

STATE OF NEW YORK

1527--A

2019-2020 Regular Sessions

IN SENATE

January 15, 2019

Introduced by Sens. KRUEGER, BAILEY, BIAGGI, COMRIE, GIANARIS, HOYLMAN, JACKSON, KENNEDY, LIU, MAY, MONTGOMERY, MYRIE, PARKER, RAMOS, RIVERA, SALAZAR, SANDERS, SEPULVEDA, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT in relation to constituting chapter 7-A of the consolidated laws, in relation to the creation of a new office of cannabis management, as an independent entity within the division of alcoholic beverage control, providing for the licensure of persons authorized to cultivate, process, distribute and sell cannabis and the use of cannabis by persons aged twenty-one or older; to amend the public health law, in relation to the description of cannabis; to amend the penal law, in relation to the growing and use of cannabis by persons twenty-one years of age or older; to amend the tax law, in relation to providing for the levying of taxes on cannabis; to amend the criminal procedure law, the civil practice law and rules, the general business law, the state finance law, the executive law, the penal law, the alcoholic beverage control law, the general obligations law, the social services law, the agriculture and markets law and the vehicle and traffic law, in relation to making conforming changes; to amend the public health law, in relation to the definition of smoking; to amend the state finance law, in relation to establishing the New York state cannabis revenue fund, the New York state drug treatment and public education fund and the New York state community grants reinvestment fund; to amend chapter 90 of the laws of 2014 amending the public health law, the tax law, the state finance law, the general business law, the penal law and the criminal procedure law relating to medical use of marihuana, in relation to the effectiveness thereof; to repeal certain provisions of the public health law relating to growing of cannabis and medical use of marihuana; to repeal article 221 of the penal law relating to offenses involving marihuana; to repeal paragraph (f) of subdivision 2 of section 850 of the general business law relating to drug related paraphernalia; to repeal certain provisions of the crimi-

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

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nal procedure law relating to certain criminal actions; and to repeal certain provisions of the agriculture and markets law relating to industrial hemp

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

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

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

5 CHAPTER 7-A OF THE CONSOLIDATED LAWS

6 CANNABIS LAW

7 ARTICLE 1

8 SHORT TITLE; LEGISLATIVE FINDINGS AND INTENT;

9 DEFINITIONS

10 Section 1. Short title.

11 2. Legislative findings and intent

12 3. Definitions.

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

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

26 The intent of this act is to regulate, control, and tax marihuana in a
27 manner similar to alcohol, generate millions of dollars in new revenue,
28 prevent access to marihuana by those under the age of twenty-one years,
29 reduce the illegal drug market and reduce violent crime, reduce partic-
30 ipation of otherwise law-abiding citizens in the illicit market, end the
31 racially disparate impact of existing marihuana laws and create new
32 industries and increase employment.

33 Nothing in this act is intended to limit the authority of any district
34 government agency or office or employers to enact and enforce policies
35 pertaining to marihuana in the workplace, to allow driving under the
36 influence of marihuana, to allow individuals to engage in conduct that
37 endangers others, to allow smoking marihuana in any location where smok-
38 ing tobacco is prohibited, or to require any individual to engage in any
39 conduct that violates federal law or to exempt anyone from any require-
40 ment of federal law or pose any obstacle to the federal enforcement of
41 federal law.

42 It is the intent of this act that no child shall be the subject of a
43 child neglect or abuse investigation or proceeding based solely on a
44 parent's alleged marihuana use, or activity made lawful by this act. A
45 newborn child's positive toxicology result for marihuana, is not suffi-

1 cient on its own to support a finding of child neglect or abuse. Enact-
2 ment of this act shall provide sufficient basis for New York state to
3 favorably resolve open investigations and to amend and seal individuals'
4 family court records and records of indicated child abuse or neglect
5 reports currently in the statewide central register of child abuse and
6 maltreatment based solely on the use of marihuana or where the reporter
7 of suspected abuse or neglect was a law enforcement agency or staff
8 person and the report was based solely upon the presence of a child
9 during a marihuana-related arrest.

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

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

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

22 3. "Cannabinoid grower" means a person licensed by the office, and in
23 compliance with article twenty-nine of the agriculture and markets law,
24 to acquire, possess, cultivate, and sell hemp cannabis for its cannabi-
25 noid content.

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

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

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

44 7. "Cannabis product" or "adult-use cannabis" means cannabis, concen-
45 trated cannabis, and cannabis-infused products for use by a cannabis
46 consumer.

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

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

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

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

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

7 13. "Certified patient" means a patient who is a resident of New York
8 state or receiving care and treatment in New York state as determined by
9 the executive director in regulation, and is certified under this chap-
10 ter.

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

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

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

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

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

39 19. "Designated caregiver facility" means a general hospital or resi-
40 dential health care facility operating pursuant to article twenty-eight
41 of the public health law; an adult care facility operating pursuant to
42 title two of article seven of the social services law; a community
43 mental health residence established pursuant to section 41.44 of the
44 mental hygiene law; a hospital operating pursuant to section 7.17 of the
45 mental hygiene law; a mental hygiene facility operating pursuant to
46 article thirty-one of the mental hygiene law; an inpatient or residen-
47 tial treatment program certified pursuant to article thirty-two of the
48 mental hygiene law; a residential facility for the care and treatment of
49 persons with developmental disabilities operating pursuant to article
50 sixteen of the mental hygiene law; a residential treatment facility for
51 children and youth operating pursuant to article thirty-one of the
52 mental hygiene law; a private or public school; research institution
53 with an internal review board; or any other facility as determined by
54 the executive director in regulation; that registers with the office to
55 assist one or more certified patients with the acquisition, possession,
56 delivery, transportation or administration of medical cannabis.

1 20. "Designated caregiver" means an individual designated by a certi-
2 fied patient in a registry application. A certified patient may desig-
3 nate up to five designated caregivers. The five designated caregivers
4 need not include the employees of a designated caregiver facility
5 already authorized to assist certified patients.

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

9 22. "Executive director" means the executive director of the office of
10 cannabis management.

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

15 24. "Hemp cannabis" means the plant *Cannabis sativa* L. and any part of
16 such plant, including the seeds thereof and all derivatives, extracts,
17 cannabinoids, isomers, acids, salts, and salts of isomers, whether grow-
18 ing or not, with a delta-9 tetrahydrocannabinol concentration of not
19 more than an amount determined by the office in regulation, used or
20 intended for human or animal consumption or use for its cannabinoid
21 content, as determined by the executive director in regulation. Hemp
22 cannabis excludes industrial hemp used or intended exclusively for an
23 industrial purpose.

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

30 26. "Labor peace agreement" means an agreement between an entity and a
31 labor organization that, at a minimum, protects the state's proprietary
32 interests by prohibiting labor organizations and members from engaging
33 in picketing, work stoppages, boycotts, and any other economic interfer-
34 ence with the registered organization's business.

35 27. "Laboratory testing facility" means any independent laboratory
36 capable of testing cannabis and cannabis products for adult-use and
37 medical-use; hemp cannabis; or for all categories of cannabis and canna-
38 bis products as per regulations set forth by the office.

39 28. "License" means a written authorization issued by the office of
40 cannabis management permitting persons to engage in a specified activity
41 with respect to controlled substances.

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

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

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

1 32. "Office" or "office of cannabis management" means the New York
2 state office of cannabis management.

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

5 34. "Owner" means an individual with an aggregate ownership interest
6 of twenty percent or more in a cannabis business licensed pursuant to
7 this chapter, unless such interest is solely a security, lien, or encum-
8 brance, or an individual that will be participating in the direction,
9 control, or management of the licensed cannabis business.

10 35. "Package" means any container or receptacle used for holding
11 cannabis or cannabis products.

12 36. "Permit" means a permit issued pursuant to this chapter.

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

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

23 39. "Processor" means a licensee that compounds, blends, extracts,
24 infuses, or otherwise manufactures concentrated cannabis or cannabis
25 products, but not the cultivation of the cannabis contained in the
26 cannabis product.

27 40. "Registered organization" means an organization registered under
28 article four of this chapter.

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

32 42. "Registry identification card" means a document that identifies a
33 certified patient or designated caregiver, as provided under this chap-
34 ter.

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

40 44. "Retailer" means any person who sells at retail any cannabis prod-
41 uct, the sale of which a license is required under the provisions of
42 this chapter.

43 45. "Smoking" means the burning of a lighted cigar, cigarette, pipe or
44 any other matter or substance which contains tobacco or cannabis
45 provided that it does not include the use of an electronic smoking
46 device that creates an aerosol or vapor, unless local or state statutes
47 extend prohibitions on smoking to electronic smoking devices.

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

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

54 ARTICLE 2

55 NEW YORK STATE OFFICE OF CANNABIS MANAGEMENT

1 Section 9. Establishment of an office of cannabis management.

2 10. Executive director.

3 11. Functions, powers and duties of the office and executive
4 director.

5 12. Rulemaking authority.

6 13. State cannabis advisory board.

7 14. Disposition of moneys received for license fees.

8 15. Legal presumptions.

9 16. Violations of cannabis laws or regulations; penalties and
10 injunctions.

11 17. Formal hearings; notice and procedure.

12 18. Ethics, transparency and accountability.

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

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

25 § 11. Functions, powers and duties of the office and executive direc-
26 tor. The office of cannabis management, by and through its executive
27 director, shall have the following powers and duties:

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

30 2. To issue temporary or provisional licenses.

31 3. To limit, or not to limit, in the executive director's discretion,
32 the number of registrations, licenses and permits of each class to be
33 issued within the state or any political subdivision thereof, and in
34 connection therewith to prohibit the acceptance of applications for such
35 classes which have been so limited. Such limitations shall consider
36 consumer access, market demand, and geographic diversity.

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

39 5. To regulate advertising, marketing, branding, packaging, and label-
40 ing, including regulating the accuracy of information about cannabis and
41 cannabis products and restricting marketing and advertising to youth.

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

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

53 8. To hold hearings, subpoena witnesses, compel their attendance,
54 administer oaths, to examine any person under oath and in connection
55 therewith to require the production of any books or records relative to

1 the inquiry. A subpoena issued under this section shall be regulated by
2 the civil practice law and rules.

3 9. To appoint any necessary directors, deputies, counsels, assistants,
4 investigators, and other employees within the limits provided by appro-
5 priation. Investigators so employed by the office shall be deemed to be
6 peace officers for the purpose of enforcing the provisions of the canna-
7 bis control law or judgements or orders obtained for violation thereof,
8 with all the powers set forth in section 2.20 of the criminal procedure
9 law.

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

14 11. To inspect or provide for the inspection at any time of any prem-
15 ises where medical cannabis, adult use cannabis, or hemp cannabis is
16 cultivated, processed, stored, distributed or sold.

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

20 13. To delegate the powers provided in this section to such other
21 officers or employees or other state agencies as may be deemed appropri-
22 ate by the executive director.

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

26 15. To exercise the powers and perform the duties in relation to the
27 administration of the office as are necessary but not specifically vest-
28 ed by this chapter, including but not limited to budgetary and fiscal
29 matters.

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

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

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

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

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

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

54 2. The office shall have the power to promulgate any and all necessary
55 rules and regulations governing the cultivation, manufacture, process-
56 ing, transportation, distribution, testing, delivery, and sale of

1 medical cannabis, adult use cannabis, and hemp cannabis, including but
2 not limited to the registration of organizations authorized to traffic
3 in medical cannabis, the licensing and/or permitting of adult-use canna-
4 bis cultivators, processors, cooperatives, distributors, laboratories,
5 and retailers, and the licensing of hemp cannabis producers and process-
6 ors, including, but not limited to:

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

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

11 (c) the books and records to be created and maintained by registered
12 organizations, licensees, and permittees, including the reports to be
13 made thereon to the office, and inspection of any and all books and
14 records maintained by any registered organization, licensee, or permittee
15 and on the premise of any registered organization, licensee, or permit-
16 tee;

17 (d) methods of producing, processing, and packaging cannabis, medical
18 cannabis, cannabis-infused products, concentrated cannabis, and hemp
19 cannabis; conditions of sanitation, and standards of ingredients, quali-
20 ty, and identity of cannabis products cultivated, processed, packaged,
21 or sold by registered organizations and licensees;

22 (e) security requirements for adult-use cannabis retail dispensaries
23 and premises where cannabis products, medical cannabis, and hemp canna-
24 bis, are cultivated, produced, processed, or stored, and safety proto-
25 cols for registered organizations, licensees and their employees; and

26 (f) hearing procedures and additional causes for cancellation, revoca-
27 tion, and/or civil penalties against any person registered, licensed, or
28 permitted by the authority.

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

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

33 (b) prevent the revenue from the sale of cannabis from going to crimi-
34 nal enterprises, gangs, and cartels;

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

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

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

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

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

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

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

55 2. The executive director of the office shall serve as the chairperson
56 of the board. The vice chairperson shall be elected from among the

1 members of the board by the members of such board, and shall represent
2 the board in the absence of the chairperson at all official board func-
3 tions.

4 3. The members of the board shall be appointed by the temporary presi-
5 dent of the senate and the speaker of the assembly and shall receive no
6 compensation for their services but shall be allowed their actual and
7 necessary expenses incurred in the performance of their duties as board
8 members.

9 4. The executive director shall promulgate regulations establishing
10 the number of members on the board, the term of the board members and
11 any other terms or conditions regarding the state cannabis advisory
12 board.

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

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

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

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

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

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

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

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

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

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

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

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

18 6. It is the purpose of this section to provide additional and cumula-
19 tive remedies, and nothing herein contained shall abridge or alter
20 rights of action or remedies now or hereafter existing, nor shall any
21 provision of this section, nor any action done by virtue of this
22 section, be construed as estopping the state, persons or municipalities
23 in the exercising of their respective rights.

24 § 17. Formal hearings; notice and procedure. 1. The executive direc-
25 tor, or any person designated by him or her for this purpose, may issue
26 subpoenas and administer oaths in connection with any hearing or inves-
27 tigation under or pursuant to this chapter, and it shall be the duty of
28 the executive director and any persons designated by him or her for such
29 purpose to issue subpoenas at the request of and upon behalf of the
30 respondent.

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

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

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

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

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

53 7. The executive director may adopt, amend and repeal administrative
54 rules and regulations governing the procedures to be followed with
55 respect to hearings, such rules to be consistent with the policy and

1 purpose of this chapter and the effective and fair enforcement of its
2 provisions.

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

7 § 18. Ethics, transparency and accountability. No member of the
8 office or any officer, deputy, assistant, inspector or employee thereof
9 shall have any interest, direct or indirect, either proprietary or by
10 means of any loan, mortgage or lien, or in any other manner, in or on
11 any premises where adult use cannabis, medical cannabis or hemp cannabis
12 is cultivated, processed, distributed or sold; nor shall he or she have
13 any interest, direct or indirect, in any business wholly or partially
14 devoted to the cultivation, processing, distribution, sale, transporta-
15 tion or storage of adult use cannabis, medical cannabis or hemp canna-
16 bis, or own any stock in any corporation which has any interest, propri-
17 etary or otherwise, direct or indirect, in any premises where adult use
18 cannabis, medical cannabis or hemp cannabis is cultivated, processed,
19 distributed or sold, or in any business wholly or partially devoted to
20 the cultivation, processing, distribution, sale, transportation or stor-
21 age of adult use cannabis, medical cannabis or hemp cannabis, or receive
22 any commission or profit whatsoever, direct or indirect, from any person
23 applying for or receiving any license or permit provided for in this
24 chapter, or hold any other elected or appointed public office in the
25 state or in any political subdivision. Anyone who violates any of the
26 provisions of this section shall be removed and shall divulge themselves
27 of such direct or indirect interests, in addition to any other penalty
28 provided by law.

29 ARTICLE 3
30 MEDICAL CANNABIS

31 Section 30. Certification of patients.

- 32 31. Lawful medical use.
- 33 32. Registry identification cards.
- 34 33. Registration as a designated caregiver facility.
- 35 34. Registered organizations.
- 36 35. Registering of registered organizations.
- 37 36. Intentionally omitted.
- 38 37. Reports of registered organizations.
- 39 38. Evaluation; research programs; report by office.
- 40 39. Cannabis research license.
- 41 40. Registered organizations and adult-use cannabis.
- 42 41. Relation to other laws.
- 43 42. Protections for the medical use of cannabis.
- 44 43. Regulations.
- 45 44. Suspend; terminate.
- 46 45. Pricing.

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

- 49 (a) the patient has a condition, which shall be specified in the
- 50 patient's health care record;
- 51 (b) the practitioner by training or experience is qualified to treat
- 52 the condition;
- 53 (c) the patient is under the practitioner's continuing care for the
- 54 condition; and

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

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

18 3. In making a certification, the practitioner may consider the form
19 of medical cannabis the patient should consume, including the method of
20 consumption and any particular strain, variety, and quantity or percent-
21 age of cannabis or particular active ingredient, and appropriate dosage.
22 The practitioner may state in the certification any recommendation or
23 limitation the practitioner makes, in his or her professional opinion,
24 concerning the appropriate form or forms of medical cannabis and dosage.

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

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

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

36 7. A registry identification card based on a certification shall
37 expire one year after the date the certification is signed by the prac-
38 titioner.

39 8. (a) If the practitioner states in the certification that, in the
40 practitioner's professional opinion, the patient would benefit from
41 medical cannabis only until a specified earlier date, then the registry
42 identification card shall expire on that date; (b) if the practitioner
43 states in the certification that in the practitioner's professional
44 opinion the patient is terminally ill and that the certification shall
45 not expire until the patient dies, then the registry identification card
46 shall state that the patient is terminally ill and that the registration
47 card shall not expire until the patient dies; (c) if the practitioner
48 re-issues the certification to terminate the certification on an earlier
49 date, then the registry identification card shall expire on that date
50 and shall be promptly destroyed by the certified patient; (d) if the
51 certification so provides, the registry identification card shall state
52 any recommendation or limitation by the practitioner as to the form or
53 forms of medical cannabis or dosage for the certified patient; and (e)
54 the executive director shall make regulations to implement this subdivi-
55 sion.

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

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

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

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

20 4. the form or forms of medical cannabis that may be possessed by the
21 certified patient, designated caregiver or designated caregiver facility
22 pursuant to a certification shall be in compliance with any recommenda-
23 tion or limitation by the practitioner as to the form or forms of
24 medical cannabis or dosage for the certified patient in the certif-
25 ication;

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

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

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

43 2. To obtain, amend or renew a registry identification card, a certi-
44 fied patient or designated caregiver shall file a registry application
45 with the office, unless otherwise exempted by the executive director in
46 regulation. The registry application or renewal application shall
47 include:

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

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

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

52 (iii) the date of the certification;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 10. A registry identification card shall:

11 (a) contain the name of the certified patient or the designated care-
12 giver as the case may be;

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

15 (c) contain a registry identification number for the certified patient
16 or designated caregiver, as the case may be and a registry identifica-
17 tion number;

18 (d) contain a photograph of the individual to whom the registry iden-
19 tification card is being issued, which shall be obtained by the office
20 in a manner specified by the executive director in regulations;
21 provided, however, that if the office requires certified patients to
22 submit photographs for this purpose, there shall be a reasonable accom-
23 modation of certified patients who are confined to their homes due to
24 their medical conditions and may therefore have difficulty procuring
25 photographs;

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

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

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

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

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

44 13. The office shall maintain a confidential list of the persons to
45 whom it has issued registry identification cards. Individual identifying
46 information obtained by the office under this article shall be confiden-
47 tial and exempt from disclosure under article six of the public officers
48 law. Notwithstanding this subdivision, the office may notify any appro-
49 priate law enforcement agency of information relating to any violation
50 or suspected violation of this article.

51 14. The office shall verify to law enforcement personnel in an appro-
52 priate case whether a registry identification card is valid.

53 15. If a certified patient or designated caregiver willfully violates
54 any provision of this article as determined by the executive director,
55 his or her certification and registry identification card may be

1 suspended or revoked. This is in addition to any other penalty that may
2 apply.

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

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

8 (b) operating certificate or license number where appropriate;

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

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

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

15 (f) any other information that may be required by the executive direc-
16 tor.

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

22 3. The office shall approve, deny or determine incomplete or inaccur-
23 ate an initial or renewal application within thirty days of receipt of
24 the application. If the application is approved within the thirty-day
25 period, the office shall issue a registration as soon as is reasonably
26 practicable.

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

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

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

40 2. The acquiring, possession, manufacture, sale, delivery, transport-
41 ing, distributing or dispensing of medical cannabis by a registered
42 organization under this article in accordance with its registration
43 under this article or a renewal thereof shall be lawful under this chap-
44 ter.

45 3. Each registered organization shall contract with an independent
46 laboratory permitted by the office to test the medical cannabis produced
47 by the registered organization. The executive director shall approve the
48 laboratory used by the registered organization and may require that the
49 registered organization use a particular testing laboratory. The execu-
50 tive director is authorized to issue regulations requiring the laborato-
51 ry to perform certain tests and services.

52 4. (a) A registered organization may lawfully, in good faith, sell,
53 deliver, distribute or dispense medical cannabis to a certified patient
54 or designated caregiver upon presentation to the registered organization
55 of a valid registry identification card for that certified patient or
56 designated caregiver. When presented with the registry identification

1 card, the registered organization shall provide to the certified patient
2 or designated caregiver a receipt, which shall state: the name, address,
3 and registry identification number of the registered organization; the
4 name and registry identification number of the certified patient and the
5 designated caregiver, if any; the date the cannabis was sold; any recom-
6 mendation or limitation by the practitioner as to the form or forms of
7 medical cannabis or dosage for the certified patient; and the form and
8 the quantity of medical cannabis sold. The registered organization shall
9 retain a copy of the registry identification card and the receipt for
10 six years.

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

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

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

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

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

- 39 (a) methods for administering medical cannabis,
40 (b) any potential dangers stemming from the use of medical cannabis,
41 (c) how to recognize what may be problematic usage of medical cannabis
42 and obtain appropriate services or treatment for problematic usage, and
43 (d) other information as determined by the executive director.

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

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

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

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

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

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

21 10. A registered organization may contract with a person or entity to
22 provide facilities, equipment or services that are ancillary to the
23 registered organization's functions or activities under this section
24 including, but not limited to, shipping, maintenance, construction,
25 repair, and security. All laws and regulations applicable to such facil-
26 ities, equipment, or services shall apply to the contract. The regis-
27 tered organization and other parties to the contract shall each be
28 responsible for compliance with such laws and regulations under the
29 contract. The executive director may make regulations relating to
30 contracts and parties to contracts under this chapter.

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

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

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

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

55 § 35. Registering of registered organizations. 1. (a) An applicant
56 for registration as a registered organization under section thirty-four

1 of this article shall include such information prepared in such manner
2 and detail as the executive director may require, including but not
3 limited to:

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

6 (ii) that the applicant:

7 (A) is of good moral character;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

50 7. The office may suspend or terminate the registration of a regis-
51 tered organization, on grounds and using procedures under this article
52 relating to a license, to the extent consistent with this article. The
53 authority shall suspend or terminate the registration in the event that
54 a registered organization violates or terminates the applicable labor
55 peace agreement. Conduct in compliance with this article which may

1 violate conflicting federal law, shall not be grounds to suspend or
2 terminate a registration.

3 8. The executive director shall register at least ten registered
4 organizations that manufacture medical cannabis with no more than four
5 dispensing sites wholly owned and operated by such registered organiza-
6 tion. The executive director shall ensure that such registered organiza-
7 tions and dispensing sites are geographically distributed across the
8 state and that their ownership reflects the demographics of the state.
9 The executive director may register additional registered organizations,
10 as needed.

11 § 36. Intentionally omitted.

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

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

23 § 38. Evaluation; research programs; report by office. 1. The execu-
24 tive director may provide for the analysis and evaluation of the opera-
25 tion of this article. The executive director may enter into agreements
26 with one or more persons, not-for-profit corporations or other organiza-
27 tions, for the performance of an evaluation of the implementation and
28 effectiveness of this article.

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

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

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

41 (a) to test chemical potency and composition levels;

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

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

46 (d) to conduct genomic or agricultural research.

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

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

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

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

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

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

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

18 (a) application requirements;

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

21 (c) conditions for license revocation;

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

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

26 (f) licensee reporting requirements;

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

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

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

35 7. The application fee for a cannabis research license shall be deter-
36 mined by the executive director on an annual basis.

37 8. Each cannabis research licensee shall issue an annual report to the
38 office. The office shall review such report and make a determination as
39 to whether the research project continues to meet the research quali-
40 fications under this section.

41 § 40. Registered organizations and adult-use cannabis. 1. The execu-
42 tive director shall have the authority to grant some or all of the
43 registered organizations registered with the department of health and
44 currently registered and in good standing with the office, the ability
45 to be licensed to cultivate, process, distribute or sell adult-use
46 cannabis and cannabis products, pursuant to any fees, rules or condi-
47 tions prescribed by the executive director in regulation and subject to
48 the restrictions on licensed adult-use cultivators, processors, and
49 distributors on having any ownership interest in a licensed adult-use
50 retail dispensary pursuant to this chapter.

51 2. However, the office shall have the authority to assess the regis-
52 tered organization with a one-time special licensing fee so that they
53 may become authorized to bypass the restrictions on having any ownership
54 interest in a licensed adult-use retail dispensary, provided that the
55 fees generated from such assessment shall be used to administer incuba-
56 tors and low or zero-interest loans to qualified social equity appli-

1 cants. The timing and manner in which registered organizations may be
2 granted such authority shall be determined by the executive director in
3 regulation.

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

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

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

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

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

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

35 (b) The name, contact information, and other information relating to
36 practitioners registered with the office under this article shall be
37 public information and shall be maintained by the executive director on
38 the office's website accessible to the public in searchable form. Howev-
39 er, if a practitioner notifies the office in writing that he or she does
40 not want his or her name and other information disclosed, that practi-
41 tioner's name and other information shall thereafter not be public
42 information or maintained on the office's website, unless the practi-
43 tioner cancels the request.

44 § 43. Regulations. The executive director shall make regulations to
45 implement this article.

46 § 44. Suspend; terminate. Based upon the recommendation of the execu-
47 tive director and/or the superintendent of state police that there is a
48 risk to the public health or safety, the governor may immediately termi-
49 nate all licenses issued to registered organizations.

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

ARTICLE 4
ADULT-USE CANNABIS

- 3 Section 60. Licenses issued.
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- 5 62. Information to be requested in applications for licenses.
- 6 63. Fees.
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- 21 consumption licenses.
- 22 76. Record keeping and tracking.
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- 25 interested in retail dispensaries.
- 26 79. Packaging and labeling of adult-use cannabis products.
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- 28 81. Provisions governing the cultivation and processing of
- 29 adult-use cannabis.
- 30 82. Provisions governing the distribution of adult-use cannabis.
- 31 83. Provisions governing adult-use cannabis retail dispensaries.
- 32 84. Adult-use cannabis advertising.
- 33 85. Minority, women-owned businesses and disadvantaged farmers;
- 34 incubator program.
- 35 86. Regulations.

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

- 40 1. Adult-use cultivator license;
- 41 2. Adult-use processor license;
- 42 3. Adult-use cooperative license;
- 43 4. Adult-use distributor license;
- 44 5. Adult-use retail dispensary license;
- 45 6. On-site consumption license;
- 46 7. Microbusiness license;
- 47 8. Delivery license;
- 48 9. Nursery license; and
- 49 10. Any other type of license as prescribed by the executive director
- 50 in regulation.

51 § 61. License Application. 1. Any person may apply to the office for
52 a license to cultivate, process, distribute or dispense cannabis within
53 this state for sale. Such application shall be in writing and verified
54 and shall contain such information as the office shall require. Such
55 application shall be accompanied by a check or draft for the amount

1 required by this article for such license. If the office shall approve
2 the application, it shall issue a license in such form as shall be
3 determined by its rules. Such license shall contain a description of the
4 licensed premises and in form and in substance shall be a license to the
5 person therein specifically designated to cultivate, process, distribute
6 or dispense cannabis in the premises therein specifically licensed.

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

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

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

20 2. The executive director is authorized to adopt regulations, includ-
21 ing by emergency rule, establishing information which must be included
22 on an application for licensure under this article. Such information may
23 include, but is not limited to: information about the applicant's iden-
24 tity, including racial and ethnic diversity; ownership and investment
25 information, including the corporate structure; evidence of good moral
26 character, including the submission of fingerprints by the applicant to
27 the division of criminal justice services; information about the prem-
28 ises to be licensed; financial statements; and any other information
29 prescribed by regulation.

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

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

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

45 6. In giving any notice, or taking any action in reference to a regis-
46 tered organization or licensee of a licensed premises, the office may
47 rely upon the information furnished in such application and in any
48 supplemental statement connected therewith, and such information may be
49 presumed to be correct, and shall be binding upon a registered organiza-
50 tions, licensee or licensed premises as if correct. All information
51 required to be furnished in such application or supplemental statements
52 shall be deemed material in any prosecution for perjury, any proceeding
53 to revoke, cancel or suspend any license, and in the office's determi-
54 nation to approve or deny the license.

55 § 63. Fees. 1. The office shall have the authority to charge appli-
56 cants for licensure under this article a non-refundable application fee.

1 Such fee may be based on the type of licensure sought, cultivation
2 and/or production volume, or any other factors deemed reasonable and
3 appropriate by the office to achieve the policy and purpose of this
4 chapter.

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

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

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

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

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

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

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

26 (e) the applicant qualifies as a social equity applicant or sets out a
27 plan for benefiting communities and people disproportionately impacted by
28 cannabis law enforcement;

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

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

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

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

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

42 (vi) the history of regulatory violations under the alcoholic beverage
43 control law or the cannabis law at the location, as well as any pattern
44 of violations under the alcoholic beverage control law or the cannabis
45 law, and reported criminal activity at the proposed premises;

46 (vii) the effect on the production and availability of cannabis and
47 cannabis products; and

48 (viii) any other factors specified by law or regulation that are rele-
49 vant to determine that granting a license would promote public conven-
50 ience and advantage and the public interest of the community;

51 (g) the applicant and its managing officers are of good moral charac-
52 ter and do not have an ownership or controlling interest in more
53 licenses or permits than allowed by this chapter;

54 (h) the applicant has entered into a labor peace agreement with a
55 bona-fide labor organization that is actively engaged in representing or
56 attempting to represent the applicant's employees, and the maintenance

1 of such a labor peace agreement shall be an ongoing material condition
2 of licensure. In evaluating applications from entities with twenty-five
3 or more employees, the office shall give priority to applicants that are
4 a party to a collective bargaining agreement with a bona-fide labor
5 organization in New York or in another state, and uses union labor to
6 construct its licensed facility;

7 (i) the applicant will contribute to communities and people dispropor-
8 tionately harmed by cannabis law enforcement and report these contrib-
9 utions to the office;

10 (j) if the application is for an adult-use cultivator or processor
11 license, the environmental impact of the facility to be licensed; and

12 (k) the applicant satisfies any other conditions as determined by the
13 executive director.

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

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

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

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

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

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

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

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

51 3. The office shall provide an application for renewal of a license
52 issued under this article not less than ninety days prior to the expira-
53 tion of the current license.

54 4. The office may only issue a renewal license upon receipt of the
55 prescribed renewal application and renewal fee from a licensee if, in

1 addition to the criteria in this section, the licensee's license is not
2 under suspension and has not been revoked.

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

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

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

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

11 (b) the activities permitted by the license;

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

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

15 (e) such other information as the executive director shall deem neces-
16 sary to assure compliance with this chapter.

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

22 3. A license shall become void by a change in ownership, substantial
23 corporate change or location without prior written approval of the exec-
24 utive director. The executive director may promulgate regulations allow-
25 ing for certain types of changes in ownership without the need for prior
26 written approval.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (i) be comprised of residents of the state of New York as a limited
35 liability company or limited liability partnership under the laws of the
36 state, or an appropriate business structure as determined by the execu-
37 tive director;

38 (ii) at least one member of the cooperative must have filed a Federal
39 Schedule F (Form 1040) for three of the past five years; and

40 (iii) the cooperative must operate according to the seven cooperative
41 principles published by the International Cooperative Alliance in nine-
42 teen hundred ninety-five.

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

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

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

54 6. The executive director shall promulgate regulations governing coop-
55 erative licenses, including, but not limited to, the establishment of

1 canopy limits on the size and scope of cooperative licensees, and other
2 measures designed to incentivize the use and licensure of cooperatives.

3 § 71. Adult-use distributor license. 1. A distributor's license shall
4 authorize the acquisition, possession, distribution and sale of cannabis
5 from the licensed premises of a licensed adult-use processor, microbusi-
6 ness or registered organization authorized to sell adult-use cannabis,
7 to duly licensed retail dispensaries.

8 2. No distributor shall have a direct or indirect economic interest in
9 any adult-use retail dispensary licensed pursuant to this article, or in
10 any registered organization registered pursuant to article three of this
11 chapter. This restriction shall not prohibit a registered organization
12 authorized pursuant to section forty of this chapter, from being granted
13 licensure by the office to distribute adult-use cannabis products culti-
14 vated and processed by the registered organization to the registered
15 organization's own licensed adult-use retail dispensaries.

16 3. Nothing in subdivision two of this section shall prevent a distrib-
17 utor from charging an appropriate fee for the distribution of cannabis,
18 including based on the volume of cannabis distributed.

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

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

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

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

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

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

44 § 73. Microbusiness license. 1. A microbusiness license shall author-
45 ize the limited cultivation, processing, distribution and dispensing of
46 adult use cannabis and cannabis products.

47 2. A microbusiness licensee may not hold interest in any other
48 license.

49 3. The size and scope of a microbusiness shall be determined by the
50 executive director.

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

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

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

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

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

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

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

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

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

25 (b) the full name of the applicant;

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

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

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

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

33 (i) a new establishment;

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

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

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

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

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

42 (i) the type of license.

43 § 75. On-site consumption license; provisions governing on-site
44 consumption licenses. 1. No licensed adult-use cannabis retail dispen-
45 sary shall be granted a cannabis on-site consumption license for any
46 premises, unless the applicant shall be the owner thereof, or shall be
47 in possession of said premises under a lease, in writing, for a term not
48 less than the license period except, however, that such license may
49 thereafter be renewed without the requirement of a lease as provided in
50 this section. This subdivision shall not apply to premises leased from
51 government agencies; provided, however, that the appropriate administra-
52 tor of such government agency provides some form of written documenta-
53 tion regarding the terms of occupancy under which the applicant is leas-
54 ing said premises from the government agency for presentation to the
55 office at the time of the license application. Such documentation shall
56 include the terms of occupancy between the applicant and the government

1 agency, including, but not limited to, any short-term leasing agreements
2 or written occupancy agreements.

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

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

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

12 (b) the number, classes, and character of other licenses in proximity
13 to the location and in the particular municipality or subdivision there-
14 of;

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

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

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

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

23 (g) the history of violations under the alcoholic beverage control law
24 or this chapter at the location, as well as any pattern of violations
25 under the alcoholic beverage control law or this chapter, and reported
26 criminal activity at the proposed premises; and

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

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

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

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

48 7. Except where a permit to do so is obtained pursuant to section
49 405.10 of the penal law, no cannabis on-site consumption licensee shall
50 suffer, permit, or promote an event on its premises wherein any person
51 shall use, explode, or cause to explode, any fireworks or other pyro-
52 technics in a building as defined in paragraph e of subdivision one of
53 section 405.10 of the penal law, that is covered by such license or
54 possess such fireworks or pyrotechnics for such purpose. In addition to
55 any other penalty provided by law, a violation of this subdivision shall
56 constitute an adequate ground for instituting a proceeding to suspend,

1 cancel, or revoke the license of the violator in accordance with the
2 applicable procedures specified in this chapter; provided however, if
3 more than one licensee is participating in a single event, upon approval
4 by the office, only one licensee must obtain such permit.

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

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

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

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

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

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

51 3. Each sale shall be recorded separately on a numbered invoice, which
52 shall have printed thereon the number, the name of the licensee, the
53 address of the licensed premises, and the current license number.
54 Licensed producers shall deliver to the licensed distributor a true
55 duplicate invoice stating the name and address of the purchaser, the
56 quantity purchased, description and the price of the product, and a

1 true, accurate and complete statement of the terms and conditions on
2 which such sale is made.

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

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

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

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

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

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

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

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

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

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

1 § 79. Packaging and labeling of adult-use cannabis products. 1. The
2 office is hereby authorized to promulgate rules and regulations govern-
3 ing the advertising, branding, marketing, packaging and labeling of
4 cannabis products, sold or possessed for sale in New York state, includ-
5 ing rules pertaining to the accuracy of information and rules restrict-
6 ing marketing and advertising to youth.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 2. No cultivator or processor of adult-use cannabis shall sell, or
5 agree to sell or deliver in the state any cannabis products, as the case
6 may be, except in sealed containers containing quantities in accordance
7 with size standards pursuant to rules adopted by the office. Such
8 containers shall have affixed thereto such labels as may be required by
9 the rules of the office.

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

15 4. Cultivators of adult-use cannabis shall only use pesticides that
16 are registered by the department of environmental conservation or that
17 specifically meet the United States environmental protection agency
18 registration exemption criteria for minimum risk pesticides, and only in
19 compliance with regulations, standards and guidelines issued by the
20 department of environmental conservation.

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

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

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

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

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

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

45 3. Each distributor shall keep and maintain upon the licensed prem-
46 ises, adequate books and records of all transactions involving the busi-
47 ness transacted by such distributor, which shall show the amount of
48 cannabis products purchased by such distributor together with the names,
49 license numbers and places of business of the persons from whom the same
50 was purchased and the amount involved in such purchases, as well as the
51 amount of cannabis products sold by such distributor together with the
52 names, addresses, and license numbers of such purchasers. Each sale
53 shall be recorded separately on a numbered invoice, which shall have
54 printed thereon the number, the name of the licensee, the address of the
55 licensed premises, and the current license number. Such distributor
56 shall deliver to the purchaser a true duplicate invoice stating the name

1 and address of the purchaser, the quantity of cannabis products,
2 description by brands and the price of such cannabis products, and a
3 true, accurate and complete statement of the terms and conditions on
4 which such sale is made. Such books, records and invoices shall be kept
5 for a period of five years and shall be available for inspection by any
6 authorized representative of the office.

7 4. No distributor shall furnish or cause to be furnished to any licen-
8 see, any exterior or interior sign, printed, painted, electric or other-
9 wise, unless authorized by the office.

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

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

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

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

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

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

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

43 5. All premises licensed under this section shall be subject to
44 inspection by any peace officer described in subdivision four of section
45 2.10 of the criminal procedure law acting pursuant to his or her special
46 duties, or police officer or any duly authorized representative of the
47 office, during the hours when the said premises are open for the trans-
48 action of business.

49 6. No cannabis retail licensee shall be interested, directly or indi-
50 rectly, in any cultivator, processor, distributor or microbusiness oper-
51 ator licensed pursuant to this article, by stock ownership, interlocking
52 directors, mortgage or lien on any personal or real property or by any
53 other means. Any lien, mortgage or other interest or estate, however,
54 now held by such retailer on or in the personal or real property of such
55 manufacturer or distributor, which mortgage, lien, interest or estate
56 was acquired on or before December thirty-first, two thousand eighteen,

1 shall not be included within the provisions of this subdivision;
2 provided, however, the burden of establishing the time of the accrual of
3 the interest comprehended by this subdivision, shall be upon the person
4 who claims to be entitled to the protection and exemption afforded here-
5 by.

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

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

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

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

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

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

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

- 40 (a) is false, deceptive, or misleading;
- 41 (b) promotes overconsumption;
- 42 (c) depicts consumption by children or other minors;
- 43 (d) is designed in any way to appeal to children or other minors;
- 44 (e) is within two hundred feet of the perimeter of a school grounds,
45 playground, child care center, public park, or library;
- 46 (f) is within two hundred feet of school grounds as such term is
47 defined in section 220.00 of the penal law;
- 48 (g) is in public transit vehicles and stations;
- 49 (h) is in the form of an unsolicited internet pop-up;
- 50 (i) is on publicly owned or operated property; or
- 51 (j) makes medical claims or promotes adult-use cannabis for a medical
52 or wellness purpose.

53 3. The office shall promulgate explicit rules prohibiting all market-
54 ing strategies and implementation including, but not limited to, brand-
55 ing, packaging, labeling, location of cannabis retailers, and advertise-
56 ments that are designed to:

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

3 4. The office shall promulgate explicit rules requiring that:

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

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

10 § 85. Minority, women-owned businesses and disadvantaged farmers;
11 incubator program. 1. The office shall implement a social and economic
12 equity plan and actively promote racial, ethnic, and gender diversity
13 when issuing licenses for adult-use cannabis related activities, includ-
14 ing by prioritizing consideration of applications by applicants who
15 qualify as a minority and women-owned business or disadvantaged farmers.
16 Such qualifications shall be determined by the office in regulation.

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

20 (a) minority-owned businesses;

21 (b) women-owned businesses;

22 (c) minority and women-owned businesses, as defined in subdivision
23 five of this section; and

24 (d) disadvantaged farmers, as defined in subdivision five of this
25 section.

26 3. The social and economic equity plan shall consider additional
27 criteria in its licensing determinations. Under the social and economic
28 equity plan, extra weight shall be given to applications that demon-
29 strate that an applicant:

30 (a) is a member of a community group that has been disproportionately
31 impacted by the enforcement of cannabis prohibition;

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

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

38 4. The office shall also create an incubator program to provide direct
39 support to social and economic equity applicants after they have been
40 granted licenses. The program shall provide direct support in the form
41 of counseling services, education, small business coaching, and compli-
42 ance assistance.

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

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

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

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

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

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

1 (v) an enterprise that is a small business.
2 (b) "minority group member" shall mean a United States citizen or
3 permanent resident alien who is and can demonstrate membership in one of
4 the following groups:
5 (i) black persons having origins in any of the black African racial
6 groups;
7 (ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban,
8 Central or South American of either Indian or Hispanic origin, regard-
9 less of race;
10 (iii) Native American or Alaskan native persons having origins in any
11 of the original peoples of North America; or
12 (iv) Asian and Pacific Islander persons having origins in any of the
13 far east countries, south east Asia, the Indian subcontinent or the
14 Pacific islands.
15 (c) "women-owned business" shall mean a business enterprise, including
16 a sole proprietorship, partnership, limited liability company or corpo-
17 ration that is:
18 (i) at least fifty-one percent owned by one or more United States
19 citizens or permanent resident aliens who are women;
20 (ii) an enterprise in which the ownership interest of such women is
21 real, substantial and continuing;
22 (iii) an enterprise in which such women ownership has and exercises
23 the authority to control independently the day-to-day business decisions
24 of the enterprise;
25 (iv) an enterprise authorized to do business in this state and inde-
26 pendently owned and operated; and
27 (v) an enterprise that is a small business.
28 (d) a firm owned by a minority group member who is also a woman may be
29 defined as a minority-owned business, a women-owned business, or both.
30 (e) "disadvantaged farmer" shall mean a New York state resident or
31 business enterprise, including a sole proprietorship, partnership,
32 limited liability company or corporation, that has reported at least
33 two-thirds of its federal gross income as income from farming, in at
34 least one of the past five preceding tax years, and who:
35 (i) farms in a county that has greater than ten percent rate of pover-
36 ty according to the latest U.S. Census Bureau's American Communities
37 Survey;
38 (ii) has been disproportionately impacted by low commodity prices or
39 faces the loss of farmland through development or suburban sprawl; and
40 (iii) meets any other qualifications as defined in regulation by the
41 office.
42 6. The office shall actively promote applicants that foster racial,
43 ethnic, and gender diversity in their workforce.
44 7. Licenses issued under the social and economic equity plan shall not
45 be transferable except to qualified social and economic equity appli-
46 cants and only upon prior written approval of the executive director.
47 8. The office shall collect demographic data on owners and employees
48 in the adult-use cannabis industry and shall annually publish such data.
49 § 86. Regulations. The executive director shall make regulations to
50 implement this article.

51 ARTICLE 5
52 HEMP CANNABIS

53 Section 90. Cannabinoid related hemp cannabis licensing.
54 91. Cannabinoid grower licenses.

- 1 92. Cannabinoid extractor license.
- 2 93. Cannabinoid license applications.
- 3 94. Information to be requested in applications for licenses.
- 4 95. Fees.
- 5 96. Selection criteria.
- 6 97. Limitations of licensure; duration.
- 7 98. License renewal.
- 8 99. Form of license.
- 9 100. Amendments to license and duty to update information
- 10 submitted for licensing.
- 11 101. Record keeping and tracking.
- 12 102. Inspections and ongoing requirements.
- 13 103. Packaging and labeling of hemp cannabis.
- 14 104. Provisions governing the growing and extracting of hemp
- 15 cannabis.
- 16 105. Laboratory testing.
- 17 106. Advertising.
- 18 107. Research.
- 19 108. Regulations.

20 § 90. Cannabinoid related hemp cannabis licensing. 1. Persons grow-
21 ing, processing, extracting, and/or manufacturing hemp cannabis or
22 producing hemp cannabis products distributed, sold or marketed for
23 cannabinoid content and used or intended for human or animal consumption
24 or use, shall be required to obtain the following license or licenses
25 from the office, depending upon the operation:

- 26 (a) cannabinoid grower license; and/or
- 27 (b) cannabinoid extractor license.

28 2. Notwithstanding subsection one of this section, those persons grow-
29 ing, processing or manufacturing food or food ingredients from hemp
30 shall be subject to regulation and/or licensing under the agriculture
31 and markets law.

32 § 91. Cannabinoid grower licenses. 1. A cannabinoid grower's license
33 authorizes the acquisition, possession, cultivation and sale of hemp
34 cannabis grown or used for its cannabinoid content on the licensed prem-
35 ises of the grower.

36 2. A person holding a cannabinoid grower's license shall not sell hemp
37 products marketed, distributed or sold for its cannabinoid content and
38 intended for human consumption or use without also being licensed as an
39 extractor pursuant to this article.

40 3. Persons growing industrial hemp pursuant to article twenty-nine of
41 the agriculture and markets law are not authorized to and shall not sell
42 hemp cannabis for human or animal consumption.

43 4. A person licensed under article twenty-nine of the agriculture and
44 markets law as an industrial hemp grower may apply for a cannabinoid
45 grower's license provided that it can demonstrate to the office that its
46 cultivation of industrial hemp meets all the requirements for hemp
47 cannabis cultivated under a cannabinoid grower's license.

48 § 92. Cannabinoid extractor license. 1. A cannabinoid extractor
49 license authorizes the licensee's acquisition, possession, extraction
50 and manufacture of hemp from a licensed cannabinoid grower for the proc-
51 essing of hemp cannabis or the production of hemp cannabis products
52 marketed, distributed or sold for cannabinoid content and used or
53 intended for human or animal consumption or use.

54 2. No cannabinoid extractor licensee shall engage in any other busi-
55 ness on the licensed premises; except that nothing contained in this

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

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

6 § 93. Cannabinoid license applications. 1. Persons shall apply for a
7 cannabinoid grower license and/or a cannabinoid extractor license by
8 submitting an application upon a form supplied by the office, providing
9 all the requested information, verified by the applicant or an author-
10 ized representative of the applicant.

11 2. A separate license shall be required for each facility at which
12 growing or extracting is conducted.

13 3. Each application shall remit with its application the fee for each
14 requested license.

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

19 2. The executive director is authorized to adopt regulations, includ-
20 ing by emergency rule, establishing information which must be included
21 on an application for licensure under this article. Such information may
22 include, but is not limited to: information about the applicant's iden-
23 tity, including racial and ethnic diversity; ownership and investment
24 information, including the corporate structure; evidence of good moral
25 character, including the submission of fingerprints by the applicant to
26 the division of criminal justice services; information about the prem-
27 ises to be licensed; financial statements; and any other information
28 prescribed by in regulation.

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

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

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

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

54 7. The office may, in its discretion, waive the submission of any
55 category of information described in this section for any category of
56 license or permit, provided that it shall not be permitted to waive the

1 requirement for submission of any such category of information solely
2 for an individual applicant or applicants.

3 § 95. Fees. The office shall have the authority to charge licensees a
4 biennial license fee. Such fee may be based on the amount of hemp canna-
5 bis to be grown, processed or extracted by the licensee, the gross annu-
6 al receipts of the licensee for the previous license period, or any
7 other factors deemed appropriate by the office.

8 § 96. Selection criteria. 1. An applicant shall furnish evidence:

9 (a) its ability to effectively maintain a delta-9 tetrahydrocannabinol
10 concentration that does not exceed a percentage of delta-9 tetrahydro-
11 cannabinol cannabis set by the executive director on a dry weight basis
12 of any part of the plant of the genus cannabis, or per volume or weight
13 of cannabis product, or the combined percent of delta-9 tetrahydrocanna-
14 binol and tetrahydrocannabinolic acid in any part of the plant of the
15 genus cannabis regardless of moisture content, for all hemp cannabis and
16 hemp derived products cultivated, processed or extracted by the appli-
17 cant;

18 (b) its ability to comply with all applicable state laws and regu-
19 lations, including, without limitation, the provisions of article four-
20 teen of the agriculture and markets law;

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

23 (d) that the applicant is in possession of or has the right to use
24 land, buildings and equipment sufficient to properly carry on the activ-
25 ity described in the application.

26 2. The office, in considering whether to grant the license applica-
27 tion, shall consider whether:

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

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

34 (c) the applicant satisfies any other conditions as determined by the
35 office.

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

39 4. The office shall give priority in licensing to residents of the
40 state of New York. Applicants must have lived in New York state for at
41 least three years prior to the effective date of this chapter to be
42 granted such priority.

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

45 § 97. Limitations of licensure; duration. 1. No license pursuant to
46 this article may be issued to a person under the age of twenty-one
47 years.

48 2. The office shall have the authority to limit, by canopy, plant
49 count or other means, the amount of hemp cannabis allowed to be culti-
50 vated, processed, extracted or sold by a licensee.

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

54 § 98. License renewal. 1. Each license, issued pursuant to this arti-
55 cle, may be renewed upon application therefor by the licensee and the
56 payment of the fee for such license as prescribed by this article.

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

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

11 4. The office shall provide an application for renewal of a license
12 issued under this article not less than ninety days prior to the expira-
13 tion of the current license.

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

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

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

- 25 1. the name and address of the licensee;
- 26 2. the activities permitted by the license;
- 27 3. the land, buildings and facilities that may be used for the
28 licensed activities of the licensee;
- 29 4. a unique license number issued by the office to the licensee; and
- 30 5. such other information as the executive director shall deem neces-
31 sary to assure compliance with this chapter.

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

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

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

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

- 52 (a) for a corporation, a change of eighty percent or more of the offi-
53 cers and/or directors, or a transfer of eighty percent or more of stock
54 of such corporation, or an existing stockholder obtaining eighty percent
55 or more of the stock of such corporation; and

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

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

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

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

20 4. Such books, records and invoices shall be kept for a period of five
21 years and shall be available for inspection by any authorized represen-
22 tative of the office.

23 § 102. Inspections and ongoing requirements. All licensees shall be
24 subject to reasonable inspection by the office, and a person who holds a
25 license must make himself or herself, or an agent thereof, available and
26 present for any inspection required by the office. The office shall make
27 reasonable accommodations so that ordinary business is not interrupted
28 and safety and security procedures are not compromised by the
29 inspection.

30 § 103. Packaging and labeling of hemp cannabis. 1. The office is
31 hereby authorized to promulgate rules and regulations governing the
32 packaging and labeling of hemp cannabis products, sold or possessed for
33 sale in New York state.

34 2. Such regulations shall include, but not be limited to, requiring
35 labels warning consumers of any potential impact on human health result-
36 ing from the consumption of hemp cannabis products that shall be affixed
37 to those products when sold, if such labels are deemed warranted by the
38 office.

39 3. Such rules and regulations shall establish methods and procedures
40 for determining, among other things, serving sizes for hemp cannabis
41 products, active cannabinoid concentration per serving size, and number
42 of servings per container. Such regulations shall also require a nutri-
43 tional fact panel that incorporates data regarding serving sizes and
44 potency thereof.

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

50 § 104. Provisions governing the growing and extracting of hemp canna-
51 bis. 1. No licensed cannabinoid grower or extractor shall sell, or
52 agree to sell or deliver in the state any hemp cannabis products, as the
53 case may be, except in sealed containers containing quantities in
54 accordance with size standards pursuant to rules adopted by the office.
55 Such containers shall have affixed thereto such labels as may be
56 required by the rules of the office.

1 2. Licensed cannabinoid growers shall only use pesticides that are
2 registered by the New York state department of environmental conserva-
3 tion or that specifically meet the United States environmental
4 protection agency registration exemption criteria for minimum risk
5 pesticides, and only in compliance with regulations, standards and
6 guidelines issued by the department of environmental conservation.

7 3. All hemp cannabis products shall be extracted and manufactured in
8 accordance with good manufacturing processes, pursuant to Part 111 of
9 Title 21 of the Code of Federal Regulations as may be modified by the
10 executive director in regulation.

11 4. The use or integration of alcohol or nicotine in hemp cannabis
12 products is strictly prohibited.

13 § 105. Laboratory testing. 1. Every cannabinoid extractor shall
14 contract with an independent laboratory to test the cannabis products
15 produced by the licensed extractor. The executive director, in consulta-
16 tion with the commissioner of health, shall approve the laboratory and
17 require that the laboratory report testing results in a manner deter-
18 mined by the executive director. The executive director is authorized to
19 issue regulations requiring the laboratory to perform certain tests and
20 services.

21 2. Cannabinoid extractors shall make laboratory test reports available
22 to persons holding a cannabinoid permit pursuant to article six of this
23 chapter for all cannabis products manufactured by the licensee.

24 3. On-site laboratory testing by licensees is permissible; however,
25 such testing shall not be certified by the office and does not exempt
26 the licensee from the requirements of quality assurance testing at a
27 testing laboratory pursuant to this section.

28 § 106. Advertising. The office shall promulgate rules and regulations
29 governing the advertising of hemp cannabis and any other related
30 products or services as determined by the executive director.

31 § 107. Research. 1. The office shall promote research and development
32 through public-private partnerships to bring new hemp cannabis and
33 industrial hemp derived products to market within the state.

34 2. The executive director may develop and carry out research programs
35 relating to industrial hemp and hemp cannabis.

36 § 108. Regulations. The executive director shall make regulations to
37 implement this article.

38 ARTICLE 6
39 GENERAL PROVISIONS

40 Section 125. General prohibitions and restrictions.

41 126. License to be confined to premises licensed; premises for
42 which no license shall be granted; transporting cannabis.

43 127. Protections for the use of cannabis; unlawful discrimi-
44 nations prohibited.

45 128. Registrations and licenses.

46 129. Laboratory testing permit.

47 130. Special use permits.

48 131. Professional and medical record keeping.

49 132. Local opt-out; municipal control and preemption.

50 133. Personal cultivation.

51 134. Executive director to be necessary party to certain
52 proceedings.

53 135. Penalties for violation of this chapter.

1 136. Revocation of registrations, licenses and permits for
2 cause; procedure for revocation or cancellation.

3 137. Lawful actions pursuant to this chapter.

4 138. Review by courts.

5 139. Illicit cannabis.

6 140. Injunction for unlawful manufacture, sale or consumption of
7 cannabis.

8 141. Persons forbidden to traffic cannabis; certain officials
9 not to be interested in manufacture or sale of cannabis
10 products.

11 142. Access to criminal history information through the division
12 of criminal justice services.

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

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

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

30 4. No registered organization, licensee, or permittee shall sell,
31 deliver or give away, or cause, permit or procure to be sold, delivered
32 or given away any cannabis, cannabis product, medical cannabis or hemp
33 cannabis on credit; except that a registered organization, licensee or
34 permittee may accept third party credit cards for the sale of any canna-
35 bis, cannabis product, medical cannabis or hemp cannabis for which it is
36 registered, licensed or permitted to dispense or sell to patients or
37 cannabis consumers. This includes, but is not limited to, any consign-
38 ment sale of any kind.

39 5. No registered organization, licensee, or permittee shall cease to
40 be operated as a bona fide or legitimate premises within the contem-
41 plation of the registration, license, or permit issued for such prem-
42 ises, as determined within the judgment of the office.

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

53 7. No registered organization, licensee, or permittee shall engage,
54 participate in, or aid or abet any violation or provision of this chap-
55 ter, or the rules or regulations of the office.

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

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

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

38 11. No adult-use cannabis or medical cannabis may be imported to, or
39 exported out of, New York state by a registered organization, licensee
40 or person holding a license and/or permit pursuant to this chapter,
41 until such time as it may become legal to do so under federal law.
42 Should it become legal to do so under federal law, the office is granted
43 the power to promulgate such rules and regulations as it deems necessary
44 to protect the public and the policy of the state.

45 12. No registered organization, licensee or any of its agents, serv-
46 ants or employees shall peddle any cannabis product, medical cannabis or
47 hemp cannabis from house to house by means of a truck or otherwise,
48 where the sale is consummated and delivery made concurrently at the
49 residence or place of business of a cannabis consumer. This subdivision
50 shall not prohibit the delivery by a registered organization to certi-
51 fied patients or their designated caregivers, pursuant to article three
52 of this chapter.

53 13. No licensee shall employ any canvasser or solicitor for the
54 purpose of receiving an order from a certified patient, designated care-
55 giver or cannabis consumer for any cannabis product, medical cannabis or
56 hemp cannabis at the residence or place of business of such patient,

1 caregiver or consumer, nor shall any licensee receive or accept any
2 order, for the sale of any cannabis product, medical cannabis or hemp
3 cannabis which shall be solicited at the residence or place of business
4 of a patient, caregiver or consumer. This subdivision shall not prohibit
5 the solicitation by a distributor of an order from any licensee at the
6 licensed premises of such licensee.

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

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

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

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

- 48 (a) a sale between relatives;
49 (b) a sale between related companies or partners in a business; or
50 (c) a sale, lease, management agreement, or other agreement giving the
51 applicant control over the cannabis at the premises, affected by other
52 facts or circumstances that would indicate that the sale, lease, manage-
53 ment agreement, or other agreement giving the applicant control over the
54 cannabis at the premises, is entered into for the primary purpose of
55 permitting the original licensee to avoid the effect of the revocation.

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

7 6. No common carrier or person operating a transportation facility in
8 this state, other than the United States government, shall receive for
9 transportation or delivery within the state any cannabis products or
10 medical cannabis unless the shipment is accompanied by copy of a bill of
11 lading, or other document, showing the name and address of the consig-
12 nor, the name and address of the consignee, the date of the shipment,
13 and the quantity and kind of cannabis products or medical cannabis
14 contained therein.

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

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

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

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

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

40 3. For the purposes of medical care, including organ transplants, a
41 certified patient's authorized use of medical cannabis must be consid-
42 ered the equivalent of the use of any other medication under the direc-
43 tion of a practitioner and does not constitute the use of an illicit
44 substance or otherwise disqualify a registered qualifying patient from
45 medical care.

46 4. Unless an employer establishes that the lawful use of cannabis has
47 impaired the employee's ability to perform the employee's job responsi-
48 bilities, it shall be unlawful to take any adverse employment action
49 against an employee based on conduct allowed under this chapter.

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

55 6. Nothing in this section shall restrict an employer's ability to
56 prohibit or take adverse employment action for the possession or use of

1 intoxicating substances during work hours, or require an employer to
2 commit any act that would cause the employer to be in violation of
3 federal law, or that would result in the loss of a federal contract or
4 federal funding.

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

9 8. A person currently under parole, probation or other state super-
10 vision, or released on bail awaiting trial may not be punished or other-
11 wise penalized for conduct allowed under this chapter.

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

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

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

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

- 37 (a) name of the person to whom the license is issued;
38 (b) kind of license and what kind of traffic in cannabis is thereby
39 permitted;
40 (c) description by street and number, or otherwise, of licensed prem-
41 ises; and
42 (d) a statement in substance that such license shall not be deemed a
43 property or vested right, and that it may be revoked at any time pursu-
44 ant to law.

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

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

- 52 (a) the owners and directors of the laboratory are of good moral char-
53 acter;
54 (b) the laboratory and its staff has the skills, resources and exper-
55 tise needed to accurately and consistently perform all of the testing
56 required for adult-use cannabis, medical cannabis and/or hemp cannabis;

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

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

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

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

12 3. The owner of a laboratory testing permit under this section shall
13 not hold a registration or license in any category of this chapter and
14 shall not have any direct or indirect ownership interest in such regis-
15 tered organization or licensee. No board member, officer, manager,
16 owner, partner, principal stakeholder or member of a registered organ-
17 ization or licensee under this chapter, or such person's immediate fami-
18 ly member, shall have an interest or voting rights in any laboratory
19 testing permittee.

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

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

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

32 1. Industrial cannabis permit - to purchase cannabis from one of the
33 entities licensed by the office for use in the manufacture and sale of
34 any of the following, when such cannabis is not otherwise suitable for
35 consumption purposes, namely: (a) apparel, energy, paper, and tools;
36 (b) scientific, chemical, mechanical and industrial products; or (c) any
37 other industrial use as determined by the executive director in regu-
38 lation.

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

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

45 4. Cannabinoid permit - to sell cannabinoid products derived from hemp
46 cannabis for off-premises consumption.

47 5. Temporary retail cannabis permit - to authorize the retail sale of
48 adult-use cannabis to cannabis consumers, for a limited purpose or dura-
49 tion.

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

55 7. Packaging permit - to authorize a licensed cannabis distributor to
56 sort, package, label and bundle cannabis products from one or more

1 registered organizations or licensed processors, on the premises of the
2 licensed cannabis distributor or at a warehouse for which a permit has
3 been issued under this section.

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

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

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

30 2. Except as provided for in subdivision one of this section, all
31 county, town, city and village governing bodies are hereby preempted
32 from adopting any rule, ordinance, regulation or prohibition pertaining
33 to the operation or licensure of registered organizations, adult-use
34 cannabis licenses or hemp licenses. However, municipalities may pass
35 local laws and ordinances governing the time, place and manner of
36 licensed adult-use cannabis retail dispensaries, provided such ordinance
37 or regulation does not make the operation of such licensed retail
38 dispensaries unreasonably impracticable as determined by the executive
39 director in his or her sole discretion.

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

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

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

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

54 2. A town, city or village may enact and enforce regulations to
55 reasonably regulate the actions and conduct under this section. Regu-

1 lations may not completely prohibit persons engaging in conduct made
2 lawful under subdivision one of this section.

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

6 § 134. Executive director to be necessary party to certain
7 proceedings. The executive director shall be made a party to all
8 actions and proceedings affecting in any manner the ability of a regis-
9 tered organization or licensee to operate within a municipality, or the
10 result of any vote thereupon; to all actions and proceedings relative to
11 issuance or revocation of registrations, licenses or permits; to all
12 injunction proceedings, and to all other civil actions or proceedings
13 which in any manner affect the enjoyment of the privileges or the opera-
14 tion of the restrictions provided for in this chapter.

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

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 subject to conviction as provided
25 by article two hundred twenty-two of the penal law, and upon conviction
26 thereof shall be punished by a fine of not more than five thousand
27 dollars per instance.

28 3. Any person who shall make any false statement in the application
29 for a registration, license or a permit under this chapter shall be
30 guilty of a misdemeanor, and upon conviction thereof shall be punishable
31 by a fine of not more than five thousand dollars, or by imprisonment in
32 a county jail or penitentiary for a term of not more than six months or
33 both.

34 4. Any violation by any person of any provision of this chapter for
35 which no punishment or penalty is otherwise provided shall be a misde-
36 meanor.

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

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

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

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

54 3. (a) As used in this section, the term "for cause" shall also
55 include the existence of a sustained and continuing pattern of miscon-
56 duct, failure to adequately prevent diversion or disorder on or about

1 the registered, licensed or permitted premises, or in the area in front
2 of or adjacent to the registered or licensed premises, or in any parking
3 lot provided by the registered organization or licensee for use by
4 registered organization or licensee's patrons, which, in the judgment of
5 the office, adversely affects or tends to affect the protection, health,
6 welfare, safety, or repose of the inhabitants of the area in which the
7 registered or licensed premises is located, or results in the licensed
8 premises becoming a focal point for police attention, or is offensive to
9 public decency.

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

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

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

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

22 4. As used in this chapter, the existence of a sustained and continu-
23 ing pattern of misconduct, failure to adequately prevent diversion or
24 disorder on or about the premises may be presumed upon the sixth inci-
25 dent reported to the office by a law enforcement agency, or discovered
26 by the office during the course of any investigation, of misconduct,
27 diversion or disorder on or about the premises or related to the opera-
28 tion of the premises, absent clear and convincing evidence of either
29 fraudulent intent on the part of any complainant or a factual error with
30 respect to the content of any report concerning such complaint relied
31 upon by the office.

32 5. Notwithstanding any other provision of this chapter to the contra-
33 ry, a suspension imposed under this section against the holder of a
34 registration issued pursuant to article three of this chapter, shall
35 only suspend the licensed activities related to the type of cannabis,
36 medical cannabis or adult-use cannabis involved in the violation result-
37 ing in the suspension.

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

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

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

54 9. Where a licensee or permittee is convicted of two or more qualify-
55 ing offenses within a five-year period, the office, upon receipt of
56 notification of such second or subsequent conviction, shall, in addition

1 to any other sanction or civil or criminal penalty imposed pursuant to
2 this chapter, impose on such licensee a civil penalty not to exceed ten
3 thousand dollars. For purposes of this subdivision, a qualifying
4 offense shall mean the unlawful sale of cannabis to a person under the
5 age of twenty-one. For purposes of this subdivision, a conviction of a
6 licensee or an employee or agent of such licensee shall constitute a
7 conviction of such licensee.

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

13 2. The following actions are not unlawful as provided under this chap-
14 ter, shall not be an offense under any state or local law, and shall not
15 result in any civil fine, seizure, or forfeiture of assets, or be the
16 basis for detention or search against any person acting in accordance
17 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 cannabis, as permitted by this chapter and consistent
35 with rules and regulations of the office, obtained from a validly regis-
36 tered, licensed or permitted retailer.

37 § 138. 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 § 139. 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 cannabis known by the person to be illicit cannabis is guilty
11 ty of a misdemeanor.

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

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

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

27 § 140. Injunction for unlawful manufacture, sale or consumption of
28 cannabis. 1. If any person shall engage or participate or be about to
29 engage or participate in the cultivation, production, distribution,
30 traffic, or sale of cannabis products, medical cannabis or hemp cannabis
31 in this state without obtaining the appropriate registration, license,
32 or permit therefor, or shall traffic in cannabis products, medical
33 cannabis or hemp cannabis contrary to any provision of this chapter, or
34 otherwise unlawfully, or shall traffic in illicit cannabis products,
35 medical cannabis or hemp cannabis, or, operating a place for profit or
36 pecuniary gain, with a capacity for the assemblage of twenty or more
37 persons, shall permit a person or persons to come to such place of
38 assembly for the purpose of consuming cannabis products without having
39 the appropriate license or permit therefor, the office may present a
40 verified petition or complaint to a justice of the supreme court at a
41 special term of the supreme court of the judicial district in which such
42 city, village or town is situated, for an order enjoining such person
43 engaging or participating in such activity or from carrying on such
44 business. Such petition or complaint shall state the facts upon which
45 such application is based. Upon the presentation of the petition or
46 complaint, the justice or court may grant an order temporarily restrain-
47 ing any person from continuing to engage in conduct as specified in the
48 petition or complaint, and shall grant an order requiring such person to
49 appear before such justice or court at or before a special term of the
50 supreme court in such judicial district on the day specified therein,
51 not more than ten days after the granting thereof, to show cause why
52 such person should not be permanently enjoined from engaging or partic-
53 ipating in such activity or from carrying on such business, or why such
54 person should not be enjoined from carrying on such business contrary to
55 the provisions of this chapter. A copy of such petition or complaint and
56 order shall be served upon the person, in the manner directed by such

1 order, not less than three days before the return day thereof. On the
2 day specified in such order, the justice or court before whom the same
3 is returnable shall hear the proofs of the parties and may, if deemed
4 necessary or proper, take testimony in relation to the allegations of
5 the petition or complaint. If the justice or court is satisfied that
6 such person is about to engage or participate in the unlawful traffic in
7 cannabis, medical cannabis or hemp cannabis or has unlawfully culti-
8 vated, processed, or sold cannabis products, medical cannabis or hemp
9 cannabis without having obtained a registration or license or contrary
10 to the provisions of this chapter, or has trafficked in illicit canna-
11 bis, or, is operating or is about to operate such place for profit or
12 pecuniary gain, with such capacity, and has permitted or is about to
13 permit a person or persons to come to such place of assembly for the
14 purpose of consuming cannabis products without having such appropriate
15 license, an order shall be granted enjoining such person from thereafter
16 engaging or participating in or carrying on such activity or business.
17 If, after the entry of such an order in the county clerk's office of the
18 county in which the principal place of business of the corporation or
19 partnership is located, or in which the individual so enjoined resides
20 or conducts such business, and the service of a copy thereof upon such
21 person, or such substituted service as the court may direct, such
22 person, partnership or corporation shall, in violation of such order,
23 cultivate, process, distribute or sell cannabis products, medical canna-
24 bis or hemp cannabis, or illicit cannabis products, medical cannabis or
25 hemp cannabis, or permit a person or persons to come to such place of
26 assembly for the purpose of consuming cannabis products, such activity
27 shall be deemed a contempt of court and be punishable in the manner
28 provided by the judiciary law, and, in addition to any such punishment,
29 the justice or court before whom or which the petition or complaint is
30 heard, may, in his or its discretion, order the seizure and forfeiture
31 of any cannabis products and any fixtures, equipment and supplies used
32 in the operation or promotion of such illegal activity and such property
33 shall be subject to forfeiture pursuant to law. Costs upon the applica-
34 tion for such injunction may be awarded in favor of and against the
35 parties thereto in such sums as in the discretion of the justice or
36 court before whom or which the petition or complaint is heard may seem
37 proper.

38 2. The owner, lessor and lessee of a building, erection or place where
39 cannabis products, medical cannabis or hemp cannabis is unlawfully
40 cultivated, processed, distributed, sold, consumed or permitted to be
41 unlawfully cultivated, processed, distributed, sold or consumed may be
42 made a respondent or defendant in the proceeding or action.

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

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

1 and operating a business, the office shall include, but not be limited
2 to, the following:

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

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

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

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

13 (d) A partnership or a corporation, unless each member of the partner-
14 ship, or each of the principal officers and directors of the corpo-
15 ration, is a citizen of the United States or an alien lawfully admitted
16 for permanent residence in the United States, not less than twenty-one
17 years of age; provided however that a corporation which otherwise
18 conforms to the requirements of this section and chapter may be licensed
19 if each of its principal officers and more than one-half of its direc-
20 tors are citizens of the United States or aliens lawfully admitted for
21 permanent residence in the United States; and provided further that a
22 corporation organized under the not-for-profit corporation law or the
23 education law which otherwise conforms to the requirements of this
24 section and chapter may be licensed if each of its principal officers
25 and directors are not less than twenty-one years of age; and provided,
26 further, that a corporation organized under the not-for-profit corpo-
27 ration law or the education law and located on the premises of a college
28 as defined by section two of the education law which otherwise conforms
29 to the requirements of this section and chapter may be licensed if each
30 of its principal officers and each of its directors are not less than
31 twenty-one years of age;

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

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

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

43 2. Except as may otherwise be provided for in regulation, it shall be
44 unlawful for any police commissioner, police inspector, captain,
45 sergeant, roundsman, patrolman or other police official or subordinate
46 of any police department in the state, to be either directly or indi-
47 rectly interested in the cultivation, processing, distribution, or sale
48 of cannabis products or to offer for sale, or recommend to any regis-
49 tered organization or licensee any cannabis products. A person may not
50 be denied any registration or license granted under the provisions of
51 this chapter solely on the grounds of being the spouse of a public serv-
52 ant described in this section. The solicitation or recommendation made
53 to any registered organization or licensee, to purchase any cannabis
54 products by any police official or subordinate as hereinabove described,
55 shall be presumptive evidence of the interest of such official or subor-

1 dinate in the cultivation, processing, distribution, or sale of cannabis
2 products.

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

7 § 142. Access to criminal history information through the division of
8 criminal justice services. In connection with the administration of
9 this chapter, the executive director is authorized to request, receive
10 and review criminal history information through the division of criminal
11 justice services with respect to any person seeking a registration,
12 license, permit or authorization to cultivate, process, distribute or
13 sell medical cannabis, adult use cannabis or hemp cannabis. At the exec-
14 utive director's request, each person, member, principal and/or officer
15 of the applicant shall submit to the office his or her fingerprints in
16 such form and in such manner as specified by the division, for the
17 purpose of conducting a criminal history search and returning a report
18 thereon in accordance with the procedures and requirements established
19 by the division pursuant to the provisions of article thirty-five of the
20 executive law, which shall include the payment of the prescribed proc-
21 essing fees for the cost of the division's full search and retain proce-
22 dures and a national criminal history record check. The executive direc-
23 tor, or his or her designee, shall submit such fingerprints and the
24 processing fee to the division. The division shall forward to the execu-
25 tive director a report with respect to the applicant's previous criminal
26 history, if any, or a statement that the applicant has no previous crim-
27 inal history according to its files. Fingerprints submitted to the divi-
28 sion pursuant to this subdivision may also be submitted to the federal
29 bureau of investigation for a national criminal history record check. If
30 additional copies of fingerprints are required, the applicant shall
31 furnish them upon request.

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

44 § 3302. Definitions of terms of general use in this article. Except
45 where different meanings are expressly specified in subsequent
46 provisions of this article, the following terms have the following mean-
47 ings:

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

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

54 3. "Agent" means an authorized person who acts on behalf of or at the
55 direction of a manufacturer, distributor, or dispenser. No person may be
56 authorized to so act if under title VIII of the education law such

1 person would not be permitted to engage in such conduct. It does not
2 include a common or contract carrier, public warehouseman, or employee
3 of the carrier or warehouseman when acting in the usual and lawful
4 course of the carrier's or warehouseman's business.

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

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

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

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

15 ~~[6.]~~ 5. "Commissioner" means commissioner of health of the state of
16 New York.

17 ~~[7.]~~ 6. "Deliver" or "delivery" means the actual, constructive or
18 attempted transfer from one person to another of a controlled substance,
19 whether or not there is an agency relationship.

20 ~~[8.]~~ 7. "Department" means the department of health of the state of
21 New York.

22 ~~[9.]~~ 8. "Dispense" means to deliver a controlled substance to an ulti-
23 mate user or research subject by lawful means, including by means of the
24 internet, and includes the packaging, labeling, or compounding necessary
25 to prepare the substance for such delivery.

26 ~~[10.]~~ 9. "Distribute" means to deliver a controlled substance, includ-
27 ing by means of the internet, other than by administering or dispensing.

28 ~~[11.]~~ 10. "Distributor" means a person who distributes a controlled
29 substance.

30 ~~[12.]~~ 11. "Diversion" means manufacture, possession, delivery or use
31 of a controlled substance by a person or in a manner not specifically
32 authorized by law.

33 ~~[13.]~~ 12. "Drug" means

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

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

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

42 ~~[14.]~~ 13. "Federal agency" means the Drug Enforcement Administration,
43 United States Department of Justice, or its successor agency.

44 ~~[15.]~~ 14. "Federal controlled substances act" means the Comprehensive
45 Drug Abuse Prevention and Control Act of 1970, Public Law 91-513, and
46 any act or acts amendatory or supplemental thereto or regulations
47 promulgated thereunder.

48 ~~[16.]~~ 15. "Federal registration number" means such number assigned by
49 the Federal agency to any person authorized to manufacture, distribute,
50 sell, dispense or administer controlled substances.

51 ~~[17.]~~ 16. "Habitual user" means any person who is, or by reason of
52 repeated use of any controlled substance for non-legitimate or unlawful
53 use is in danger of becoming, dependent upon such substance.

54 ~~[18.]~~ 17. "Institutional dispenser" means a hospital, veterinary
55 hospital, clinic, dispensary, maternity home, nursing home, mental
56 hospital or similar facility approved and certified by the department as

1 authorized to obtain controlled substances by distribution and to
2 dispense and administer such substances pursuant to the order of a prac-
3 titioner.

4 ~~[19.]~~ 18. "License" means a written authorization issued by the
5 department or the New York state department of education permitting
6 persons to engage in a specified activity with respect to controlled
7 substances.

8 ~~[20.]~~ 19. "Manufacture" means the production, preparation, propa-
9 gation, compounding, cultivation, conversion or processing of a
10 controlled substance, either directly or indirectly or by extraction
11 from substances of natural origin, or independently by means of chemical
12 synthesis, or by a combination of extraction and chemical synthesis, and
13 includes any packaging or repackaging of the substance or labeling or
14 relabeling of its container, except that this term does not include the
15 preparation, compounding, packaging or labeling of a controlled
16 substance:

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

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

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

25 ~~[21. "Marihuana" means all parts of the plant of the genus Cannabis,~~
26 ~~whether growing or not, the seeds thereof, the resin extracted from any~~
27 ~~part of the plant, and every compound, manufacture, salt, derivative,~~
28 ~~mixture, or preparation of the plant, its seeds or resin. It does not~~
29 ~~include the mature stalks of the plant, fiber produced from the stalks,~~
30 ~~oil or cake made from the seeds of the plant, any other compound, manu-~~
31 ~~facture, salt, derivative, mixture, or preparation of the mature stalks~~
32 ~~(except the resin extracted therefrom), fiber, oil, or cake, or the~~
33 ~~sterilized seed of the plant which is incapable of germination.~~

34 ~~22.]~~ 20. "Narcotic drug" means any of the following, whether produced
35 directly or indirectly by extraction from substances of vegetable
36 origin, or independently by means of chemical synthesis, or by a combi-
37 nation of extraction and chemical synthesis:

38 (a) opium and opiate, and any salt, compound, derivative, or prepara-
39 tion of opium or opiate;

40 (b) any salt, compound, isomer, derivative, or preparation thereof
41 which is chemically equivalent or identical with any of the substances
42 referred to in ~~[subdivision]~~ paragraph (a) of this subdivision, but not
43 including the isoquinoline alkaloids of opium;

44 (c) opium poppy and poppy straw.

45 ~~[23.]~~ 21. "Opiate" means any substance having an addiction-forming or
46 addiction-sustaining liability similar to morphine or being capable of
47 conversion into a drug having addiction-forming or addiction-sustaining
48 liability. It does not include, unless specifically designated as
49 controlled under section ~~[3306]~~ thirty-three hundred six of this ~~[arti-~~
50 ~~cle]~~ title, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and
51 its salts (dextromethorphan). It does include its racemic and levorota-
52 tory forms.

53 ~~[24.]~~ 22. "Opium poppy" means the plant of the species *Papaver*
54 *somniferum* L., except its seeds.

1 ~~[25.]~~ 23. "Person" means individual, institution, corporation, govern-
2 ment or governmental subdivision or agency, business trust, estate,
3 trust, partnership or association, or any other legal entity.

4 ~~[26.]~~ 24. "Pharmacist" means any person licensed by the state depart-
5 ment of education to practice pharmacy.

6 ~~[27.]~~ 25. "Pharmacy" means any place registered as such by the New
7 York state board of pharmacy and registered with the Federal agency
8 pursuant to the federal controlled substances act.

9 ~~[28.]~~ 26. "Poppy straw" means all parts, except the seeds, of the
10 opium poppy, after mowing.

11 ~~[29.]~~ 27. "Practitioner" means:

12 A physician, dentist, podiatrist, veterinarian, scientific investi-
13 gator, or other person licensed, or otherwise permitted to dispense,
14 administer or conduct research with respect to a controlled substance in
15 the course of a licensed professional practice or research licensed
16 pursuant to this article. Such person shall be deemed a "practitioner"
17 only as to such substances, or conduct relating to such substances, as
18 is permitted by his license, permit or otherwise permitted by law.

19 ~~[30.]~~ 28. "Prescribe" means a direction or authorization, by
20 prescription, permitting an ultimate user lawfully to obtain controlled
21 substances from any person authorized by law to dispense such
22 substances.

23 ~~[31.]~~ 29. "Prescription" shall mean an official New York state
24 prescription, an electronic prescription, an oral prescription~~[,]~~ or
25 out-of-state prescription~~[, or any one]~~.

26 ~~[32.]~~ 30. "Sell" means to sell, exchange, give or dispose of to anothe-
27 er, or offer or agree to do the same.

28 ~~[33.]~~ 31. "Ultimate user" means a person who lawfully obtains and
29 possesses a controlled substance for his own use or the use by a member
30 of his household or for an animal owned by him or in his custody. It
31 shall also mean and include a person designated, by a practitioner on a
32 prescription, to obtain such substance on behalf of the patient for whom
33 such substance is intended.

34 ~~[34.]~~ 32. "Internet" means collectively computer and telecommuni-
35 cations facilities which comprise the worldwide network of networks that
36 employ a set of industry standards and protocols, or any predecessor or
37 successor protocol to such protocol, to exchange information of all
38 kinds. "Internet," as used in this article, also includes other
39 networks, whether private or public, used to transmit information by
40 electronic means.

41 ~~[35.]~~ 33. "By means of the internet" means any sale, delivery,
42 distribution, or dispensing of a controlled substance that uses the
43 internet, is initiated by use of the internet or causes the internet to
44 be used.

45 ~~[36.]~~ 34. "Online dispenser" means a practitioner, pharmacy, or person
46 in the United States that sells, delivers or dispenses, or offers to
47 sell, deliver, or dispense, a controlled substance by means of the
48 internet.

49 ~~[37.]~~ 35. "Electronic prescription" means a prescription issued with
50 an electronic signature and transmitted by electronic means in accord-
51 ance with regulations of the commissioner and the commissioner of educa-
52 tion and consistent with federal requirements. A prescription generated
53 on an electronic system that is printed out or transmitted via facsimile
54 is not considered an electronic prescription and must be manually
55 signed.

1 ~~[38-]~~ 36. "Electronic" means of or relating to technology having elec-
2 trical, digital, magnetic, wireless, optical, electromagnetic or similar
3 capabilities. "Electronic" shall not include facsimile.

4 ~~[39-]~~ 37. "Electronic record" means a paperless record that is
5 created, generated, transmitted, communicated, received or stored by
6 means of electronic equipment and includes the preservation, retrieval,
7 use and disposition in accordance with regulations of the commissioner
8 and the commissioner of education and in compliance with federal law and
9 regulations.

10 ~~[40-]~~ 38. "Electronic signature" means an electronic sound, symbol, or
11 process, attached to or logically associated with an electronic record
12 and executed or adopted by a person with the intent to sign the record,
13 in accordance with regulations of the commissioner and the commissioner
14 of education.

15 ~~[41-]~~ 39. "Registry" or "prescription monitoring program registry"
16 means the prescription monitoring program registry established pursuant
17 to section thirty-three hundred forty-three-a of this article.

18 ~~[42-]~~ 40. "Compounding" means the combining, admixing, mixing, dilut-
19 ing, pooling, reconstituting, or otherwise altering of a drug or bulk
20 drug substance to create a drug with respect to an outsourcing facility
21 under section 503B of the federal Food, Drug and Cosmetic Act and
22 further defined in this section.

23 ~~[43-]~~ 41. "Outsourcing facility" means a facility that:

24 (a) is engaged in the compounding of sterile drugs as defined in
25 section sixty-eight hundred two of the education law;

26 (b) is currently registered as an outsourcing facility pursuant to
27 article one hundred thirty-seven of the education law; and

28 (c) complies with all applicable requirements of federal and state
29 law, including the Federal Food, Drug and Cosmetic Act.

30 Notwithstanding any other provision of law to the contrary, when an
31 outsourcing facility distributes or dispenses any drug to any person
32 pursuant to a prescription, such outsourcing facility shall be deemed to
33 be providing pharmacy services and shall be subject to all laws, rules
34 and regulations governing pharmacies and pharmacy services.

35 § 4. Paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25,
36 26, 27, 28, 29, 30, 31 and 32 of subdivision (d) of schedule I of
37 section 3306 of the public health law, paragraphs 13, 14, 15, 16, 17,
38 18, 19, 20, 21, 22, 23 and 24 as added by chapter 664 of the laws of
39 1985, paragraphs 25, 26, 27, 28, 29 and 30 as added by chapter 589 of
40 the laws of 1996 and paragraphs 31 and 32 as added by chapter 457 of the
41 laws of 2006, are amended to read as follows:

42 (13) ~~[Marihuana-]~~

43 ~~(14)~~ Mescaline.

44 ~~(15)~~ (14) Parahexyl. Some trade or other names: 3-Hexyl-1-hydroxy-
45 7,8,9,10-tetra hydro-6,6,9-trimethyl-6H-dibenfo{b,d} pyran.

46 ~~(16)~~ (15) Peyote. Meaning all parts of the plant presently classi-
47 fied botanically as *Lophophora williamsii* Lemaire, whether growing or
48 not, the seeds thereof, any extract from any part of such plant, and
49 every compound, manufacture, salts, derivative, mixture, or preparation
50 of such plant, its seeds or extracts.

51 ~~(17)~~ (16) N-ethyl-3-piperidyl benzilate.

52 ~~(18)~~ (17) N-methyl-3-piperidyl benzilate.

53 ~~(19)~~ (18) Psilocybin.

54 ~~(20)~~ (19) Psilocyn.

55 ~~(21)~~ (20) Tetrahydrocannabinols. Synthetic tetrahydrocannabinols not
56 derived from the cannabis plant that are equivalents of the substances

1 contained in the plant, or in the resinous extractives of cannabis, sp.
2 and/or synthetic substances, derivatives, and their isomers with similar
3 chemical structure and pharmacological activity such as the following:

4 ~~[\Δ]~~ delta 1 cis or trans tetrahydrocannabinol, and their optical
5 isomers

6 ~~[\Δ]~~ delta 6 cis or trans tetrahydrocannabinol, and their optical
7 isomers

8 ~~[\Δ]~~ delta 3, 4 cis or trans tetrahydrocannabinol, and its optical
9 isomers (since nomenclature of these substances is not internationally
10 standardized, compounds of these structures, regardless of numerical
11 designation of atomic positions covered).

12 ~~[(22)]~~ (21) Ethylamine analog of phencyclidine. Some trade or other
13 names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethyla-
14 mine, N-(1-phenylcyclohexyl) ethylamine cyclohexamine, PCE.

15 ~~[(23)]~~ (22) Pyrrolidine analog of phencyclidine. Some trade or other
16 names 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy, PHP.

17 ~~[(24)]~~ (23) Thiophene analog of phencyclidine. Some trade or other
18 names: 1-{1-(2-thienyl)-cyclohexyl}-piperidine, 2-thienylanalog of
19 phencyclidine, TPCP, TCP.

20 ~~[(25)]~~ (24) 3,4-methylenedioxyamphetamine (MDMA).

21 ~~[(26)]~~ (25) 3,4-methylenedioxy-N-ethylamphetamine (also known as
22 N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA,
23 MDE, MDEA.

24 ~~[(27)]~~ (26) N-hydroxy-3,4-methylenedioxyamphetamine (also known as
25 N-hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and
26 N-hydroxy MDA.

27 ~~[(28)]~~ (27) 1-{1-(2-thienyl) cyclohexyl} pyrrolidine. Some other
28 names: TCPY.

29 ~~[(29)]~~ (28) Alpha-ethyltryptamine. Some trade or other names:
30 etryptamine; Monase; Alpha-ethyl-1H-indole-3-ethanamine;
31 3-(2-aminobutyl) indole; Alpha-ET or AET.

32 ~~[(30)]~~ (29) 2,5-dimethoxy-4-ethylamphetamine. Some trade or other
33 names: DOET.

34 ~~[(31)]~~ (30) 4-Bromo-2,5-dimethoxyphenethylamine. Some trade or other
35 names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl
36 DOB; 2C-B, Nexus.

37 ~~[(32)]~~ (31) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7), its
38 optical isomers, salts and salts of isomers.

39 § 5. Section 3382 of the public health law is REPEALED.

40 § 6. Title 5-A of article 33 of the public health law is REPEALED.

41 § 7. Paragraph (d) of subdivision 3, subdivision 3-a and paragraphs
42 (a) and (b) of subdivision 11 of section 1311 of the civil practice law
43 and rules, paragraph (d) of subdivision 3 and subdivision 3-a as added
44 by chapter 655 of the laws of 1990 and paragraphs (a) and (b) of
45 subdivision 11 as amended by section 47 of part A1 of chapter 56 of the
46 laws of 2010, are amended to read as follows:

47 (d) In a forfeiture action commenced by a claiming authority against a
48 defendant, the following rebuttable presumption shall apply: all
49 currency or negotiable instruments payable to the bearer shall be
50 presumed to be the proceeds of a pre-conviction forfeiture crime when
51 such currency or negotiable instruments are (i) found in close proximity
52 to a controlled substance unlawfully possessed by the defendant in an
53 amount sufficient to constitute a violation of section 220.18 or 220.21
54 of the penal law, or (ii) found in close proximity to any quantity of a
55 controlled substance ~~[or—marihuana]~~ unlawfully possessed by such
56 defendant in a room, other than a public place, under circumstances

1 evincing an intent to unlawfully mix, compound, distribute, package or
2 otherwise prepare for sale such controlled substance [~~or marijuana~~].

3 3-a. Conviction of a person in a criminal action upon an accusatory
4 instrument which includes one or more of the felonies specified in
5 subdivision four-b of section thirteen hundred ten of this article, of
6 any felony other than such felonies, shall not preclude a defendant, in
7 any subsequent proceeding under this article where that conviction is at
8 issue, from adducing evidence that the conduct underlying the conviction
9 would not establish the elements of any of the felonies specified in
10 such subdivision other than the one to which the criminal defendant pled
11 guilty. If the defendant does adduce such evidence, the burden shall be
12 upon the claiming authority to prove, by clear and convincing evidence,
13 that the conduct underlying the criminal conviction would establish the
14 elements of the felony specified in such subdivision. Nothing contained
15 in this subdivision shall affect the validity of a settlement of any
16 forfeiture action negotiated between the claiming authority and a crimi-
17 nal defendant contemporaneously with the taking of a plea of guilty in a
18 criminal action to any felony defined in article two hundred twenty [~~or~~
19 ~~section 221.30 or 221.55~~] of the penal law, or to a felony conspiracy to
20 commit the same.

21 (a) Any stipulation or settlement agreement between the parties to a
22 forfeiture action shall be filed with the clerk of the court in which
23 the forfeiture action is pending. No stipulation or settlement agreement
24 shall be accepted for filing unless it is accompanied by an affidavit
25 from the claiming authority that written notice of the stipulation or
26 settlement agreement, including the terms of such, has been given to the
27 office of victim services, the state division of criminal justice
28 services[~~, and in the case of a forfeiture based on a felony defined in~~
29 ~~article two hundred twenty or section 221.30 or 221.55 of the penal law,~~
30 ~~to the state division of substance abuse services~~].

31 (b) No judgment or order of forfeiture shall be accepted for filing
32 unless it is accompanied by an affidavit from the claiming authority
33 that written notice of judgment or order, including the terms of such,
34 has been given to the office of victim services, the state division of
35 criminal justice services[~~, and in the case of a forfeiture based on a~~
36 ~~felony defined in article two hundred twenty or section 221.30 or 221.55~~
37 ~~of the penal law, to the state division of substance abuse services~~].

38 § 8. Subdivision 1 of section 3397-b of the public health law, as
39 added by chapter 810 of the laws of 1980, is amended to read as follows:

40 1. [~~"Marijuana"~~] "Cannabis" means [~~marijuana~~] cannabis as defined in
41 [~~section thirty three hundred two of this chapter~~] subdivision six of
42 section 220.00 of the penal law and shall also include tetrahydrocanna-
43 binols or a chemical derivative of tetrahydrocannabinol.

44 § 9. Section 114-a of the vehicle and traffic law, as added by chapter
45 163 of the laws of 1973, is amended to read as follows:

46 § 114-a. Drug. The term "drug" when used in this chapter, means and
47 includes any substance listed in section thirty-three hundred six of the
48 public health law and cannabis and concentrated cannabis as defined in
49 section 220.00 of the penal law.

50 § 10. Subdivisions 5, 6 and 9 of section 220.00 of the penal law,
51 subdivision 5 as amended by chapter 537 of the laws of 1998, subdivision
52 6 as amended by chapter 1051 of the laws of 1973 and subdivision 9 as
53 amended by chapter 664 of the laws of 1985, are amended and two new
54 subdivisions 21 and 22 are added to read as follows:

55 5. "Controlled substance" means any substance listed in schedule I,
56 II, III, IV or V of section thirty-three hundred six of the public

1 health law other than [~~marihuana~~] cannabis, but including concentrated
2 cannabis as defined in [~~paragraph (a) of subdivision four of section~~
3 ~~thirty-three hundred two of such law~~] subdivision twenty-one of this
4 section.

5 6. [~~"Marihuana"~~] "Cannabis" means [~~"marihuana" or "concentrated canna-~~
6 ~~big" as these terms are defined in section thirty-three hundred two of~~
7 ~~the public health law~~] all parts of the plant of the genus Cannabis,
8 whether growing or not; the seeds thereof; the resin extracted from any
9 part of the plant; and every compound, manufacture, salt, derivative,
10 mixture, or preparation of the plant, its seeds or resin. It does not
11 include the mature stalks of the plant, fiber produced from the stalks,
12 oil or cake made from the seeds of the plant, any other compound, manu-
13 facture, salt, derivative, mixture, or preparation of the mature stalks
14 (except the resin extracted therefrom), fiber, oil, or cake, or the
15 sterilized seed of the plant which is incapable of germination. It does
16 not include all parts of the plant Cannabis sativa L., whether growing
17 or not, having no more than three-tenths of one percent tetrahydrocanna-
18 binol (THC).

19 9. "Hallucinogen" means any controlled substance listed in [~~schedule~~
20 ~~I(d)~~] paragraphs (5), [~~(18), (19), (20), (21) and (22)~~] (17), (18),
21 (19), (20) and (21) of subdivision (d) of schedule I of section thirty-
22 three hundred six of the public health law.

23 21. "Concentrated cannabis" means:

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

26 (b) a material, preparation, mixture, compound or other substance
27 which contains more than three percent by weight of delta-9 tetrahydro-
28 cannabinol, or its isomer, delta-8 dibenzopyran numbering system, or
29 delta-1 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpene
30 numbering system.

31 22. "Cannabis products" means cannabis, concentrated cannabis, and
32 cannabis-infused products containing concentrated cannabis and other
33 ingredients.

34 § 11. Subdivision 4 of section 220.06 of the penal law, as amended by
35 chapter 537 of the laws of 1998, is amended to read as follows:

36 4. one or more preparations, compounds, mixtures or substances
37 containing concentrated cannabis as defined in [~~paragraph (a) of subdi-~~
38 ~~vision four of section thirty-three hundred two of the public health~~
39 ~~law~~] subdivision twenty-one of section 220.00 of this article and said
40 preparations, compounds, mixtures or substances are of an aggregate
41 weight of one-fourth ounce or more; or

42 § 12. Subdivision 10 of section 220.09 of the penal law, as amended by
43 chapter 537 of the laws of 1998, is amended to read as follows:

44 10. one or more preparations, compounds, mixtures or substances
45 containing concentrated cannabis as defined in [~~paragraph (a) of subdi-~~
46 ~~vision four of section thirty-three hundred two of the public health~~
47 ~~law~~] subdivision twenty-one of section 220.00 of this article and said
48 preparations, compounds, mixtures or substances are of an aggregate
49 weight of one ounce or more; or

50 § 13. Subdivision 3 of section 220.34 of the penal law, as amended by
51 chapter 537 of the laws of 1998, is amended to read as follows:

52 3. concentrated cannabis as defined in [~~paragraph (a) of subdivision~~
53 ~~four of section thirty-three hundred two of the public health law~~] subdivision
54 twenty-one of section 220.00 of this article; or

55 § 14. Section 220.50 of the penal law, as amended by chapter 627 of
56 the laws of 1990, is amended to read as follows:

1 § 220.50 Criminally using drug paraphernalia in the second degree.

2 A person is guilty of criminally using drug paraphernalia in the
3 second degree when he knowingly possesses or sells:

4 1. Diluents, dilutants or adulterants, including but not limited to,
5 any of the following: quinine hydrochloride, mannitol, mannite, lactose
6 or dextrose, adapted for the dilution of narcotic drugs or stimulants
7 under circumstances evincing an intent to use, or under circumstances
8 evincing knowledge that some person intends to use, the same for
9 purposes of unlawfully mixing, compounding, or otherwise preparing any
10 narcotic drug or stimulant, other than cannabis or concentrated
11 cannabis; or

12 2. Gelatine capsules, glassine envelopes, vials, capsules or any other
13 material suitable for the packaging of individual quantities of narcotic
14 drugs or stimulants under circumstances evincing an intent to use, or
15 under circumstances evincing knowledge that some person intends to use,
16 the same for the purpose of unlawfully manufacturing, packaging or
17 dispensing of any narcotic drug or stimulant, other than cannabis or
18 concentrated cannabis; or

19 3. Scales and balances used or designed for the purpose of weighing or
20 measuring controlled substances, under circumstances evincing an intent
21 to use, or under circumstances evincing knowledge that some person
22 intends to use, the same for purpose of unlawfully manufacturing, pack-
23 aging or dispensing of any narcotic drug or stimulant, other than canna-
24 bis or concentrated cannabis.

25 Criminally using drug paraphernalia in the second degree is a class A
26 misdemeanor.

27 § 15. Article 221 of the penal law is REPEALED.

28 § 16. The penal law is amended by adding a new article 222 to read as
29 follows:

30 ARTICLE 222

31 CANNABIS

32 Section 222.00 Cannabis; definitions.

33 222.05 Personal use of cannabis.

34 222.10 Unlawful cultivation of cannabis.

35 222.15 Licensing of cannabis production and distribution.

36 222.20 Unlawful possession of cannabis.

37 222.25 Unlicensed sale of cannabis in the second degree.

38 222.30 Unlicensed sale of cannabis in the first degree.

39 222.35 Sale of cannabis to a person less than twenty-one years
40 of age in the second degree.

41 222.40 Sale of cannabis to a person less than twenty-one years
42 of age in the first degree.

43 § 222.00 Cannabis; definitions.

44 1. "Cannabis" means all parts of the plant of the genus Cannabis,
45 whether growing or not; the seeds thereof; the resin extracted from any
46 part of the plant; and every compound, manufacture, salt, derivative,
47 mixture, or preparation of the plant, its seeds or resin. It does not
48 include the mature stalks of the plant, fiber produced from the stalks,
49 oil or cake made from the seeds of the plant, any other compound, manu-
50 facture, salt, derivative, mixture, or preparation of the mature stalks
51 (except the resin extracted therefrom), fiber, oil, or cake, or the
52 sterilized seed of the plant which is incapable of germination. It does
53 not include all parts of the plant Cannabis sativa L., whether growing
54 or not, having no more than three-tenths of one percent tetrahydrocanna-
55 binol (THC).

56 2. "Concentrated cannabis" means:

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

3 (b) a material, preparation, mixture, compound or other substance
4 which contains more than three percent by weight of delta-9 tetrahydro-
5 cannabinol, or its isomer, delta-8 dibenzopyran numbering system, or
6 delta-1 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpene
7 numbering system.

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

11 4. "Mature cannabis plant" means a cannabis plant with observable
12 flowers or buds.

13 5. For the purposes of this article, "sale" shall mean to sell,
14 exchange or dispose of for compensation. "Sale" shall not include the
15 transfer of cannabis, concentrated cannabis or cannabis-infused product
16 between persons twenty-one years of age or older without compensation in
17 the quantities authorized in paragraph (b) of subdivision one of section
18 222.05 of this article.

19 § 222.05 Personal use of cannabis.

20 Notwithstanding any other provision of law to the contrary:

21 1. The following acts are lawful for persons twenty-one years of age
22 or older: (a) possessing, displaying, purchasing, obtaining, or trans-
23 porting up to three ounces of cannabis and up to twenty-four grams of
24 concentrated cannabis, or equivalent amount of cannabis-infused
25 products;

26 (b) transferring, without compensation, to a person twenty-one years
27 of age or older, up to three ounces of cannabis and up to twenty-four
28 grams of concentrated cannabis, or equivalent amount of cannabis-infused
29 products;

30 (c) using, smoking, ingesting, or consuming cannabis, concentrated
31 cannabis or cannabis-infused products unless otherwise prohibited by
32 state law or regulation;

33 (d) possessing, using, displaying, purchasing, obtaining, manufactur-
34 ing, transporting or giving to any person twenty-one years of age or
35 older cannabis paraphernalia or concentrated cannabis paraphernalia; and

36 (e) assisting another person who is twenty-one years of age or older,
37 or allowing property to be used, in any of the acts described in para-
38 graphs (a) through (d) of this subdivision.

39 2. Cannabis, concentrated cannabis, cannabis-infused products, canna-
40 bis paraphernalia or concentrated cannabis paraphernalia involved in any
41 way with conduct deemed lawful by this section are not contraband nor
42 subject to seizure or forfeiture of assets under article four hundred
43 eighty of this chapter, section thirteen hundred eleven of the civil
44 practice law and rules, or other applicable law, and no conduct deemed
45 lawful by this section shall constitute the basis for approach, search,
46 seizure, arrest or detention.

47 3. Except as provided in subdivision four of this section, none of the
48 following shall, individually or in combination with each other, consti-
49 tute reasonable suspicion of a crime or be used as evidence of probable
50 cause in any criminal proceeding against a defendant twenty-one years of
51 age or older:

52 (a) the odor of cannabis or of burnt cannabis;

53 (b) the possession of or the suspicion of possession of cannabis,
54 concentrated cannabis or cannabis-infused products in the amounts
55 authorized in this section;

1 (c) the possession of multiple containers of cannabis without evidence
2 of possession of more than three ounces of cannabis, twenty-four grams
3 of concentrated cannabis or the equivalent amount of cannabis-infused
4 products; or

5 (d) the presence of cash or currency in proximity to cannabis, concen-
6 trated cannabis or cannabis-infused products.

7 4. Subdivision three of this section shall not apply when a law
8 enforcement officer is investigating: (a) an alleged offense pursuant to
9 section 222.20, 222.25, 222.30, 222.35 or 222.40 of this article; or (b)
10 whether a person is operating or in physical control of a vehicle or
11 watercraft while intoxicated, under the influence of, or impaired by
12 alcohol or a drug or any combination thereof in violation of article
13 thirty-one of the vehicle and traffic law.

14 5. (a) Nothing in this section shall be construed to permit any person
15 to:

16 (i) smoke cannabis in public;

17 (ii) smoke cannabis products in a location where smoking tobacco is
18 prohibited pursuant to section thirteen hundred ninety-nine-o of the
19 public health law;

20 (iii) possess, smoke or ingest cannabis products in or upon the
21 grounds of any school property used for school purposes which is owned
22 by or leased to any elementary or secondary school or school board while
23 children are present; or

24 (iv) smoke or ingest cannabis products while driving, operating a
25 motor vehicle, boat, vessel, aircraft, or other vehicle used for trans-
26 portation.

27 (b) For purposes of this section:

28 (i) "Smoke" means to inhale, exhale, burn, or carry any lighted or
29 heated device or pipe, or any other lighted or heated cannabis or
30 concentrated cannabis product intended for inhalation, whether natural
31 or synthetic, in any manner or in any form.

32 (ii) "Smoke" does not include the use of an electronic smoking device
33 that creates an aerosol or vapor, unless local or state statutes extend
34 prohibitions on smoking to electronic smoking devices.

35 (c) Violations of the restrictions under this subdivision are subject
36 to a fine not exceeding twenty-five dollars or an appropriate amount of
37 community service not to exceed twenty hours.

38 § 222.10 Unlawful cultivation of cannabis.

39 A person is guilty of unlawful cultivation of cannabis when he or she
40 knowingly and unlawfully plants, cultivates, harvests, dries, or proc-
41 esses cannabis on public lands or otherwise in violation of article six
42 of the cannabis law.

43 Unlawful cultivation of cannabis is a class B misdemeanor.

44 § 222.15 Licensing of cannabis production and distribution.

45 The criminal penalties pursuant to the provisions of this article for
46 possessing, manufacturing, transporting, distributing, selling or trans-
47 ferring cannabis, concentrated cannabis or cannabis-infused products
48 shall not apply to any person engaged in such activity in compliance
49 with the cannabis law.

50 § 222.20 Unlawful possession of cannabis.

51 A person is guilty of unlawful possession of cannabis when he or she
52 knowingly and unlawfully possesses:

53 1. cannabis and such cannabis weighs more than three ounces; or

54 2. concentrated cannabis and such concentrated cannabis weighs more
55 than twenty-four grams; or

56 3. equivalent amount of cannabis-infused products.

1 Unlawful possession of cannabis is a violation punishable by a fine of
2 not more than one hundred twenty-five dollars.

3 § 222.25 Unlicensed sale of cannabis in the second degree.

4 1. A person is guilty of unlicensed sale of cannabis in the second
5 degree when he or she knowingly and unlawfully sells cannabis, concen-
6 trated cannabis or equivalent amount of cannabis-infused products.

7 2. A violation of this section is subject to the following penalties,
8 as applicable:

9 (a) violation punishable by a fine of not more than one hundred twen-
10 ty-five dollars;

11 (b) if, within the previous five years, the defendant was convicted of
12 the crime of unlicensed sale of cannabis in the first degree, sale of
13 cannabis to a person less than twenty-one years of age in the second
14 degree, sale of cannabis to a person less than twenty-one years of age
15 in the first degree or this section, then a violation punishable by a
16 fine of not more than two hundred fifty dollars for a second such
17 offense; or

18 (c) if, within the previous five years, the defendant was convicted of
19 the crime of unlicensed sale of cannabis in the first degree, sale of
20 cannabis to a person less than twenty-one years of age in the second
21 degree, sale of cannabis to a person less than twenty-one years of age
22 in the first degree or this section, then a class B misdemeanor for such
23 third or subsequent offense.

24 § 222.30 Unlicensed sale of cannabis in the first degree.

25 1. A person is guilty of unlicensed sale of cannabis in the first
26 degree when he or she knowingly and unlawfully sells more than two ounce-
27 es of cannabis, more than sixteen grams of concentrated cannabis or the
28 equivalent amount of cannabis-infused products.

29 2. A violation of this section is subject to the following penalties,
30 as applicable:

31 (a) a violation punishable by a fine of not more than two hundred
32 fifty dollars;

33 (b) if, within the previous five years, the defendant was convicted of
34 the crime of unlicensed sale of cannabis in the second degree, sale of
35 cannabis to a person less than twenty-one years of age in the second
36 degree, sale of cannabis to a person less than twenty-one years of age
37 in the first degree or this section, then a violation punishable by a
38 fine of not more than five hundred dollars for such second offense; or

39 (c) if, within the previous five years, the defendant was convicted of
40 the crime of unlicensed sale of cannabis in the second degree, sale of
41 cannabis to a person less than twenty-one years of age in the second
42 degree, sale of cannabis to a person less than twenty-one years of age
43 in the first degree or this section, then a class A misdemeanor for such
44 third or subsequent offense.

45 § 222.35 Sale of cannabis to a person less than twenty-one years of age
46 in the second degree.

47 A person twenty-one years of age or older is guilty of the sale of
48 cannabis to a person less than twenty-one years of age in the second
49 degree when, being twenty-one years of age or older, he or she knowingly
50 and unlawfully sells cannabis, concentrated cannabis or cannabis-infused
51 products to a person less than twenty-one years of age.

52 Sale of cannabis to a person under twenty-one years of age in the
53 second degree is a class A misdemeanor.

54 § 222.40 Sale of cannabis to a person less than twenty-one years of age
55 in the first degree.

1 A person twenty-one years of age and older is guilty of the sale of
2 cannabis to a person under twenty-one years of age in the first degree
3 when, being twenty-one years of age or older, he or she knowingly and
4 unlawfully sells more than three ounces of cannabis, more than twenty-
5 four grams of concentrated cannabis or the equivalent amount of canna-
6 bis-infused products.

7 Sale of cannabis to a person less than twenty-one years of age in the
8 first degree is a class E felony.

9 § 17. Subdivision 8 of section 1399-n of the public health law, as
10 amended by chapter 13 of the laws of 2003, is amended to read as
11 follows:

12 8. "Smoking" means the burning of a lighted cigar, cigarette, pipe or
13 any other matter or substance which contains tobacco or cannabis;
14 provided that it does not include the use of an electronic smoking
15 device that creates an aerosol or vapor, unless local or state statutes
16 extend prohibitions on smoking to electronic smoking devices.

17 § 18. Section 1.20 of the criminal procedure law is amended by adding
18 a new subdivision 45 to read as follows:

19 45. "Expunge" means, where an arrest and any enforcement activity
20 connected with that arrest, including prosecution and any disposition in
21 any New York state court, is deemed a nullity and the accused is
22 restored, in contemplation of the law, to the status such individual
23 occupied before the arrest and/or prosecution; that records of such
24 arrest, prosecution and/or disposition shall be marked as expunged or
25 shall be destroyed as set forth in section 160.50 of this chapter.
26 Neither the arrest nor prosecution and/or disposition, if any, of a
27 matter deemed a nullity shall operate as a disqualification of any
28 person so accused to pursue or engage in any lawful activity, occupa-
29 tion, profession or calling. Except where specifically required or
30 permitted by statute or upon specific authorization of a superior court,
31 no such person shall be required to divulge information pertaining to
32 the arrest, prosecution and/or disposition of such a matter.

33 § 19. Subdivision 1 of section 160.50 of the criminal procedure law,
34 as amended by chapter 169 of the laws of 1994, paragraph (d) as amended
35 by chapter 449 of the laws of 2015, is amended and a new subdivision 1-a
36 is added to read as follows:

37 1. Upon the termination of a criminal action or proceeding against a
38 person in favor of such person, as defined in subdivision three of this
39 section, unless the district attorney upon motion with not less than
40 five days notice to such person or his or her attorney demonstrates to
41 the satisfaction of the court that the interests of justice require
42 otherwise, or the court on its own motion with not less than five days
43 notice to such person or his or her attorney determines that the inter-
44 ests of justice require otherwise and states the reasons for such deter-
45 mination on the record, [~~the record of such action or proceeding shall~~
46 ~~be sealed and the clerk of the court wherein such criminal action or~~
47 ~~proceeding was terminated shall immediately notify the commissioner of~~
48 ~~the division of criminal justice services and the heads of all appropri-~~
49 ~~ate police departments and other law enforcement agencies that the~~
50 ~~action has been terminated in favor of the accused, and unless the court~~
51 ~~has directed otherwise, that the record of such action or proceeding~~
52 ~~shall be sealed. Upon receipt of notification of such termination and~~
53 ~~sealing] such action or proceeding shall be deemed a nullity and records
54 of such action or proceeding expunged, and the clerk of the court where-
55 in such criminal action or proceeding was terminated shall immediately
56 notify the commissioner of the division of criminal justice services and~~

1 the heads of all appropriate police departments and other law enforce-
2 ment agencies that the action has been terminated in favor of the
3 accused and deemed a nullity, and unless the court has directed other-
4 wise, that the record of or relating to such action or proceeding shall
5 be immediately expunged as follows:

6 (a) every photograph of such person and photographic plate or proof,
7 and all palmprints and fingerprints, retina scans or DNA material taken
8 or made of such person pursuant to the provisions of this article in
9 regard to the action or proceeding terminated, [~~except a dismissal~~
10 ~~pursuant to section 170.56 or 210.46 of this chapter,~~] and all dupli-
11 cates and copies thereof, except a digital fingerprint image where
12 authorized pursuant to paragraph (e) of this subdivision, shall forth-
13 with be [~~, at the discretion of the recipient agency, either~~] destroyed
14 [~~or returned to such person, or to the attorney who represented such~~
15 ~~person~~] at the time of the termination of the action or proceeding [~~, at~~
16 ~~the address given by such person or attorney during the action or~~
17 ~~proceeding,~~] by the division of criminal justice services and by any
18 police department or law enforcement agency having any such photograph,
19 photographic plate or proof, palmprint [~~or~~], fingerprints, retina scans
20 or DNA material in its possession or under its control;

21 (b) any police department or law enforcement agency, including the
22 division of criminal justice services, which transmitted or otherwise
23 forwarded to any agency of the United States or of any other state or of
24 any other jurisdiction outside the state of New York copies of any such
25 photographs, photographic plates or proofs, palmprints [~~and~~], finger-
26 prints, retina scans or DNA material, including those relating to
27 actions or proceedings which were dismissed pursuant to section 170.56
28 or 210.46 of this [~~chapter~~] part, shall forthwith formally [~~request in~~
29 inform them in] writing that [~~all such copies be destroyed or returned to~~
30 ~~the police department or law enforcement agency which transmitted or~~
31 ~~forwarded them, and, if returned, such department or agency shall, at~~
32 ~~its discretion, either destroy or return them as provided herein, except~~
33 ~~that those relating to dismissals pursuant to section 170.56 or 210.46~~
34 ~~of this chapter shall not be destroyed or returned by such department or~~
35 ~~agency~~] the matter has been expunged and request in writing that all
36 such copies be destroyed;

37 (c) all official records and papers, including judgments and orders of
38 a court but not including published court decisions or opinions or
39 records and briefs on appeal, relating to the arrest or prosecution,
40 including all duplicates and copies thereof, on file with the division
41 of criminal justice services, any court, police agency, or prosecutor's
42 office shall be [~~sealed and not made available to any person or public~~
43 ~~or private agency~~] marked as expunged by conspicuously indicating on the
44 face of the record or at the beginning of the digitized file of the
45 record that the record has been designated as expunged. Such records and
46 papers shall not be made available to any person, except the individual
47 whose case has been deemed a nullity or their designated agent as set
48 forth in paragraph (d) of this subdivision, or to any public or private
49 agency;

50 (d) [~~such~~] records set forth in paragraph (c) of this subdivision
51 shall be made available to the person accused or to such person's desig-
52 nated agent, and shall be made available to (i) a prosecutor in any
53 proceeding in which the accused has moved for an order pursuant to
54 section 170.56 or 210.46 of this [~~chapter~~] part, or (ii) a law enforce-
55 ment agency upon ex parte motion in any superior court, or in any
56 district court, city court or the criminal court of the city of New York

1 provided that such court originally sealed or expunged the record, if
2 such agency demonstrates to the satisfaction of the court that justice
3 requires that such records be made available to it, or (iii) any state
4 or local officer or agency with responsibility for the issuance of
5 licenses to possess guns, when the accused has made application for such
6 a license, or (iv) the New York state department of corrections and
7 community supervision when the accused is on parole supervision as a
8 result of conditional release or a parole release granted by the New
9 York state board of parole, and the arrest which is the subject of the
10 inquiry is one which occurred while the accused was under such super-
11 vision, or (v) any prospective employer of a police officer or peace
12 officer as those terms are defined in subdivisions thirty-three and
13 thirty-four of section 1.20 of this chapter, in relation to an applica-
14 tion for employment as a police officer or peace officer; provided,
15 however, that every person who is an applicant for the position of
16 police officer or peace officer shall be furnished with a copy of all
17 records obtained under this paragraph and afforded an opportunity to
18 make an explanation thereto, or (vi) the probation department responsi-
19 ble for supervision of the accused when the arrest which is the subject
20 of the inquiry is one which occurred while the accused was under such
21 supervision; and

22 (e) where fingerprints subject to the provisions of this section have
23 been received by the division of criminal justice services and have been
24 filed by the division as digital images, such images may be retained,
25 provided that a fingerprint card of the individual is on file with the
26 division which was not [~~sealed~~] destroyed pursuant to this section or
27 section 160.55 of this article.

28 (1-a) Cases previously sealed pursuant to this section shall be deemed
29 expunged, and digital records shall be so marked.

30 § 20. Paragraphs (i), (j) and (k) of subdivision 3 of section 160.50
31 of the criminal procedure law, paragraphs (i) and (j) as added by chap-
32 ter 905 of the laws of 1977, paragraph (k) as added by chapter 835 of
33 the laws of 1977 and as relettered by chapter 192 of the laws of 1980
34 and such subdivision as renumbered by chapter 142 of the laws of 1991,
35 are amended to read as follows:

36 (i) prior to the filing of an accusatory instrument in a local crimi-
37 nal court against such person, the prosecutor elects not to prosecute
38 such person. In such event, the prosecutor shall serve a certification
39 of such disposition upon the division of criminal justice services and
40 upon the appropriate police department or law enforcement agency which,
41 upon receipt thereof, shall comply with the provisions of paragraphs
42 (a), (b), (c) and (d) of subdivision one of this section in the same
43 manner as is required thereunder with respect to an order of a court
44 entered pursuant to said subdivision one[~~;~~]; or

45 (j) following the arrest of such person, the arresting police agency,
46 prior to the filing of an accusatory instrument in a local criminal
47 court but subsequent to the forwarding of a copy of the fingerprints of
48 such person to the division of criminal justice services, elects not to
49 proceed further. In such event, the head of the arresting police agency
50 shall serve a certification of such disposition upon the division of
51 criminal justice services which, upon receipt thereof, shall comply with
52 the provisions of paragraphs (a), (b), (c) and (d) of subdivision one of
53 this section in the same manner as is required thereunder with respect
54 to an order of a court entered pursuant to said subdivision one[~~;~~]; or

55 (k) (i) The accusatory instrument alleged a violation of article two
56 hundred twenty or section 240.36 of the penal law, prior to the taking

1 effect of article two hundred twenty-one of the penal law, or by the
2 conviction of such person of a violation of [~~article two hundred twen-~~
3 ~~ty-one~~] section 221.45 of the penal law on or after the effective date
4 of the chapter of the laws of two thousand nineteen that amended this
5 paragraph or a violation of section 221.05, 221.10, 221.15, 221.20,
6 221.25, 221.30, 221.35 or 221.40 of the penal law prior to the effective
7 date of the chapter of the laws of two thousand nineteen that amended
8 this paragraph; and (ii) the sole controlled substance involved is
9 [~~marijuana; (iii) the conviction was only for a violation or violations;~~
10 ~~and (iv) at least three years have passed since the offense occurred~~]
11 marihuana. No defendant shall be required or permitted to waive eligi-
12 bility for sealing pursuant to this paragraph as part of a plea of quilty,
13 sentence or any agreement related to a conviction for a violation of
14 section 221.45 of the penal law. Any such waiver shall be deemed void
15 and wholly unenforceable.

16 § 21. Subdivision 4 of section 160.50 of the criminal procedure law is
17 REPEALED, and three new subdivisions 4, 5, and 6 are added to read as
18 follows:

19 4. (a) Records of any action or proceeding terminated for any reason
20 other than a criminal conviction prior to November first, nineteen
21 hundred ninety-one shall be expunged. The division of criminal justice
22 services shall identify such records within six months of the effective
23 date of this subdivision, and notify the New York state office of court
24 administration (hereinafter OCA) that such action qualifies for expunge-
25 ment. Upon receipt of such notification, the matter shall be expunged as
26 described in subdivision one of this section.

27 (b) Where a criminal action or proceeding was terminated, as defined
28 in paragraph (k) of subdivision three of this section, prior to the
29 effective date of this subdivision, such criminal action or proceeding
30 shall be automatically vacated and dismissed, and all records of such
31 action or proceeding expunged as set forth in subdivision one of this
32 section, and the matter terminated in favor of the accused and deemed a
33 nullity, because the prior conviction is now legally invalid. OCA shall
34 automatically notify the commissioner of the division of criminal
35 justice services and the heads of all appropriate police departments and
36 other law enforcement agencies that the prior conviction is now legally
37 invalid and that the action has been vacated, dismissed and expunged and
38 thus terminated in favor of the accused. Upon receipt of notification of
39 such vacatur, termination and expungement, all records relating to the
40 criminal action shall be expunged as described in subdivision one of
41 this section.

42 5. In situations where automatic vacatur, dismissal, expungement and
43 record destruction is required by paragraph (b) of subdivision four of
44 this section but has not taken place, or where supporting court records
45 cannot be located or have been destroyed, and an individual or their
46 attorney presents to OCA fingerprint records from the New York state
47 division of criminal justice services or a court disposition which indi-
48 cate that a criminal action or proceeding against the applicant was
49 terminated by a conviction for section 221.05, 221.10 221.15, 221.20,
50 221.25, 221.30, 221.35, or 221.40 of the penal law in effect prior to
51 the effective date of this subdivision, within thirty days of notice to
52 OCA, the action shall forthwith be vacated, dismissed, and expunged as
53 set forth in subdivision one of this section.

54 6. Vacatur, dismissal and expungement as set forth in paragraph (a) or
55 (b) of subdivision four or subdivision five of this section is without
56 prejudice to an individual or their attorney seeking further relief

1 pursuant to section 440.10 of this part. Nothing in this section is
2 intended to diminish or abrogate any rights or remedies otherwise avail-
3 able to the individual.

4 § 22. Subdivision 1 of section 170.56 of the criminal procedure law,
5 as amended by chapter 360 of the laws of 1977, is amended to read as
6 follows:

7 1. Upon or after arraignment in a local criminal court upon an infor-
8 mation, a prosecutor's information or a misdemeanor complaint, where the
9 sole remaining count or counts charge a violation or violations of
10 section [~~221.05, 221.10, 221.15, 221.35 or 221.40~~] 221.45 of the penal
11 law, or upon summons for a nuisance offense under section sixty-five-c
12 of the alcoholic beverage control law and before the entry of a plea of
13 guilty thereto or commencement of a trial thereof, the court, upon
14 motion of a defendant, may order that all proceedings be suspended and
15 the action adjourned in contemplation of dismissal, or upon a finding
16 that adjournment would not be necessary or appropriate and the setting
17 forth in the record of the reasons for such findings, may dismiss in
18 furtherance of justice the accusatory instrument; provided, however,
19 that the court may not order such adjournment in contemplation of
20 dismissal or dismiss the accusatory instrument if: (a) the defendant has
21 previously been granted such adjournment in contemplation of dismissal,
22 or (b) the defendant has previously been granted a dismissal under this
23 section, or (c) the defendant has previously been convicted of any
24 offense involving controlled substances, or (d) the defendant has previ-
25 ously been convicted of a crime and the district attorney does not
26 consent or (e) the defendant has previously been adjudicated a youthful
27 offender on the basis of any act or acts involving controlled substances
28 and the district attorney does not consent. Notwithstanding the limita-
29 tions set forth in this subdivision, the court may order that all
30 proceedings be suspended and the action adjourned in contemplation of
31 dismissal based upon a finding of exceptional circumstances. For
32 purposes of this subdivision, exceptional circumstances exist when,
33 regardless of the ultimate disposition of the case, the entry of a plea
34 of guilty is likely to result in severe or ongoing consequences, includ-
35 ing, but not limited to, potential or actual immigration consequences.

36 § 23. Paragraph (j) of subdivision 1 of section 440.10 of the criminal
37 procedure law, as amended by section 2 of part MMM of chapter 59 of the
38 laws of 2019, is amended and a new paragraph (k) is added to read as
39 follows:

40 (j) The judgment is a conviction for a class A or unclassified misde-
41 meanor entered prior to the effective date of this paragraph and satis-
42 fies the ground prescribed in paragraph (h) of this subdivision. There
43 shall be a rebuttable presumption that a conviction by plea to such an
44 offense was not knowing, voluntary and intelligent, based on ongoing
45 collateral consequences, including potential or actual immigration
46 consequences, and there shall be a rebuttable presumption that a
47 conviction by verdict constitutes cruel and unusual punishment under
48 section five of article one of the state constitution based on such
49 consequences[~~-~~]; or

50 (k) if pertinent, such relief is available notwithstanding that the
51 judgment was for a violation of section 221.05, 221.10, 221.15, 221.20,
52 221.25, 221.30, 221.35, or 221.40 of the penal law in effect prior to
53 the effective date of this paragraph and that the underlying action or
54 proceeding has already been vacated, dismissed and expunged pursuant to
55 paragraph (b) of subdivision four of section 160.50 of this part, in
56 which case the court shall presume that a conviction by plea for a

1 violation of the aforementioned sections of the then penal law was not
2 knowing and voluntary, if it has ongoing consequences, including but not
3 limited to, potential or actual immigration consequences, and shall
4 presume that a conviction by verdict of the aforementioned sections of
5 the then penal law constitutes cruel and unusual punishment under the
6 state constitution, based on those consequences. The prosecution may
7 rebut these presumptions.

8 § 24. The criminal procedure law is amended by adding a new section
9 440.46-a to read as follows:

10 § 440.46-a Motion for resentence; persons convicted of certain marihuana
11 offenses.

12 1. Where a person is currently serving a sentence for a conviction,
13 whether by verdict or by open or negotiated plea, who would not have
14 been guilty of an offense after the effective date of this section had
15 this section been in effect at the time of their conviction, the office
16 of court administration shall automatically vacate, dismiss and expunge
17 such conviction pursuant to paragraph (b) of subdivision four of section
18 160.50 of this part and immediately notify the New York state department
19 of corrections and community supervision and local jails, which entities
20 shall immediately effectuate the appropriate relief. The office of court
21 administration shall likewise automatically notify the division of crim-
22 inal justice services and any police department and law enforcement
23 agency, which division, department or agency must immediately destroy
24 appurtenant records as set forth in paragraph (b) of subdivision four of
25 section 160.50 of this part.

26 2. (a) A person currently serving a sentence for a conviction, whether
27 by verdict or by open or negotiated plea, who would have been guilty of
28 a lesser offense after the effective date of this section had this
29 section been in effect at the time of their conviction may petition for
30 a recall of sentence before the trial court that entered the judgment of
31 conviction in their case to request resentencing in accordance with
32 article two hundred twenty-two of the penal law.

33 (b) Upon receiving a motion under paragraph (a) of this subdivision,
34 the court shall presume the movant satisfies the criteria in such para-
35 graph (a) unless the party opposing the motion proves by clear and
36 convincing evidence that the movant does not satisfy the criteria. If
37 the movant satisfies the criteria in paragraph (a) of this subdivision,
38 the court shall grant the motion to resentence.

39 3. Under no circumstances may resentencing under this section result
40 in the imposition of a term longer than the original sentence, or the
41 reinstatement of charges dismissed pursuant to a negotiated plea agree-
42 ment.

43 4. (a) A person who has completed his or her sentence for a conviction
44 under the former article two hundred twenty-one of the penal law, wheth-
45 er by trial or open or negotiated plea, who would have been guilty of a
46 lesser offense on and after the effective date of this section had this
47 section been in effect at the time of his or her conviction, may file an
48 application before the trial court that entered the judgment of
49 conviction in his or her case to have the conviction redesignated (or
50 "reclassified"), in accordance with article two hundred twenty-two of
51 the penal law.

52 (b) Upon receiving a motion under paragraph (a) of this subdivision,
53 the court shall presume the movant satisfies the criteria in paragraph
54 (a) of this subdivision unless the party opposing the motion proves by
55 clear and convincing evidence that the movant does not satisfy the
56 criteria. If the movant satisfies the criteria in paragraph (a) of this

1 subdivision, the court shall grant the motion to redesignate (or
2 "reclassify") the conviction.

3 5. (a) If the court that originally sentenced the movant is not avail-
4 able, the presiding judge shall designate another judge to rule on the
5 petition or application.

6 (b) Unless requested by the movant, no hearing is necessary to grant
7 an application filed under subdivision two or four of this section.

8 (c) Any felony conviction that is vacated and resentenced under subdivi-
9 vision two of this section or designated as a misdemeanor or violation
10 under subdivision four of this section shall be considered a misdemeanor
11 or violation for all purposes. Any misdemeanor conviction that is
12 vacated and resentenced under subdivision two of this section or desig-
13 nated as a violation under subdivision four of this section shall be
14 considered a violation for all purposes.

15 (d) Nothing in this section is intended to diminish or abrogate any
16 rights or remedies otherwise available to the petitioner or applicant.

17 (e) Nothing in this and related sections is intended to diminish or
18 abrogate the finality of judgments in any case not falling within the
19 purview of this section.

20 (f) The provisions of this section shall apply equally to juvenile
21 delinquency adjudications and dispositions under section five hundred
22 one-e of the executive law if the juvenile would not have been guilty of
23 an offense or would have been guilty of a lesser offense under this
24 section had this section been in effect at the time of his or her
25 conviction.

26 (g) The office of court administration shall promulgate and make
27 available all necessary forms to enable the filing of the petitions and
28 applications provided in this section no later than sixty days following
29 the effective date of this section.

30 § 25. Paragraph (c) of subdivision 8 of section 700.05 of the criminal
31 procedure law, as amended by chapter 37 of the laws of 2014, is amended
32 to read as follows:

33 (c) Criminal possession of a controlled substance in the seventh
34 degree as defined in section 220.03 of the penal law, criminal
35 possession of a controlled substance in the fifth degree as defined in
36 section 220.06 of the penal law, criminal possession of a controlled
37 substance in the fourth degree as defined in section 220.09 of the penal
38 law, criminal possession of a controlled substance in the third degree
39 as defined in section 220.16 of the penal law, criminal possession of a
40 controlled substance in the second degree as defined in section 220.18
41 of the penal law, criminal possession of a controlled substance in the
42 first degree as defined in section 220.21 of the penal law, criminal
43 sale of a controlled substance in the fifth degree as defined in section
44 220.31 of the penal law, criminal sale of a controlled substance in the
45 fourth degree as defined in section 220.34 of the penal law, criminal
46 sale of a controlled substance in the third degree as defined in section
47 220.39 of the penal law, criminal sale of a controlled substance in the
48 second degree as defined in section 220.41 of the penal law, criminal
49 sale of a controlled substance in the first degree as defined in section
50 220.43 of the penal law, criminally possessing a hypodermic instrument
51 as defined in section 220.45 of the penal law, criminal sale of a
52 prescription for a controlled substance or a controlled substance by a
53 practitioner or pharmacist as defined in section 220.65 of the penal
54 law, criminal possession of methamphetamine manufacturing material in
55 the second degree as defined in section 220.70 of the penal law, crimi-
56 nal possession of methamphetamine manufacturing material in the first

1 degree as defined in section 220.71 of the penal law, criminal
2 possession of precursors of methamphetamine as defined in section 220.72
3 of the penal law, unlawful manufacture of methamphetamine in the third
4 degree as defined in section 220.73 of the penal law, unlawful manufac-
5 ture of methamphetamine in the second degree as defined in section
6 220.74 of the penal law, unlawful manufacture of methamphetamine in the
7 first degree as defined in section 220.75 of the penal law, unlawful
8 disposal of methamphetamine laboratory material as defined in section
9 220.76 of the penal law, operating as a major trafficker as defined in
10 section 220.77 of the penal law, [~~eriminal possession of marihuana in
11 the first degree as defined in section 221.30 of the penal law, criminal
12 sale of marihuana in the first degree as defined in section 221.55 of
13 the penal law,~~] promoting gambling in the second degree as defined in
14 section 225.05 of the penal law, promoting gambling in the first degree
15 as defined in section 225.10 of the penal law, possession of gambling
16 records in the second degree as defined in section 225.15 of the penal
17 law, possession of gambling records in the first degree as defined in
18 section 225.20 of the penal law, and possession of a gambling device as
19 defined in section 225.30 of the penal law;

20 § 26. Paragraphs (b) and (c) of subdivision 4-b and subdivisions 6 and
21 9 of section 1310 of the civil practice law and rules, paragraphs (b)
22 and (c) of subdivision 4-b as added by chapter 655 of the laws of 1990
23 and subdivisions 6 and 9 as added by chapter 669 of the laws of 1984,
24 are amended to read as follows:

25 (b) on three or more occasions, engaging in conduct constituting a
26 violation of any of the felonies defined in section 220.09, 220.16,
27 220.18, 220.21, 220.31, 220.34, 220.39, 220.41[7] or 220.43 [~~or 221.55~~]
28 of the penal law, which violations do not constitute a single criminal
29 offense as defined in subdivision one of section 40.10 of the criminal
30 procedure law, or a single criminal transaction, as defined in paragraph
31 (a) of subdivision two of section 40.10 of the criminal procedure law,
32 and at least one of which resulted in a conviction of such offense, or
33 where the accusatory instrument charges one or more of such felonies,
34 conviction upon a plea of guilty to a felony for which such plea is
35 otherwise authorized by law; or

36 (c) a conviction of a person for a violation of section 220.09,
37 220.16, 220.34 or 220.39 of the penal law, [~~or a conviction of a crimi-
38 nal defendant for a violation of section 221.30 of the penal law,~~] or
39 where the accusatory instrument charges any such felony, conviction upon
40 a plea of guilty to a felony for which the plea is otherwise authorized
41 by law, together with evidence which: (i) provides substantial indicia
42 that the defendant used the real property to engage in a continual,
43 ongoing course of conduct involving the unlawful mixing, compounding,
44 manufacturing, warehousing, or packaging of controlled substances [~~or
45 where the conviction is for a violation of section 221.30 of the penal
46 law, marijuana,~~] as part of an illegal trade or business for gain; and
47 (ii) establishes, where the conviction is for possession of a controlled
48 substance [~~or where the conviction is for a violation of section 221.30
49 of the penal law, marijuana~~], that such possession was with the intent
50 to sell it.

51 [~~6. "Pre conviction forfeiture crime" means only a felony defined in
52 article two hundred twenty or section 221.30 or 221.55 of the penal
53 law.~~]

54 9. "Criminal defendant" means a person who has criminal liability for
55 a crime defined in [~~subdivisions~~] subdivision five [~~and six hereof~~] of
56 this section. For purposes of this article, a person has criminal

1 liability when [~~(a)~~] he has been convicted of a post-conviction forfei-
2 ture crime[~~, or (b) the claiming authority proves by clear and convinc-~~
3 ~~ing evidence that such person has committed an act in violation of arti-~~
4 ~~cle two hundred twenty or section 221.30 or 221.55 of the penal law].~~

5 § 27. Subdivision 13 of section 89-f of the general business law, as
6 added by chapter 336 of the laws of 1992, is amended to read as follows:

7 13. "Serious offense" shall mean any felony involving the offenses
8 enumerated in the closing paragraph of this subdivision; a criminal
9 solicitation of or a conspiracy to commit or an attempt to commit or a
10 criminal facilitation of a felony involving the offenses enumerated in
11 the closing paragraph of this subdivision, which criminal solicitation,
12 conspiracy, attempt or criminal facilitation itself constitutes a felony
13 or any offense in any other jurisdiction which if committed in this
14 state would constitute a felony; any offense in any other jurisdiction
15 which if committed in this state would constitute a felony provided that
16 for the purposes of this article, none of the following shall be consid-
17 ered criminal convictions or reported as such: (i) a conviction for
18 which an executive pardon has been issued pursuant to the executive law;
19 (ii) a conviction which has been vacated and replaced by a youthful
20 offender finding pursuant to article seven hundred twenty of the crimi-
21 nal procedure law, or the applicable provisions of law of any other
22 jurisdiction; or (iii) a conviction the records of which have been
23 sealed pursuant to the applicable provisions of the laws of this state
24 or of any other jurisdiction; and (iv) a conviction for which other
25 evidence of successful rehabilitation to remove the disability has been
26 issued.

27 Felonies involving: assault, aggravated assault and reckless endanger-
28 ment pursuant to article one hundred twenty; vehicular manslaughter,
29 manslaughter and murder pursuant to article one hundred twenty-five; sex
30 offenses pursuant to article one hundred thirty; unlawful imprisonment,
31 kidnapping or coercion pursuant to article one hundred thirty-five;
32 criminal trespass and burglary pursuant to article one hundred forty;
33 criminal mischief, criminal tampering and tampering with a consumer
34 product pursuant to article one hundred forty-five; arson pursuant to
35 article one hundred fifty; larceny and offenses involving theft pursuant
36 to article one hundred fifty-five; offenses involving computers pursuant
37 to article one hundred fifty-six; robbery pursuant to article one
38 hundred sixty; criminal possession of stolen property pursuant to arti-
39 cle one hundred sixty-five; forgery and related offenses pursuant to
40 article one hundred seventy; involving false written statements pursuant
41 to article one hundred seventy-five; commercial bribing and commercial
42 bribe receiving pursuant to article one hundred eighty; criminal imper-
43 sonation and scheme to defraud pursuant to article one hundred ninety;
44 bribery involving public servants and related offenses pursuant to arti-
45 cle two hundred; perjury and related offenses pursuant to article two
46 hundred ten; tampering with a witness, intimidating a victim or witness
47 and tampering with physical evidence pursuant to article two hundred
48 fifteen; criminal possession of a controlled substance pursuant to
49 sections 220.06, 220.09, 220.16, 220.18 and 220.21; criminal sale of a
50 controlled substance pursuant to sections 220.31, 220.34, 220.39,
51 220.41, 220.43 and 220.44; [~~criminal~~] unlicensed sale of [~~marijuana~~
52 cannabis in the first degree pursuant to [~~sections 221.45, 221.50 and~~
53 221.55] section 222.30; riot in the first degree, aggravated harassment
54 in the first degree, criminal nuisance in the first degree and falsely
55 reporting an incident in the second or first degree pursuant to article

1 two hundred forty; and crimes against public safety pursuant to article
2 two hundred sixty-five of the penal law.

3 § 28. Paragraph (f) of subdivision 2 of section 850 of the general
4 business law is REPEALED.

5 § 29. Paragraph (h) of subdivision 2 of section 850 of the general
6 business law, as amended by chapter 812 of the laws of 1980, is amended
7 to read as follows:

8 (h) Objects, used or designed for the purpose of ingesting, inhaling,
9 or otherwise introducing [~~marihuana,~~] cocaine[~~, hashish, or hashish oil~~]
10 into the human body.

11 § 30. Subdivision 7 of section 995 of the executive law, as amended by
12 chapter 19 of the laws of 2012, is amended to read as follows:

13 7. "Designated offender" means a person convicted of any felony
14 defined in any chapter of the laws of the state or any misdemeanor
15 defined in the penal law [~~except that where the person is convicted~~
16 ~~under section 221.10 of the penal law, only a person convicted under~~
17 ~~subdivision two of such section, or a person convicted under subdivision~~
18 ~~one of such section who stands previously convicted of any crime as~~
19 ~~defined in subdivision six of section 10.00 of the penal law~~].

20 § 31. Paragraphs (b) and (c) of subdivision 7 of section 480.00 of the
21 penal law, paragraph (b) as amended by section 31 of part AAA of chapter
22 56 of the laws of 2009 and paragraph (c) as added by chapter 655 of the
23 laws of 1990, are amended to read as follows:

24 (b) three or more violations of any of the felonies defined in section
25 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41,
26 220.43[~~7~~] ~~or~~ 220.77[~~7~~, ~~or 221.55~~] of this chapter, which violations do
27 not constitute a single criminal offense as defined in subdivision one
28 of section 40.10 of the criminal procedure law, or a single criminal
29 transaction, as defined in paragraph (a) of subdivision two of section
30 40.10 of the criminal procedure law, and at least one of which resulted
31 in a conviction of such offense, or where the accusatory instrument
32 charges one or more of such felonies, conviction upon a plea of guilty
33 to a felony for which such plea is otherwise authorized by law; or

34 (c) a conviction of a person for a violation of section 220.09,
35 220.16, 220.34[~~7~~] ~~or~~ 220.39[~~7~~, ~~or 221.30~~] of this chapter, or where the
36 accusatory instrument charges any such felony, conviction upon a plea of
37 guilty to a felony for which the plea is otherwise authorized by law,
38 together with evidence which: (i) provides substantial indicia that the
39 defendant used the real property to engage in a continual, ongoing
40 course of conduct involving the unlawful mixing, compounding, manufac-
41 turing, warehousing, or packaging of controlled substances [~~or where the~~
42 ~~conviction is for a violation of section 221.30 of this chapter, mari-~~
43 ~~juana~~] as part of an illegal trade or business for gain; and (ii) estab-
44 lishes, where the conviction is for possession of a controlled substance
45 [~~or where the conviction is for a violation of section 221.30 of this~~
46 ~~chapter, marijuana~~], that such possession was with the intent to sell
47 it.

48 § 32. Paragraph (c) of subdivision 4 of section 509-cc of the vehicle
49 and traffic law, as amended by chapter 368 of the laws of 2015, is
50 amended to read as follows:

51 (c) The offenses referred to in subparagraph (i) of paragraph (b) of
52 subdivision one and subparagraph (i) of paragraph (c) of subdivision two
53 of this section that result in disqualification for a period of five
54 years shall include a conviction under sections 100.10, 105.13, 115.05,
55 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 121.12, 121.13,
56 125.40, 125.45, 130.20, 130.25, 130.52, 130.55, 135.10, 135.55, 140.17,

1 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09,
 2 220.16, 220.31, 220.34, 220.60, 220.65, [~~221.30, 221.50, 221.55,~~
 3 230.00, 230.05, 230.06, 230.11, 230.12, 230.13, 230.19, 230.20, 235.05,
 4 235.06, 235.07, 235.21, 240.06, 245.00, 260.10, subdivision two of
 5 section 260.20 and sections 260.25, 265.02, 265.03, 265.08, 265.09,
 6 265.10, 265.12, 265.35 of the penal law or an attempt to commit any of
 7 the aforesaid offenses under section 110.00 of the penal law, or any
 8 similar offenses committed under a former section of the penal law, or
 9 any offenses committed under a former section of the penal law which
 10 would constitute violations of the aforesaid sections of the penal law,
 11 or any offenses committed outside this state which would constitute
 12 violations of the aforesaid sections of the penal law.

13 § 33. The opening paragraph of paragraph (a) of subdivision 2 of
 14 section 1194 of the vehicle and traffic law, as amended by chapter 196
 15 of the laws of 1996, is amended to read as follows:

16 When authorized. Any person who operates a motor vehicle in this state
 17 shall be deemed to have given consent to a chemical test of one or more
 18 of the following: breath, blood[,] or urine[, ~~or saliva,~~
 19 purpose of determining the alcoholic and/or drug content, other than
 20 cannabis content including but not limited to tetrahydrocannabinol
 21 content, of the blood provided that such test is administered by or at
 22 the direction of a police officer with respect to a chemical test of
 23 breath, urine [~~or saliva~~] or, with respect to a chemical test of blood,
 24 at the direction of a police officer:

25 § 34. The article heading of article 20-B of the tax law, as added by
 26 chapter 90 of the laws of 2014, is amended to read as follows:

27 ARTICLE 20-B

28 EXCISE TAX ON MEDICAL [~~MARIJUANA~~] CANNABIS

29 § 35. Subdivision 1 of section 171-a of the tax law, as amended by
 30 section 3 of part XX of chapter 59 of the laws of 2019, is amended to
 31 read as follows:

32 1. All taxes, interest, penalties and fees collected or received by
 33 the commissioner or the commissioner's duly authorized agent under arti-
 34 cles nine (except section one hundred eighty-two-a thereof and except as
 35 otherwise provided in section two hundred five thereof), nine-A,
 36 twelve-A (except as otherwise provided in section two hundred eighty-
 37 four-d thereof), thirteen, thirteen-A (except as otherwise provided in
 38 section three hundred twelve thereof), eighteen, nineteen, twenty
 39 (except as otherwise provided in section four hundred eighty-two there-
 40 of), twenty-B, twenty-C, twenty-D, twenty-one, twenty-two, twenty-four,
 41 twenty-six, twenty-eight (except as otherwise provided in section eleven
 42 hundred two or eleven hundred three thereof), twenty-eight-A, twenty-
 43 nine-B, thirty-one (except as otherwise provided in section fourteen
 44 hundred twenty-one thereof), thirty-three and thirty-three-A of this
 45 chapter shall be deposited daily in one account with such responsible
 46 banks, banking houses or trust companies as may be designated by the
 47 comptroller, to the credit of the comptroller. Such an account may be
 48 established in one or more of such depositories. Such deposits shall be
 49 kept separate and apart from all other money in the possession of the
 50 comptroller. The comptroller shall require adequate security from all
 51 such depositories. Of the total revenue collected or received under such
 52 articles of this chapter, the comptroller shall retain in the comp-
 53 troller's hands such amount as the commissioner may determine to be
 54 necessary for refunds or reimbursements under such articles of this
 55 chapter out of which amount the comptroller shall pay any refunds or
 56 reimbursements to which taxpayers shall be entitled under the provisions

1 of such articles of this chapter. The commissioner and the comptroller
2 shall maintain a system of accounts showing the amount of revenue
3 collected or received from each of the taxes imposed by such articles.
4 The comptroller, after reserving the amount to pay such refunds or
5 reimbursements, shall, on or before the tenth day of each month, pay
6 into the state treasury to the credit of the general fund all revenue
7 deposited under this section during the preceding calendar month and
8 remaining to the comptroller's credit on the last day of such preceding
9 month, (i) except that the comptroller shall pay to the state department
10 of social services that amount of overpayments of tax imposed by article
11 twenty-two of this chapter and the interest on such amount which is
12 certified to the comptroller by the commissioner as the amount to be
13 credited against past-due support pursuant to subdivision six of section
14 one hundred seventy-one-c of this article, (ii) and except that the
15 comptroller shall pay to the New York state higher education services
16 corporation and the state university of New York or the city university
17 of New York respectively that amount of overpayments of tax imposed by
18 article twenty-two of this chapter and the interest on such amount which
19 is certified to the comptroller by the commissioner as the amount to be
20 credited against the amount of defaults in repayment of guaranteed
21 student loans and state university loans or city university loans pursu-
22 ant to subdivision five of section one hundred seventy-one-d and subdivi-
23 sion six of section one hundred seventy-one-e of this article, (iii)
24 and except further that, notwithstanding any law, the comptroller shall
25 credit to the revenue arrearage account, pursuant to section
26 ninety-one-a of the state finance law, that amount of overpayment of tax
27 imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B
28 or thirty-three of this chapter, and any interest thereon, which is
29 certified to the comptroller by the commissioner as the amount to be
30 credited against a past-due legally enforceable debt owed to a state
31 agency pursuant to paragraph (a) of subdivision six of section one
32 hundred seventy-one-f of this article, provided, however, he shall cred-
33 it to the special offset fiduciary account, pursuant to section ninety-
34 one-c of the state finance law, any such amount creditable as a liabil-
35 ity as set forth in paragraph (b) of subdivision six of section one
36 hundred seventy-one-f of this article, (iv) and except further that the
37 comptroller shall pay to the city of New York that amount of overpayment
38 of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A,
39 thirty-B or thirty-three of this chapter and any interest thereon that
40 is certified to the comptroller by the commissioner as the amount to be
41 credited against city of New York tax warrant judgment debt pursuant to
42 section one hundred seventy-one-l of this article, (v) and except
43 further that the comptroller shall pay to a non-obligated spouse that
44 amount of overpayment of tax imposed by article twenty-two of this chap-
45 ter and the interest on such amount which has been credited pursuant to
46 section one hundred seventy-one-c, one hundred seventy-one-d, one
47 hundred seventy-one-e, one hundred seventy-one-f or one hundred seven-
48 ty-one-l of this article and which is certified to the comptroller by
49 the commissioner as the amount due such non-obligated spouse pursuant to
50 paragraph six of subsection (b) of section six hundred fifty-one of this
51 chapter; and (vi) the comptroller shall deduct a like amount which the
52 comptroller shall pay into the treasury to the credit of the general
53 fund from amounts subsequently payable to the department of social
54 services, the state university of New York, the city university of New
55 York, or the higher education services corporation, or the revenue
56 arrearage account or special offset fiduciary account pursuant to

1 section ninety-one-a or ninety-one-c of the state finance law, as the
2 case may be, whichever had been credited the amount originally withheld
3 from such overpayment, and (vii) with respect to amounts originally
4 withheld from such overpayment pursuant to section one hundred seventy-
5 one-1 of this article and paid to the city of New York, the comptroller
6 shall collect a like amount from the city of New York.

7 § 36. Subdivision 1 of section 171-a of the tax law, as amended by
8 section 4 of part XX of chapter 59 of the laws of 2019, is amended to
9 read as follows:

10 1. All taxes, interest, penalties and fees collected or received by
11 the commissioner or the commissioner's duly authorized agent under arti-
12 cles nine (except section one hundred eighty-two-a thereof and except as
13 otherwise provided in section two hundred five thereof), nine-A,
14 twelve-A (except as otherwise provided in section two hundred eighty-
15 four-d thereof), thirteen, thirteen-A (except as otherwise provided in
16 section three hundred twelve thereof), eighteen, nineteen, twenty
17 (except as otherwise provided in section four hundred eighty-two there-
18 of), twenty-C, twenty-D, twenty-one, twenty-two, twenty-four, twenty-
19 six, twenty-eight (except as otherwise provided in section eleven
20 hundred two or eleven hundred three thereof), twenty-eight-A, twenty-
21 nine-B, thirty-one (except as otherwise provided in section fourteen
22 hundred twenty-one thereof), thirty-three and thirty-three-A of this
23 chapter shall be deposited daily in one account with such responsible
24 banks, banking houses or trust companies as may be designated by the
25 comptroller, to the credit of the comptroller. Such an account may be
26 established in one or more of such depositories. Such deposits shall be
27 kept separate and apart from all other money in the possession of the
28 comptroller. The comptroller shall require adequate security from all
29 such depositories. Of the total revenue collected or received under such
30 articles of this chapter, the comptroller shall retain in the comp-
31 troller's hands such amount as the commissioner may determine to be
32 necessary for refunds or reimbursements under such articles of this
33 chapter out of which amount the comptroller shall pay any refunds or
34 reimbursements to which taxpayers shall be entitled under the provisions
35 of such articles of this chapter. The commissioner and the comptroller
36 shall maintain a system of accounts showing the amount of revenue
37 collected or received from each of the taxes imposed by such articles.
38 The comptroller, after reserving the amount to pay such refunds or
39 reimbursements, shall, on or before the tenth day of each month, pay
40 into the state treasury to the credit of the general fund all revenue
41 deposited under this section during the preceding calendar month and
42 remaining to the comptroller's credit on the last day of such preceding
43 month, (i) except that the comptroller shall pay to the state department
44 of social services that amount of overpayments of tax imposed by article
45 twenty-two of this chapter and the interest on such amount which is
46 certified to the comptroller by the commissioner as the amount to be
47 credited against past-due support pursuant to subdivision six of section
48 one hundred seventy-one-c of this article, (ii) and except that the
49 comptroller shall pay to the New York state higher education services
50 corporation and the state university of New York or the city university
51 of New York respectively that amount of overpayments of tax imposed by
52 article twenty-two of this chapter and the interest on such amount which
53 is certified to the comptroller by the commissioner as the amount to be
54 credited against the amount of defaults in repayment of guaranteed
55 student loans and state university loans or city university loans pursu-
56 ant to subdivision five of section one hundred seventy-one-d and subdi-

1 vision six of section one hundred seventy-one-e of this article, (iii)
2 and except further that, notwithstanding any law, the comptroller shall
3 credit to the revenue arrearage account, pursuant to section
4 ninety-one-a of the state finance law, that amount of overpayment of tax
5 imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B
6 or thirty-three of this chapter, and any interest thereon, which is
7 certified to the comptroller by the commissioner as the amount to be
8 credited against a past-due legally enforceable debt owed to a state
9 agency pursuant to paragraph (a) of subdivision six of section one
10 hundred seventy-one-f of this article, provided, however, he shall cred-
11 it to the special offset fiduciary account, pursuant to section ninety-
12 one-c of the state finance law, any such amount creditable as a liabil-
13 ity as set forth in paragraph (b) of subdivision six of section one
14 hundred seventy-one-f of this article, (iv) and except further that the
15 comptroller shall pay to the city of New York that amount of overpayment
16 of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A,
17 thirty-B or thirty-three of this chapter and any interest thereon that
18 is certified to the comptroller by the commissioner as the amount to be
19 credited against city of New York tax warrant judgment debt pursuant to
20 section one hundred seventy-one-l of this article, (v) and except
21 further that the comptroller shall pay to a non-obligated spouse that
22 amount of overpayment of tax imposed by article twenty-two of this chap-
23 ter and the interest on such amount which has been credited pursuant to
24 section one hundred seventy-one-c, one hundred seventy-one-d, one
25 hundred seventy-one-e, one hundred seventy-one-f or one hundred seven-
26 ty-one-l of this article and which is certified to the comptroller by
27 the commissioner as the amount due such non-obligated spouse pursuant to
28 paragraph six of subsection (b) of section six hundred fifty-one of this
29 chapter; and (vi) the comptroller shall deduct a like amount which the
30 comptroller shall pay into the treasury to the credit of the general
31 fund from amounts subsequently payable to the department of social
32 services, the state university of New York, the city university of New
33 York, or the higher education services corporation, or the revenue
34 arrearage account or special offset fiduciary account pursuant to
35 section ninety-one-a or ninety-one-c of the state finance law, as the
36 case may be, whichever had been credited the amount originally withheld
37 from such overpayment, and (vii) with respect to amounts originally
38 withheld from such overpayment pursuant to section one hundred seventy-
39 one-l of this article and paid to the city of New York, the comptroller
40 shall collect a like amount from the city of New York.

41 § 37. Section 490 of the tax law, as added by chapter 90 of the laws
42 of 2014, is amended to read as follows:

43 § 490. [~~Definitions~~] Excise tax on medical cannabis. 1. (a) [~~All~~
44 ~~definitions of terms applicable to title five-A of article thirty-three~~
45 ~~of the public health law shall apply to this article.~~] For purposes of
46 this article, the terms "medical cannabis," "registered organization,"
47 "certified patient," and "designated caregiver" shall have the same
48 definitions as in section three of the cannabis law.

49 (b) As used in this section, where not otherwise specifically defined
50 and unless a different meaning is clearly required "gross receipt" means
51 the amount received in or by reason of any sale, conditional or other-
52 wise, of medical [~~marihuana~~] cannabis or in or by reason of the furnish-
53 ing of medical [~~marihuana~~] cannabis from the sale of medical [~~marihuana~~]
54 cannabis provided by a registered organization to a certified patient or
55 designated caregiver. Gross receipt is expressed in money, whether paid
56 in cash, credit or property of any kind or nature, and shall be deter-

1 mined without any deduction therefrom on account of the cost of the
2 service sold or the cost of materials, labor or services used or other
3 costs, interest or discount paid, or any other expenses whatsoever.
4 "Amount received" for the purpose of the definition of gross receipt, as
5 the term gross receipt is used throughout this article, means the amount
6 charged for the provision of medical [~~marihuana~~] cannabis.

7 2. There is hereby imposed an excise tax on the gross receipts from
8 the sale of medical [~~marihuana~~] cannabis by a registered organization to
9 a certified patient or designated caregiver, to be paid by the regis-
10 tered organization, at the rate of seven percent. The tax imposed by
11 this article shall be charged against and be paid by the registered
12 organization and shall not be added as a separate charge or line item on
13 any sales slip, invoice, receipt or other statement or memorandum of the
14 price given to the retail customer.

15 3. The commissioner may make, adopt and amend rules, regulations,
16 procedures and forms necessary for the proper administration of this
17 article.

18 4. Every registered organization that makes sales of medical [~~marihua-~~
19 ~~na~~] cannabis subject to the tax imposed by this article shall, on or
20 before the twentieth date of each month, file with the commissioner a
21 return on forms to be prescribed by the commissioner, showing its
22 receipts from the retail sale of medical [~~marihuana~~] cannabis during the
23 preceding calendar month and the amount of tax due thereon. Such returns
24 shall contain such further information as the commissioner may require.
25 Every registered organization required to file a return under this
26 section shall, at the time of filing such return, pay to the commission-
27 er the total amount of tax due on its retail sales of medical [~~marihua-~~
28 ~~na~~] cannabis for the period covered by such return. If a return is not
29 filed when due, the tax shall be due on the day on which the return is
30 required to be filed.

31 5. Whenever the commissioner shall determine that any moneys received
32 under the provisions of this article were paid in error, he may cause
33 the same to be refunded, with interest, in accordance with such rules
34 and regulations as he may prescribe, except that no interest shall be
35 allowed or paid if the amount thereof would be less than one dollar.
36 Such interest shall be at the overpayment rate set by the commissioner
37 pursuant to subdivision twenty-sixth of section one hundred seventy-one
38 of this chapter, or if no rate is set, at the rate of six percent per
39 annum, from the date when the tax, penalty or interest to be refunded
40 was paid to a date preceding the date of the refund check by not more
41 than thirty days. Provided, however, that for the purposes of this
42 subdivision, any tax paid before the last day prescribed for its payment
43 shall be deemed to have been paid on such last day. Such moneys received
44 under the provisions of this article which the commissioner shall deter-
45 mine were paid in error, may be refunded out of funds in the custody of
46 the comptroller to the credit of such taxes provided an application
47 therefor is filed with the commissioner within two years from the time
48 the erroneous payment was made.

49 6. The provisions of article twenty-seven of this chapter shall apply
50 to the tax imposed by this article in the same manner and with the same
51 force and effect as if the language of such article had been incorpo-
52 rated in full into this section and had expressly referred to the tax
53 imposed by this article, except to the extent that any provision of such
54 article is either inconsistent with a provision of this article or is
55 not relevant to this article.

1 7. All taxes, interest and penalties collected or received by the
2 commissioner under this article shall be deposited and disposed of
3 pursuant to the provisions of section one hundred seventy-one-a of this
4 chapter, provided that an amount equal to one hundred percent collected
5 under this article less any amount determined by the commissioner to be
6 reserved by the comptroller for refunds or reimbursements shall be paid
7 by the comptroller to the credit of the medical [~~marihuana~~] cannabis
8 trust fund established by section eighty-nine-h of the state finance
9 law.

10 8. A registered organization that dispenses medical [~~marihuana~~] canna-
11 bis shall provide to the department information on where the medical
12 [~~marihuana~~] cannabis was dispensed and where the medical [~~marihuana~~]
13 cannabis was manufactured. A registered organization that obtains [~~mari-~~
14 ~~huana~~] cannabis from another registered organization shall obtain from
15 such registered organization information on where the medical [~~marihua-~~
16 ~~na~~] cannabis was manufactured.

17 § 38. Section 491 of the tax law, as added by chapter 90 of the laws
18 of 2014, subdivision 1 as amended by section 1 of part II of chapter 60
19 of the laws of 2016, is amended to read as follows:

20 § 491. Returns to be secret. 1. Except in accordance with proper judi-
21 cial order or as in this section or otherwise provided by law, it shall
22 be unlawful for the commissioner, any officer or employee of the depart-
23 ment, or any officer or person who, pursuant to this section, is permit-
24 ted to inspect any return or report or to whom a copy, an abstract or a
25 portion of any return or report is furnished, or to whom any information
26 contained in any return or report is furnished, or any person engaged or
27 retained by such department on an independent contract basis or any
28 person who in any manner may acquire knowledge of the contents of a
29 return or report filed pursuant to this article to divulge or make known
30 in any manner the contents or any other information relating to the
31 business of a distributor, owner or other person contained in any return
32 or report required under this article. The officers charged with the
33 custody of such returns or reports shall not be required to produce any
34 of them or evidence of anything contained in them in any action or
35 proceeding in any court, except on behalf of the state, [~~the state~~
36 ~~department of health~~] office of cannabis management, or the commissioner
37 in an action or proceeding under the provisions of this chapter or on
38 behalf of the state or the commissioner in any other action or proceed-
39 ing involving the collection of a tax due under this chapter to which
40 the state or the commissioner is a party or a claimant or on behalf of
41 any party to any action or proceeding under the provisions of this arti-
42 cle, when the returns or the reports or the facts shown thereby are
43 directly involved in such action or proceeding, or in an action or
44 proceeding relating to the regulation or taxation of medical [~~marihuana~~]
45 cannabis on behalf of officers to whom information shall have been
46 supplied as provided in subdivision two of this section, in any of which
47 events the court may require the production of, and may admit in
48 evidence so much of said returns or reports or of the facts shown there-
49 by as are pertinent to the action or proceeding and no more. Nothing
50 herein shall be construed to prohibit the commissioner, in his or her
51 discretion, from allowing the inspection or delivery of a certified copy
52 of any return or report filed under this article or of any information
53 contained in any such return or report by or to a duly authorized offi-
54 cer or employee of the [~~state department of health~~] office of cannabis
55 management; or by or to the attorney general or other legal represen-
56 tatives of the state when an action shall have been recommended or

1 commenced pursuant to this chapter in which such returns or reports or
2 the facts shown thereby are directly involved; or the inspection of the
3 returns or reports required under this article by the comptroller or
4 duly designated officer or employee of the state department of audit and
5 control, for purposes of the audit of a refund of any tax paid by a
6 registered organization or other person under this article; nor to
7 prohibit the delivery to a registered organization, or a duly authorized
8 representative of such registered organization, a certified copy of any
9 return or report filed by such registered organization pursuant to this
10 article, nor to prohibit the publication of statistics so classified as
11 to prevent the identification of particular returns or reports and the
12 items thereof. This section shall also not be construed to prohibit the
13 disclosure, for tax administration purposes, to the division of the
14 budget and the office of the state comptroller, of information aggre-
15 gated from the returns filed by all the registered organizations making
16 sales of, or manufacturing, medical [~~marihuana~~] cannabis in a specified
17 county, whether the number of such registered organizations is one or
18 more. Provided further that, notwithstanding the provisions of this
19 subdivision, the commissioner may, in his or her discretion, permit the
20 proper officer of any county entitled to receive an allocation, follow-
21 ing appropriation by the legislature, pursuant to this article and
22 section eighty-nine-h of the state finance law, or the authorized repre-
23 sentative of such officer, to inspect any return filed under this arti-
24 cle, or may furnish to such officer or the officer's authorized repre-
25 sentative an abstract of any such return or supply such officer or such
26 representative with information concerning an item contained in any such
27 return, or disclosed by any investigation of tax liability under this
28 article.

29 2. The commissioner, in his or her discretion and pursuant to such
30 rules and regulations as he or she may adopt, may permit [~~the commis-~~
31 ~~sioner of internal revenue of the United States, or~~] the appropriate
32 officers of any other state which regulates or taxes medical [~~marihuana~~]
33 cannabis, or the duly authorized representatives of such [~~commissioner~~
34 ~~or of any such~~] officers, to inspect returns or reports made pursuant to
35 this article, or may furnish to such [~~commissioner or~~] other officers,
36 or duly authorized representatives, a copy of any such return or report
37 or an abstract of the information therein contained, or any portion
38 thereof, or may supply [~~such commissioner or~~] any such officers or such
39 representatives with information relating to the business of a regis-
40 tered organization making returns or reports hereunder. The commissioner
41 may refuse to supply information pursuant to this subdivision [~~to the~~
42 ~~commissioner of internal revenue of the United States or~~] to the offi-
43 cers of any other state if the statutes [~~of the United States, or~~] of
44 the state represented by such officers, do not grant substantially simi-
45 lar privileges to the commissioner, but such refusal shall not be manda-
46 tory. Information shall not be supplied to [~~the commissioner of internal~~
47 ~~revenue of the United States or~~] the appropriate officers of any other
48 state which regulates or taxes medical [~~marihuana~~] cannabis, or the duly
49 authorized representatives [~~of such commissioner or~~] of any of such
50 officers, unless such [~~commissioner,~~] officer or other representatives
51 shall agree not to divulge or make known in any manner the information
52 so supplied, but such officers may transmit such information to their
53 employees or legal representatives when necessary, who in turn shall be
54 subject to the same restrictions as those hereby imposed upon such
55 [~~commissioner,~~] officer or other representatives.

1 3. (a) Any officer or employee of the state who willfully violates the
2 provisions of subdivision one or two of this section shall be dismissed
3 from office and be incapable of holding any public office in this state
4 for a period of five years thereafter.

5 (b) Cross-reference: For criminal penalties, see article thirty-seven
6 of this chapter.

7 § 39. The tax law is amended by adding a new article 20-C to read as
8 follows:

9 ARTICLE 20-C

10 TAX ON ADULT-USE CANNABIS PRODUCTS

11 Section 492. Definitions.

12 493. Tax on cannabis.

13 494. Registration and renewal.

14 495. Returns and payment of tax.

15 496. Returns to be kept secret.

16 § 492. Definitions. For purposes of this article, the following defi-
17 initions shall apply:

18 (a) "Cannabis" means all parts of a plant of the genus cannabis,
19 whether growing or not; the seeds thereof; the resin extracted from any
20 part of the plant; and every compound, manufacture, salt, derivative,
21 mixture, or preparation of the plant, its seeds or resin. For purposes
22 of this article, cannabis does not include medical cannabis or hemp
23 cannabis as defined in section three of the cannabis law.

24 (b) "Cannabis flower" means the flower of a plant of the genus canna-
25 bis that has been harvested, dried, and cured, and prior to any process-
26 ing whereby the plant material is transformed into a concentrate,
27 including, but not limited to, concentrated cannabis, or an edible or
28 topical product containing cannabis or concentrated cannabis and other
29 ingredients. Cannabis flower excludes leaves and stem.

30 (c) "Cannabis trim" means all parts of a plant of the genus cannabis
31 other than cannabis flowers that have been harvested, dried, and cured,
32 and prior to any processing whereby the plant material is transformed
33 into a concentrate, including, but not limited to, concentrated canna-
34 bis, or an edible or topical product containing cannabis and other
35 ingredients.

36 (d) "Cannabis product" or "adult use cannabis" means a cannabis prod-
37 uct as defined in section three of the cannabis law. For purposes of
38 this article, under no circumstances shall adult-use cannabis product
39 include medical cannabis or hemp cannabis as defined in section three of
40 the cannabis law.

41 (e) "Person" means every individual, partnership, limited liability
42 company, society, association, joint stock company, corporation, estate,
43 receiver, trustee, assignee, referee, and any other person acting in a
44 fiduciary or representative capacity, whether appointed by a court or
45 otherwise, and any combination of the foregoing.

46 (f) "Wholesaler" means any person that sells or transfers adult-use
47 cannabis products to a retail dispensary licensed pursuant to section
48 seventy-two of the cannabis law. Where the cultivator or processor is
49 also the retail dispensary, the retail dispensary shall be the whole-
50 saler for purposes of this article.

51 (g) "Cultivation" has the same meaning as described in subdivision two
52 of section sixty-eight of the cannabis law.

53 (h) "Retail dispensary" means a dispensary licensed to sell adult-use
54 cannabis products pursuant to section seventy-two of the cannabis law.

1 (i) "Transfer" means to grant, convey, hand over, assign, sell,
2 exchange or barter, in any manner or by any means, with or without
3 consideration.

4 (j) "Sale" means any transfer of title, possession or both, exchange
5 or barter, rental, lease or license to use or consume, conditional or
6 otherwise, in any manner or by any means whatsoever for a consideration
7 or any agreement therefor.

8 (k) "Processor" has the same meaning as described in subdivision two
9 of section sixty-nine of the cannabis law.

10 § 493. Tax on cannabis. (a) There is hereby imposed and shall be paid
11 a tax on the cultivation of cannabis flower and cannabis trim at the
12 rate of one dollar per dry-weight gram of cannabis flower and twenty-
13 five cents per dry-weight gram of cannabis trim. Where the wholesaler is
14 not the cultivator, such tax shall be collected from the cultivator by
15 the wholesaler at the time such flower or trim is transferred to the
16 wholesaler. Where the wholesaler is the cultivator, such tax shall be
17 paid by the wholesaler and shall accrue at the time of sale or transfer
18 to a retail dispensary. Where the cultivator is also the retail dispen-
19 sary, such tax shall accrue at the time of the sale to the retail
20 customer.

21 (b) In addition to the tax imposed by subdivision (a) of this section,
22 there is hereby imposed a tax on the sale or transfer by a wholesaler to
23 a retail dispensary of adult-use cannabis products, to be paid by such
24 wholesaler. Where the wholesaler is not the retail dispensary, such tax
25 shall be at the rate of twenty percent of the invoice price charged by
26 the wholesaler to a retail dispensary, and shall accrue at the time of
27 such sale. Where the wholesaler is the retail dispensary, such tax shall
28 be at the rate of twenty percent of the price charged to the retail
29 customer and shall accrue at the time of such sale.

30 (c) In addition to the taxes imposed by subdivisions (a) and (b) of
31 this section, there is hereby imposed a tax on the sale or transfer by a
32 wholesaler to a retail dispensary of adult-use cannabis products, in
33 trust for and on account of the county in which the retail dispensary is
34 located. Such tax shall be paid by the wholesaler and shall accrue at
35 the time of such sale. Where the wholesaler is not the retail dispen-
36 sary, such tax shall be at the rate of two percent of the invoice price
37 charged by the wholesaler to a retail dispensary. Where the wholesaler
38 is the retail dispensary, such tax shall be at the rate of two percent
39 of the price charged to the retail customer.

40 (d) Notwithstanding any other provision of law to the contrary, the
41 taxes imposed by article twenty of this chapter shall not apply to any
42 product subject to tax under this article.

43 § 494. Registration and renewal. (a) Every wholesaler must file with
44 the commissioner a properly completed application for a certificate of
45 registration before engaging in business. In order to apply for such
46 certificate of registration, such person must first be in possession of
47 a valid license from the office of cannabis management. An application
48 for a certificate of registration must be submitted electronically, on a
49 form prescribed by the commissioner, and must be accompanied by a non-
50 refundable application fee of six hundred dollars. A certificate of
51 registration shall not be assignable or transferable and shall be
52 destroyed immediately upon such person ceasing to do business as speci-
53 fied in such certificate, or in the event that such business never
54 commenced.

55 (b) The commissioner shall refuse to issue a certificate of registra-
56 tion to any applicant and shall revoke the certificate of registration

1 of any such person who does not possess a valid license from the office
2 of cannabis management. The commissioner may refuse to issue a certifi-
3 cate of registration to any applicant where such applicant: (1) has a
4 past-due liability as that term is defined in section one hundred seven-
5 ty-one-v of this chapter; (2) has had a certificate of registration
6 under this article, a license from the office of cannabis management, or
7 any license or registration provided for in this chapter revoked within
8 one year from the date on which such application was filed; (3) has been
9 convicted of a crime provided for in this chapter within one year from
10 the date on which such application was filed of the certificate's issu-
11 ance; (4) willfully fails to file a report or return required by this
12 article; (5) willfully files, causes to be filed, gives or causes to be
13 given a report, return, certificate or affidavit required by this arti-
14 cle which is false; or (6) willfully fails to collect or truthfully
15 account for or pay over any tax imposed by this article.

16 (c) A certificate of registration shall be valid for the period speci-
17 fied thereon, unless earlier suspended or revoked. Upon the expiration
18 of the term stated on a certificate of registration, such certificate
19 shall be null and void.

20 (d) Every holder of a certificate of registration must notify the
21 commissioner of changes to any of the information stated on the certifi-
22 cate, or of changes to any information contained in the application for
23 the certificate of registration. Such notification must be made on or
24 before the last day of the month in which a change occurs and must be
25 made electronically on a form prescribed by the commissioner.

26 (e) Every holder of a certificate of registration under this article
27 shall be required to reapply prior to such certificate's expiration,
28 during a reapplication period established by the commissioner. Such
29 reapplication period shall not occur more frequently than every two
30 years. Such reapplication shall be subject to the same requirements and
31 conditions, including grounds for refusal, as an initial application,
32 including the payment of the application fee.

33 (f) Penalties. A person to whom adult-use cannabis products have been
34 transferred or who sells adult-use cannabis products without a valid
35 certificate of registration pursuant to subdivision (a) of this section
36 shall be subject to a penalty of five hundred dollars for each month or
37 part thereof during which such person continues to possess adult-use
38 cannabis products that have been transferred to such person or who sells
39 such products after the expiration of the first month after which such
40 person operates without a valid certificate of registration, not to
41 exceed ten thousand dollars in the aggregate.

42 § 495. Returns and payment of tax. (a) 1. Every wholesaler shall, on
43 or before the twentieth day of the month, file with the commissioner a
44 return on forms to be prescribed by the commissioner, showing the total
45 weight of cannabis flower and cannabis trim subject to tax pursuant to
46 subdivision (a) of section four hundred ninety-three of this article and
47 the total amount of tax due thereon in the preceding calendar month, and
48 the total amount of tax due under subdivisions (b) and (c) of such
49 section on its sales to a retail dispensary during the preceding calen-
50 dar month, along with such other information as the commissioner may
51 require. Every person required to file a return under this section
52 shall, at the time of filing such return, pay to the commissioner the
53 total amount of tax due for the period covered by such return. If a
54 return is not filed when due, the tax shall be due on the day on which
55 the return is required to be filed.

1 2. The wholesaler shall maintain such records in such form as the
2 commissioner may require regarding such items as: where the wholesaler
3 is not the cultivator, the weight of the cannabis flower and cannabis
4 trim transferred to it by a cultivator or, where the wholesaler is the
5 cultivator, the weight of such flower and trim produced by it; the
6 geographic location of every retail dispensary to which it sold adult-
7 use cannabis products; and any other record or information required by
8 the commissioner. This information must be kept by such person for a
9 period of three years after the return was filed.

10 (b) The provisions of article twenty-seven of this chapter shall apply
11 to the tax imposed by this article in the same manner and with the same
12 force and effect as if the language of such article had been incorpo-
13 rated in full into this section and had expressly referred to the tax
14 imposed by this article, except to the extent that any provision of such
15 article is either inconsistent with a provision of this article or is
16 not relevant to this article.

17 (c) 1. All taxes, interest, and penalties collected or received by the
18 commissioner under this article shall be deposited and disposed of
19 pursuant to the provisions of section one hundred seventy-one-a of this
20 chapter, provided that an amount equal to one hundred percent collected
21 under this article less any amount determined by the commissioner to be
22 reserved by the comptroller for refunds or reimbursements shall be paid
23 by the comptroller to the credit of the cannabis revenue fund estab-
24 lished by section ninety-nine-hh of the state finance law. Of the total
25 revenue collected or received under this article, the comptroller shall
26 retain such amount as the commissioner may determine to be necessary for
27 refunds. The commissioner is authorized and directed to deduct from the
28 registration fees under subdivision (a) of section four hundred ninety-
29 four of this article, before deposit into the cannabis revenue fund
30 designated by the comptroller, a reasonable amount necessary to effectuate
31 refunds of appropriations of the department to reimburse the depart-
32 ment for the costs incurred to administer, collect, and distribute the
33 taxes imposed by this article.

34 2. Notwithstanding the foregoing, the commissioner shall certify to
35 the comptroller the total amount of tax, penalty and interest received
36 by him or her on account of the tax imposed by subdivision (c) of
37 section four hundred ninety-three of this article in trust for and on
38 account of each county in which a retail dispensary is located. On or
39 before the twelfth day of each month, the comptroller, after reserving
40 such refund fund, shall pay to the appropriate fiscal officer of each
41 such county the taxes, penalties and interest received and certified by
42 the commissioner for the preceding calendar month.

43 § 496. Returns to be kept secret. (a) Except in accordance with proper
44 judicial order or as in this section or otherwise provided by law, it
45 shall be unlawful for the commissioner, any officer or employee of the
46 department, or any officer or person who, pursuant to this section, is
47 permitted to inspect any return or report or to whom a copy, an abstract
48 or a portion of any return or report is furnished, or to whom any infor-
49 mation contained in any return or report is furnished, or any person who
50 in any manner may acquire knowledge of the contents of a return or
51 report filed pursuant to this article to divulge or make known in any
52 manner the content or any other information related to the business of
53 the wholesaler contained in any return or report required under this
54 article. The officers charged with the custody of such returns or
55 reports shall not be required to produce any of them or evidence of
56 anything contained in them in any action or proceeding in any court,

1 except on behalf of the state, the office of cannabis management, or the
2 commissioner in an action or proceeding involving the collection of tax
3 due under this chapter to which the state or the commissioner is a party
4 or a claimant or on behalf of any party to any action or proceeding
5 under the provisions of this article, when the returns or the reports or
6 the facts shown thereby are directly involved in such action or proceed-
7 ing, or in an action or proceeding related to the regulation or taxation
8 of adult-use cannabis products on behalf of officers to whom information
9 shall have been supplied as provided in this section, in any of which
10 events the courts may require the production of, and may admit in
11 evidence so much of said returns or reports or of the facts shown there-
12 by as are pertinent to the action or proceeding and no more. Nothing
13 herein shall be construed to prohibit the commissioner, in his or her
14 discretion, from allowing the inspection or delivery of a certified copy
15 of any return or report filed under this article or of any information
16 contained in any such return or report by or to a duly authorized offi-
17 cer or employee of the office of cannabis management or by or to the
18 attorney general or other legal representatives of the state when an
19 action shall have been recommended or commenced pursuant to this chapter
20 in which such returns or reports or the facts shown thereby are directly
21 involved; or the inspection of the returns or reports required under
22 this article by the comptroller or duly designated officer or employee
23 of the state department of audit and control, for purposes of the audit
24 of a refund of any tax paid by the wholesaler under this article; nor to
25 prohibit the delivery to such person or a duly authorized representative
26 of such person, a certified copy of any return or report filed by such
27 person pursuant to this article, nor to prohibit the publication of
28 statistics so classified as to prevent the identification of particular
29 returns or reports and the items thereof. This section shall also not be
30 construed to prohibit the disclosure, for tax administration purposes,
31 to the division of the budget and the office of the state comptroller,
32 of information aggregated from the returns filed by all wholesalers
33 purchasing and selling such products in the state, whether the number of
34 such persons is one or more. Provided further that, notwithstanding the
35 provisions of this subdivision, the commissioner may in his or her
36 discretion, permit the proper officer of any county entitled to receive
37 any distribution of the monies received on account of the tax imposed by
38 subdivision (c) of section four hundred ninety-three of this article, or
39 the authorized representative of such officer, to inspect any return
40 filed under this article, or may furnish to such officer or the offi-
41 cer's authorized representative an abstract of any such return or supply
42 such officer or representative with information concerning an item
43 contained in any such return, or disclosed by any investigation of tax
44 liability under this article.

45 (b) The commissioner, in his or her discretion, may permit the appro-
46 priate officers of any other state that regulates or taxes cannabis or
47 the duly authorized representatives of such commissioner or of any such
48 officers, to inspect returns or reports made pursuant to this article,
49 or may furnish to the commissioner or other officer, or duly authorized
50 representatives, a copy of any such return or report or an abstract of
51 the information therein contained, or any portion thereof, or may supply
52 such commissioner or any such officers or such representatives with
53 information relating to the business of a wholesaler making returns or
54 reports hereunder solely for purposes of tax administration. The commis-
55 sioner may refuse to supply information pursuant to this subdivision to
56 the officers of any other state if the statutes of the state represented

1 by such officers do not grant substantially similar privileges to the
2 commissioner, but such refusal shall not be mandatory. Information shall
3 not be supplied to the appropriate officers of any state that regulates
4 or taxes cannabis, or the duly authorized representatives of such
5 commissioner or of any such officers, unless such commissioner, officer,
6 or other representatives shall agree not to divulge or make known in any
7 manner the information so supplied, but such officers may transmit such
8 information to their employees or legal representatives when necessary,
9 who in turn shall be subject to the same restrictions as those hereby
10 imposed upon such commissioner, officer or other representatives.

11 (c) 1. Any officer or employee of the state who willfully violates the
12 provisions of subdivision (a) or (b) of this section shall be dismissed
13 from office and be incapable of holding any public office in the state
14 for a period of five years thereafter.

15 2. For criminal penalties, see article thirty-seven of this chapter.

16 § 40. Subdivision (a) of section 1115 of the tax law is amended by
17 adding a new paragraph 3-b to read as follows:

18 (3-b) Adult-use cannabis products as defined by article twenty-C of
19 this chapter.

20 § 41. Section 12 of chapter 90 of the laws of 2014 amending the public
21 health law, the tax law, the state finance law, the general business
22 law, the penal law and the criminal procedure law relating to medical
23 use of marihuana, is amended to read as follows:

24 § 12. This act shall take effect immediately ~~and~~; provided, however
25 that sections one, three, five, six, seven-a, eight, nine, ten and elev-
26 en of this act shall expire and be deemed repealed seven years after
27 such date; provided that the amendments to section 171-a of the tax law
28 made by section seven of this act shall take effect on the same date and
29 in the same manner as section 54 of part A of chapter 59 of the laws of
30 2014 takes effect and shall not expire and be deemed repealed; and
31 provided, further, that the amendments to subdivision 5 of section
32 410.91 of the criminal procedure law made by section eleven of this act
33 shall not affect the expiration and repeal of such section and shall
34 expire and be deemed repealed therewith.

35 § 42. The office of cannabis management, in consultation with the
36 division of the budget, the department of taxation and finance, the
37 department of health, office of alcoholism and substance abuse services,
38 office of mental health, New York state police and the division of crim-
39 inal justice services, shall conduct a study of the effectiveness of
40 this act. Such study shall examine all aspects of this act, including
41 economic and fiscal impacts, the impact on the public health and safety
42 of New York residents and the progress made in achieving social justice
43 goals and toward eliminating the illegal market for cannabis products in
44 New York. The office shall make recommendations regarding the appropri-
45 ate level of taxation of adult-use cannabis, as well as changes, if any,
46 necessary to improve and protect the public health and safety of New
47 Yorkers. Such study shall be conducted two years after the effective
48 date of this act and shall be presented to the governor, the majority
49 leader of the senate and the speaker of the assembly, no later than
50 October 1, 2022.

51 § 43. Section 102 of the alcoholic beverage control law is amended by
52 adding a new subdivision 8 to read as follows:

53 8. No alcoholic beverage retail licensee shall sell cannabis, nor have
54 or possess a license or permit to sell cannabis, on the same premises
55 where alcoholic beverages are sold.

1 § 44. Subdivisions 1, 4, 5, 6, 7 and 13 of section 12-102 of the
2 general obligations law, as added by chapter 406 of the laws of 2000,
3 are amended to read as follows:

4 1. "Illegal drug" means any controlled substance [~~or marijuana~~] the
5 possession of which is an offense under the public health law or the
6 penal law.

7 4. "Grade one violation" means possession of one-quarter ounce or
8 more, but less than four ounces, or distribution of less than one ounce
9 of an illegal drug [~~other than marijuana, or possession of one pound or
10 twenty-five plants or more, but less than four pounds or fifty plants,
11 or distribution of less than one pound of marijuana~~].

12 5. "Grade two violation" means possession of four ounces or more, but
13 less than eight ounces, or distribution of one ounce or more, but less
14 than two ounces, of an illegal drug [~~other than marijuana, or possession
15 of four pounds or more or fifty plants or distribution of more than one
16 pound but less than ten pounds of marijuana~~].

17 6. "Grade three violation" means possession of eight ounces or more,
18 but less than sixteen ounces, or distribution of two ounces or more, but
19 less than four ounces, of a specified illegal drug [~~or possession of
20 eight pounds or more or seventy-five plants or more, but less than
21 sixteen pounds or one hundred plants, or distribution of more than five
22 pounds but less than ten pounds of marijuana~~].

23 7. "Grade four violation" means possession of sixteen ounces or more
24 or distribution of four ounces or more of a specified illegal drug [~~or
25 possession of sixteen pounds or more or one hundred plants or more or
26 distribution of ten pounds or more of marijuana~~].

27 13. "Drug trafficker" means a person convicted of a class A or class B
28 felony controlled substance [~~or marijuana offense~~] who, in connection
29 with the criminal conduct for which he or she stands convicted,
30 possessed, distributed, sold or conspired to sell a controlled substance
31 [~~or marijuana~~] which, by virtue of its quantity, the person's prominent
32 role in the enterprise responsible for the sale or distribution of such
33 controlled substance and other circumstances related to such criminal
34 conduct indicate that such person's criminal possession, sale or
35 conspiracy to sell such substance was not an isolated occurrence and was
36 part of an ongoing pattern of criminal activity from which such person
37 derived substantial income or resources and in which such person played
38 a leadership role.

39 § 45. Paragraph (g) of subdivision 1 of section 488 of the social
40 services law, as added by section 1 of part B of chapter 501 of the laws
41 of 2012, is amended to read as follows:

42 (g) "Unlawful use or administration of a controlled substance," which
43 shall mean any administration by a custodian to a service recipient of:
44 a controlled substance as defined by article thirty-three of the public
45 health law, without a prescription; or other medication not approved for
46 any use by the federal food and drug administration, except for the
47 administration of medical cannabis when such administration is in
48 accordance with article three of the cannabis law and any regulations
49 promulgated thereunder as well as the rules, regulations, policies, or
50 procedures of the state oversight agency or agencies governing such
51 custodians. It also shall include a custodian unlawfully using or
52 distributing a controlled substance as defined by article thirty-three
53 of the public health law, at the workplace or while on duty.

54 § 46. Paragraphs (e) and (f) of subdivision 1 of section 490 of the
55 social services law, as added by section 1 of part B of chapter 501 of

1 the laws of 2012, are amended and a new paragraph (g) is added to read
2 as follows:

3 (e) information regarding individual reportable incidents, incident
4 patterns and trends, and patterns and trends in the reporting and
5 response to reportable incidents is shared, consistent with applicable
6 law, with the justice center, in the form and manner required by the
7 justice center and, for facilities or provider agencies that are not
8 state operated, with the applicable state oversight agency which shall
9 provide such information to the justice center; ~~and~~

10 (f) incident review committees are established; provided, however,
11 that the regulations may authorize an exemption from this requirement,
12 when appropriate, based on the size of the facility or provider agency
13 or other relevant factors. Such committees shall be composed of members
14 of the governing body of the facility or provider agency and other
15 persons identified by the director of the facility or provider agency,
16 including some members of the following: direct support staff, licensed
17 health care practitioners, service recipients and representatives of
18 family, consumer and other advocacy organizations, but not the director
19 of the facility or provider agency. Such committee shall meet regularly
20 to: (i) review the timeliness, thoroughness and appropriateness of the
21 facility or provider agency's responses to reportable incidents; (ii)
22 recommend additional opportunities for improvement to the director of
23 the facility or provider agency, if appropriate; (iii) review incident
24 trends and patterns concerning reportable incidents; and (iv) make
25 recommendations to the director of the facility or provider agency to
26 assist in reducing reportable incidents. Members of the committee shall
27 be trained in confidentiality laws and regulations, and shall comply
28 with section seventy-four of the public officers law~~[-]; and~~

29 (g) safe storage, administration, and diversion prevention policies
30 regarding controlled substances and medical cannabis.

31 § 47. Subdivision 1 of section 505 of the agriculture and markets law,
32 as added by chapter 524 of the laws of 2014, is amended to read as
33 follows:

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

39 § 48. Section 506 of the agriculture and markets law, as amended by
40 section 1 of part 00 of chapter 58 of the laws of 2017, is amended to
41 read as follows:

42 § 506. Growth, sale, distribution, transportation and processing of
43 industrial hemp and products derived from such hemp permitted. [~~Notwith-~~
44 ~~standing any provision of law to the contrary, industrial~~] 1. Industrial
45 hemp and products derived from such hemp are agricultural products which
46 may be grown, produced [~~and~~], possessed [~~in the state, and~~], sold,
47 distributed, transported [~~or~~] and/or processed [~~either~~] in [~~or out of~~]
48 state [~~as part of agricultural pilot programs pursuant to authorization~~
49 ~~under federal law and the provisions of this article~~] pursuant to
50 authorization under federal law, the provisions of this article and/or
51 the cannabis law. [~~Notwithstanding any provision of law to the contrary~~
52 ~~restricting the growing or cultivating, sale, distribution, transporta-~~
53 ~~tion or processing of industrial hemp and products derived from such~~
54 ~~hemp, and subject to authorization under federal law, the~~]

55 2. The commissioner may authorize the growing or cultivating of indus-
56 trial hemp as part of agricultural pilot programs conducted by the

1 department and/or an institution of higher education to study the growth
2 and cultivation, sale, distribution, transportation and processing of
3 such hemp and products derived from such hemp provided that the sites
4 and programs used for growing or cultivating industrial hemp are certi-
5 fied by, and registered with, the department.

6 3. In addition to the department's licensing authority hereinafter
7 provided in this article, the office of cannabis management shall
8 license and regulate the growth, extraction, processing and/or manufac-
9 turing of hemp for derivatives, extracts, cannabinoids, isomers, acids,
10 salts and salts or isomers and/or hemp products for human or animal
11 consumption or use (except for those food and/or food ingredients that
12 are generally recognized as safe).

13 4. Nothing in this section shall limit the jurisdiction of the depart-
14 ment under any other article of this chapter.

15 § 49. Section 507 of the agriculture and markets law is REPEALED and a
16 new section 507 is added to read as follows:

17 § 507. Licensing; fees. 1. No person shall: (a) grow industrial hemp
18 in the state and/or sell or distribute industrial hemp grown in the
19 state unless licensed biennially by the commissioner or (b) grow, proc-
20 ess and/or produce industrial hemp and products derived from hemp in the
21 state or sell or distribute unless authorized by the commissioner as
22 part of an agricultural research pilot program established under this
23 article.

24 2. Application for a license to grow industrial hemp shall be made
25 upon a form prescribed by the commissioner, accompanied by a non-refund-
26 able application fee of five hundred dollars.

27 3. The applicant shall furnish evidence of his or her good character,
28 experience and competency, that the applicant has adequate facilities,
29 equipment, process controls, testing capability and security to grow
30 hemp.

31 4. Growers who intend to cultivate hemp for cannabinoids shall also be
32 required to obtain a license from the office of cannabis management.

33 5. A renewal application shall be submitted to the commissioner at
34 least thirty days prior to the commencement of the next license period.

35 § 50. Section 508 of the agriculture and markets law is REPEALED and a
36 new section 508 is added to read as follows:

37 § 508. Compliance action plan. If the commissioner determines, after
38 notice and an opportunity for hearing, that a licensee has negligently
39 violated a provision of this article, that licensee shall be required to
40 comply with a corrective action plan established by the commissioner to
41 correct the violation by a reasonable date and to periodically report to
42 the commissioner with respect to the licensee's compliance with this
43 article for a period of no less than the next two calendar years follow-
44 ing the commencement date of the compliance action plan. The provisions
45 of this section shall not be applicable to research partners conducting
46 hemp research pursuant to a research partner agreement, the terms of
47 which shall control.

48 § 51. Section 509 of the agriculture and markets law is REPEALED and a
49 new section 509 is added to read as follows:

50 § 509. Granting, suspending or revoking licenses. The commissioner
51 may decline to grant a new license, may decline to renew a license, may
52 suspend or revoke a license already granted after due notice and oppor-
53 tunity for hearing whenever he or she finds that:

54 (1) any statement contained in an application for an applicant or
55 licensee is or was false or misleading;

1 (2) the applicant or licensee does not have good character, the
2 required experience and/or competency, adequate facilities, equipment,
3 process controls, testing capability and/or security to produce hemp or
4 products derived from hemp;

5 (3) the applicant or licensee has failed or refused to produce any
6 records or provide any information demanded by the commissioner reason-
7 ably related to the administration and enforcement of this article; or

8 (4) the applicant or licensee, or any officer, director, partner,
9 holder of ten percent of the voting stock, or any other person exercis-
10 ing any position of management or control has failed to comply with any
11 of the provisions of this article or rules and regulations promulgated
12 pursuant thereto.

13 § 52. Section 510 of the agriculture and markets law is REPEALED and a
14 new section 510 is added to read as follows:

15 § 510. Regulations. The commissioner may develop regulations consist-
16 ent with the provisions of this article for the growing and cultivation,
17 sale, distribution, and transportation of industrial hemp grown in the
18 state, including:

19 (a) the authorization or licensing of any person who may: acquire or
20 possess hemp plants or seeds; grow or cultivate hemp plants; and/or
21 sell, purchase, distribute, or transport such plants, plant parts, or
22 seeds;

23 (b) maintaining relevant information regarding land on which indus-
24 trial hemp is produced within the state, including the legal description
25 of the land, for a period of not less than three calendar years;

26 (c) the procedure for testing of industrial hemp produced in the state
27 for delta-9 tetrahydrocannabinol levels, using post decarboxylation or
28 other similarly reliable methods;

29 (d) the procedure for effective disposal of industrial hemp plants or
30 products derived from hemp that are produced in violation of this arti-
31 cle;

32 (e) a procedure for conducting at least a random sample of industrial
33 hemp producers to verify that hemp is not produced in violation of this
34 article;

35 (f) any required security measures; and

36 (g) such other and further regulation as the commissioner deems appro-
37 priate or necessary.

38 § 53. Section 511 of the agriculture and markets law is REPEALED and a
39 new section 511 is added to read as follows:

40 § 511. Prohibitions. Except as authorized by state law, and regu-
41 lations promulgated thereunder, the growth, cultivation, processing,
42 sale, and/or distribution of industrial hemp is prohibited.

43 § 54. Section 512 of the agriculture and markets law is REPEALED and a
44 new section 512 is added to read as follows:

45 § 512. Industrial hemp data collection and best farming practices.
46 The commissioner shall have the power to collect and publish data and
47 research concerning, among other things, the growth, cultivation,
48 production and processing methods of industrial hemp and products
49 derived from industrial hemp and work with the cornell cooperative
50 extension to promote best farming practices for industrial hemp which
51 are compatible with state water quality and other environmental objec-
52 tives.

53 § 55. Sections 513 and 514 of the agriculture and markets law are
54 REPEALED and a new section 513 is added to read as follows:

55 § 513. Access to criminal history information through the division of
56 criminal justice services. In connection with the administration of

1 this article, the commissioner is authorized to request, receive and
 2 review criminal history information through the division of criminal
 3 justice services (division) with respect to any person seeking a license
 4 or authorization to undertake a hemp pilot project. At the commission-
 5 er's request, each researcher, principal and/or officer of the applicant
 6 shall submit to the department his or her fingerprints in such form and
 7 in such manner as specified by the division, for the purpose of conduct-
 8 ing a criminal history search and returning a report thereon in accord-
 9 ance with the procedures and requirements established by the division
 10 pursuant to the provisions of article thirty-five of the executive law,
 11 which shall include the payment of the prescribed processing fees for
 12 the cost of the division's full search and retain procedures and a
 13 national criminal history record check. The commissioner, or his or her
 14 designee, shall submit such fingerprints and the processing fee to the
 15 division. The division shall forward to the commissioner a report with
 16 respect to the applicant's previous criminal history, if any, or a
 17 statement that the applicant has no previous criminal history according
 18 to its files. Fingerprints submitted to the division of criminal justice
 19 services pursuant to this subdivision may also be submitted to the
 20 federal bureau of investigation for a national criminal history record
 21 check. If additional copies of fingerprints are required, the applicant
 22 shall furnish them upon request.

23 § 56. Sections 179.00, 179.05, 179.10, 179.11 and 179.15 of the penal
 24 law, as added by chapter 90 of the laws of 2014, are amended to read as
 25 follows:

26 § 179.00 Criminal diversion of medical [~~marihuana~~] cannabis; defi-
 27 nitions.

28 The following definitions are applicable to this article:

29 1. "Medical [~~marihuana~~] cannabis" means medical [~~marihuana~~] cannabis
 30 as defined in [~~subdivision eight of section thirty three hundred sixty~~
 31 ~~of the public health law~~] section three of the cannabis law.

32 2. "Certification" means a certification, made under section [~~thirty-~~
 33 ~~three hundred sixty one of the public health law~~] thirty of the cannabis
 34 law.

35 § 179.05 Criminal diversion of medical [~~marihuana~~] cannabis; limita-
 36 tions.

37 The provisions of this article shall not apply to:

38 1. a practitioner authorized to issue a certification who acted in
 39 good faith in the lawful course of his or her profession; or

40 2. a registered organization as that term is defined in [~~subdivision~~
 41 ~~nine of section thirty three hundred sixty of the public health law~~]
 42 section thirty-four of the cannabis law who acted in good faith in the
 43 lawful course of the practice of pharmacy; or

44 3. a person who acted in good faith seeking treatment for a medical
 45 condition or assisting another person to obtain treatment for a medical
 46 condition.

47 § 179.10 Criminal diversion of medical [~~marihuana~~] cannabis in the first
 48 degree.

49 A person is guilty of criminal diversion of medical [~~marihuana~~] canna-
 50 bis in the first degree when he or she is a practitioner, as that term
 51 is defined in [~~subdivision twelve of section thirty three hundred sixty~~
 52 ~~of the public health law~~] section three of the cannabis law, who issues
 53 a certification with knowledge of reasonable grounds to know that (i)
 54 the recipient has no medical need for it, or (ii) it is for a purpose
 55 other than to treat a serious condition as defined in [~~subdivision seven~~

1 ~~of section thirty three hundred sixty of the public health law~~ section
2 three of the cannabis law.

3 Criminal diversion of medical [~~marihuana~~] cannabis in the first degree
4 is a class E felony.

5 § 179.11 Criminal diversion of medical [~~marihuana~~] cannabis in the
6 second degree.

7 A person is guilty of criminal diversion of medical [~~marihuana~~] canna-
8 bis in the second degree when he or she sells, trades, delivers, or
9 otherwise provides medical [~~marihuana~~] cannabis to another with know-
10 ledge or reasonable grounds to know that the recipient is not registered
11 under [~~title five A of article thirty three of the public health law~~]
12 article three of the cannabis law.

13 Criminal diversion of medical [~~marihuana~~] cannabis in the second
14 degree is a class B misdemeanor.

15 § 179.15 Criminal retention of medical [~~marihuana~~] cannabis.

16 A person is guilty of criminal retention of medical [~~marihuana~~] canna-
17 bis when, being a certified patient or designated caregiver, as those
18 terms are defined in [~~subdivisions three and five of section thirty-~~
19 ~~three hundred sixty of the public health law, respectively~~] section
20 three of the cannabis law, he or she knowingly obtains, possesses,
21 stores or maintains an amount of [~~marihuana~~] cannabis in excess of the
22 amount he or she is authorized to possess under the provisions of [~~title~~
23 ~~five-A of article thirty-three of the public health law~~] article three
24 of the cannabis law.

25 Criminal retention of medical [~~marihuana~~] cannabis is a class A misde-
26 meanor.

27 § 57. Section 220.78 of the penal law, as added by chapter 154 of the
28 laws of 2011, is amended to read as follows:

29 § 220.78 Witness or victim of drug or alcohol overdose.

30 1. A person who, in good faith, seeks health care for someone who is
31 experiencing a drug or alcohol overdose or other life threatening
32 medical emergency shall not be charged or prosecuted for a controlled
33 substance offense under this article [~~two hundred twenty~~] or a [~~marihua-~~
34 ~~na~~] cannabis offense under article two hundred [~~twenty-one~~] twenty-two
35 of this title, other than an offense involving sale for consideration or
36 other benefit or gain, or charged or prosecuted for possession of alco-
37 hol by a person under age twenty-one years under section sixty-five-c of
38 the alcoholic beverage control law, or for possession of drug parapher-
39 nalia under article thirty-nine of the general business law, with
40 respect to any controlled substance, [~~marihuana~~] cannabis, alcohol or
41 paraphernalia that was obtained as a result of such seeking or receiving
42 of health care.

43 2. A person who is experiencing a drug or alcohol overdose or other
44 life threatening medical emergency and, in good faith, seeks health care
45 for himself or herself or is the subject of such a good faith request
46 for health care, shall not be charged or prosecuted for a controlled
47 substance offense under this article or a [~~marihuana~~] cannabis offense
48 under article two hundred [~~twenty-one~~] twenty-two of this title, other
49 than an offense involving sale for consideration or other benefit or
50 gain, or charged or prosecuted for possession of alcohol by a person
51 under age twenty-one years under section sixty-five-c of the alcoholic
52 beverage control law, or for possession of drug paraphernalia under
53 article thirty-nine of the general business law, with respect to any
54 substance, [~~marihuana~~] cannabis, alcohol or paraphernalia that was
55 obtained as a result of such seeking or receiving of health care.

1 3. Definitions. As used in this section the following terms shall have
2 the following meanings:

3 (a) "Drug or alcohol overdose" or "overdose" means an acute condition
4 including, but not limited to, physical illness, coma, mania, hysteria
5 or death, which is the result of consumption or use of a controlled
6 substance or alcohol and relates to an adverse reaction to or the quan-
7 tity of the controlled substance or alcohol or a substance with which
8 the controlled substance or alcohol was combined; provided that a
9 patient's condition shall be deemed to be a drug or alcohol overdose if
10 a prudent layperson, possessing an average knowledge of medicine and
11 health, could reasonably believe that the condition is in fact a drug or
12 alcohol overdose and (except as to death) requires health care.

13 (b) "Health care" means the professional services provided to a person
14 experiencing a drug or alcohol overdose by a health care professional
15 licensed, registered or certified under title eight of the education law
16 or article thirty of the public health law who, acting within his or her
17 lawful scope of practice, may provide diagnosis, treatment or emergency
18 services for a person experiencing a drug or alcohol overdose.

19 4. It shall be an affirmative defense to a criminal sale controlled
20 substance offense under this article or a criminal sale of [~~marihuana~~]
21 ~~cannabis~~ offense under article two hundred [~~twenty-one~~] ~~twenty-two~~
22 of this title, not covered by subdivision one or two of this section, with
23 respect to any controlled substance or [~~marihuana~~] ~~cannabis~~ which was
24 obtained as a result of such seeking or receiving of health care, that:

25 (a) the defendant, in good faith, seeks health care for someone or for
26 him or herself who is experiencing a drug or alcohol overdose or other
27 life threatening medical emergency; and

28 (b) the defendant has no prior conviction for the commission or
29 attempted commission of a class A-I, A-II or B felony under this arti-
30 cle.

31 5. Nothing in this section shall be construed to bar the admissibility
32 of any evidence in connection with the investigation and prosecution of
33 a crime with regard to another defendant who does not independently
34 qualify for the bar to prosecution or for the affirmative defense; nor
35 with regard to other crimes committed by a person who otherwise quali-
36 fies under this section; nor shall anything in this section be construed
37 to bar any seizure pursuant to law, including but not limited to pursu-
38 ant to section thirty-three hundred eighty-seven of the public health
39 law.

40 6. The bar to prosecution described in subdivisions one and two of
41 this section shall not apply to the prosecution of a class A-I felony
42 under this article, and the affirmative defense described in subdivision
43 four of this section shall not apply to the prosecution of a class A-I
44 or A-II felony under this article.

45 § 58. Subdivision 1 of section 260.20 of the penal law, as amended by
46 chapter 362 of the laws of 1992, is amended as follows:

47 1. He knowingly permits a child less than eighteen years old to enter
48 or remain in or upon a place, premises or establishment where sexual
49 activity as defined by article one hundred thirty, two hundred thirty or
50 two hundred sixty-three of this [~~chapter~~] ~~part~~ or activity involving
51 controlled substances as defined by article two hundred twenty of this
52 [~~chapter or involving marihuana as defined by article two hundred twen-~~
53 ~~ty-one of this chapter~~] ~~part~~ is maintained or conducted, and he knows or
54 has reason to know that such activity is being maintained or conducted;
55 or

1 § 59. Section 89-h of the state finance law, as added by chapter 90 of
2 the laws of 2014, is amended to read as follows:

3 § 89-h. Medical [~~marihuana~~] cannabis trust fund. 1. There is hereby
4 established in the joint custody of the state comptroller and the
5 commissioner of taxation and finance a special fund to be known as the
6 "medical [~~marihuana~~] cannabis trust fund."

7 2. The medical [~~marihuana~~] cannabis trust fund shall consist of all
8 moneys required to be deposited in the medical [~~marihuana~~] cannabis
9 trust fund pursuant to the provisions of section four hundred ninety of
10 the tax law.

11 3. The moneys in the medical [~~marihuana~~] cannabis trust fund shall be
12 kept separate and shall not be commingled with any other moneys in the
13 custody of the commissioner of taxation and finance and the state comp-
14 troller.

15 4. The moneys of the medical [~~marihuana~~] cannabis trust fund, follow-
16 ing appropriation by the legislature, shall be allocated upon a certifi-
17 cate of approval of availability by the director of the budget as
18 follows: (a) Twenty-two and five-tenths percent of the monies shall be
19 transferred to the counties in New York state in which the medical
20 [~~marihuana~~] cannabis was manufactured and allocated in proportion to the
21 gross sales originating from medical [~~marihuana~~] cannabis manufactured
22 in each such county; (b) twenty-two and five-tenths percent of the
23 moneys shall be transferred to the counties in New York state in which
24 the medical [~~marihuana~~] cannabis was dispensed and allocated in propor-
25 tion to the gross sales occurring in each such county; (c) five percent
26 of the monies shall be transferred to the office of alcoholism and
27 substance abuse services, which shall use that revenue for additional
28 drug abuse prevention, counseling and treatment services; and (d) five
29 percent of the revenue received by the department shall be transferred
30 to the division of criminal justice services, which shall use that
31 revenue for a program of discretionary grants to state and local law
32 enforcement agencies that demonstrate a need relating to [~~title five-A~~
33 ~~of article thirty-three of the public health law~~] article three of the
34 cannabis law; said grants could be used for personnel costs of state and
35 local law enforcement agencies. For purposes of this subdivision, the
36 city of New York shall be deemed to be a county.

37 § 60. The state finance law is amended by adding three new sections
38 99-hh, 99-ii and 99-jj to read as follows:

39 § 99-hh. New York state cannabis revenue fund. 1. There is hereby
40 established in the joint custody of the state comptroller and the
41 commissioner of taxation and finance a special fund to be known as the
42 "New York state cannabis revenue fund".

43 2. Such fund shall consist of all revenues received by the department
44 of taxation and finance, pursuant to the provisions of article eigh-
45 teen-A of the tax law and all other moneys appropriated thereto from any
46 other fund or source pursuant to law. Nothing contained in this section
47 shall prevent the state from receiving grants, gifts or bequests for the
48 purposes of the fund as defined in this section and depositing them into
49 the fund according to law.

50 3. The moneys in such fund shall be expended for the following
51 purposes:

52 (a) Reasonable costs incurred by the department of taxation and
53 finance for administering and collecting the taxes imposed by this part;
54 provided, however, such costs shall not exceed four percent of tax
55 revenues received.

1 (b) Reasonable costs incurred by the office of cannabis management for
2 implementing, administering, and enforcing the marihuana regulation and
3 taxation act to the extent those costs are not reimbursed pursuant to
4 the cannabis law. This paragraph shall remain operative through the two
5 thousand twenty-four--two thousand twenty-five fiscal year.

6 (c) Beginning with the two thousand twenty-one--two thousand twenty-
7 two fiscal year and continuing through the two thousand thirty--two
8 thousand thirty-one fiscal year, the commissioner of taxation and
9 finance shall annually disburse the following sums for the purposes of
10 data collection and reporting:

11 (i) Seven hundred fifty thousand dollars to the office of cannabis
12 management policy to track and report data related to the licensing of
13 cannabis businesses, including the geographic location, structure, and
14 function of licensed cannabis businesses, and demographic data, includ-
15 ing race, ethnicity, and gender, of license holders. The office of
16 cannabis management shall publish reports on its findings annually and
17 shall make the reports available to the public.

18 (ii) Seven hundred fifty thousand dollars to the department of crimi-
19 nal justice services to track and report data related to any infrac-
20 tions, violations, or criminal convictions that occur under any of the
21 remaining cannabis statutes. The department of criminal justice
22 services shall publish reports on its findings annually and shall make
23 the reports available to the public.

24 (iii) One million dollars to the state university of New York to
25 research and evaluate the implementation and effect of the marihuana
26 regulation and taxation act. No more than four percent of these monies
27 may be used for expenses related to administrative costs of conducting
28 such research, and to, if appropriate, make recommendations to the
29 legislature and governor regarding possible amendments to the marihuana
30 regulation and taxation act. The recipients of these funds shall publish
31 reports on their findings at a minimum of every two years and shall make
32 the reports available to the public. The research funded pursuant to
33 this subdivision shall include but not necessarily be limited to:

34 (A) the impacts on public health, including health costs associated
35 with cannabis use, as well as whether cannabis use is associated with an
36 increase or decrease in use of alcohol or other drugs;

37 (B) the impact of treatment for cannabis use disorder and the effec-
38 tiveness of different treatment programs;

39 (C) public safety issues related to cannabis use, including studying
40 the effectiveness of the packaging and labeling requirements and adver-
41 tising and marketing restrictions contained in the act at preventing
42 underage access to and use of cannabis and cannabis products, and study-
43 ing the health-related effects among users of varying potency levels of
44 cannabis and cannabis products;

45 (D) cannabis use rates, maladaptive use rates for adults and youth,
46 and diagnosis rates of cannabis-related substance use disorders;

47 (E) cannabis market prices, illicit market prices, tax structures and
48 rates, including an evaluation of how to best tax cannabis based on
49 potency, and the structure and function of licensed cannabis businesses;

50 (F) whether additional protections are needed to prevent unlawful
51 monopolies or anti-competitive behavior from occurring in the cannabis
52 industry and, if so, recommendations as to the most effective measures
53 for preventing such behavior;

54 (G) the economic impacts in the private and public sectors, including
55 but not necessarily limited to, job creation, workplace safety, reven-
56 ues, taxes generated for state and local budgets, and criminal justice

1 impacts, including, but not necessarily limited to, impacts on law
2 enforcement and public resources, short and long term consequences of
3 involvement in the criminal justice system, and state and local govern-
4 ment agency administrative costs and revenue;

5 (H) whether the regulatory agencies tasked with implementing and
6 enforcing the marihuana regulation and taxation act are doing so
7 consistent with the purposes of the act, and whether different agencies
8 might do so more effectively; and

9 (I) any environmental issues related to cannabis production and the
10 criminal prohibition of cannabis production.

11 (d) One million dollars annually, for a period of three years, to the
12 state police to expand and enhance the drug recognition expert training
13 program and technologies utilized in the process of maintaining road
14 safety.

15 4. After the dispersal of moneys pursuant to subdivision three of this
16 section, the remaining moneys in the fund deposited during the prior
17 fiscal year shall be disbursed into the state lottery fund and two addi-
18 tional sub-funds created within the cannabis revenue fund known as the
19 drug treatment and public education fund and the community grants rein-
20 vestment fund, as follows:

21 (a) twenty-five percent shall be deposited in the state lottery fund
22 established by section ninety-two-c of this article; provided that such
23 moneys shall be distributed to the department of education in accordance
24 with subdivisions two and four of section ninety-two-c of this article
25 and shall not be utilized for the purposes of subdivision three of such
26 section. Monies allocated by this article may enhance, but shall not
27 supplant, existing dedicated funds to the department of education;

28 (b) twenty-five percent shall be deposited in the drug treatment and
29 public education fund established by section ninety-nine-ii of this
30 article; and

31 (c) fifty percent shall be deposited in the community grants reinvest-
32 ment fund established by section ninety-nine-jj of this article.

33 5. On or before the first day of February each year, the commissioner
34 of taxation and finance shall provide a written report to the temporary
35 president of the senate, speaker of the assembly, chair of the senate
36 finance committee, chair of the assembly ways and means committee, the
37 state comptroller and the public. Such report shall detail how the
38 moneys of the fund were utilized during the preceding calendar year, and
39 shall include:

40 (a) the amount of money dispersed from the fund and the award process
41 used for such disbursements;

42 (b) recipients of awards from the fund;

43 (c) the amount awarded to each recipient of an award from the fund;

44 (d) the purposes for which such awards were granted; and

45 (e) a summary financial plan for such monies which shall include esti-
46 mates of all receipts and all disbursements for the current and succeed-
47 ing fiscal years, along with the actual results from the prior fiscal
48 year.

49 6. Moneys shall be payable directly from the cannabis revenue fund to
50 the department.

51 § 99-ii. New York state drug treatment and public education fund. 1.
52 There is hereby established in the joint custody of the state comp-
53 troller and the commissioner of taxation and finance a special fund to
54 be known as the "New York state drug treatment public education fund".

55 2. Such fund shall consist of revenues received pursuant to the
56 provisions of section ninety-nine-hh of this article and all other

1 moneys appropriated thereto from any other fund or source pursuant to
2 law. Nothing contained in this section shall prevent the state from
3 receiving grants, gifts or bequests for the purposes of the fund as
4 defined in this section and depositing them into the fund according to
5 law.

6 3. The moneys in such fund shall be expended to the commissioner of
7 the office of alcoholism and substance abuse and disbursed in consulta-
8 tion with the commissioner of health for the following purposes:

9 (a) To develop and implement a youth-focused public health education
10 and prevention campaign, including school-based prevention, early inter-
11 vention, and health care services and programs to reduce the risk of
12 cannabis and other substance use by school-aged children;

13 (b) To develop and implement a statewide public health campaign
14 focused on the health effects of cannabis and legal use, including an
15 ongoing education and prevention campaign that educates the general
16 public, including parents, consumers and retailers, on the legal use of
17 cannabis, the importance of preventing youth access, the importance of
18 safe storage and preventing secondhand cannabis smoke exposure, informa-
19 tion for pregnant or breastfeeding women, and the overconsumption of
20 edibles;

21 (c) To provide substance use disorder treatment programs for youth and
22 adults, with an emphasis on programs that are culturally and gender
23 competent, trauma-informed, evidence-based and provide a continuum of
24 care that includes screening and assessment (substance use disorder as
25 well as mental health), early intervention, active treatment, family
26 involvement, case management, overdose prevention, prevention of commu-
27 nicable diseases related to substance use, relapse management for
28 substance use and other co-occurring behavioral health disorders, voca-
29 tional services, literacy services, parenting classes, family therapy
30 and counseling services, medication-assisted treatments, psychiatric
31 medication and psychotherapy; and

32 (d) To evaluate the programs being funded to determine their effec-
33 tiveness.

34 4. On or before the first day of February each year, the commissioner
35 of the office of alcoholism and substance abuse services shall provide a
36 written report to the temporary president of the senate, speaker of the
37 assembly, chair of the senate finance committee, chair of the assembly
38 ways and means committee, chair of the senate committee on alcoholism
39 and drug abuse, chair of the assembly alcoholism and drug abuse commit-
40 tee, the state comptroller and the public. Such report shall detail how
41 the moneys of the fund were utilized during the preceding calendar year,
42 and shall include:

43 (a) the amount of money dispersed from the fund and the award process
44 used for such disbursements;

45 (b) recipients of awards from the fund;

46 (c) the amount awarded to each recipient of an award from the fund;

47 (d) the purposes for which such awards were granted; and

48 (e) a summary financial plan for such monies which shall include esti-
49 mates of all receipts and all disbursements for the current and succeed-
50 ing fiscal years, along with the actual results from the prior fiscal
51 year.

52 5. Moneys shall be payable from the fund on the audit and warrant of
53 the comptroller on vouchers approved and certified by the commissioner
54 of education.

55 § 99-jj. New York state community grants reinvestment fund. 1. There
56 is hereby established in the joint custody of the state comptroller and

1 the commissioner of taxation and finance a special fund to be known as
2 the "New York state community grants reinvestment fund".

3 2. Such fund shall consist of all revenues received pursuant to the
4 provisions of section ninety-nine-hh of this article and all other
5 moneys appropriated thereto from any other fund or source pursuant to
6 law. Nothing contained in this section shall prevent the state from
7 receiving grants, gifts or bequests for the purposes of the fund as
8 defined in this section and depositing them into the fund according to
9 law.

10 3. The fund shall be governed and administered by an executive steer-
11 ing committee of thirteen members established by the office of children
12 and family services and including additional representatives from the
13 labor department, and the health department appointed by the governor
14 and a representative of the education department appointed by the board
15 of regents. In addition, the majority and minority leaders of the senate
16 and assembly shall each appoint one member to the steering committee,
17 the comptroller shall appoint three additional members, and the attorney
18 general shall appoint two additional members from relevant local govern-
19 ment entities and community-based organizations. Every effort should be
20 made to ensure a balanced and diverse committee, which shall have exper-
21 tise in job placement, homelessness and housing, behavioral health and
22 substance use disorder treatment, and effective rehabilitative treatment
23 for adults and juveniles, and shall include representatives of organiza-
24 tions serving communities impacted by past federal and state drug poli-
25 cies.

26 4. The moneys in such fund shall be expended by the executive steering
27 committee to qualified community-based nonprofit organizations for the
28 purpose of reinvesting in communities disproportionately affected by
29 past federal and state drug policies. The grants from this program shall
30 be used to support job placement, job skills services, adult education,
31 mental health treatment, substance use disorder treatment, system navi-
32 gation services, legal services to address barriers to reentry, and
33 linkages to medical care, women's health services and other community-
34 based supportive services.

35 5. On or before the first day of February each year, the commissioner
36 of the office of children and family services shall provide a written
37 report to the temporary president of the senate, speaker of the assem-
38 bly, chair of the senate finance committee, chair of the assembly ways
39 and means committee, chair of the senate committee on children and fami-
40 lies, chair of the assembly children and families committee, chair of
41 the senate committee on labor, chair of the assembly labor committee,
42 chair of the senate committee on health, chair of the assembly health
43 committee, chair of the senate committee on education, chair of the
44 assembly education committee, the state comptroller and the public. Such
45 report shall detail how the monies of the fund were utilized during the
46 preceding calendar year, and shall include:

47 (a) the amount of money dispersed from the fund and the award process
48 used for such disbursements;

49 (b) recipients of awards from the fund;

50 (c) the amount awarded to each recipient of an award from the fund;

51 (d) the purposes for which such awards were granted; and

52 (e) a summary financial plan for such monies which shall include esti-
53 mates of all receipts and all disbursements for the current and succeed-
54 ing fiscal years, along with the actual results from the prior fiscal
55 year.

1 6. Moneys shall be payable from the fund on the audit and warrant of
2 the comptroller on vouchers approved and certified by the commissioner
3 of education.

4 § 61. This act shall take effect immediately; provided, however that
5 if section 3 of part XX of chapter 59 of the laws of 2019 shall not have
6 taken effect on or before such date then section thirty-five of this act
7 shall take effect on the same date and in the same manner as such chap-
8 ter of the laws of 2019 takes effect; provided, further, that sections
9 thirty-nine and forty of this act shall take effect April 1, 2020, and
10 shall apply on and after such date: (a) to the cultivation of cannabis
11 flower and cannabis trim transferred by a cultivator who is not a whole-
12 saler; (b) to the cultivation of cannabis flower and cannabis trim sold
13 or transferred to a retail dispensary by a cultivator who is a whole-
14 saler; and (c) to the sale or transfer of adult use cannabis products to
15 a retail dispensary; provided, further, that the amendments to article
16 179 of the penal law made by section fifty-six of this act shall not
17 affect the repeal of such article and shall be deemed to be repealed
18 therewith; provided, further, that the amendments to section 89-h of the
19 state finance law made by section fifty-nine of this act shall not
20 affect the repeal of such section and shall be deemed repealed there-
21 with; and provided, further, that the amendments to subdivision 1 of
22 section 171-a of the tax law made by section thirty-five of this act
23 shall not affect the expiration of such subdivision and shall expire
24 therewith, when upon such date the provisions of section thirty-six of
25 this act shall take effect.