

STATE OF NEW YORK

7680

2019-2020 Regular Sessions

IN ASSEMBLY

May 15, 2019

Introduced by M. of A. LUPARDO, PEOPLES-STOKES, GOTTFRIED -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to the growth of industrial hemp and the regulation of hemp extract; and to repeal certain provisions of such law relating thereto

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

1 Section 1. Subdivision 1 of section 505 of the agriculture and markets
2 law, as added by chapter 524 of the laws of 2014, is amended to read as
3 follows:

4 1. "Industrial hemp" means the plant *Cannabis sativa* L. and any part
5 of such plant, including the seeds thereof and all derivatives,
6 extracts, cannabinoids, isomers, acids, salts, and salts of isomers,
7 whether growing or not, with a delta-9 tetrahydrocannabinol concen-
8 tration of not more than 0.3 percent on a dry weight basis.

9 § 2. Section 506 of the agriculture and markets law, as amended by
10 section 1 of part 00 of chapter 58 of the laws of 2017, is amended to
11 read as follows:

12 § 506. Growth, sale, distribution, transportation and processing of
13 industrial hemp and products derived from such hemp permitted. [~~Notwith-~~
14 ~~standing any provision of law to the contrary, industrial~~] 1. Industrial
15 hemp and products derived from such hemp are agricultural products which
16 may be grown, produced [and], possessed [in the state, and], sold,
17 distributed, transported [or] and/or processed [either] in [or out of]
18 state [as part of agricultural pilot programs pursuant to authorization
19 under federal law and the provisions of this article] pursuant to
20 authorization under federal law and/or the provisions of this article.
21 [~~Notwithstanding any provision of law to the contrary restricting the~~
22 ~~growing or cultivating, sale, distribution, transportation or processing~~
23 ~~of industrial hemp and products derived from such hemp, and subject to~~
24 ~~authorization under federal law, the]~~

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

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1 2. The commissioner may authorize the growing or cultivating of indus-
2 trial hemp as part of agricultural pilot programs conducted by the
3 department and/or an institution of higher education to study the growth
4 and cultivation, sale, distribution, transportation and processing of
5 such hemp and products derived from such hemp provided that the sites
6 and programs used for growing or cultivating industrial hemp are certi-
7 fied by, and registered with, the department.

8 3. Nothing in this section shall limit the jurisdiction of the depart-
9 ment under any other article of this chapter.

10 § 3. Section 507 of the agriculture and markets law is REPEALED and a
11 new section 507 is added to read as follows:

12 § 507. Licensing; fees. 1. No person shall grow, process, produce,
13 distribute and/or sell industrial hemp or products derived from indus-
14 trial hemp in the state unless (a) licensed biennially by the commis-
15 sioner or (b) authorized by the commissioner as part of an agricultural
16 research pilot program established under this article.

17 2. Application for a license to grow industrial hemp shall be made
18 upon a form prescribed by the commissioner, accompanied by a per-acre
19 license fee and a non-refundable application fee of five hundred
20 dollars.

21 3. The applicant shall furnish evidence of his or her good character,
22 experience and competency, that the applicant has adequate facilities,
23 equipment, process controls, testing capability and security to grow
24 hemp.

25 4. Growers who intend to cultivate hemp for cannabinoids shall be
26 required to obtain licensure from the department pursuant to article
27 twenty-nine-A of this chapter.

28 5. A renewal application shall be submitted to the commissioner at
29 least sixty days prior to the commencement of the next license period.

30 § 4. Section 508 of the agriculture and markets law is REPEALED and a
31 new section 508 is added to read as follows:

32 § 508. Compliance action plan. If the commissioner determines, after
33 notice and an opportunity for hearing, that a licensee has negligently
34 violated a provision of and/or a regulation promulgated pursuant to this
35 article, that licensee shall be required to comply with a corrective
36 action plan established by the commissioner to correct the violation by
37 a reasonable date and to periodically report to the commissioner with
38 respect to the licensee's compliance with this article for a period of
39 no less than the next two calendar years following the commencement date
40 of the compliance action plan. The provisions of this section shall not
41 be applicable to research partners conducting hemp research pursuant to
42 a research partner agreement, the terms of which shall control.

43 § 5. Section 509 of the agriculture and markets law is REPEALED and a
44 new section 509 is added to read as follows:

45 § 509. Granting, suspending or revoking licenses. The commissioner
46 may decline to grant a new license, may decline to renew a license, may
47 suspend or revoke a license already granted after due notice and oppor-
48 tunity for hearing whenever he or she finds that:

49 1. any statement contained in an application for an applicant or
50 licensee is or was false or misleading;

51 2. the applicant or licensee does not have good character, the
52 required experience and/or competency, adequate facilities, equipment,
53 process controls, testing capability and/or security to produce hemp or
54 products derived from hemp;

1 3. the applicant or licensee has failed or refused to produce any
2 records or provide any information demanded by the commissioner reason-
3 ably related to the administration and enforcement of this article; or

4 4. the applicant or licensee, or any officer, director, partner, hold-
5 er of ten percent of the voting stock, or any other person exercising
6 any position of management or control has failed to comply with any of
7 the provisions of this article or rules and regulations promulgated
8 pursuant thereto.

9 § 6. Section 510 of the agriculture and markets law is REPEALED and a
10 new section 510 is added to read as follows:

11 § 510. Regulations. The commissioner may develop regulations consist-
12 ent with the provisions of this article for the growing and cultivation,
13 sale, distribution, and transportation of industrial hemp grown in the
14 state, including:

15 1. the authorization or licensing of any person who may: acquire or
16 possess industrial hemp plants or seeds; grow or cultivate industrial
17 hemp plants; and/or sell, purchase, distribute, or transport such indus-
18 trial hemp plants, plant parts, or seeds;

19 2. maintaining relevant information regarding land on which industrial
20 hemp is produced within the state, including the legal description of
21 the land, for a period of not less than three calendar years;

22 3. the procedure for testing of industrial hemp produced in the state
23 for delta-9-tetrahydrocannabinol levels, using post decarboxylation or
24 other similarly reliable methods;

25 4. the procedure for effective disposal of industrial hemp plants or
26 products derived from hemp that are produced in violation of this arti-
27 cle;

28 5. a procedure for conducting at least a random sample of industrial
29 hemp producers to verify that hemp is not produced in violation of this
30 article;

31 6. any required security measures; and

32 7. such other and further regulation as the commissioner deems appro-
33 priate or necessary.

34 § 7. Section 511 of the agriculture and markets law is REPEALED and a
35 new section 511 is added to read as follows:

36 § 511. Prohibitions. Except as authorized by state law, and regu-
37 lations promulgated thereunder, the growth, cultivation, processing,
38 sale, and/or distribution of industrial hemp is prohibited.

39 § 8. Section 512 of the agriculture and markets law is REPEALED and a
40 new section 512 is added to read as follows:

41 § 512. Industrial hemp data collection and best farming practices.
42 The commissioner shall have the power to collect and publish data and
43 research concerning, among other things, the growth, cultivation,
44 production and processing methods of industrial hemp and products
45 derived from industrial hemp and work with the Cornell cooperative
46 extension to promote best farming practices for industrial hemp which
47 are compatible with state water quality and other environmental objec-
48 tives.

49 § 9. Sections 513 and 514 of the agriculture and markets law are
50 REPEALED and two new sections 513 and 514 are added to read as follows:

51 § 513. Access to criminal history information through the division of
52 criminal justice services. In connection with the administration of
53 this article, the commissioner is authorized to request, receive and
54 review criminal history information through the division of criminal
55 justice services (division) with respect to any person seeking a license
56 or authorization to undertake a hemp pilot project. At the commission-

1 er's request, each researcher, principal and/or officer of the applicant
2 shall submit to the department his or her fingerprints in such form and
3 in such manner as specified by the division, for the purpose of conduct-
4 ing a criminal history search and returning a report thereon in accord-
5 ance with the procedures and requirements established by the division
6 pursuant to the provisions of article thirty-five of the executive law,
7 which shall include the payment of the prescribed processing fees for
8 the cost of the division's full search and retain procedures and a
9 national criminal history record check. The commissioner, or his or her
10 designee, shall submit such fingerprints and the processing fee to the
11 division. The division shall forward to the commissioner a report with
12 respect to the applicant's previous criminal history, if any, or a
13 statement that the applicant has no previous criminal history according
14 to its files. Fingerprints submitted to the division of criminal justice
15 services pursuant to this section may also be submitted to the federal
16 bureau of investigation for a national criminal history record check. If
17 additional copies of fingerprints are required, the applicant shall
18 furnish them upon request.

19 § 514. Aids to enforcement. 1. The commissioner shall have full access
20 to all premises, buildings, factories, farms, vehicles, cars, boats,
21 airplanes, vessels, containers, packages, barrels, boxes, and/or cans
22 for the purpose of enforcing the provisions of this article. The commis-
23 sioner may, at such locations, examine industrial hemp and hemp products
24 and may open any package and/or container reasonably believed to contain
25 industrial hemp or hemp products, to determine whether such industrial
26 hemp or hemp products follow applicable law or regulation.

27 2. A search warrant shall be issued by any court to which application
28 is made therefor, whenever it shall be made to appear to such court that
29 a licensee has: refused to permit any industrial hemp to be inspected or
30 samples taken therefrom; refused to permit access to any premises, or
31 place where licensed activities are conducted; and/or refused or
32 prevented access thereto by any inspector of the department and that
33 such inspector has reasonable grounds to believe that such person has
34 any industrial hemp in his or her possession, or under his or her
35 control and/or is in violation of the provisions or regulations of this
36 article. In such a case, a warrant shall be issued in the name of the
37 people, directed to a police officer, commanding him or her to: (a)
38 search any place of business, factory, building, premises, or farm where
39 licensed activities have occurred and any vehicle, boat, vessel,
40 container, package, barrel, box, tub or can, containing, or believed to
41 contain industrial hemp in the possession or under the control of any
42 person who shall refuse to allow access to such hemp for inspection or
43 sampling, (b) permit the inspection and sampling of any industrial hemp
44 found in the execution of the warrant, as the officer applying for the
45 search warrant shall designate when the same is found, by an inspector
46 or a department official authorized by the commissioner or by this chap-
47 ter, and/or (c) permit access to any place where access is refused or
48 prevented, and to allow and enable a department inspector or other
49 department official to conduct an inspection of the place. The
50 provisions of article six hundred ninety of the criminal procedure law
51 shall apply to such warrant as far as applicable thereto. The officer to
52 whom the warrant is delivered shall make a return in writing of his or
53 her proceedings thereunto to the court which issued the same.

54 3. The commissioner may quarantine industrial hemp when he or she has
55 reason to believe that such commodity does not meet the definition ther-
56 eof, set forth in subdivision one of section five hundred five of this

1 article, or is otherwise in violation of or does not meet a standard set
 2 forth in, applicable law or regulation. The quarantine may by the issu-
 3 ance of an order directing the owner or custodian of industrial hemp not
 4 to distribute, dispose of, or move that commodity without the written
 5 permission of the commissioner. The commissioner may also quarantine a
 6 product by placing a tag or other appropriate marking thereon or adja-
 7 cent thereto that provides and requires that such product must not be
 8 distributed, disposed of, or moved without his or her written permis-
 9 sion, or may quarantine a product by otherwise informing the owner or
 10 custodian thereof that such condition must be complied with.

11 4. The commissioner may seize industrial hemp by taking physical
 12 possession of industrial hemp when he or she has substantial evidence to
 13 believe that such commodity does not meet the definition thereof, set
 14 forth in subdivision one of section five hundred five of this article,
 15 or is otherwise in violation of, or does not meet a standard set forth
 16 in, applicable law or regulation.

17 5. Subsequent to quarantining or seizing industrial hemp, as author-
 18 ized in subdivisions three and four of this section, the commissioner
 19 shall promptly give the owner or custodian thereof an opportunity to be
 20 heard to show cause why such industrial hemp should not be ordered
 21 destroyed. The commissioner shall, thereafter, consider all the relevant
 22 evidence and information presented and shall make a determination wheth-
 23 er such industrial hemp should be ordered to be destroyed; that determi-
 24 nation may be reviewed as provided for in article seventy-eight of the
 25 civil practice law and rules.

26 § 10. The agriculture and markets law is amended by adding a new arti-
 27 cle 29-A to read as follows:

28 ARTICLE 29-A

29 REGULATION OF HEMP EXTRACT

30 Section 520. Definitions.

- 31 521. Rulemaking authority.
- 32 522. Cannabinoid related hemp extract licensing.
- 33 523. Cannabinoid grower licenses.
- 34 524. Cannabinoid manufacturer license.
- 35 525. Cannabinoid extractor license.
- 36 526. Cannabinoid license applications.
- 37 527. Information to be requested in applications for licenses.
- 38 528. Fees.
- 39 529. Selection criteria.
- 40 530. Limitations of licensure; duration.
- 41 531. License renewal.
- 42 532. Form of license.
- 43 533. Amendments to license and duty to update information
 44 submitted for licensing.
- 45 534. Record keeping and tracking.
- 46 535. Inspections and ongoing requirements.
- 47 536. Packaging and labeling of hemp extract.
- 48 537. Provisions governing the growing, manufacturing and
 49 extracting of hemp extract.
- 50 538. Laboratory testing.
- 51 539. Advertising.
- 52 540. Research.
- 53 541. Regulations.
- 54 542. Cannabinoid permit.
- 55 543. New York hemp product.

1 544. Penalties and violations of this article.

2 545. Hemp workgroup.

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

7 1. "Applicant" means a for-profit entity or not-for-profit corporation
8 and includes board members who submit an application to become a licen-
9 see.

10 2. "Hemp extract" means the plant Cannabis sativa L. and any part of
11 such plant, including the seeds thereof and all derivatives, extracts,
12 cannabinoids, isomers, acids, salts, and salts of isomers, whether grow-
13 ing or not, with a delta-9-tetrahydrocannabinol concentration of not
14 more than an amount determined by the department in regulation, used or
15 intended for human or animal consumption or use for its cannabinoid
16 content, as determined by the commissioner in regulation. Hemp extract
17 excludes industrial hemp used or intended exclusively for an industrial
18 purpose and those food and/or food ingredients that are generally recog-
19 nized as safe by the department, and shall not be regulated as hemp
20 extract within the meaning of this article.

21 3. "Cannabinoid grower" means a person licensed by the department, and
22 in compliance with article twenty-nine of this chapter, to acquire,
23 possess, cultivate, and sell hemp extract for its cannabinoid content.

24 4. "Cannabinoid manufacturer" means a person licensed by the depart-
25 ment to acquire, possess, and manufacture hemp extract from licensed
26 cannabinoid growers or cannabinoid extractors for the manufacture and
27 sale of hemp extract products marketed for cannabinoid content and used
28 or intended for human or animal consumption or use.

29 5. "Cannabinoid extractor" means a person licensed by the department
30 to acquire, possess, extract and manufacture hemp extract from licensed
31 cannabinoid growers for the manufacture and sale of hemp extract
32 products marketed for cannabinoid content and used or intended for human
33 or animal consumption or use.

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

35 7. "Industrial hemp" means the plant Cannabis sativa L. and any part
36 of such plant, including the seeds thereof and all derivatives,
37 extracts, cannabinoids, isomers, acids, salts, and salts of isomers,
38 whether growing or not, with a delta-9-tetrahydrocannabinol concen-
39 tration of not more than 0.3 percent on a dry weight basis.

40 § 521. Rulemaking authority. 1. The department shall perform such
41 acts, prescribe such forms and propose such rules, regulations and
42 orders as it may deem necessary or proper to fully effectuate the
43 provisions of this article.

44 2. The department shall have the power to promulgate any and all
45 necessary rules and regulations governing the production, processing,
46 transportation, distribution, and sale of hemp extract, including but
47 not limited to the licensing of cannabinoid growers, manufacturers,
48 extractors and retailers, including, but not limited to:

49 (a) prescribing forms and establishing application, reinstatement, and
50 renewal fees;

51 (b) the qualifications and selection criteria for licensing, or
52 permitting;

53 (c) limitations on the number of licenses to be awarded;

54 (d) the books and records to be created and maintained by licensees,
55 and permittees, including the reports to be made thereon to the depart-
56 ment, and inspection of any and all books and records maintained by any

1 licensee, or permittee, and on the premises of any licensee or permit-
2 tee;

3 (e) methods of producing, processing, and packaging hemp extract;
4 conditions of sanitation, and standards of ingredients, quality, and
5 identity of hemp extract products cultivated, processed, packaged, or
6 sold by licensees; and

7 (f) hearing procedures and additional causes for cancellation, revoca-
8 tion, and/or civil penalties against any person licensed, or permitted
9 by the department.

10 3. The department, in consultation with the department of environ-
11 mental conservation, shall promulgate necessary rules and regulations
12 governing the safe production of hemp extract, including environmental
13 and energy standards and restrictions on the use of pesticides.

14 § 522. Cannabinoid related hemp extract licensing. 1. Persons grow-
15 ing, processing, extracting, and/or manufacturing hemp extract or
16 producing hemp extract products distributed, sold or marketed for canna-
17 binoïd content and used or intended for human or animal consumption or
18 use, shall be required to obtain the following license or licenses from
19 the department, depending upon the operation:

20 (a) cannabinoid grower license;

21 (b) cannabinoid manufacturer license;

22 (c) cannabinoid extractor license.

23 2. Notwithstanding subdivision one of this section, those persons
24 growing, processing or manufacturing food or food ingredients from
25 industrial hemp, which food or food ingredients are generally recognized
26 as safe, shall be subject to regulation and/or licensing by the depart-
27 ment.

28 § 523. Cannabinoid grower licenses. 1. A cannabinoid grower's license
29 authorizes the acquisition, possession, cultivation and sale of hemp
30 extract grown or used for its cannabinoid content on the licensed prem-
31 ises of the grower.

32 2. A person holding a cannabinoid grower's license shall not sell hemp
33 extract products marketed, distributed or sold for its cannabinoid
34 content and intended for human consumption or use without also being
35 licensed as a manufacturer or extractor pursuant to this article.

36 3. Persons growing industrial hemp pursuant to article twenty-nine of
37 this chapter are not authorized to and shall not sell hemp extract for
38 human or animal consumption or use, other than as food or a food ingre-
39 redient that has been generally recognized as safe in accordance with the
40 department or determined by the state to be safe for human consumption
41 as food or a food ingredient.

42 4. A person authorized under article twenty-nine of this chapter as an
43 industrial hemp grower shall apply for a cannabinoid grower license
44 provided it can demonstrate to the department that its cultivation of
45 industrial hemp meets all the requirements for hemp extract cultivated
46 under a cannabinoid grower license.

47 § 524. Cannabinoid manufacturer license. 1. A cannabinoid manufacturer
48 license authorizes the licensee's acquisition, possession, and manufac-
49 ture of hemp extract from a licensed cannabinoid grower or cannabinoid
50 extractor for the processing of hemp extract or the production of hemp
51 extract products marketed, distributed or sold for cannabinoid content
52 and used or intended for human or animal consumption or use.

53 2. Notwithstanding subdivision one of this section, nothing shall
54 prevent a cannabinoid manufacturer from manufacturing industrial hemp
55 products not used or intended for human or animal consumption or use.

1 § 525. Cannabinoid extractor license. 1. A cannabinoid extractor
2 license authorizes the licensee's acquisition, possession, extraction
3 and manufacture of hemp extract from a licensed cannabinoid grower for
4 the processing of hemp extract or the production of hemp extract
5 products marketed, distributed or sold for cannabinoid content and used
6 or intended for human or animal consumption or use.

7 2. No cannabinoid extractor licensee shall engage in any other busi-
8 ness on the licensed premises; except that nothing contained in this
9 article shall prevent a cannabinoid extractor licensee from also being
10 licensed as a cannabinoid grower on the same premises.

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

14 4. A person authorized under article twenty-nine of this chapter as an
15 industrial hemp processor shall qualify for a cannabinoid extractor
16 license provided it can demonstrate to the department that its
17 extraction of industrial hemp meets all the requirements for hemp
18 extract under a cannabinoid extractor license.

19 § 526. Cannabinoid license applications. 1. Persons shall apply for a
20 cannabinoid grower license, cannabinoid manufacturer license and/or a
21 cannabinoid extractor license by submitting an application upon a form
22 supplied by the department, providing all the requested information,
23 verified by the applicant or an authorized representative of the appli-
24 cant.

25 2. A separate license shall be required for each facility at which
26 growing, manufacturing and/or extracting is conducted.

27 3. Each applicant shall remit with its application the fee for each
28 requested license.

29 § 527. Information to be requested in applications for licenses. 1.
30 The department shall have the authority to prescribe the manner and form
31 in which an application must be submitted to the department for licen-
32 sure under this article.

33 2. The commissioner is authorized to adopt regulations, including by
34 emergency rule, establishing information which must be included on an
35 application for licensure under this article. Such information may
36 include, but is not limited to: information about the applicant's iden-
37 tity, including racial and ethnic diversity; ownership and investment
38 information, including the corporate structure; evidence of good moral
39 character, including the submission of fingerprints by the applicant to
40 the division of criminal justice services; information about the prem-
41 ises to be licensed; financial statements; and any other information
42 prescribed in regulation.

43 3. All license applications shall be signed by the applicant (if an
44 individual), by a managing partner (if a limited liability corporation),
45 by an officer (if a corporation), or by all partners (if a partnership).
46 Each person signing such application shall verify it as true under the
47 penalties of perjury.

48 4. All license or permit applications shall be accompanied by a check,
49 draft or other forms of payment as the department may require or author-
50 ize in the amount required by this article for such license or permit.

51 5. If there be any change, after the filing of the application or the
52 granting of a license, in any of the facts required to be set forth in
53 such application, a supplemental statement giving notice of such change,
54 cost and source of money involved in the change, duly verified, shall be
55 filed with the department within ten days after such change. Failure to

1 do so shall, if willful and deliberate, be cause for revocation of the
2 license.

3 6. In giving any notice, or taking any action in reference to a licen-
4 see of a licensed premises, the department may rely upon the information
5 furnished in such application and in any supplemental statement
6 connected therewith, and such information may be presumed to be correct,
7 and shall be binding upon a licensee or licensed premises as if correct.
8 All information required to be furnished in such application or supple-
9 mental statements shall be deemed material in any prosecution for perju-
10 ry, any proceeding to revoke, cancel or suspend any license, and in the
11 department's determination to approve or deny the license.

12 7. The department may, in its discretion, waive the submission of any
13 category of information described in this section for any category of
14 license or permit, provided that it shall not be permitted to waive the
15 requirement for submission of any such category of information solely
16 for an individual applicant or applicants.

17 § 528. Fees. The department shall have the authority to charge licen-
18 sees a biennial license fee. Such fee may be based on the amount of hemp
19 extract to be grown, processed, manufactured or extracted by the licen-
20 see, the gross annual receipts of the licensee for the previous license
21 period, or any other factors deemed appropriate by the department.

22 § 529. Selection criteria. 1. An applicant shall furnish evidence:

23 (a) its ability to effectively maintain a delta-9-tetrahydrocannabinol
24 concentration that does not exceed a percentage of delta-9-tetrahydro-
25 cannabinol cannabis set by the commissioner on a dry weight basis of
26 combined leaves and flowers of the plant of the genus cannabis, or per
27 volume or weight of cannabis product, or the combined percent of delta-
28 9-tetrahydrocannabinol and tetrahydrocannabinolic acid in combined
29 leaves and flowers of the plant of the genus cannabis regardless of
30 moisture content, for all hemp extract and hemp derived products culti-
31 vated, processed, manufactured or extracted by the applicant;

32 (b) its ability to comply with all applicable state laws and regu-
33 lations;

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

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

39 2. The department, in considering whether to grant the license appli-
40 cation, shall consider whether:

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

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

47 (c) the applicant satisfies any other conditions as determined by the
48 department.

49 3. If the commissioner is not satisfied that the applicant should be
50 issued a license, the commissioner shall notify the applicant in writing
51 of the specific reason or reasons for denial.

52 4. The commissioner shall have authority and sole discretion to deter-
53 mine the number of licenses issued pursuant to this article.

54 § 530. Limitations of licensure; duration. 1. No license pursuant to
55 this article may be issued to a person under the age of twenty-one
56 years.

1 2. The department shall have the authority to limit, by canopy, plant
2 count or other means, the amount of hemp extract allowed to be culti-
3 vated, processed, extracted or sold by a licensee.

4 3. All licenses under this article shall expire two years after the
5 date of issue and be subject to any rules or limitations prescribed by
6 the commissioner in regulation.

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

10 2. In the case of applications for renewals, the department may
11 dispense with the requirements of such statements as it deems unneses-
12 sary in view of those contained in the application made for the original
13 license, but in any event the submission of photographs of the licensed
14 premises shall be dispensed with, provided the applicant for such
15 renewal shall file a statement with the department to the effect that
16 there has been no alteration of such premises since the original license
17 was issued.

18 3. The department may make such rules as may be necessary, not incon-
19 sistent with this chapter, regarding applications for renewals of
20 licenses and permits and the time for making the same.

21 4. The department shall provide an application for renewal of a
22 license issued under this article not less than ninety days prior to the
23 expiration of the current license.

24 5. The department may only issue a renewal license upon receipt of the
25 prescribed renewal application and renewal fee from a licensee if, in
26 addition to the criteria in section five hundred twenty-seven of this
27 article, the licensee's license is not under suspension and has not been
28 revoked.

29 6. The department shall have the authority to charge applicants for
30 licensure under this article a non-refundable application fee. Such fee
31 may be based on the type of licensure sought, cultivation and/or
32 production volume, or any other factors deemed reasonable and appropri-
33 ate by the department to achieve the policy and purpose of this chapter.

34 § 532. Form of license. Licenses issued pursuant to this article shall
35 specify:

36 1. the name and address of the licensee;

37 2. the activities permitted by the license;

38 3. the land, buildings and facilities that may be used for the
39 licensed activities of the licensee;

40 4. a unique license number issued by the department to the licensee;
41 and

42 5. such other information as the commissioner shall deem necessary to
43 assure compliance with this chapter.

44 § 533. Amendments to license and duty to update information submitted
45 for licensing. 1. Upon application of a licensee to the department, a
46 license may be amended to allow the licensee to relocate within the
47 state, to add or delete licensed activities or facilities, or to amend
48 the ownership or organizational structure of the entity that is the
49 licensee. The fee for such amendment shall be two hundred fifty dollars.

50 2. In the event that any of the information provided by the applicant
51 changes either while the application is pending or after the license is
52 granted, within ten days of any such change, the applicant or licensee
53 shall submit to the department a verified statement setting forth the
54 change in circumstances of facts set forth in the application. Failure
55 to do so shall, if willful and deliberate, be cause for revocation of
56 the license.

1 3. A license shall become void by a change in ownership, substantial
2 corporate change or location without prior written approval of the
3 commissioner. The commissioner may promulgate regulations allowing for
4 certain types of changes in ownership without the need for prior written
5 approval.

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

8 (a) for a corporation, a change of eighty percent or more of the offi-
9 cers and/or directors, or a transfer of eighty percent or more of stock
10 of such corporation, or an existing stockholder obtaining eighty percent
11 or more of the stock of such corporation; and

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

17 § 534. Record keeping and tracking. 1. The commissioner shall, by
18 regulation, require each licensee pursuant to this article to adopt and
19 maintain security, tracking, record keeping, record retention and
20 surveillance systems, relating to all hemp extract at every stage of
21 acquiring, possession, manufacture, transport, sale, or delivery, or
22 distribution by the licensee, subject to regulations of the commission-
23 er.

24 2. Every licensee shall keep and maintain upon the licensed premises,
25 adequate books and records of all transactions involving the licensee
26 and sale of its products, which shall include all information required
27 by rules promulgated by the department.

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

31 4. Such books, records and invoices shall be kept for a period of five
32 years and shall be available for inspection by any authorized represen-
33 tative of the department.

34 § 535. Inspections and ongoing requirements. All licensees shall be
35 subject to reasonable inspection by the department, and a person who
36 holds a license must make himself or herself, or an agent thereof,
37 available and present for any inspection required by the department. The
38 department shall make reasonable accommodations so that ordinary busi-
39 ness is not interrupted and safety and security procedures are not
40 compromised by the inspection.

41 § 536. Packaging and labeling of hemp extract. 1. The department is
42 hereby authorized to promulgate rules and regulations governing the
43 packaging and labeling of hemp extract products, sold or possessed for
44 sale in New York state.

45 2. Such regulations shall include, but not be limited to, requiring
46 labels warning consumers of any potential impact on human health result-
47 ing from the consumption of hemp extract products that shall be affixed
48 to those products when sold, if such labels are deemed warranted by the
49 department.

50 3. Such rules and regulations shall establish a QR code for labels and
51 establish methods and procedures for determining, among other things,
52 serving sizes for hemp extract products, active cannabinoid concen-
53 tration per serving size, number of servings per container, and the
54 growing region. Such regulations shall also require a nutritional fact
55 panel that incorporates data regarding serving sizes and potency there-
56 of.

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

6 § 537. Provisions governing the growing, manufacturing and extracting
7 of hemp extract. 1. No licensed cannabinoid grower, manufacturer or
8 extractor shall sell, or agree to sell or deliver in the state any hemp
9 extract products, as the case may be, except in sealed containers
10 containing quantities in accordance with size standards pursuant to
11 rules adopted by the department. Such containers shall have affixed
12 thereto such labels as may be required by the rules of the department.

13 2. Licensed cannabinoid growers shall only use pesticides that are
14 registered by the New York state department of environmental conserva-
15 tion or that specifically meet the United States Environmental
16 Protection Agency registration exemption criteria for minimum risk
17 pesticides, and only in compliance with regulations, standards and
18 guidelines issued by the department of environmental conservation.

19 3. All hemp extract products shall be extracted and manufactured in
20 accordance with good manufacturing processes, pursuant to Part 111 or
21 117 of Title 21 of the Code of Federal Regulations as may be modified
22 and decided upon by the commissioner in regulation.

23 4. Within thirty days of the effective date of this article, the
24 department shall approve the manufacture, distribution, and sale of
25 beverages containing no more than twenty milligrams of cannabidiol per
26 twelve ounce beverage. The hemp extract used in such beverages shall be
27 grown, extracted and manufactured in the state of New York. The depart-
28 ment shall issue guidance on the label, warning, and advertising for
29 such beverages.

30 § 538. Laboratory testing. 1. Every cannabinoid manufacturer and
31 cannabinoid extractor shall contract with an independent laboratory to
32 test the hemp extract products produced by the licensed manufacturer or
33 extractor. The commissioner, in consultation with the commissioner of
34 health, shall approve the laboratory and require that the laboratory
35 report testing results in a manner determined by the commissioner. The
36 commissioner is authorized to issue regulations requiring the laboratory
37 to perform certain tests and services.

38 2. Cannabinoid manufacturers and cannabinoid extractors shall make
39 laboratory test reports available to persons holding a cannabinoid
40 permit pursuant to section five hundred forty-two of this article for
41 all cannabis products manufactured by the licensee.

42 3. On-site laboratory testing by licensees is permissible; however,
43 such testing shall not be certified by the department and does not
44 exempt the licensee from the requirements of quality assurance testing
45 at a testing laboratory pursuant to this section.

46 § 539. Advertising. The department shall promulgate rules and regu-
47 lations governing the advertising of hemp extract and any other related
48 products or services as determined by the commissioner.

49 § 540. Research. 1. The department shall promote research and develop-
50 ment through public-private partnerships to bring new hemp extract and
51 industrial hemp derived products to market within the state.

52 2. The commissioner may develop and carry out research programs relat-
53 ing to industrial hemp and hemp extract.

54 § 541. Regulations. The commissioner shall make regulations to imple-
55 ment this article.

1 § 542. Cannabinoid permit. The department is hereby authorized to
2 issue cannabinoid permits to retailers authorizing them to sell cannabi-
3 noid products derived from hemp extract for off-premises consumption.
4 The commissioner shall have the authority to set fees for such permit,
5 to establish the period during which such permit is authorized, and to
6 make rules and regulations, including emergency regulations, to imple-
7 ment this section.

8 § 543. New York hemp product. The commissioner may establish and adopt
9 official grades and standards for hemp extract and hemp extract products
10 as he or she may deem advisable, which are produced for sale in this
11 state and, from time to time, may amend or modify such grades and stand-
12 ards.

13 § 544. Penalties and violations of this article. If the commissioner
14 determines that a person who has grown, processed, manufactured and/or
15 extracted hemp extract has violated this article or associated regu-
16 lations with a culpable mental state greater than negligence the depart-
17 ment shall immediately report the person to the United States attorney
18 general and the New York attorney general as required by Section 10111
19 of the Agriculture Improvement Act of 2018, Public L. No. 115-334.

20 § 545. Hemp workgroup. The commissioner shall appoint a New York state
21 industrial hemp and hemp extract workgroup, composed of researchers,
22 producers, processors and manufacturers, to make recommendations for the
23 industrial hemp and hemp extract programs, state and federal policies
24 and policy initiatives, and opportunities for the promotion and market-
25 ing of industrial hemp and hemp extract as consistent with federal and
26 state laws, rules and regulations, which workgroup shall continue for
27 such time as the commissioner deems appropriate.

28 § 11. This act shall take effect immediately.