-
2 tion contained in the registry, by:

3 (a) a practitioner, or a designee authorized by such practitioner
4 pursuant to paragraph (b) of subdivision two of section thirty-three
5 hundred forty-three-a or section thirty-three hundred sixty-one of this
6 article, for the purposes of: (i) informing the practitioner that a
7 patient may be under treatment with a controlled substance by another
8 practitioner; (ii) providing the practitioner with notifications of
9 controlled substance activity as deemed relevant by the department,
10 including but not limited to a notification made available on a monthly
11 or other periodic basis through the registry of controlled substances
12 activity pertaining to his or her patient; (iii) allowing the practi-
13 tioner, through consultation of the prescription monitoring program
14 registry, to review his or her patient's controlled substances history
15 as required by section thirty-three hundred forty-three-a [~~or section~~
16 ~~thirty-three hundred sixty-one~~] of this article; and (iv) providing to
17 his or her patient, or person authorized pursuant to paragraph (j) of
18 subdivision one of this section, upon request, a copy of such patient's
19 controlled substance history as is available to the practitioner through
20 the prescription monitoring program registry; or

21 (b) a pharmacist, pharmacy intern or other designee authorized by the
22 pharmacist pursuant to paragraph (b) of subdivision three of section
23 thirty-three hundred forty-three-a of this article, for the purposes of:
24 (i) consulting the prescription monitoring program registry to review
25 the controlled substances history of an individual for whom one or more
26 prescriptions for controlled substances or certifications for marihuana
27 is presented to the pharmacist, pursuant to section thirty-three hundred
28 forty-three-a of this article; and (ii) receiving from the department
29 such notifications of controlled substance activity as are made avail-
30 able by the department; or

31 (c) an individual employed by a registered organization for the
32 purpose of consulting the prescription monitoring program registry to
33 review the controlled substances history of an individual for whom one
34 or more certifications for [~~marihuana~~] cannabis is presented to that
35 registered organization[~~, pursuant to section thirty-three hundred~~
36 ~~sixty-four of this article~~]. Unless otherwise authorized by this arti-
37 cle, an individual employed by a registered organization will be
38 provided access to the prescription monitoring program in the sole
39 discretion of the commissioner.

40 § 62. Subdivision 3 of section 853 of the general business law, as
41 added by chapter 90 of the laws of 2014, is amended to read as follows:

42 3. This article shall not apply to any sale, furnishing or possession
43 which is for a lawful purpose under [~~title five-A of article thirty-~~
44 ~~three of the public health law~~] the cannabis law.

45 § 63. Subdivision 5 of section 410.91 of the criminal procedure law,
46 as amended by chapter 90 of the laws of 2014, is amended to read as
47 follows:

48 5. For the purposes of this section, a "specified offense" is an
49 offense defined by any of the following provisions of the penal law:
50 burglary in the third degree as defined in section 140.20, criminal
51 mischief in the third degree as defined in section 145.05, criminal
52 mischief in the second degree as defined in section 145.10, grand larce-
53 ny in the fourth degree as defined in subdivision one, two, three, four,
54 five, six, eight, nine or ten of section 155.30, grand larceny in the
55 third degree as defined in section 155.35 (except where the property
56 consists of one or more firearms, rifles or shotguns), unauthorized use

1 of a vehicle in the second degree as defined in section 165.06, criminal
2 possession of stolen property in the fourth degree as defined in subdi-
3 vision one, two, three, five or six of section 165.45, criminal
4 possession of stolen property in the third degree as defined in section
5 165.50 (except where the property consists of one or more firearms,
6 rifles or shotguns), forgery in the second degree as defined in section
7 170.10, criminal possession of a forged instrument in the second degree
8 as defined in section 170.25, unlawfully using slugs in the first degree
9 as defined in section 170.60, criminal diversion of medical [~~marihuana~~
10 ~~cannabis~~ in the first degree as defined in section 179.10 or an attempt
11 to commit any of the aforementioned offenses if such attempt constitutes
12 a felony offense; or a class B felony offense defined in article two
13 hundred twenty where a sentence is imposed pursuant to paragraph (a) of
14 subdivision two of section 70.70 of the penal law; or any class C, class
15 D or class E controlled substance [~~or marihuana~~ ~~cannabis~~ felony offense
16 as defined in article two hundred twenty or two hundred twenty-one.

17 § 63-a. Subdivision 5 of section 410.91 of the criminal procedure law,
18 as amended by section 8 of part AAA of chapter 56 of the laws of 2009,
19 is amended to read as follows:

20 5. For the purposes of this section, a "specified offense" is an
21 offense defined by any of the following provisions of the penal law:
22 burglary in the third degree as defined in section 140.20, criminal
23 mischief in the third degree as defined in section 145.05, criminal
24 mischief in the second degree as defined in section 145.10, grand larceny
25 in the fourth degree as defined in subdivision one, two, three, four,
26 five, six, eight, nine or ten of section 155.30, grand larceny in the
27 third degree as defined in section 155.35 (except where the property
28 consists of one or more firearms, rifles or shotguns), unauthorized use
29 of a vehicle in the second degree as defined in section 165.06, criminal
30 possession of stolen property in the fourth degree as defined in subdi-
31 vision one, two, three, five or six of section 165.45, criminal
32 possession of stolen property in the third degree as defined in section
33 165.50 (except where the property consists of one or more firearms,
34 rifles or shotguns), forgery in the second degree as defined in section
35 170.10, criminal possession of a forged instrument in the second degree
36 as defined in section 170.25, unlawfully using slugs in the first degree
37 as defined in section 170.60, or an attempt to commit any of the afore-
38 mentioned offenses if such attempt constitutes a felony offense; or a
39 class B felony offense defined in article two hundred twenty where a
40 sentence is imposed pursuant to paragraph (a) of subdivision two of
41 section 70.70 of the penal law; or any class C, class D or class E
42 controlled substance or [~~marihuana~~ ~~cannabis~~ felony offense as defined
43 in article two hundred twenty or two hundred twenty-one.

44 § 64. This act shall take effect immediately; provided, however that
45 sections thirty-seven and thirty-eight of this act shall take effect on
46 April 1, 2020, and shall apply on and after such date: (a) to the culti-
47 vation of cannabis flower and cannabis trim transferred by a cultivator
48 who is not a wholesaler; (b) to the cultivation of cannabis flower and
49 cannabis trim sold or transferred to a retail dispensary by a cultivator
50 who is a wholesaler; and (c) to the sale or transfer of adult use canna-
51 bis products to a retail dispensary; provided, further, that the amend-
52 ments to article 179 of the penal law made by section fifty-five of this
53 act shall not affect the repeal of such article and shall be deemed to
54 be repealed therewith; provided further, that the amendments to section
55 89-h of the state finance law made by section fifty-eight of this act
56 shall not affect the repeal of such section and shall be deemed repealed

1 therewith; provided further, that the amendments to section 221.00 of
2 the penal law made by section fifteen of this act shall be subject to
3 the expiration of such section when upon such date the provisions of
4 section fifteen-a of this act shall take effect; provided, however, that
5 the amendments to subdivision 2 of section 3371 of the public health law
6 made by section sixty-one of this act shall not affect the expiration of
7 such subdivision and shall be deemed to expire therewith; provided
8 further, that the amendments to subdivision 3 of section 853 of the
9 general business law made by section sixty-two of this act shall not
10 affect the repeal of such subdivision and shall be deemed to be repealed
11 therewith; and provided further, that the amendments to subdivision 5 of
12 section 410.91 of the penal law made by section sixty-three of this act
13 shall be subject to the expiration and reversion of such subdivision
14 when upon such date the provisions of section sixty-three-a of this act
15 shall take effect.

16

PART WW

17 Section 1. Section 1166-a of the tax law, as added by section 1 of
18 part F of chapter 25 of the laws of 2009, is amended to read as follows:

19 § 1166-a. Special supplemental tax on passenger car rentals within the
20 metropolitan commuter transportation district. (a) In addition to the
21 tax imposed under section eleven hundred sixty of this article and in
22 addition to any tax imposed under any other article of this chapter,
23 there is hereby imposed and there shall be paid a tax at the rate of
24 five percent upon the receipts from every rental of a passenger car
25 which is a retail sale of such passenger car within the metropolitan
26 commuter transportation district as defined in [~~subdivision~~] subsection
27 (a) of section eight hundred of this chapter.

28 (b) Except to the extent that a passenger car rental described in
29 subdivision (a) of this section, or section eleven hundred sixty-six-b
30 of this article, has already been or will be subject to the tax imposed
31 under such subdivision or section and except as otherwise exempted under
32 this article, there is hereby imposed on every person and there shall be
33 paid a use tax for the use within the metropolitan commuter transporta-
34 tion district as defined in [~~subdivision~~] subsection (a) of section
35 eight hundred of this chapter; of any passenger car rented by the user
36 [~~which~~] that is a purchase at retail of such passenger car, but not
37 including any lease of a passenger car to which subdivision (i) of
38 section eleven hundred eleven of this chapter applies. For purposes of
39 this [~~paragraph~~] subsection, the tax shall be at the rate of five
40 percent of the consideration given or contracted to be given for such
41 property, or for the use of such property, including any charges for
42 shipping or delivery as described in paragraph three of subdivision (b)
43 of section eleven hundred one of this chapter, but excluding any credit
44 for tangible personal property accepted in part payment and intended for
45 resale.

46 § 2. The tax law is amended by adding a new section 1166-b to read as
47 follows:

48 § 1166-b. Special supplemental tax on passenger car rentals outside of
49 the metropolitan commuter transportation district. (a) In addition to
50 the tax imposed under section eleven hundred sixty of this article and
51 in addition to any tax imposed under any other article of this chapter,
52 there is hereby imposed and there shall be paid a tax at the rate of
53 five percent upon the receipts from every rental of a passenger car that
54 is not subject to the tax described in section eleven hundred

1 sixty-six-a of this article, but which is a retail sale of such passen-
2 ger car within the state.

3 (b) Except to the extent that a passenger car rental described in
4 subdivision (a) of this section or in section eleven hundred
5 sixty-six-a of this article, has already been subject to the tax imposed
6 under such subdivision or section, and except as otherwise exempted
7 under this article, there is hereby imposed on every person and there
8 shall be paid a use tax for the use within the state of any passenger
9 car rented by the user that is a purchase at retail of such passenger
10 car, but not including any lease of a passenger car to which subdivision
11 (i) of section eleven hundred eleven of this chapter applies. For
12 purposes of this subdivision, the tax shall be at the rate of five
13 percent of the consideration given or contracted to be given for such
14 property, or for the use of such property, including any charges for
15 shipping or delivery as described in paragraph three of subdivision (b)
16 of section eleven hundred one of this chapter, but excluding any credit
17 for tangible personal property accepted in part payment and intended for
18 resale.

19 § 3. Section 1167 of the tax law, as amended by section 3 of part F of
20 chapter 25 of the laws of 2009, is amended to read as follows:

21 § 1167. Deposit and disposition of revenue. All taxes, interest and
22 penalties collected or received by the commissioner under this article
23 shall be deposited and disposed of pursuant to the provisions of section
24 one hundred seventy-one-a of this chapter, except that after reserving
25 amounts in accordance with such section one hundred seventy-one-a of
26 this chapter, the remainder shall be paid by the comptroller to the
27 credit of the highway and bridge trust fund established by section
28 eighty-nine-b of the state finance law, provided, however[~~r~~]: (a) taxes,
29 interest and penalties collected or received pursuant to section eleven
30 hundred sixty-six-a of this article shall be paid to the credit of the
31 metropolitan transportation authority aid trust account of the metropol-
32 itan transportation authority financial assistance fund established by
33 section ninety-two-ff of the state finance law; and (b) taxes, interest
34 and penalties collected or received pursuant to section eleven hundred
35 sixty-six-b of this article shall be paid to the credit of the public
36 transportation systems operating assistance account established by
37 section eighty-eight-a of the state finance law.

38 § 4. This act shall take effect September 1, 2019, and shall apply to
39 rentals of passenger cars commencing on and after such date whether or
40 not under a prior contract; provided, however where such passenger car
41 rentals are billed on a monthly, quarterly or other period basis, the
42 tax imposed by this act shall apply to the rental for such period if
43 more than half of the days included in such period are days subsequent
44 to such effective date.

45 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
46 sion, section or part of this act shall be adjudged by any court of
47 competent jurisdiction to be invalid, such judgment shall not affect,
48 impair, or invalidate the remainder thereof, but shall be confined in
49 its operation to the clause, sentence, paragraph, subdivision, section
50 or part thereof directly involved in the controversy in which such judg-
51 ment shall have been rendered. It is hereby declared to be the intent of
52 the legislature that this act would have been enacted even if such
53 invalid provisions had not been included herein.

54 § 3. This act shall take effect immediately provided, however, that
55 the applicable effective date of Parts A through WW of this act shall be
56 as specifically set forth in the last section of such Parts.