

STATE OF NEW YORK

7680--A

2019-2020 Regular Sessions

IN ASSEMBLY

May 15, 2019

Introduced by M. of A. LUPARDO, PEOPLES-STOKES, GOTTFRIED, ROMEO, BLAKE, McDONALD, CRUZ, SIMON, NORRIS, BUTTENSCHON, ASHBY, SCHMITT, GLICK, JAFFEE, LIFTON, STIRPE, SMULLEN, CROUCH, GIGLIO, B. MILLER -- Multi-Sponsored by -- M. of A. MANKTELOW, THIELE -- read once and referred to the Committee on Agriculture -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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1 authorization under federal law and/or the provisions of this article.
2 ~~[Notwithstanding any provision of law to the contrary restricting the~~
3 ~~growing or cultivating, sale, distribution, transportation or processing~~
4 ~~of industrial hemp and products derived from such hemp, and subject to~~
5 ~~authorization under federal law, the]~~

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

13 3. The industrial hemp used for research pursuant to this section
14 shall be sourced from authorized New York state industrial hemp produc-
15 ers. The research partner may obtain an exemption for only grain or
16 fiber from this requirement upon a satisfactory showing to the depart-
17 ment that a suitable variety of industrial hemp for the research project
18 is not grown in New York and/or the use of New York sourced hemp is not
19 practicable for the project. Hemp for extracts can only be sourced from
20 authorized New York state industrial hemp producers.

21 4. Nothing in this section shall limit the jurisdiction of the depart-
22 ment under any other article of this chapter.

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 Section 507 of the agriculture and markets law is REPEALED and a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

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

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

34 3. The applicant shall furnish evidence of his or her good character,
35 experience and competency, that the applicant has adequate facilities,
36 equipment, process controls, testing capability and security to grow
37 hemp.

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

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

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

45 § 508. Compliance action plan. If the commissioner determines, after
46 notice and an opportunity for hearing, that a licensee has negligently
47 violated a provision of and/or a regulation promulgated pursuant to this
48 article, that licensee shall be required to comply with a corrective
49 action plan established by the commissioner to correct the violation by
50 a reasonable date and to periodically report to the commissioner with
51 respect to the licensee's compliance with this article for a period of
52 no less than the next two calendar years following the commencement date
53 of the compliance action plan. The provisions of this section shall not
54 be applicable to research partners conducting hemp research pursuant to
55 a research partner agreement, the terms of which shall control.

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

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

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

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

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

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

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

§ 510. Regulations. The commissioner may develop regulations consistent with the provisions of this article for the growing and cultivation, sale, distribution, and transportation of industrial hemp grown in the state, including:

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

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

3. the procedure for testing of industrial hemp produced in the state for delta-9-tetrahydrocannabinol levels, using a representative non-decarboxylated sample of flowers and leaves from the whole plant or other similarly reliable methods;

4. the procedure for effective disposal of industrial hemp plants or products derived from hemp that are produced in violation of this article;

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

6. any required security measures; and

7. such other and further regulation as the commissioner deems appropriate or necessary.

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

§ 511. Prohibitions. Except as authorized by state law, and regulations promulgated thereunder, the growth, cultivation, processing, sale, and/or distribution of industrial hemp is prohibited.

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

§ 512. Industrial hemp data collection and best farming practices. The commissioner shall have the power to collect and publish data and research concerning, among other things, the growth, cultivation,

1 production and processing methods of industrial hemp and products
2 derived from industrial hemp and work with the New York state college of
3 agriculture and life science at Cornell pursuant to section fifty-seven
4 hundred twelve of the education law and the Cornell cooperative exten-
5 sion pursuant to section two hundred twenty-four of the county law to
6 promote best farming practices for industrial hemp which are compatible
7 with state water quality and other environmental objectives.

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

10 § 513. Access to criminal history information through the division of
11 criminal justice services. In connection with the administration of
12 this article, the commissioner is authorized to request, receive and
13 review criminal history information through the division of criminal
14 justice services (division) with respect to any person seeking a license
15 or authorization to undertake a hemp pilot project. At the commission-
16 er's request, each researcher, principal and/or officer of the applicant
17 shall submit to the department his or her fingerprints in such form and
18 in such manner as specified by the division, for the purpose of conduct-
19 ing a criminal history search and returning a report thereon in accord-
20 ance with the procedures and requirements established by the division
21 pursuant to the provisions of article thirty-five of the executive law,
22 which shall include the payment of the prescribed processing fees for
23 the cost of the division's full search and retain procedures and a
24 national criminal history record check. The commissioner, or his or her
25 designee, shall submit such fingerprints and the processing fee to the
26 division. The division shall forward to the commissioner a report with
27 respect to the applicant's previous criminal history, if any, or a
28 statement that the applicant has no previous criminal history according
29 to its files. Fingerprints submitted to the division of criminal justice
30 services pursuant to this section may also be submitted to the federal
31 bureau of investigation for a national criminal history record check. If
32 additional copies of fingerprints are required, the applicant shall
33 furnish them upon request.

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

42 2. A search warrant shall be issued by any court to which application
43 is made therefor, whenever it shall be made to appear to such court that
44 a licensee has: refused to permit any industrial hemp to be inspected or
45 samples taken therefrom; refused to permit access to any premises, or
46 place where licensed activities are conducted; and/or refused or
47 prevented access thereto by any inspector of the department and that
48 such inspector has reasonable grounds to believe that such person has
49 any industrial hemp in his or her possession, or under his or her
50 control and/or is in violation of the provisions or regulations of this
51 article. In such a case, a warrant shall be issued in the name of the
52 people, directed to a police officer, commanding him or her to: (a)
53 search any place of business, factory, building, premises, or farm where
54 licensed activities have occurred and any vehicle, boat, vessel,
55 container, package, barrel, box, tub or can, containing, or believed to
56 contain industrial hemp in the possession or under the control of any

1 person who shall refuse to allow access to such hemp for inspection or
2 sampling, (b) permit the inspection and sampling of any industrial hemp
3 found in the execution of the warrant, as the officer applying for the
4 search warrant shall designate when the same is found, by an inspector
5 or a department official authorized by the commissioner or by this chap-
6 ter, and/or (c) permit access to any place where access is refused or
7 prevented, and to allow and enable a department inspector or other
8 department official to conduct an inspection of the place. The
9 provisions of article six hundred ninety of the criminal procedure law
10 shall apply to such warrant as far as applicable thereto. The officer to
11 whom the warrant is delivered shall make a return in writing of his or
12 her proceedings thereunto to the court which issued the same.

13 3. The commissioner may quarantine industrial hemp when he or she has
14 reason to believe that such commodity does not meet the definition ther-
15 eof, set forth in subdivision one of section five hundred five of this
16 article, or is otherwise in violation of or does not meet a standard set
17 forth in, applicable law or regulation. The quarantine may by the issu-
18 ance of an order directing the owner or custodian of industrial hemp not
19 to distribute, dispose of, or move that commodity without the written
20 permission of the commissioner. The commissioner may also quarantine a
21 product by placing a tag or other appropriate marking thereon or adja-
22 cent thereto that provides and requires that such product must not be
23 distributed, disposed of, or moved without his or her written permis-
24 sion, or may quarantine a product by otherwise informing the owner or
25 custodian thereof that such condition must be complied with.

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

32 5. Subsequent to quarantining or seizing industrial hemp, as author-
33 ized in subdivisions three and four of this section, the commissioner
34 shall promptly give the owner or custodian thereof an opportunity to be
35 heard to show cause why such industrial hemp should not be ordered
36 destroyed. The commissioner shall, thereafter, consider all the relevant
37 evidence and information presented and shall make a determination wheth-
38 er such industrial hemp should be ordered to be destroyed; that determi-
39 nation may be reviewed as provided for in article seventy-eight of the
40 civil practice law and rules.

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

43 ARTICLE 29-A

44 REGULATION OF HEMP EXTRACT

45 Section 520. Definitions.

46 521. Rulemaking authority.

47 522. Cannabinoid related hemp extract licensing.

48 523. Cannabinoid grower licenses.

49 524. Cannabinoid manufacturer license.

50 525. Cannabinoid extractor license.

51 526. Cannabinoid license applications.

52 527. Information to be requested in applications for licenses.

53 528. Fees.

54 529. Selection criteria.

55 530. Limitations of licensure; duration.

56 531. License renewal.

1 532. Form of license.

2 533. Amendments to license and duty to update information
3 submitted for licensing.

4 534. Record keeping and tracking.

5 535. Inspections and ongoing requirements.

6 536. Packaging and labeling of hemp extract.

7 537. Provisions governing the growing, manufacturing and
8 extracting of hemp extract.

9 538. Laboratory testing.

10 539. Advertising.

11 540. Research.

12 541. Regulations.

13 542. Cannabinoid permit.

14 543. New York hemp product.

15 544. Penalties and violations of this article.

16 545. Hemp workgroup.

17 546. Prohibitions.

18 547. Severability.

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

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

26 2. "Hemp extract" means any product made or derived from industrial
27 hemp, including the seeds thereof and all derivatives whether growing or
28 not, with a delta-9-tetrahydrocannabinol concentration of not more than
29 an amount of the plant Cannabis sativa L. and any part of such plant,
30 including the seeds thereof and all derivatives, extracts, cannabinoids,
31 isomers, acids, salts, and salts of isomers, whether growing or not,
32 with a delta-9-tetrahydrocannabinol concentration of not more than an
33 amount determined by the department in regulation, used or intended for
34 human or animal consumption or use for its cannabinoid content, as
35 determined by the commissioner in regulation. Hemp extract excludes
36 industrial hemp used or intended exclusively for an industrial purpose
37 and those food and/or food ingredients that are generally recognized as
38 safe by the department, and shall not be regulated as hemp extract with-
39 in the meaning of this article.

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

43 4. "Cannabinoid manufacturer" means a person licensed by the depart-
44 ment to acquire, possess, and manufacture hemp extract from licensed
45 cannabinoid growers or cannabinoid extractors for the manufacture and
46 sale of hemp extract products marketed for cannabinoid content and used
47 or intended for human or animal consumption or use.

48 5. "Cannabinoid extractor" means a person licensed by the department
49 to acquire, possess, extract and manufacture hemp extract from licensed
50 cannabinoid growers for the manufacture and sale of hemp extract
51 products marketed for cannabinoid content and used or intended for human
52 or animal consumption or use.

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

54 7. "Industrial hemp" means the plant Cannabis sativa L. and any part
55 of such plant, including the seeds thereof and all derivatives,
56 extracts, cannabinoids, isomers, acids, salts, and salts of isomers,

1 whether growing or not, with a delta-9-tetrahydrocannabinol concen-
2 tration of not more than 0.3 percent on a dry weight basis.

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

7 2. The department shall have the power to promulgate any and all
8 necessary rules and regulations governing the production, processing,
9 transportation, distribution, and sale of hemp extract, including but
10 not limited to the licensing of cannabinoid growers, manufacturers,
11 extractors and retailers, including, but not limited to:

12 (a) prescribing forms and establishing application, reinstatement, and
13 renewal fees;

14 (b) the qualifications and selection criteria for licensing, or
15 permitting;

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

17 (d) the books and records to be created and maintained by licensees,
18 and permittees, including the reports to be made thereon to the depart-
19 ment, and inspection of any and all books and records maintained by any
20 licensee, or permittee, and on the premises of any licensee or permit-
21 tee;

22 (e) methods of producing, processing, and packaging hemp extract;
23 conditions of sanitation, and standards of ingredients, quality, and
24 identity of hemp extract products cultivated, processed, packaged, or
25 sold by licensees; and

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

29 3. The department, in consultation with the department of environ-
30 mental conservation and the New York state energy research and develop-
31 ment agency, shall promulgate necessary rules and regulations governing
32 the safe production of hemp extract, including environmental and energy
33 standards.

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

40 (a) cannabinoid grower license;

41 (b) cannabinoid manufacturer license;

42 (c) cannabinoid extractor license.

43 2. Notwithstanding subdivision one of this section, those persons
44 growing, processing or manufacturing food or food ingredients from
45 industrial hemp pursuant to article twenty-nine of this chapter, which
46 food or food ingredients are generally recognized as safe, shall be
47 subject to regulation and/or licensing by the department.

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

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

1 otherwise permitted pursuant to section five hundred forty-two of this
2 article.

3 3. Persons growing industrial hemp pursuant to article twenty-nine of
4 this chapter are not authorized to and shall not sell hemp extract for
5 human or animal consumption or use, other than as food or a food ingre-
6 dient that has been generally recognized as safe in accordance with the
7 department or determined by the state to be safe for human consumption
8 as food or a food ingredient without also being licensed as a manufac-
9 turer or extractor pursuant to this article or otherwise permitted
10 pursuant to section five hundred forty-two of this article.

11 4. A person authorized under article twenty-nine of this chapter as an
12 industrial hemp grower shall apply for a cannabinoid grower license
13 provided it can demonstrate to the department that its cultivation of
14 industrial hemp meets all the requirements for hemp extract cultivated
15 under a cannabinoid grower license.

16 § 524. Cannabinoid manufacturer license. 1. A cannabinoid manufacturer
17 license authorizes the licensee's acquisition, possession, and manufac-
18 ture of hemp extract from a licensed cannabinoid grower or cannabinoid
19 extractor for the processing of hemp extract or the production of hemp
20 extract products marketed, distributed or sold for cannabinoid content
21 and used or intended for human or animal consumption or use.

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

25 § 525. Cannabinoid extractor license. 1. A cannabinoid extractor
26 license authorizes the licensee's acquisition, possession, extraction
27 and manufacture of hemp extract from a licensed cannabinoid grower for
28 the processing of hemp extract or the production of hemp extract
29 products marketed, distributed or sold for cannabinoid content and used
30 or intended for human or animal consumption or use.

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

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

38 4. A person authorized under article twenty-nine of this chapter as an
39 industrial hemp processor shall qualify for a cannabinoid extractor
40 license provided it can demonstrate to the department that its
41 extraction of industrial hemp meets all the requirements for hemp
42 extract under a cannabinoid extractor license.

43 § 526. Cannabinoid license applications. 1. Persons shall apply for a
44 cannabinoid grower license, cannabinoid manufacturer license and/or a
45 cannabinoid extractor license by submitting an application upon a form
46 supplied by the department, providing all the requested information,
47 verified by the applicant or an authorized representative of the appli-
48 cant.

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

51 3. Each applicant shall remit with its application the fee for each
52 requested license.

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

1 2. The commissioner is authorized to adopt regulations, including by
2 emergency rule, establishing information which must be included on an
3 application for licensure under this article. Such information may
4 include, but is not limited to: information about the applicant's iden-
5 tity, including racial and ethnic diversity; information about prior use
6 of farmland; ownership and investment information, including the corpo-
7 rate structure; evidence of good moral character, including the
8 submission of fingerprints by the applicant to the division of criminal
9 justice services; information about the premises to be licensed; finan-
10 cial statements; and any other information prescribed in regulation.

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

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

19 5. If there be any change, after the filing of the application or the
20 granting of a license, in any of the facts required to be set forth in
21 such application, a supplemental statement giving notice of such change,
22 cost and source of money involved in the change, duly verified, shall be
23 filed with the department within ten days after such change. Failure to
24 do so shall, if willful and deliberate, be cause for revocation of the
25 license.

26 6. In giving any notice, or taking any action in reference to a licen-
27 see of a licensed premises, the department may rely upon the information
28 furnished in such application and in any supplemental statement
29 connected therewith, and such information may be presumed to be correct,
30 and shall be binding upon a licensee or licensed premises as if correct.
31 All information required to be furnished in such application or supple-
32 mental statements shall be deemed material in any prosecution for perju-
33 ry, any proceeding to revoke, cancel or suspend any license, and in the
34 department's determination to approve or deny the license.

35 7. The department may, in its discretion, waive the submission of any
36 category of information described in this section for any category of
37 license or permit, provided that it shall not be permitted to waive the
38 requirement for submission of any such category of information solely
39 for an individual applicant or applicants.

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

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

46 (a) its ability to effectively maintain a delta-9-tetrahydrocannabinol
47 concentration that does not exceed a percentage of delta-9-tetrahydro-
48 cannabinol cannabis set by the commissioner on a dry weight basis of
49 combined leaves and flowers of the plant of the genus cannabis, or per
50 volume or weight of cannabis product;

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

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

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

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

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

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

12 (c) preference shall be given to applicants that are currently farming
13 in the state and are eligible or currently receiving an agricultural
14 assessment pursuant to article twenty-five-AA of this chapter; and

15 (d) the applicant satisfies any other conditions as determined by the
16 department.

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

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

22 § 530. Limitations of licensure; duration. 1. No license pursuant to
23 this article may be issued to a person under the age of eighteen years.

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

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

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

33 2. In the case of applications for renewals, the department may
34 dispense with the requirements of such statements as it deems unneces-
35 sary in view of those contained in the application made for the original
36 license, but in any event the submission of photographs of the licensed
37 premises shall be dispensed with, provided the applicant for such
38 renewal shall file a statement with the department to the effect that
39 there has been no alteration of such premises since the original license
40 was issued.

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

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

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

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

1 § 532. Form of license. Licenses issued pursuant to this article shall
2 specify:

3 1. the name and address of the licensee;

4 2. the activities permitted by the license;

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

7 4. a unique license number issued by the department to the licensee;

8 and

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

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

17 2. In the event that any of the information provided by the applicant
18 changes either while the application is pending or after the license is
19 granted, within ten days of any such change, the applicant or licensee
20 shall submit to the department a verified statement setting forth the
21 change in circumstances of facts set forth in the application. Failure
22 to do so shall, if willful and deliberate, be cause for revocation of
23 the license.

24 3. A license shall become void by a change in ownership, substantial
25 corporate change or location without prior written approval of the
26 commissioner. The commissioner may promulgate regulations allowing for
27 certain types of changes in ownership without the need for prior written
28 approval.

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

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

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

40 § 534. Record keeping and tracking. 1. The commissioner 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 hemp extract at every stage of
44 acquiring, possession, manufacture, transport, sale, or delivery, or
45 distribution by the licensee, subject to regulations of the commission-
46 er.

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 all information required
50 by rules promulgated by the department.

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

1 § 535. Inspections and ongoing requirements. All licensees shall be
2 subject to reasonable inspection by the department, in consultation with
3 the department of health, and a person who holds a license must make
4 himself or herself, or an agent thereof, available and present for any
5 inspection required by the department. The department shall make reason-
6 able accommodations so that ordinary business is not interrupted and
7 safety and security procedures are not compromised by the inspection.

8 § 536. Packaging and labeling of hemp extract. 1. The department, in
9 consultation with the department of health, is hereby authorized to
10 promulgate rules and regulations governing the packaging and labeling of
11 hemp extract products, sold or possessed for sale in New York state.

12 2. Such regulations shall include, but not be limited to, requiring
13 labels warning consumers of any potential impact on human health result-
14 ing from the consumption of hemp extract products that shall be affixed
15 to those products when sold, if such labels are deemed warranted by the
16 department. No label may state that hemp extract can treat, cure or
17 prevent any disease without approval pursuant to federal law.

18 3. Such rules and regulations shall establish a QR code which may be
19 used in conjunction with similar technology for labels and establish
20 methods and procedures for determining, among other things, serving
21 sizes for hemp extract products, active cannabinoid concentration per
22 serving size, number of servings per container, and the growing region,
23 state or country of origin if not from the United States. Such regu-
24 lations shall also require a supplement fact panel that incorporates
25 data regarding serving sizes and potency thereof.

26 4. The packaging, sale, or possession by any licensee of any hemp
27 product intended for human or animal consumption or use 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 § 537. Provisions governing the growing, manufacturing and extracting
32 of hemp extract. 1. No licensed cannabinoid grower, manufacturer or
33 extractor shall sell, or agree to sell or deliver in the state any hemp
34 extract products, as the case may be, except in sealed containers
35 containing quantities in accordance with size standards pursuant to
36 rules adopted by the department. Such containers shall have affixed
37 thereto such labels as may be required by the rules of the department.

38 2. Licensed cannabinoid growers shall be prohibited from using pesti-
39 cides.

40 3. All hemp extract products shall be extracted and manufactured in
41 accordance with good manufacturing processes, pursuant to Part 111 or
42 117 of Title 21 of the Code of Federal Regulations as may be modified
43 and decided upon by the commissioner in regulation.

44 4. Within thirty days of the effective date of this article, the
45 department shall approve the manufacture, distribution, and sale of
46 beverages containing no more than twenty milligrams of cannabidiol per
47 twelve ounce beverage. The hemp extract used in such beverages shall be
48 grown, extracted and manufactured in the state of New York. The depart-
49 ment shall issue guidance on the label, warning, point of sale, and
50 advertising for such beverages.

51 5. Terpenes derived from the hemp plant are generally recognized as
52 safe.

53 § 538. Laboratory testing. 1. Every cannabinoid manufacturer and
54 cannabinoid extractor shall contract with an independent laboratory to
55 test the hemp extract products produced by the licensed manufacturer or
56 extractor. The commissioner, in consultation with the commissioner of

1 health, shall approve the laboratory and require that the laboratory
2 report testing results in a manner determined by the commissioner. The
3 commissioner is authorized to issue regulations requiring the laboratory
4 to perform certain tests and services.

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

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

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

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

19 2. The commissioner may develop and carry out research programs which
20 may include programs at the New York state college of agriculture and
21 life sciences, pursuant to section fifty-seven hundred twelve of the
22 education law and/or New York state university research institutions
23 relating to industrial hemp and hemp extract.

24 § 541. Regulations. The commissioner shall make regulations to imple-
25 ment this article.

26 § 542. Cannabinoid permit. The department is hereby authorized to
27 issue cannabinoid permits to retailers, wholesalers, and distributors
28 authorizing them to sell cannabis products derived from hemp extract.
29 The commissioner shall have the authority to set fees for such permit,
30 to establish the period during which such permit is authorized, and to
31 make rules and regulations, including emergency regulations, to imple-
32 ment this section.

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

38 § 544. Penalties and violations of this article. Notwithstanding the
39 provision of any law to the contrary, the failure to comply with the
40 requirements of this article, the rules and regulations promulgated
41 thereunder, may be punishable by a fine of not more than one thousand
42 dollars for a first violation; not more than five thousand dollars for a
43 second violation; and not more than ten thousand dollars for a third
44 violation and each subsequent violation thereafter.

45 § 545. Hemp workgroup. The commissioner shall appoint a New York state
46 industrial hemp and hemp extract workgroup, composed of researchers,
47 producers, processors, manufacturers and trade associations, to make
48 recommendations for the industrial hemp and hemp extract programs, state
49 and federal policies and policy initiatives, and opportunities for the
50 promotion and marketing of industrial hemp and hemp extract as consist-
51 ent with federal and state laws, rules and regulations, which workgroup
52 shall continue for such time as the commissioner deems appropriate.

53 § 546. Prohibitions. Except as authorized in this article, the manu-
54 facturing of hemp extract for human or animal consumption and the
55 distribution and/or sale thereof is prohibited in this state unless the
56 manufacturer is licensed under this article. Hemp extract and products

1 derived therefrom for human and animal consumption produced outside the
2 state shall not be distributed or sold in this state unless they meet
3 all standards and requirements established for such product manufactured
4 in the state under this article and its rules and regulations as deter-
5 mined by the department.

6 § 547. Severability. If any provision of this article or the applica-
7 tion thereof to any person or circumstances is held invalid, such inva-
8 lidity shall not affect other provisions or applications of the article
9 which can be given effect without the invalid provision or application,
10 and to this end the provisions of this article are declared to be sever-
11 able.

12 § 11. This act shall take effect on the ninetieth day after it shall
13 have become a law.