

STATE OF NEW YORK

S. 1509--A

A. 2009--A

SENATE - ASSEMBLY

January 18, 2019

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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

gaming inspector general; and to repeal title 9 of article 13 of the racing, pari-mutuel wagering and breeding law relating to the gaming inspector general (Subpart A); to amend the racing, pari-mutuel wagering and breeding law, in relation to appointees to the thoroughbred breeding and development fund (Subpart B); to amend the public officers law and the racing, pari-mutuel wagering and breeding law, in relation to the Harry M. Zweig memorial fund (Subpart C); and to amend the tax law, in relation to the prize payment amounts and revenue distributions of lottery game sales, and use of unclaimed prize funds (Subpart D)(Part DD); to amend the tax law, in relation to commissions paid to the operator of a video lottery facility; to repeal certain provisions of such law relating thereto; and providing for the repeal of certain provisions upon expiration thereof (Part EE); to amend the racing, pari-mutuel wagering and breeding law, in relation to the deductibility of promotional credits (Part FF); to amend the racing, pari-mutuel wagering and breeding law, in relation to the operations of off-track betting corporations (Part GG); to amend the racing, pari-mutuel wagering and breeding law, in relation to licenses for simulcast facilities, sums relating to track simulcast, simulcast of out-of-state thoroughbred races, simulcasting of races run by out-of-state harness tracks and distributions of wagers; to amend chapter 281 of the laws of 1994 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and chapter 346 of the laws of 1990 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and the imposition of certain taxes, in relation to extending certain provisions thereof; and to amend the racing, pari-mutuel wagering and breeding law, in relation to extending certain provisions thereof (Part HH); to amend the racing, pari-mutuel wagering and breeding law, in relation to equine drug testing standards (Part II); to amend part EE of chapter 59 of the laws of 2018, amending the racing, pari-mutuel wagering and breeding law, relating to adjusting the franchise payment establishing an advisory committee to review the structure, operations and funding of equine drug testing and research, in relation to the date of delivery for recommendations; and to amend the racing, pari-mutuel wagering and breeding law, in relation to the advisory committee on equine drug testing, and equine lab testing provider restrictions removal (Part JJ); to amend the racing, pari-mutuel wagering and breeding law, in relation to state gaming commission occupational licenses (Part KK); to amend the real property tax law and the tax law, in relation to the determination of STAR tax savings (Part LL); to amend the tax law, in relation to cooperative housing corporation information returns (Part MM); to amend the tax law, in relation to making a technical correction to the enhanced real property tax circuit breaker credit (Part NN); to amend the tax law, in relation to mobile home reporting requirements (Part OO); to amend the real property tax law and the tax law, in relation to eligibility for STAR exemptions and credits (Part PP); to amend the real property tax law and the tax law, in relation to authorizing the disclosure of certain information to assessors (Part QQ); to amend the real property tax law and the tax law, in relation to the income limits for STAR benefits (Part RR); to amend the real property tax law, in relation to clarifying certain notices on school tax bills (Part SS); to amend the real property tax law and the tax law, in relation to making the STAR program more accessible to taxpayers (Part TT); to amend the public health law, in relation to increasing the purchasing age for tobacco

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

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

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement the state fiscal plan for the 2019-2020
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through XX. The effective date for each particular

1 provision contained within such Part is set forth in the last section of
2 such Part. Any provision in any section contained within a Part,
3 including the effective date of the Part, which makes reference to a
4 section "of this act", when used in connection with that particular
5 component, shall be deemed to mean and refer to the corresponding
6 section of the Part in which it is found. Section three of this act sets
7 forth the general effective date of this act.

8

PART A

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

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

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

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

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

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

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

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

46 (c) sections fourteen-a and fifteen-a of this act shall take effect
47 September 15, 2011 and expire and be deemed repealed December 31, 2012
48 but shall take effect only if the commissioner of taxation and finance
49 has reported in the report required by section seventeen-b of this act
50 that the percentage of individual taxpayers electronically filing their
51 2010 income tax returns is eighty-five percent or greater[~~+~~

52 ~~(d) sections fourteen-b, fifteen-b, sixteen-a and seventeen-a of this~~
53 ~~act shall take effect January 1, 2020 but only if the commissioner of~~
54 ~~taxation and finance has reported in the report required by section~~

~~seventeen b of this act that the percentage of individual taxpayers electronically filing their 2010 income tax returns is less than eight y five percent; and (e) sections twenty one and twenty one a of this act shall expire and be deemed repealed December 31, 2019].~~

§ 6. This act shall take effect immediately.

PART B

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

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

- (i) to upgrade, retrain or improve the productivity of employees;
- (ii) provided to employees in connection with a significant capital investment by a participating business entity;
- (iii) determined by the commissioner to satisfy a business need on the part of a participating business entity;
- (iv) not designed to train or upgrade skills as required by a federal or state entity;
- (v) not training the completion of which may result in the awarding of a license or certificate required by law in order to perform a job function; and

(vi) not culturally focused training; or
(b) an internship program in advanced technology ~~[ex]~~, life sciences, software development or clean energy approved by the commissioner and provided by the business entity or an approved provider, on or after August first, two thousand fifteen, to provide employment and experience opportunities for current students, recent graduates, and recent members of the armed forces.

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

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

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

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

§ 4. This act shall take effect immediately.

PART C

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

5-a. Net global intangible low-taxed income. Notwithstanding any other provision of this section, net global intangible low-taxed income shall be included in the apportionment fraction as provided in this subdivision. Receipts constituting net global intangible low-taxed income shall not be included in the numerator of the apportionment fraction. Receipts constituting net global intangible low-taxed income shall be included in the denominator of the apportionment fraction. For

1 purposes of this subdivision, the term "net global intangible low-taxed
2 income" means the amount required to be included in the taxpayer's
3 federal gross income pursuant to subsection (a) of section 951A of the
4 internal revenue code less the amount of the deduction allowed under
5 clause (i) of section 250(a)(1)(B) of such code.

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

8 5-a. Notwithstanding any other provision of this section, net global
9 intangible low-taxed income shall be included in the receipts fraction
10 as provided in this subdivision. Receipts constituting net global
11 intangible low-taxed income shall not be included in the numerator of
12 the receipts fraction. Receipts constituting net global intangible low-
13 taxed income shall be included in the denominator of the receipts frac-
14 tion. For purposes of this subdivision, the term "net global intangible
15 low-taxed income" means the amount required to be included in the
16 taxpayer's federal gross income pursuant to subsection (a) of section
17 951A of the internal revenue code less the amount of the deduction
18 allowed under clause (i) of section 250(a)(1)(B) of such code.

19 § 3. Subparagraph (2) of paragraph (a) of subdivision (3) of section
20 11-604 of the administrative code of the city of New York is amended by
21 adding a new clause (E) to read as follows:

22 (E) notwithstanding any other provision of this paragraph, net global
23 intangible low-taxed income shall be included in the receipts fraction
24 as provided in this clause. Receipts constituting net global intangible
25 low-taxed income shall not be included in the numerator of the receipts
26 fraction. Receipts constituting net global intangible low-taxed income
27 shall be included in the denominator of the receipts fraction. For
28 purposes of this clause, the term "net global intangible low-taxed
29 income" means the amount that would have been required to be included in
30 the taxpayer's federal gross income pursuant to subsection (a) of
31 section 951A of the internal revenue code less the amount of the
32 deduction that would have been allowed under clause (i) of section
33 250(a)(1)(B) of such code if the taxpayer had not made an election under
34 subchapter s of chapter one of the internal revenue code.

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

37 PART D

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

41 (vi) for taxable years beginning on or after January first, two thou-
42 sand fourteen, the amount prescribed by this paragraph for a taxpayer
43 [~~which~~] that is a qualified New York manufacturer, shall be computed at
44 the rate of zero percent of the taxpayer's business income base. The
45 term "manufacturer" shall mean a taxpayer [~~which~~] that during the taxa-
46 ble year is principally engaged in the production of goods by manufac-
47 turing, processing, assembling, refining, mining, extracting, farming,
48 agriculture, horticulture, floriculture, viticulture or commercial fish-
49 ing. However, the generation and distribution of electricity, the
50 distribution of natural gas, and the production of steam associated with
51 the generation of electricity shall not be qualifying activities for a
52 manufacturer under this subparagraph. Moreover, in the case of a
53 combined report, the combined group shall be considered a "manufacturer"
54 for purposes of this subparagraph only if the combined group during the

1 taxable year is principally engaged in the activities set forth in this
2 paragraph, or any combination thereof. A taxpayer or, in the case of a
3 combined report, a combined group shall be "principally engaged" in
4 activities described above if, during the taxable year, more than fifty
5 percent of the gross receipts of the taxpayer or combined group, respec-
6 tively, are derived from receipts from the sale of goods produced by
7 such activities. In computing a combined group's gross receipts, inter-
8 corporate receipts shall be eliminated. A "qualified New York manufac-
9 turer" is a manufacturer [~~which~~] that has property in New York [~~which~~]
10 that is described in clause (A) of subparagraph (i) of paragraph (b) of
11 subdivision one of section two hundred ten-B of this article and either
12 (I) the adjusted basis of such property for [~~federal income~~] New York
13 state tax purposes at the close of the taxable year is at least one
14 million dollars or (II) all of its real and personal property is located
15 in New York. A taxpayer or, in the case of a combined report, a combined
16 group, that does not satisfy the principally engaged test may be a qual-
17 ified New York manufacturer if the taxpayer or the combined group
18 employs during the taxable year at least two thousand five hundred
19 employees in manufacturing in New York and the taxpayer or the combined
20 group has property in the state used in manufacturing, the adjusted
21 basis of which for [~~federal income~~] New York state tax purposes at the
22 close of the taxable year is at least one hundred million dollars.

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

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

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

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

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

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

18 PART E

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

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

26 § 2. This act shall take effect immediately.

27 PART F

28 Section 1. Paragraph 3 of subsection (a) of section 954 of the tax
29 law, as amended by section 2 of part BB of chapter 59 of the laws of
30 2015, is amended to read as follows:

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

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

43 (4) Increased by the value of any property not otherwise already
44 included in the decedent's federal gross estate in which the decedent
45 had a qualifying income interest for life if a deduction was allowed on
46 the return of the tax imposed by this article with respect to the trans-
47 fer of such property to the decedent by reason of the application of
48 paragraph (7) of subsection (b) of section 2056 of the internal revenue
49 code, as made applicable to the tax imposed by this article by section
50 nine hundred ninety-nine-a of this article, whether or not a federal
51 estate tax return was required to be filed by the estate of the trans-
52 ferring spouse.

1 § 3. Subsection (c) of section 955 of the tax law, as added by section
2 4 of part X of chapter 59 of the laws of 2014, is amended to read as
3 follows:

4 (c) Qualified terminable interest property election.-- Except as
5 otherwise provided in this subsection, the election referred to in para-
6 graph (7) of subsection (b) of section 2056 of the internal revenue code
7 shall not be allowed under this article unless such election was made
8 with respect to the federal estate tax return required to be filed under
9 the provisions of the internal revenue code. If such election was made
10 for the purposes of the federal estate tax, then such election must also
11 be made by the executor on the return of the tax imposed by this arti-
12 cle. Where no federal estate tax return is required to be filed, the
13 executor ~~may~~ **must** make the election referred to in such paragraph (7)
14 with respect to the tax imposed by this article on the return of the tax
15 imposed by this article. Any election made under this subsection shall
16 be irrevocable.

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

21 PART G

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

24 (e) When used in this article for the purposes of the taxes imposed
25 under subdivision (a) of section eleven hundred five of this article and
26 by section eleven hundred ten of this article, the following terms shall
27 mean:

28 (1) Marketplace provider. A person who, pursuant to an agreement with
29 a marketplace seller, facilitates sales of tangible personal property by
30 such marketplace seller or sellers. A person "facilitates a sale of
31 tangible personal property" for purposes of this paragraph when the
32 person meets both of the following conditions: (A) such person provides
33 the forum in which, or by means of which, the sale takes place or the
34 offer of sale is accepted, including a shop, store, or booth, an inter-
35 net website, catalog, or similar forum; and (B) such person or an affil-
36 iate of such person collects the receipts paid by a customer to a
37 marketplace seller for a sale of tangible personal property, or
38 contracts with a third party to collect such receipts. For purposes of
39 this paragraph, a "sale of tangible personal property" shall not include
40 the rental of a passenger car as described in section eleven hundred
41 sixty of this chapter but shall include a lease described in subdivision
42 (i) of section eleven hundred eleven of this article. For purposes of
43 this paragraph, persons are affiliated if one person has an ownership
44 interest of more than five percent, whether direct or indirect, in
45 another, or where an ownership interest of more than five percent,
46 whether direct or indirect, is held in each of such persons by another
47 person or by a group of other persons that are affiliated persons with
48 respect to each other.

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

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

4 (1) "Persons required to collect tax" or "person required to collect
5 any tax imposed by this article" shall include: every vendor of tangible
6 personal property or services; every recipient of amusement charges;
7 ~~and~~ every operator of a hotel; and every marketplace provider with
8 respect to sales of tangible personal property it facilitates as
9 described in paragraph one of subdivision (e) of section eleven hundred
10 one of this article. Said terms shall also include any officer, director
11 or employee of a corporation or of a dissolved corporation, any employee
12 of a partnership, any employee or manager of a limited liability compa-
13 ny, or any employee of an individual proprietorship who as such officer,
14 director, employee or manager is under a duty to act for such corpo-
15 ration, partnership, limited liability company or individual proprietor-
16 ship in complying with any requirement of this article, or has so acted;
17 and any member of a partnership or limited liability company. Provided,
18 however, that any person who is a vendor solely by reason of clause (D)
19 or (E) of subparagraph (i) of paragraph (8) of subdivision (b) of
20 section eleven hundred one of this article shall not be a "person
21 required to collect any tax imposed by this article" until twenty days
22 after the date by which such person is required to file a certificate of
23 registration pursuant to section eleven hundred thirty-four of this
24 part.

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

27 (1)(1) A marketplace provider with respect to a sale of tangible
28 personal property it facilitates: (A) shall have all the obligations and
29 rights of a vendor under this article and article twenty-nine of this
30 chapter and under any regulations adopted pursuant thereto, including,
31 but not limited to, the duty to obtain a certificate of authority, to
32 collect tax, file returns, remit tax, and the right to accept a certifi-
33 cate or other documentation from a customer substantiating an exemption
34 or exclusion from tax, the right to receive the refund authorized by
35 subdivision (e) of this section and the credit allowed by subdivision
36 (f) of section eleven hundred thirty-seven of this part subject to the
37 provisions of such subdivisions; and (B) shall keep such records and
38 information and cooperate with the commissioner to ensure the proper
39 collection and remittance of tax imposed, collected or required to be
40 collected under this article and article twenty-nine of this chapter.

41 (2) A marketplace seller who is a vendor is relieved from the duty to
42 collect tax in regard to a particular sale of tangible personal property
43 subject to tax under subdivision (a) of section eleven hundred five of
44 this article and shall not include the receipts from such sale in its
45 taxable receipts for purposes of section eleven hundred thirty-six of
46 this part if, in regard to such sale: (A) the marketplace seller can
47 show that such sale was facilitated by a marketplace provider from whom
48 such seller has received in good faith a properly completed certificate
49 of collection in a form prescribed by the commissioner, certifying that
50 the marketplace provider is registered to collect sales tax and will
51 collect sales tax on all taxable sales of tangible personal property by
52 the marketplace seller facilitated by the marketplace provider, and with
53 such other information as the commissioner may prescribe; and (B) any
54 failure of the marketplace provider to collect the proper amount of tax
55 in regard to such sale was not the result of such marketplace seller
56 providing the marketplace provider with incorrect information. This

1 provision shall be administered in a manner consistent with subparagraph
2 (i) of paragraph one of subdivision (c) of this section as if a certif-
3 icate of collection were a resale or exemption certificate for purposes
4 of such subparagraph, including with regard to the completeness of such
5 certificate of collection and the timing of its acceptance by the
6 marketplace seller. Provided that, with regard to any sales of tangible
7 personal property by a marketplace seller that are facilitated by a
8 marketplace provider who is affiliated with such marketplace seller
9 within the meaning of paragraph one of subdivision (e) of section eleven
10 hundred one of this article, the marketplace seller shall be deemed
11 liable as a person under a duty to act for such marketplace provider for
12 purposes of subdivision one of section eleven hundred thirty-one of this
13 part.

14 (3) The commissioner may, in his or her discretion: (A) develop a
15 standard provision, or approve a provision developed by a marketplace
16 provider, in which the marketplace provider obligates itself to collect
17 the tax on behalf of all the marketplace sellers for whom the market-
18 place provider facilitates sales of tangible personal property, with
19 respect to all sales that it facilitates for such sellers where delivery
20 occurs in the state; and (B) provide by regulation or otherwise that the
21 inclusion of such provision in the publicly-available agreement between
22 the marketplace provider and marketplace seller will have the same
23 effect as a marketplace seller's acceptance of a certificate of
24 collection from such marketplace provider under paragraph two of this
25 subdivision.

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

28 (f) A marketplace provider is relieved of liability under this section
29 for failure to collect the correct amount of tax to the extent that the
30 marketplace provider can show that the error was due to incorrect infor-
31 mation given to the marketplace provider by the marketplace seller.
32 Provided, however, this subdivision shall not apply if the marketplace
33 seller and marketplace provider are affiliated within the meaning of
34 paragraph one of subdivision (e) of section eleven hundred one of this
35 article.

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

39 (4) The return of a vendor of tangible personal property or services
40 shall show such vendor's receipts from sales and the number of gallons
41 of any motor fuel or diesel motor fuel sold and also the aggregate value
42 of tangible personal property and services and number of gallons of such
43 fuels sold by the vendor, the use of which is subject to tax under this
44 article, and the amount of tax payable thereon pursuant to the
45 provisions of section eleven hundred thirty-seven of this part. The
46 return of a recipient of amusement charges shall show all such charges
47 and the amount of tax thereon, and the return of an operator required to
48 collect tax on rents shall show all rents received or charged and the
49 amount of tax thereon. The return of a marketplace seller shall exclude
50 the receipts from a sale of tangible personal property facilitated by a
51 marketplace provider if, in regard to such sale: (A) the marketplace
52 seller has timely received in good faith a properly completed certif-
53 icate of collection from the marketplace provider or the marketplace
54 provider has included a provision approved by the commissioner in the
55 publicly-available agreement between the marketplace provider and the
56 marketplace seller as described in subdivision one of section eleven

1 hundred thirty-two of this part, and (B) the information provided by the
2 marketplace seller to the marketplace provider about such tangible
3 personal property is accurate.

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

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

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

17 PART H

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

21 (A) gas, electricity, refrigeration and steam, and gas, electric,
22 refrigeration and steam service of whatever nature, including the trans-
23 portation, transmission or distribution of gas or electricity, even if
24 sold separately;

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

26 § 3. Subparagraph (xi) of paragraph 4 of subdivision (a) of section
27 1210 of the tax law is REPEALED.

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

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

33 PART I

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

37 3. Where the tentative equalization rate is not within plus or minus
38 five [~~percentage points~~] percent of the locally stated level of assess-
39 ment, the assessor shall provide notice in writing to the local govern-
40 ing body of any affected town, city, village, county and school district
41 of the difference between the locally stated level of assessment and the
42 tentative equalization rate. Such notice shall be made within ten days
43 of the receipt of the tentative equalization rate, or within ten days of
44 the filing of the tentative assessment roll, whichever is later, and
45 shall provide the difference in the indicated total full value estimates
46 of the locally stated level of assessment and the tentative equalization
47 rate for the taxable property within each affected town, city, village,
48 county and school district, where applicable.

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

51 § 1211. Confirmation by commissioner of the locally stated level of
52 assessment. Notwithstanding the foregoing provisions of this title,

1 before the commissioner determines a tentative equalization rate for a
2 city, town or village, he or she shall examine the accuracy of the
3 locally stated level of assessment appearing on the tentative assessment
4 roll. If the commissioner confirms the locally stated level of assess-
5 ment, then as soon thereafter as is practicable, he or she shall estab-
6 lish and certify such locally stated level of assessment as the final
7 equalization rate for such city, town or village in the manner provided
8 by sections twelve hundred ten and twelve hundred twelve of this title.
9 The provisions of sections twelve hundred four, twelve hundred six and
10 twelve hundred eight of this title shall not apply in such cases, unless
11 the commissioner finds that the final assessment roll differs from the
12 tentative assessment roll to an extent that renders the locally stated
13 level of assessment inaccurate, and rescinds the final equalization rate
14 on that basis.

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

18 (d) (i) Such district superintendent shall also determine what propor-
19 tion of any tax to be levied in such school district for school purposes
20 during the current school year shall be levied upon each part of a city
21 or town included in such school district by dividing the sum of the full
22 valuation of real property in such part of a city or town by the total
23 of all such full valuations of real property in such school district.
24 Provided, however, that prior to the levy of taxes, the governing body
25 of the school district may adopt a resolution directing such proportions
26 to be based upon the average full valuation of real property in each
27 such city or town over either a three-year period, consisting of the
28 current school year and the two prior school years, or over a five-year
29 period, consisting of the current school year and the four prior school
30 years. Once such a resolution has been adopted, the proportions for
31 ensuing school years shall continue to be based upon the average full
32 valuation of real property in each such city or town over the selected
33 period, unless the resolution provides otherwise or is repealed.

34 (ii) Such proportions shall be expressed in the nearest exact ten
35 thousandths and the school authorities of such school district shall
36 levy such a proportion of any tax to be raised in the school district
37 during the current school year upon each part of a city or town included
38 in such school district as shall have been determined by the district
39 superintendent. A new proportion shall be determined for each school
40 year thereafter by the district superintendent in accordance with the
41 provisions of this section by the use of the latest state equalization
42 rates. In any such school district that is not within the jurisdiction
43 of a district superintendent of schools, the duties which would other-
44 wise be performed by the district superintendent under the provisions of
45 this section, shall be performed by the school authorities of such
46 district.

47 § 4. This act shall take effect immediately.

48

PART J

49 Section 1. This Part enacts into law major components of legislation
50 relating to the improvement of the administration of real property taxa-
51 tion in accordance with the real property tax law and other laws relat-
52 ing thereto. Each component is wholly contained within a Subpart identi-
53 fied as Subparts A through F. The effective date for each particular
54 provision contained within such Subpart is set forth in the last section

1 of such Subpart. Any provision in any section contained within a
2 Subpart, including the effective date of the Subpart, which makes a
3 reference to a section "of this act", when used in connection with that
4 particular component, shall be deemed to mean and refer to the corre-
5 sponding section of the Subpart in which it is found. Section three of
6 this Part sets forth the general effective date of this Part.

7 SUBPART A

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

10 § 497. Assessment relief in state disaster emergencies. 1. Notwith-
11 standing any provision of law to the contrary, during a state disaster
12 emergency as defined by section twenty of the executive law, an eligible
13 municipality may exercise the provisions of this section if its govern-
14 ing body, by the sixtieth day following the date upon which the governor
15 declares a state disaster emergency, passes a local law or ordinance, or
16 in the case of a school district a resolution, adopting the provisions
17 of this section. An eligible municipality may provide assessment relief
18 for real property that is impacted by the disaster that led to the
19 declaration of the state disaster emergency, and that is located within
20 such municipality, as provided in subparagraphs (i), (ii), (iii) or (iv)
21 of paragraph (a) of subdivision three of this section only if its
22 governing body specifically elects to do so as part of such local law,
23 ordinance or resolution. A copy of any such local law, ordinance or
24 resolution shall be filed with the commissioner within ten days after
25 the adoption thereof.

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

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

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

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

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

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

49 f. "Improved value" shall mean the market value of the real property
50 improvements excluding the land.

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

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

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

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

18 (iii) If a participating municipality has elected to provide assess-
19 ment relief for real property that lost at least thirty percent but less
20 than forty percent of its improved value due to a disaster, the assessed
21 value attributable to the improvements shall be reduced by thirty-five
22 percent for purposes of the participating municipality on the impacted
23 tax roll.

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

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

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

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

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

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

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

55 (xi) The percentage loss in improved value for this purpose shall be
56 adopted by the assessor from a written finding of the Federal Emergency

1 Management Agency or, where no such finding exists, shall be determined
2 by the assessor in the manner provided by this section, subject to
3 review by the board of assessment review.

4 (xii) Where the assessed value of a property is reduced pursuant to
5 this section, the difference between the property's assessed value and
6 its reduced assessed value shall be exempt from taxation. No reduction
7 in assessed value shall be granted pursuant to this section except as
8 specified above for such counties. No reduction in assessed value shall
9 be granted pursuant to this section for purposes of any county, city,
10 town, village or school district that has not adopted the provisions of
11 this section.

12 (b) To receive such relief pursuant to this section, a property owner
13 in a participating municipality shall submit a written request to the
14 assessor on a form prescribed by the commissioner within one hundred
15 twenty days following the date upon which the state disaster emergency
16 was declared by the governor, provided, however, that such one hundred
17 twenty day period may be extended to a total of up to one hundred eighty
18 days by a local law, ordinance or resolution adopted by the governing
19 body of the assessing unit. A copy of any such local law, ordinance or
20 resolution shall be filed with the commissioner. Such request shall
21 attach any and all determinations by the Federal Emergency Management
22 Agency, and any and all reports by an insurance adjuster, shall describe
23 in reasonable detail the damage caused to the property by the disaster
24 and the condition of the property following the disaster, and shall be
25 accompanied by supporting documentation, if available.

26 (c) Upon receiving such a request, the assessor shall adopt the find-
27 ing by the Federal Emergency Management Agency or, if such finding does
28 not exist, the assessor shall make a finding as to whether the property
29 lost at least fifty percent of its improved value or, if a participating
30 municipality has elected to provide assessment relief for real property
31 that lost a lesser percentage of improved value such lesser percentage
32 of its improved value, as a result of a disaster. The assessor shall
33 thereafter adopt or classify the percentage loss of improved value with-
34 in one of the following ranges:

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

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

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

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

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

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

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

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

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

52 (x) One hundred percent.

53 (d) On or before the thirtieth day after the last date for the filing
54 of requests for relief pursuant to this section, the assessor shall mail
55 written notice of such findings to the property owner and participating
56 municipality. The notice shall indicate that if the property owner is

1 dissatisfied with these findings, he or she may file a complaint with
2 the board of assessment review up until the date specified in such
3 notice, which date shall be the twenty-first day after the last date for
4 the mailing of such notices. If any complaints are so filed, such board
5 shall reconvene upon ten days written notice to the property owner and
6 assessor to hear and determine the complaint, and shall mail written
7 notice of its determination to the assessor and property owner within
8 fifteen days of such hearing. The provisions of article five of this
9 chapter shall govern the review process to the extent practicable. For
10 the purposes of this section only, the applicant may commence, within
11 thirty days of mailing of a written determination, a proceeding under
12 title one of article seven of this chapter or, if applicable, under
13 title one-A of article seven of this chapter. Sections seven hundred
14 twenty-seven and seven hundred thirty-nine of this chapter shall not
15 apply.

16 (e) Where property has lost at least fifty percent of its improved
17 value or, if a participating municipality has elected to provide assess-
18 ment relief for real property that lost a lesser percentage of improved
19 value such lesser percentage, due to a disaster, the assessed value
20 attributable to the improvements on the property on the impacted assess-
21 ment roll shall be reduced by the appropriate percentage specified in
22 paragraph (a) of this subdivision, provided that any exemptions that the
23 property may be receiving shall be adjusted as necessary to account for
24 such reduction in the total assessed value. To the extent the total
25 assessed value of the property originally appearing on such roll exceeds
26 the amount to which it should be reduced pursuant to this section, the
27 excess shall be considered an error in essential fact as defined by
28 subdivision three of section five hundred fifty of this chapter. The
29 assessor shall thereupon be authorized and directed to correct the
30 assessment roll accordingly or, if another person has custody or control
31 of the assessment roll, to direct such person to make the appropriate
32 corrections. If the correction is made after taxes are levied but before
33 such taxes are paid, the collecting officer shall be authorized and
34 directed to correct the applicant's tax bill accordingly. If the
35 correction is made after taxes are paid, the authorities of each partic-
36 ipating municipal corporation shall be authorized and directed to issue
37 a refund in the amount of the excess taxes paid with regard to such
38 participating municipal corporation.

39 (f) The rights contained in this section shall not otherwise diminish
40 any other legally available right of any property owner or party who may
41 otherwise lawfully challenge the valuation or assessment of any real
42 property or improvements thereon. All remaining rights hereby remain
43 and shall be available to the party to whom such rights would otherwise
44 be available notwithstanding this section.

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

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

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

3 33-e. Real property tax refunds and credits. Payments of exemptions,
4 refunds, or credits for real property tax, sewer and water rents, rates
5 and charges and all other real property taxes to be made by a munici-
6 pality, school district or district corporation as a result of providing
7 assessment relief in a state disaster emergency pursuant to section four
8 hundred ninety-seven of the real property tax law, ten years.

9 § 3. This act shall take effect immediately.

10

SUBPART B

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

14 (b) The board of assessment review shall consist of not less than
15 three nor more than five members appointed by the legislative body of
16 the local government or village or as provided by subdivision five of
17 section fifteen hundred thirty-seven of this chapter, if applicable.
18 Members shall have a knowledge of property values in the local govern-
19 ment or village. Neither the assessor nor any member of his or her staff
20 may be appointed to the board of assessment review. A majority of such
21 board shall consist of members who are not officers or employees of the
22 local government or village.

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

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

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

37 (c) In the case of an assessing unit, no such agreement shall be
38 submitted to the governing body for approval unless at least forty-five
39 days prior to such submission, the governing body shall have adopted a
40 resolution, subject to a permissive referendum, authorizing the assess-
41 ing unit to negotiate such an agreement with the county; provided,
42 however, that such prior authorization shall not be required for an
43 agreement to amend, cancel or terminate an existing agreement pursuant
44 to this section.

45 5. An agreement between an assessing unit and a county for assessment
46 review services shall provide for the members of the board of assessment
47 review of the assessing unit to be appointed by the legislative body of
48 the county upon the recommendation of the county director of the real
49 property tax services. Each member so appointed shall be a resident of
50 the county but need not be a resident of the assessing unit. The board
51 of assessment review as so constituted shall have the authority to
52 receive, review and resolve petitions for assessment review filed in
53 such assessing unit, and for the corrections of errors therein, to the
54 full extent set forth in article five of this chapter.

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

4 1. At the time and place and during the hours specified in the notice
5 given pursuant to section fourteen hundred six of this chapter, the
6 board of review shall meet to hear complaints relating to assessments
7 brought before it. The board of trustees and assessors, or a committee
8 of such board constituting at least a majority thereof and the assessors
9 or a board of assessment review constituted pursuant to section five
10 hundred twenty-three of this chapter, or as provided by subdivision five
11 of section fifteen hundred thirty-seven of this chapter, if applicable,
12 shall constitute the board of review.

13 § 4. This act shall take effect immediately.

14 SUBPART C

15 Section 1. Subdivision 4 of section 318 of the real property tax law,
16 as amended by chapter 527 of the laws of 1997 and as further amended by
17 subdivision (b) of section 1 of part W of chapter 56 of the laws of
18 2010, is amended to read as follows:

19 4. Notwithstanding the provisions of this subdivision or any other
20 law, the travel and other actual and necessary expenses incurred by an
21 appointed or elected assessor, or by a person appointed assessor for a
22 forthcoming term, or by an assessor-elect prior to the commencement of
23 his or her term, in satisfactorily completing courses of training as
24 required by this title or as approved by the commissioner, including
25 continuing education courses prescribed by the commissioner which are
26 satisfactorily completed by any elected assessor, shall be a state
27 charge upon audit by the comptroller. Travel and other actual and neces-
28 sary expenses incurred by an acting assessor who has been exercising the
29 powers and duties of the assessor for a period of at least six months,
30 in attending training courses no earlier than twelve months prior to the
31 date when courses of training and education are required, shall also be
32 a state charge upon audit by the comptroller. Candidates for certifi-
33 cation as eligible for the position of assessor, other than assessors
34 or assessors-elect, shall be charged for the cost of training materials
35 and shall be responsible for all other costs incurred by them in
36 connection with such training. Notwithstanding the foregoing provisions
37 of this subdivision, if the provider of a training course has asked the
38 commissioner to approve the course for credit only, so that attendees
39 who successfully complete the course would be entitled to receive credit
40 without having their expenses reimbursed by the state, and the commis-
41 sioner has agreed to do so, the travel and other actual and necessary
42 expenses incurred by such attendees shall not be a state charge.

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

47 f. Expenses in attending training courses. Notwithstanding the
48 provisions of any other law, the travel and other actual and necessary
49 expenses incurred by a director or a person appointed director for a
50 forthcoming term in attending courses of training as required by this
51 subdivision or as approved by the commissioner shall be a state charge
52 upon audit by the comptroller. Notwithstanding the foregoing provisions
53 of this paragraph, if the provider of a training course has asked the
54 commissioner to approve the course for credit only, so that attendees

1 who successfully complete the course would be entitled to receive credit
2 without having their expenses reimbursed by the state, and the commis-
3 sioner has agreed to do so, the travel and other actual and necessary
4 expenses incurred by such attendees shall not be a state charge.

5 § 3. This act shall take effect immediately.

6 SUBPART D

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

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

17 (a) The filing of exemption applications;

18 (b) The filing of petitions for administrative review of assessments;

19 (c) The filing of petitions for judicial review of assessments;

20 (d) The filing of applications for administrative corrections of
21 errors;

22 (e) The issuance of statements of taxes;

23 (f) The payment of taxes, subject to the provisions of sections five
24 and five-b of the general municipal law;

25 (g) The provision of receipts for the payment of taxes;

26 (h) The issuance of taxpayer notices required by law, including
27 sections five hundred eight, five hundred ten, five hundred ten-a, five
28 hundred eleven, five hundred twenty-five and five hundred fifty-one-a
29 through five hundred fifty-six-b of this chapter; and

30 (i) The furnishing of notices and certificates under this chapter
31 relating to state equalization rates, residential assessment ratios,
32 special franchise assessments, railroad ceilings, taxable state lands,
33 advisory appraisals, and the certification of assessors and county
34 directors or real property tax services, subject to the provisions of
35 subdivision five of this section.

36 2. Such standards shall be developed after consultation with local
37 government officials, the office of court administration in the case of
38 standards relating to petitions for judicial review of assessments, and
39 the office of the state comptroller in the case of standards relating to
40 payments or taxes and the issuance of receipts therefor.

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

46 (b) [~~Assessors and other municipal officials shall not be required to~~
47 ~~accept and respond to communications from the commissioner electron-~~
48 ~~ically.~~

49 (e)] The governing board of any municipal corporation may, by local
50 law, ordinance or resolution, determine that it is in the public inter-
51 est for such municipal corporation to provide electronic real property
52 tax administration. Upon adoption of such local law, ordinance or resol-
53 ution, such municipal corporation shall comply with standards set forth
54 by the commissioner.

1 ~~(d)~~ (c) The standards prescribed by the commissioner pursuant to
2 this section relating to communications with taxpayers shall provide for
3 the collection of electronic contact information, such as e-mail
4 addresses and/or social network usernames, from taxpayers who have
5 elected to receive electronic communications in accordance with the
6 provisions of this section. Such information shall be exempt from public
7 disclosure in accordance with section eighty-nine of the public officers
8 law.

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

14 5. (a) On and after January first, two thousand twenty, whenever the
15 commissioner is obliged by law to mail a notice of the determination of
16 a tentative state equalization rate, tentative special franchise assess-
17 ment, tentative assessment ceiling or other tentative determination of
18 the commissioner that is subject to administrative review, the commis-
19 sioner shall be authorized to furnish the required notice by e-mail, or
20 by causing it to be posted on the department's website, or both, at his
21 or her discretion. When providing notice of a tentative determination
22 by causing it to be posted on the department's website, the commissioner
23 also shall e-mail the parties required by law to receive such notice, to
24 inform them that the notice of tentative determination has been posted
25 on the website. Such notice of tentative determination shall not be
26 deemed complete unless such emails have been sent. Notwithstanding any
27 provision of law to the contrary, the commissioner shall not be required
28 to furnish such notices by postal mail, except as provided by paragraphs
29 (d) and (e) of this subdivision.

30 (b) When providing notice of a tentative determination by e-mail or
31 posting pursuant to this subdivision, the commissioner shall specify an
32 e-mail address to which complaints regarding such tentative determi-
33 nation may be sent. A complaint that is sent to the commissioner by
34 e-mail to the specified e-mail address by the date prescribed by law for
35 the mailing of such complaints shall be deemed valid to the same extent
36 as if it had been sent by postal mail.

37 (c) When a final determination is made in such a matter, notice of the
38 final determination and any certificate relating thereto shall be
39 furnished by e-mail or by a website posting, or both at the commis-
40 ioner's discretion, and need not be provided by postal mail, except as
41 provided by paragraphs (d) and (e) of this subdivision. When providing
42 notice of a final determination by website posting, the commissioner
43 also shall e-mail the parties required by law to receive such notice, to
44 inform them that the notice of final determination has been posted on
45 the website. Such notice of final determination shall not be deemed
46 complete unless such emails have been sent.

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

53 (e) If the commissioner learns that an e-mail address to which a
54 notice has been sent pursuant to this subdivision is not valid, and the
55 commissioner cannot find a valid e-mail address for that party, the
56 commissioner shall resend the notice to the party by postal mail. If the

1 commissioner does not have a valid e-mail address for the party at the
2 time the notice is initially required to be sent, the commissioner shall
3 send the notice to that party by postal mail.

4 (f) On or before November thirtieth, two thousand nineteen, the
5 commissioner shall send a notice by postal mail to assessors, to chief
6 executive officers of assessing units, and to owners of special fran-
7 chise property and railroad property, informing them of the provisions
8 of this section. The notice to be sent to assessors shall include a
9 copy of the form prescribed pursuant to paragraph (d) of this subdivi-
10 sion.

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

14 § 2. This act shall take effect immediately.

15 SUBPART E

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

19 4. The taxable status of a special franchise shall be determined on
20 the basis of its value and its ownership as of the first day of [~~July~~
21 January] of the year preceding the year in which the assessment roll on
22 which such property is to be assessed is completed and filed in the
23 office of the city or town clerk, except that taxable status of such
24 properties shall be determined on the basis of ownership as of the first
25 day of [~~July~~ January] of the second year preceding the date required by
26 law for the filing of the final assessment roll for purposes of all
27 village assessment rolls.

28 § 2. Subdivision 2 of section 606 of the real property tax law, as
29 amended by chapter 743 of the laws of 2005 and as further amended by
30 subdivision (b) of section 1 of part W of chapter 56 of the laws of
31 2010, is amended to read as follows:

32 2. In any assessing unit which has completed a revaluation since nine-
33 teen hundred fifty-three or which does not contain property that was
34 assessed in nineteen hundred fifty-three, the commissioner shall deter-
35 mine the full value of such special franchise as of the [~~valuation date~~
36 ~~of the assessing unit~~] taxable status date specified by subdivision four
37 of section three hundred two of this chapter. Such full value shall be
38 determined by the commissioner for purposes of sections six hundred
39 eight, six hundred fourteen and six hundred sixteen of this article.
40 These full values shall be entered on the assessment roll at the level
41 of assessment, which shall be the uniform percentage of value, as
42 required by section five hundred two of this chapter, appearing on the
43 tentative assessment roll upon which the assessment is entered. Whenever
44 a final state equalization rate, or, in the case of a special assessing
45 unit, a class equalization rate, is established that is different from a
46 level of assessment applied pursuant to this paragraph, any public offi-
47 cial having custody of that assessment roll is hereby authorized and
48 directed to recompute these assessments to reflect that equalization
49 rate, provided such final rate is established by the commissioner at
50 least ten days prior to the date for levy of taxes against those assess-
51 ments.

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

53 SUBPART F

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

3 § 575-a. Electric generating facility annual reports. 1. Every corpo-
4 ration, company, association, joint stock association, partnership and
5 person, their lessees, trustees or receivers appointed by any court
6 whatsoever, owning, operating or managing any electric generating facil-
7 ity in the state shall annually file with the commissioner, by April
8 thirtieth, a report showing the inventory, revenue, and expenses associ-
9 ated therewith for the most recent fiscal year. Such report shall be in
10 the form and manner prescribed by the commissioner.

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

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

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

22 3. Every electric generating facility owner, operator, or manager
23 failing to make the report required by this section, or failing to make
24 any report required by the commissioner pursuant to this section within
25 the time specified by it, shall forfeit to the people of the state the
26 sum of ten thousand dollars for every such failure and the additional
27 sum of one thousand dollars for each day that such failure continues.

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

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

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

41 PART K

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

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

46 PART L

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

49 § 44. Employer-provided child care credit. (a) General. A taxpayer
50 subject to tax under article nine-A, twenty-two, or thirty-three of this
51 chapter shall be allowed a credit against such tax in an amount equal to
52 the portion of the credit that is allowed to the taxpayer under section

1 45F of the internal revenue code that is attributable to (i) qualified
2 child care expenditures paid or incurred with respect to a qualified
3 child care facility with a situs in the state, and to (ii) qualified
4 child care resource and referral expenditures paid or incurred with
5 respect to the taxpayer's employees working in the state. The credit
6 allowable under this subdivision for any taxable year shall not exceed
7 one hundred fifty thousand dollars. If the entity operating the quali-
8 fied child care facility is a partnership or a New York S corporation,
9 then such cap shall be applied at the entity level, so the aggregate
10 credit allowed to all the partners or shareholders of such entity in a
11 taxable year does not exceed one hundred fifty thousand dollars.

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

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

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

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

31 (1) article 9-A: section 210-B, subdivision 53;

32 (2) article 22: section 606(i), subsections (i) and (jjj);

33 (3) article 33: section 1511, subdivision (dd).

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

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

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

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

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

1 (xliv) Employer-provided child care credit (jjj) Amount of credit under subdivision
 2 fifty-three of section two hundred
 3 ten-B

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

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

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

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

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

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

24 (2) Application of credit. The credit allowed under this subdivision
 25 shall not reduce the tax due for such year to be less than the minimum
 26 fixed by paragraph four of subdivision (a) of section fifteen hundred
 27 two or section fifteen hundred two-a of this article, whichever is
 28 applicable. However, if the amount of the credit allowed under this
 29 subdivision for any taxable year reduces the taxpayer's tax to such
 30 amount, any amount of credit thus not deductible will be treated as an
 31 overpayment of tax to be credited or refunded in accordance with the
 32 provisions of section one thousand eighty-six of this chapter.
 33 Provided, however, the provisions of subsection (c) of one thousand
 34 eighty-eight of this chapter notwithstanding, no interest shall be paid
 35 thereon.

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

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

40 PART M

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

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

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

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

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

1

PART N

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

5 (c) For purposes of this [~~subdivision~~] section, the term "eligible
6 farmer" means a taxpayer whose federal gross income from farming as
7 defined in subsection (n) of section six hundred six of this chapter for
8 the taxable year is at least two-thirds of excess federal gross income.
9 Excess federal gross income means the amount of federal gross income
10 from all sources for the taxable year in excess of thirty thousand
11 dollars. For [~~the~~] purposes of this [~~subdivision~~] section, payments from
12 the state's farmland protection program, administered by the department
13 of agriculture and markets, shall be included as federal gross income
14 from farming for otherwise eligible farmers.

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

17 (d-1) Special rules. If more than fifty percent of such eligible farm-
18 er's federal gross income from farming is from the sale of wine from a
19 licensed farm winery as provided for in article six of the alcoholic
20 beverage control law, or from the sale of cider from a licensed farm
21 cidery as provided for in section fifty-eight-c of the alcoholic bever-
22 age control law, then an eligible farm employee of such eligible farmer
23 shall be included for purposes of calculating the amount of credit
24 allowed under this section only if such eligible farm employee is
25 employed by such eligible farmer on qualified agricultural property as
26 defined in paragraph four of subsection (n) of section six hundred six
27 of this chapter.

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

30

PART O

31 Section 1. Section 12 of part N of chapter 61 of the laws of 2005,
32 amending the tax law relating to certain transactions and related infor-
33 mation and relating to the voluntary compliance initiative, as amended
34 by section 1 of part M of chapter 60 of the laws of 2016, is amended to
35 read as follows:

36 § 12. This act shall take effect immediately; provided, however, that
37 (i) section one of this act shall apply to all disclosure statements
38 described in paragraph 1 of subdivision (a) of section 25 of the tax
39 law, as added by section one of this act, that were required to be filed
40 with the internal revenue service at any time with respect to "listed
41 transactions" as described in such paragraph 1, and shall apply to all
42 disclosure statements described in paragraph 1 of subdivision (a) of
43 section 25 of the tax law, as added by section one of this act, that
44 were required to be filed with the internal revenue service with respect
45 to "reportable transactions" as described in such paragraph 1, other
46 than "listed transactions", in which a taxpayer participated during any
47 taxable year for which the statute of limitations for assessment has not
48 expired as of the date this act shall take effect, and shall apply to
49 returns or statements described in such paragraph 1 required to be filed
50 by taxpayers (or persons as described in such paragraph) with the
51 commissioner of taxation and finance on or after the sixtieth day after
52 this act shall have become a law; and

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

5 ~~(iii) provided, further, that the provisions of this act, except~~
6 ~~section five of this act, shall expire and be deemed repealed July 1,~~
7 ~~2019, provided, that, such expiration and repeal shall not affect any~~
8 ~~requirement imposed pursuant to this act].~~

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

11 (aa) Tax preparer penalty.-- (1) If a tax return preparer takes a
12 position on any income tax return or credit claim form that either
13 understates the tax liability or increases the claim for a refund, and
14 the preparer knew, or reasonably should have known, that said position
15 was not proper, and such position was not adequately disclosed on the
16 return or in a statement attached to the return, such income tax preparer
17 shall pay a penalty of between one hundred and one thousand dollars.

18 (2) If a tax return preparer takes a position on any income tax return
19 or credit claim form that either understates the tax liability or
20 increases the claim for a refund and the understatement of the tax
21 liability or the increased claim for refund is due to the preparer's
22 reckless or intentional disregard of the law, rules or regulations, such
23 preparer shall pay a penalty of between five hundred and five thousand
24 dollars. The amount of the penalty payable by any person by reason of
25 this paragraph shall be reduced by the amount of the penalty paid by
26 such person by reason of paragraph one of this subsection.

27 (3) For purposes of this subsection, the term "understatement of tax
28 liability" means any understatement of the net amount payable with
29 respect to any tax imposed under this article or any overstatement of
30 the net amount creditable or refundable with respect to any such tax.

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

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

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

39 (1) Failure to sign return or claim for refund. If a tax return
40 preparer who is required pursuant to paragraph one of subsection (g) of
41 section six hundred fifty-eight of this article to sign a return or
42 claim for refund fails to comply with such requirement with respect to
43 such return or claim for refund, the tax return preparer shall be
44 subject to a penalty of two hundred fifty dollars for each such failure
45 to sign, unless it is shown that such failure is due to reasonable cause
46 and not due to willful neglect. The maximum penalty imposed under this
47 paragraph on any tax return preparer with respect to returns filed
48 during any calendar year by the tax return preparer must not exceed ten
49 thousand dollars. Provided, however, that if a tax return preparer has
50 been penalized under this paragraph for a preceding calendar year and
51 again fails to sign his or her name on any return that requires the tax
52 return preparer's signature during a subsequent calendar year, then the
53 penalty under this paragraph for each failure will be five hundred
54 dollars, and no annual cap will apply. This paragraph shall not apply if
55 the penalty under paragraph three of subsection (g) of section thirty-

1 two of this chapter is imposed on the tax return preparer with respect
 2 to such return or claim for refund.

3 (2) Failure to furnish identifying number. If a tax return preparer
 4 fails to include any identifying number required to be included on any
 5 return or claim for refund pursuant to paragraph two of subsection (g)
 6 of section six hundred fifty-eight of this article, the tax return
 7 preparer shall be subject to a penalty of one hundred dollars for each
 8 such failure, unless it is shown that such failure is due to reasonable
 9 cause and not willful neglect. The maximum penalty imposed under this
 10 paragraph on any tax return preparer with respect to returns filed
 11 during any calendar year must not exceed two thousand five hundred
 12 dollars; provided, however, that if a tax return preparer has been
 13 penalized under this paragraph for a preceding calendar year and again
 14 fails to include the identifying number on one or more returns during a
 15 subsequent calendar year, then the penalty under this paragraph for each
 16 failure will be two hundred fifty dollars, and no annual cap will apply.
 17 this paragraph shall not apply if the penalty under paragraph four of
 18 subsection (g) of section thirty-two of this chapter is imposed on the
 19 tax return preparer with respect to such return or claim for refund.

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

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

27 PART P

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

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

34 If the New York taxable income is:	The tax is:
35 Not over \$17,150	4% of the New York taxable income
36 Over \$17,150 but not over \$23,600	\$686 plus 4.5% of excess over
37	\$17,150
38 Over \$23,600 but not over \$27,900	\$976 plus 5.25% of excess over
39	\$23,600
40 Over \$27,900 but not over \$43,000	\$1,202 plus 5.9% of excess over
41	\$27,900
42 Over \$43,000 but not over \$161,550	\$2,093 plus 6.09% of excess over
43	\$43,000
44 Over \$161,550 but not over \$323,200	\$9,313 plus 6.41% of excess over
45	\$161,550
46 Over \$323,200 <u>but not over</u>	\$19,674 plus 6.85% of excess
47 <u>\$2,155,350</u>	\$323,200 over
48 <u>Over \$2,155,350</u>	<u>\$145,177 plus 8.82% of excess over</u>
49	<u>\$2,155,350</u>

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

52 If the New York taxable income is:	The tax is:
53 Not over \$17,150	4% of the New York taxable income
54 Over \$17,150 but not over \$23,600	\$686 plus 4.5% of excess over

1		\$17,150
2	Over \$23,600 but not over \$27,900	\$976 plus 5.25% of excess over
3		\$23,600
4	Over \$27,900 but not over \$43,000	\$1,202 plus 5.9% of excess over
5		\$27,900
6	Over \$43,000 but not over \$161,550	\$2,093 plus 5.97% of excess over
7		\$43,000
8	Over \$161,550 but not over \$323,200	\$9,170 plus 6.33% of excess over
9		\$161,550
10	Over \$323,200 <u>but not over</u>	\$19,403 plus 6.85% of excess
11	<u>\$2,155,350</u>	over \$323,200
12	<u>Over \$2,155,350</u>	<u>\$144,905 plus 8.82% of excess over</u>
13		<u>\$2,155,350</u>

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

16	If the New York taxable income is:	The tax is:
17	Not over \$17,150	4% of the New York taxable income
18	Over \$17,150 but not over \$23,600	\$686 plus 4.5% of excess over
19		\$17,150
20	Over \$23,600 but not over \$27,900	\$976 plus 5.25% of excess over
21		\$23,600
22	Over \$27,900 but not over \$161,550	\$1,202 plus 5.85% of excess over
23		\$27,900
24	Over \$161,550 but not over \$323,200	\$9,021 plus 6.25% of excess over
25		\$161,550
26	Over \$323,200 <u>but not over \$2,155,350</u>	\$19,124 plus
27		6.85% of excess over \$323,200
28	<u>Over \$2,155,350</u>	<u>\$144,626 plus 8.82% of excess over</u>
29		<u>\$2,155,350</u>

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

32	If the New York taxable income is:	The tax is:
33	Not over \$17,150	4% of the New York taxable income
34	Over \$17,150 but not over \$23,600	\$686 plus 4.5% of excess over
35		\$17,150
36	Over \$23,600 but not over \$27,900	\$976 plus 5.25% of excess over
37		\$23,600
38	Over \$27,900 but not over \$161,550	\$1,202 plus 5.73% of excess over
39		\$27,900
40	Over \$161,550 but not over \$323,200	\$8,860 plus 6.17% of excess over
41		\$161,550
42	Over \$323,200 <u>but not over</u>	\$18,834 plus 6.85% of
43	<u>\$2,155,350</u>	excess over \$323,200
44	<u>Over \$2,155,350</u>	<u>\$144,336 plus 8.82% of excess over</u>
45		<u>\$2,155,350</u>

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

48	If the New York taxable income is:	The tax is:
49	Not over \$17,150	4% of the New York taxable income
50	Over \$17,150 but not over \$23,600	\$686 plus 4.5% of excess over
51		\$17,150
52	Over \$23,600 but not over \$27,900	\$976 plus 5.25% of excess over
53		\$23,600
54	Over \$27,900 but not over \$161,550	\$1,202 plus 5.61% of excess over
55		\$27,900
56	Over \$161,550 but not over \$323,200	\$8,700 plus 6.09% of excess over

1		\$161,550
2	Over \$323,200 <u>but not over</u>	\$18,544 plus 6.85% of
3	<u>\$2,155,350</u>	excess over \$323,200
4	<u>Over \$2,155,350</u>	<u>\$144,047 plus 8.82% of excess over</u>
5		<u>\$2,155,350</u>

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

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

12	If the New York taxable income is:	The tax is:
13	Not over \$12,800	4% of the New York taxable income
14	Over \$12,800 but not over \$17,650	\$512 plus 4.5% of excess over \$12,800
15	Over \$17,650 but not over \$20,900	\$730 plus 5.25% of excess over
16		\$17,650
17	Over \$20,900 but not over \$32,200	\$901 plus 5.9% of excess over \$20,900
18	Over \$32,200 but not over \$107,650	\$1,568 plus 6.09% of excess over
19		\$32,200
20	Over \$107,650 but not over \$269,300	\$6,162 plus 6.41% of excess over
21		\$107,650
22	Over \$269,300 <u>but not over</u>	\$16,524 plus 6.85% of
23	<u>\$1,616,450</u>	excess over \$269,300
24	<u>Over \$1,616,450</u>	<u>\$108,804 plus 8.82% of excess over</u>
25		<u>\$1,616,450</u>

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

28	If the New York taxable income is:	The tax is:
29	Not over \$12,800	4% of the New York taxable income
30	Over \$12,800 but not over \$17,650	\$512 plus 4.5% of excess over
31		\$12,800
32	Over \$17,650 but not over \$20,900	\$730 plus 5.25% of excess over
33		\$17,650
34	Over \$20,900 but not over \$32,200	\$901 plus 5.9% of excess over
35		\$20,900
36	Over \$32,200 but not over \$107,650	\$1,568 plus 5.97% of excess over
37		\$32,200
38	Over \$107,650 but not over \$269,300	\$6,072 plus 6.33% of excess over
39		\$107,650
40	Over \$269,300 <u>but not over</u>	\$16,304 plus 6.85% of
41	<u>\$1,616,450</u>	excess over \$269,300
42	<u>Over \$1,616,450</u>	<u>\$108,584 plus 8.82% of excess over</u>
43		<u>\$1,616,450</u>

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

46	If the New York taxable income is:	The tax is:
47	Not over \$12,800	4% of the New York taxable income
48	Over \$12,800 but not over \$17,650	\$512 plus 4.5% of excess over
49		\$12,800
50	Over \$17,650 but not over \$20,900	\$730 plus 5.25% of excess over
51		\$17,650
52	Over \$20,900 but not over \$107,650	\$901 plus 5.85% of excess over
53		\$20,900
54	Over \$107,650 but not over \$269,300	\$5,976 plus 6.25% of excess over
55		\$107,650
56	Over \$269,300 <u>but not over</u>	\$16,079 plus 6.85% of excess

1 \$1,616,450 over \$269,300
 2 Over \$1,616,450 \$108,359 plus 8.82% of excess over
 3 \$1,616,450

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

6 If the New York taxable income is:	The tax is:
7 Not over \$12,800	4% of the New York taxable income
8 Over \$12,800 but not over \$17,650	\$512 plus 4.5% of excess over
9	\$12,800
10 Over \$17,650 but not over \$20,900	\$730 plus 5.25% of excess over
11	\$17,650
12 Over \$20,900 but not over \$107,650	\$901 plus 5.73% of excess over
13	\$20,900
14 Over \$107,650 but not over \$269,300	\$5,872 plus 6.17% of excess over
15	\$107,650
16 Over \$269,300 <u>but not over</u>	\$15,845 plus 6.85% of excess
17 <u>\$1,616,450</u>	over \$269,300
18 <u>Over \$1,616,450</u>	<u>\$108,125 plus 8.82% of excess over</u>
19	<u>\$1,616,450</u>

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

22 If the New York taxable income is:	The tax is:
23 Not over \$12,800	4% of the New York taxable income
24 Over \$12,800 but not over \$17,650	\$512 plus 4.5% of excess over
25	\$12,800
26 Over \$17,650 but not over \$20,900	\$730 plus 5.25% of excess over
27	\$17,650
28 Over \$20,900 but not over \$107,650	\$901 plus 5.61% of excess over
29	\$20,900
30 Over \$107,650 but not over \$269,300	\$5,768 plus 6.09% of excess over
31	\$107,650
32 Over \$269,300 <u>but not over</u>	\$15,612 plus 6.85% of excess
33 <u>\$1,616,450</u>	over \$269,300
34 <u>Over \$1,616,450</u>	<u>\$107,892 plus 8.82% of excess over</u>
35	<u>\$1,616,450</u>

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

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

42 If the New York taxable income is:	The tax is:
43 Not over \$8,500	4% of the New York taxable income
44 Over \$8,500 but not over \$11,700	\$340 plus 4.5% of excess over
45	\$8,500
46 Over \$11,700 but not over \$13,900	\$484 plus 5.25% of excess over
47	\$11,700
48 Over \$13,900 but not over \$21,400	\$600 plus 5.9% of excess over
49	\$13,900
50 Over \$21,400 but not over \$80,650	\$1,042 plus 6.09% of excess over
51	\$21,400
52 Over \$80,650 but not over \$215,400	\$4,650 plus 6.41% of excess over
53	\$80,650
54 Over \$215,400 <u>but not over</u>	\$13,288 plus 6.85% of excess
55 <u>\$1,077,550</u>	over \$215,400
56 <u>Over \$1,077,550</u>	<u>\$72,345 plus 8.82% of excess over</u>

1		<u>\$1,077,550</u>
2	(iv) For taxable years beginning in two thousand twenty-one the	
3	following rates shall apply:	
4	If the New York taxable income is:	The tax is:
5	Not over \$8,500	4% of the New York taxable income
6	Over \$8,500 but not over \$11,700	\$340 plus 4.5% of excess over
7		\$8,500
8	Over \$11,700 but not over \$13,900	\$484 plus 5.25% of excess over
9		\$11,700
10	Over \$13,900 but not over \$21,400	\$600 plus 5.9% of excess over
11		\$13,900
12	Over \$21,400 but not over \$80,650	\$1,042 plus 5.97% of excess over
13		\$21,400
14	Over \$80,650 but not over \$215,400	\$4,579 plus 6.33% of excess over
15		\$80,650
16	Over \$215,400 <u>but not over</u>	\$13,109 plus 6.85% of excess
17	<u>\$1,077,550</u>	over \$215,400
18	<u>Over \$1,077,550</u>	<u>\$72,166 plus 8.82% of excess over</u>
19		<u>\$1,077,550</u>
20	(v) For taxable years beginning in two thousand twenty-two the follow-	
21	ing rates shall apply:	
22	If the New York taxable income is:	The tax is:
23	Not over \$8,500	4% of the New York taxable income
24	Over \$8,500 but not over \$11,700	\$340 plus 4.5% of excess over
25		\$8,500
26	Over \$11,700 but not over \$13,900	\$484 plus 5.25% of excess over
27		\$11,700
28	Over \$13,900 but not over \$80,650	\$600 plus 5.85% of excess over
29		\$13,900
30	Over \$80,650 but not over \$215,400	\$4,504 plus 6.25% of excess over
31		\$80,650
32	Over \$215,400 <u>but not over</u>	\$12,926 plus 6.85% of excess
33	<u>\$1,077,550</u>	over \$215,400
34	<u>Over \$1,077,550</u>	<u>\$71,984 plus 8.82% of excess over</u>
35		<u>\$1,077,550</u>
36	(vi) For taxable years beginning in two thousand twenty-three the	
37	following rates shall apply:	
38	If the New York taxable income is:	The tax is:
39	Not over \$8,500	4% of the New York taxable income
40	Over \$8,500 but not over \$11,700	\$340 plus 4.5% of excess over
41		\$8,500
42	Over \$11,700 but not over \$13,900	\$484 plus 5.25% of excess over
43		\$11,700
44	Over \$13,900 but not over \$80,650	\$600 plus 5.73% of excess over
45		\$13,900
46	Over \$80,650 but not over \$215,400	\$4,424 plus 6.17% of excess over
47		\$80,650
48	Over \$215,400 <u>but not over</u>	\$12,738 plus 6.85% of excess
49	<u>\$1,077,550</u>	over \$215,400
50	<u>Over \$1,077,550</u>	<u>\$71,796 plus 8.82% of excess over</u>
51		<u>\$1,077,550</u>
52	(vii) For taxable years beginning in two thousand twenty-four the	
53	following rates shall apply:	
54	If the New York taxable income is:	The tax is:
55	Not over \$8,500	4% of the New York taxable income
56	Over \$8,500 but not over \$11,700	\$340 plus 4.5% of excess over

1		\$8,500
2	Over \$11,700 but not over \$13,900	\$484 plus 5.25% of excess over
3		\$11,700
4	Over \$13,900 but not over \$80,650	\$600 plus 5.61% of excess over
5		\$13,900
6	Over \$80,650 but not over \$215,400	\$4,344 plus 6.09% of excess over
7		\$80,650
8	Over \$215,400 <u>but not over</u>	\$12,550 plus 6.85% of excess
9	<u>\$1,077,550</u>	over \$215,400
10	<u>Over \$1,077,550</u>	<u>\$71,608 plus 8.82% of excess over</u>
11		<u>\$1,077,550</u>

12 § 4. Subparagraph (D) of paragraph 1 of subsection (d-1) of section
 13 601 of the tax law, as amended by section 4 of part R of chapter 59 of
 14 the laws of 2017, is amended to read as follows:

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

29 § 5. Subparagraph (C) of paragraph 2 of subsection (d-1) of section
 30 601 of the tax law, as amended by section 5 of part R of chapter 59 of
 31 the laws of 2017, is amended to read as follows:

32 (C) The tax table benefit is the difference between (i) the amount of
 33 taxable income set forth in the tax table in paragraph one of subsection
 34 (b) of this section not subject to the 8.82 percent rate of tax for the
 35 taxable year multiplied by such rate and (ii) the dollar denominated tax
 36 for such amount of taxable income set forth in the tax table applicable
 37 to the taxable year in paragraph one of subsection (b) of this section
 38 less the sum of the tax table benefits in subparagraphs (A) and (B) of
 39 this paragraph. The fraction for this subparagraph is computed as
 40 follows: the numerator is the lesser of fifty thousand dollars or the
 41 excess of New York adjusted gross income for the taxable year over one
 42 million five hundred thousand dollars and the denominator is fifty thou-
 43 sand dollars. This subparagraph shall apply only to taxable years begin-
 44 ning on or after January first, two thousand twelve and before January
 45 first, two thousand [~~twenty~~] twenty-five.

46 § 6. Subparagraph (C) of paragraph 3 of subsection (d-1) of section
 47 601 of the tax law, as amended by section 6 of part R of chapter 59 of
 48 the laws of 2017, is amended to read as follows:

49 (C) The tax table benefit is the difference between (i) the amount of
 50 taxable income set forth in the tax table in paragraph one of subsection
 51 (c) of this section not subject to the 8.82 percent rate of tax for the
 52 taxable year multiplied by such rate and (ii) the dollar denominated tax
 53 for such amount of taxable income set forth in the tax table applicable
 54 to the taxable year in paragraph one of subsection (c) of this section
 55 less the sum of the tax table benefits in subparagraphs (A) and (B) of
 56 this paragraph. The fraction for this subparagraph is computed as

1 follows: the numerator is the lesser of fifty thousand dollars or the
2 excess of New York adjusted gross income for the taxable year over one
3 million dollars and the denominator is fifty thousand dollars. This
4 subparagraph shall apply only to taxable years beginning on or after
5 January first, two thousand twelve and before January first, two thou-
6 sand [~~twenty~~] twenty-five.

7 § 7. This act shall take effect immediately.

8

PART Q

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

12 (g) Notwithstanding subsection (a) of this section, the New York item-
13 ized deduction for charitable contributions shall be the amount allowed
14 under section one hundred seventy of the internal revenue code, as modi-
15 fied by paragraph nine of subsection (c) of this section and as limited
16 by this subsection.

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

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

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

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

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

54 (2) With respect to an individual whose New York adjusted gross income
55 is over ten million dollars, the New York itemized deduction shall be an
56 amount equal to twenty-five percent of any charitable contribution

1 deduction allowed under section one hundred seventy of the internal
2 revenue code for taxable years beginning after two thousand nine and
3 ending before two thousand [~~twenty~~] twenty-five.

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

6 PART R

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

10 (a) General. A taxpayer shall be allowed a credit against the tax
11 imposed by this article. Such credit, to be computed as hereinafter
12 provided, shall be allowed for bioheating fuel, used for space heating
13 or hot water production for residential purposes within this state
14 purchased before January first, two thousand [~~twenty~~] twenty-three. Such
15 credit shall be \$0.01 per percent of biodiesel per gallon of bioheating
16 fuel, not to exceed twenty cents per gallon, purchased by such taxpayer.
17 Provided, however, that on or after January first, two thousand seven-
18 teen, this credit shall not apply to bioheating fuel that is less than
19 six percent biodiesel per gallon of bioheating fuel.

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

23 (1) A taxpayer shall be allowed a credit against the tax imposed by
24 this article. Such credit, to be computed as hereinafter provided, shall
25 be allowed for bioheating fuel, used for space heating or hot water
26 production for residential purposes within this state and purchased on
27 or after July first, two thousand six and before July first, two thou-
28 sand seven and on or after January first, two thousand eight and before
29 January first, two thousand [~~twenty~~] twenty-three. Such credit shall be
30 \$0.01 per percent of biodiesel per gallon of bioheating fuel, not to
31 exceed twenty cents per gallon, purchased by such taxpayer. Provided,
32 however, that on or after January first, two thousand seventeen, this
33 credit shall not apply to bioheating fuel that is less than six percent
34 biodiesel per gallon of bioheating fuel.

35 § 3. This act shall take effect immediately.

36 PART S

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

41 § 2. This act shall take effect immediately.

42 PART T

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

46 3. Such annual fee shall be paid for each calendar year on the
47 fifteenth day of March next succeeding the close of such calendar year
48 but shall not be payable after January first, two thousand twenty;
49 provided, however, that cooperative corporations described in subdivi-
50 sions one or two of this section shall continue to not be subject to the

1 franchise, license, and corporation taxes referenced in such subdivi-
2 sions or, in the case of cooperative cooperations described in subdivi-
3 sion two of this section, the tax imposed under section one-hundred
4 eighty-six-a of the tax law.

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

7 § 66. License fee in lieu of all franchise, excise, income, corpo-
8 ration and sales and compensating use taxes. Each cooperative and
9 foreign corporation doing business in this state pursuant to this chap-
10 ter shall pay annually, on or before the first day of July, to the state
11 tax commission, a fee of ten dollars, but shall be exempt from all other
12 franchise, excise, income, corporation and sales and compensating use
13 taxes whatsoever. The exemption from the sales and compensating use
14 taxes provided by this section shall not apply to the taxes imposed
15 pursuant to section eleven hundred seven or eleven hundred eight of the
16 tax law. Nothing contained in this section shall be deemed to exempt
17 such corporations from collecting and paying over sales and compensating
18 use taxes on retail sales of tangible personal property and services
19 made by such corporations to purchasers required to pay such taxes
20 imposed pursuant to article twenty-eight or authorized pursuant to the
21 authority of article twenty-nine of the tax law. Such annual fee shall
22 not be payable after January first, two thousand twenty.

23 § 3. This act shall take effect immediately.

24 PART U

25 Section 1. Paragraph (e) of subdivision 26 of section 210-B of the tax
26 law, as amended by section 2 of part RR of chapter 59 of the laws of
27 2018, is amended to read as follows:

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

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

45 (5) [~~Te~~] Except in the case of a qualified rehabilitation project
46 undertaken within a state park, state historic site, or other land owned
47 by the state, that is under the jurisdiction of the office of parks,
48 recreation and historic preservation, to be eligible for the credit
49 allowable under this subsection the rehabilitation project shall be in
50 whole or in part located within a census tract which is identified as
51 being at or below one hundred percent of the state median family income
52 as calculated as of April first of each year using the most recent five
53 year estimate from the American community survey published by the United
54 States Census bureau. If there is a change in the most recent five year

1 estimate, a census tract that qualified for eligibility under this
2 program before information about the change was released will remain
3 eligible for a credit under this subsection for an additional two calen-
4 dar years.

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

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

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

24 PART V

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

28 (jj) Tangible personal property or services otherwise taxable under
29 this article sold to a related person shall not be subject to the taxes
30 imposed by section eleven hundred five of this article or the compensat-
31 ing use tax imposed under section eleven hundred ten of this article
32 where the purchaser can show that the following conditions have been met
33 to the extent they are applicable: (1)(i) the vendor and the purchaser
34 are referenced as either a "covered company" as described in section
35 243.2(f) or a "material entity" as described in section 243.2(l) of the
36 Code of Federal Regulations in a resolution plan that has been submitted
37 to an agency of the United States for the purpose of satisfying subpara-
38 graph 1 of paragraph (d) of section one hundred sixty-five of the Dodd-
39 Frank Wall Street Reform and Consumer Protection Act (the "Act") or any
40 successor law, or (ii) the vendor and the purchaser are separate legal
41 entities pursuant to a divestiture directed pursuant to subparagraph 5
42 of paragraph (d) of section one hundred sixty-five of such act or any
43 successor law; (2) the sale would not have occurred between such related
44 entities were it not for such resolution plan or divestiture; and (3) in
45 acquiring such property or services, the vendor did not claim an
46 exemption from the tax imposed by this state or another state based on
47 the vendor's intent to resell such services or property. A person is
48 related to another person for purposes of this subdivision if the person
49 bears a relationship to such person described in section two hundred
50 sixty-seven of the internal revenue code. The exemption provided by this
51 subdivision shall not apply to sales made, services rendered, or uses
52 occurring after June thirtieth, two thousand ~~[nineteen]~~ twenty-one,
53 except with respect to sales made, services rendered, or uses occurring
54 pursuant to binding contracts entered into on or before such date; but

1 in no case shall such exemption apply after June thirtieth, two thousand
2 twenty-four.

3 § 2. This act shall take effect immediately.

4 PART W

5 Section 1. The mental hygiene law is amended by adding a new section
6 32.38 to read as follows:

7 § 32.38 Power to administer the recovery tax credit program.

8 (a) Authorization. The commissioner is authorized to establish and
9 administer the recovery tax credit program to provide tax incentives to
10 certified employers for employing eligible individuals in recovery from
11 a substance use disorder in part-time and full-time positions in the
12 state. The commissioner is authorized to allocate up to two million
13 dollars of tax credits annually for the recovery tax credit program
14 beginning in the year two thousand twenty.

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

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

23 (ii) fulfills the eligibility criteria set forth in this section and
24 by the commissioner to participate in the recovery tax credit program
25 established in this section.

26 2. The term "eligible individual" means an individual with a substance
27 use disorder as that term is defined in section 1.03 of this chapter who
28 is in a state of wellness where there is an abatement of signs and symp-
29 toms that characterize active addiction and has demonstrated to the
30 qualified employer's satisfaction that he or she has completed a course
31 of treatment for such substance use disorder.

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

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

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

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

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

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

7 (d) Eligibility. A certified employer shall be entitled to a tax cred-
8 it equal to the product of one dollar and the number of hours worked by
9 each eligible individual during such individual's period of eligibility.
10 The credit shall not be allowed unless the eligible individual has
11 worked in state for a minimum of five hundred hours for the certified
12 employer, and the credit cannot exceed two thousand dollars per eligible
13 individual employed by the certified employer in the state. The period
14 of eligibility for each such employee starts on the day the employee is
15 hired and ends on December thirty-first of the immediately succeeding
16 calendar year or the last day of the employee's employment by the certi-
17 fied employer, whichever comes first. If an employee has worked in
18 excess of five hundred hours between the date of hiring and December
19 thirty-first of that year, an employer can elect to compute and claim a
20 credit for such employee in that year based on the hours worked by
21 December thirty-first. Alternatively, the employer may elect to include
22 such individual in the computation of the credit in the year immediately
23 succeeding the year in which the employee was hired. In such case, the
24 credit shall be computed on the basis of all hours worked by such eligi-
25 ble individual from the date of hire to the earlier of the last day of
26 employment or December thirty-first of the succeeding year. However, in
27 no event may an employee generate credit for hours worked in excess of
28 two thousand hours. An employer may claim credit only once with respect
29 to any eligible individual and may not aggregate hours of two or more
30 employees to reach the minimum number of hours.

31 (e) Duties of the commissioner. The commissioner shall annually
32 provide to the commissioner of the department of taxation and finance
33 information about the program including, but not limited to, the number
34 of certified employers then participating in the program, unique identi-
35 fying information for each certified employer, the number of eligible
36 individuals employed by each certified employer, unique identifying
37 information for each eligible individual employed by the certified
38 employers, the number of hours worked by such eligible individuals, the
39 total dollar amount of claims for credit, and the dollar amount of cred-
40 it granted to each certified employer.

41 (f) Certified employer's taxable year. If the certified employer's
42 taxable year is a calendar year, the employer shall be entitled to claim
43 the credit as shown on the certificate of tax credit on the calendar
44 year return for which the certificate of tax credit was issued. If the
45 certified employer's taxable year is a fiscal year, the employer shall
46 be entitled to claim the credit as shown on the certificate of tax cred-
47 it on the return for the fiscal year that includes the last day of the
48 calendar year covered by the certificate of tax credit.

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

- 51 1. Article 9-A: Section 210-B, subdivision 53.
- 52 2. Article 22: Section 606, subsection (jjj).
- 53 3. Article 33: Section 1511, subdivision (dd).

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

1 53. Recovery tax credit. (a) Allowance of credit. A taxpayer that is a
 2 certified employer pursuant to section 32.38 of the mental hygiene law
 3 that has received a certificate of tax credit from the commissioner of
 4 the office of alcoholism and substance abuse services shall be allowed a
 5 credit against the tax imposed by this article equal to the amount shown
 6 on such certificate of tax credit. A taxpayer that is a partner in a
 7 partnership or member of a limited liability company that has been
 8 certified by the commissioner of the office of alcoholism and substance
 9 abuse services as a qualified employer pursuant to section 32.38 of the
 10 mental hygiene law shall be allowed its pro rata share of the credit
 11 earned by the partnership or limited liability company.

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

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

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

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

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

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

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

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

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

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

19 (2) Application of credit. The credit allowed under this subdivision
20 for any taxable year shall not reduce the tax due for such year to less
21 than the minimum tax fixed by paragraph four of subdivision (a) of
22 section fifteen hundred two of this article or by section fifteen
23 hundred two-a of this article, whichever is applicable. However, if the
24 amount of credit allowed under this subdivision for any taxable year
25 reduces the tax to such amount, then any amount of credit thus not
26 deductible in such taxable year shall be treated as an overpayment of
27 tax to be credited or refunded in accordance with the provisions of
28 section one thousand eighty-six of this chapter. Provided, however, the
29 provisions of subsection (c) of section one thousand eighty-eight of
30 this chapter notwithstanding, no interest shall be paid thereon.

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

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

39 PART X

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

42 (20) Any amount excepted, for purposes of subsection (a) of section
43 one hundred eighteen of the internal revenue code, from the term
44 "contribution to the capital of the taxpayer" by paragraph two of
45 subsection (b) of section one hundred eighteen of the internal revenue
46 code.

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

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

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

4 (14) any amount excepted, for purposes of subsection (a) of section
5 one hundred eighteen of the internal revenue code, from the term
6 "contribution to the capital of the taxpayer" by paragraph two of
7 subsection (b) of section one hundred eighteen of the internal revenue
8 code.

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

11 PART Y

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

14 § 44. Investment management services. (a) For purposes of this
15 section, the term "investment management services" to a partnership, S
16 corporation or entity includes (1) rendering investment advice regarding
17 the purchase or sale of securities as defined in paragraph two of
18 subsection (c) of section four hundred seventy-five of the internal
19 revenue code without regard to the last sentence thereof, real estate
20 held for rental or investment, interests in partnerships, commodities as
21 defined in paragraph two of subsection (e) of section four hundred
22 seventy-five of the internal revenue code, or options or derivative
23 contracts with respect to any of the foregoing; (2) managing, acquiring,
24 or disposing of any such asset; (3) arranging financing with respect to
25 the acquisition of any such asset; and (4) related activities in support
26 of any service described in paragraphs one, two, or three of this subdi-
27 vision.

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

30 (1) where a partner performs investment management services for the
31 partnership, the partner will not be treated as a partner for purposes
32 of this chapter with respect to the amount of the partner's distributive
33 share of income, gain, loss and deduction, including any guaranteed
34 payments, that is in excess of the amount such distributive share would
35 have been if the partner had performed no investment management services
36 for the partnership. Instead, such excess amount shall be treated for
37 purposes of article nine-A of this chapter as a business receipt for
38 services and for purposes of article twenty-two of this chapter as
39 income attributable to a trade, business, profession or occupation.
40 Provided, however, the amount of the distributive share that would have
41 been determined if the partner performed no investment management
42 services shall not be less than zero.

43 (2) where a shareholder performs investment management services for
44 the S corporation, the shareholder will not be treated as a shareholder
45 for purposes of this chapter with respect to the amount of the share-
46 holder's pro rata share of income, gain, loss and deduction that is in
47 excess of the amount such pro rata share would have been if the share-
48 holder had performed no investment management services. Instead, such
49 excess amount shall be treated for purposes of article twenty-two of
50 this chapter as income attributable to a trade, business, profession or
51 occupation. Provided, however, the amount of the pro rata share that
52 would have been determined if the shareholder performed no services
53 shall not be less than zero.

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

6 (c) In addition to any other taxes or surcharges imposed pursuant to
7 article nine-A or twenty-two of this chapter, any corporation, partner
8 or shareholder providing investment management services shall be subject
9 to an additional tax, referred to as the "carried interest fairness
10 fee". Such carried interest fairness fee shall be equal to seventeen
11 percent of the excess amount determined pursuant to subdivision (b) of
12 this section; provided, however, (i) in the case of a corporation or
13 shareholder of an S corporation providing such investment management
14 services, such fee shall be equal to seventeen percent of the excess
15 amount apportioned to the state by applying the corporation's or S
16 corporation's apportionment factor determined under section two hundred
17 ten-A of this chapter; (ii) in the case of a nonresident partner provid-
18 ing such investment management services, such fee shall be equal to
19 seventeen percent of the excess amount derived from New York sources as
20 determined under section six hundred thirty-two of this chapter. Such
21 carried interest fairness fee shall be administered in accordance with
22 article nine-A or twenty-two of this chapter, as applicable, until such
23 time as the commissioner of taxation and finance has notified the legis-
24 lative bill drafting commission that federal legislation has been
25 enacted that treats the provision of investment management services for
26 federal tax purposes substantially the same as provided in this section.

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

30 (a) (i) The term "investment income" means income, including capital
31 gains in excess of capital losses, from investment capital, to the
32 extent included in computing entire net income, less, (A) in the
33 discretion of the commissioner, any interest deductions allowable in
34 computing entire net income which are directly or indirectly attribut-
35 able to investment capital or investment income, and (B) any net capital
36 gain included in federal taxable income that must be recharacterized as
37 a business receipt pursuant to section forty-four of this chapter;
38 provided, however, that in no case shall investment income exceed entire
39 net income. (ii) If the amount of interest deductions subtracted under
40 subparagraph (i) of this paragraph exceeds investment income, the excess
41 of such amount over investment income must be added back to entire net
42 income. (iii) If the taxpayer's investment income determined without
43 regard to the interest deductions subtracted under subparagraph (i) of
44 this paragraph comprises more than eight percent of the taxpayer's
45 entire net income, investment income determined without regard to such
46 interest deductions cannot exceed eight percent of the taxpayer's entire
47 net income.

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

50 (b) Character of items. [~~Each~~] Except as provided in section forty-
51 four of this chapter, each item of partnership and S corporation income,
52 gain, loss, or deduction shall have the same character for a partner or
53 shareholder under this article as for federal income tax purposes. Where
54 an item is not characterized for federal income tax purposes, it shall
55 have the same character for a partner or shareholder as if realized
56 directly from the source from which realized by the partnership or S

1 corporation or incurred in the same manner as incurred by the partner-
2 ship or S corporation.

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

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

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

16 [~~It~~] Except as otherwise provided in section forty-four of this chap-
17 ter, in determining the sources of a nonresident partner's income, no
18 effect shall be given to a provision in the partnership agreement
19 which--

20 § 6. For taxable years beginning on or after January 1, 2019 and
21 before January 1, 2020, (i) no addition to tax under subsection (c) of
22 section 685 or subsection (c) of section 1085 of the tax law shall be
23 imposed with respect to any underpayment attributable to the amendments
24 made by this act of any estimated taxes that are required to be paid
25 prior to the effective date of this act, provided that the taxpayer
26 timely made those payments; and (ii) the required installment of esti-
27 mated tax described in clause (ii) of subparagraph (B) of paragraph 3 of
28 subsection (c) of section 685 of the tax law, and the exception to addi-
29 tion for underpayment of estimated tax described in paragraph 1 or 2 of
30 subsection (d) of section 1085 of the tax law, in relation to the
31 preceding year's return, shall be calculated as if the amendments made
32 by this act had been in effect for that entire preceding year.

33 § 7. This act shall take effect upon the enactment into law by the
34 states of Connecticut, New Jersey, Massachusetts and Pennsylvania of
35 legislation having substantially the same effect as this act and the
36 enactments by such states have taken effect in each state and shall
37 apply for taxable years beginning on or after such date; provided,
38 however, if the states of Connecticut, New Jersey, Massachusetts and
39 Pennsylvania have already enacted such legislation, this act shall take
40 effect immediately and shall apply for taxable years beginning on or
41 after January 1, 2019; provided further that the commissioner of taxa-
42 tion and finance shall notify the legislative bill drafting commission
43 upon the enactment of such legislation by the states of Connecticut, New
44 Jersey, Massachusetts and Pennsylvania in order that such commission may
45 maintain an accurate and timely effective data base of the official text
46 of the laws of the state of New York in furtherance of effectuating the
47 provisions of section 44 of the legislative law and section 70-b of the
48 public officers law.

49

PART Z

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

1 (3) The total amount of credit allowable to a qualified life sciences
2 company, or, if the life sciences company is properly included or
3 required to be included in a combined report, to the combined group,
4 taken in the aggregate, shall not exceed five hundred thousand dollars
5 in any taxable year. If the [~~life sciences company~~] taxpayer is a part-
6 ner in a partnership that is a life sciences company or a shareholder of
7 a New York S corporation that is a life sciences company, then the total
8 amount of credit allowable shall be applied at the entity level, so that
9 the total amount of credit allowable to all the partners or shareholders
10 of each such entity, taken in the aggregate, does not exceed five
11 hundred thousand dollars in any taxable year.

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

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

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

25 5. For any taxable year of a real estate investment trust as defined
26 in section eight hundred fifty-six of the internal revenue code in which
27 such trust is subject to federal income taxation under section eight
28 hundred fifty-seven of such code, such trust shall be subject to a tax
29 computed under either paragraph (a) or (d) of subdivision one of section
30 two hundred ten of this chapter, whichever is greater, and shall not be
31 subject to any tax under article thirty-three of this chapter except for
32 a captive REIT required to file a combined return under subdivision (f)
33 of section fifteen hundred fifteen of this chapter. In the case of such
34 a real estate investment trust, including a captive REIT as defined in
35 section two of this chapter, the term "entire net income" means "real
36 estate investment trust taxable income" as defined in paragraph two of
37 subdivision (b) of section eight hundred fifty-seven (as modified by
38 section eight hundred fifty-eight) of the internal revenue code [~~plus~~
39 ~~the amount taxable under paragraph three of subdivision (b) of section~~
40 ~~eight hundred fifty-seven of such code~~], subject to the modifications
41 required by subdivision nine of section two hundred eight of this arti-
42 cle.

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

46 (a) Except in accordance with proper judicial order or as otherwise
47 provided by law, it shall be unlawful for any tax commissioner, any
48 officer or employee of the department [~~of taxation and finance~~], or any
49 person who, pursuant to this section, is permitted to inspect any
50 report, or to whom any information contained in any report is furnished,
51 or any person engaged or retained by such department on an independent
52 contract basis, or any person who in any manner may acquire knowledge of
53 the contents of a report filed pursuant to this article, to divulge or
54 make known in any manner the amount of income or any particulars set
55 forth or disclosed in any report under this article. The officers
56 charged with the custody of such reports shall not be required to

1 produce any of them or evidence of anything contained in them in any
2 action or proceeding in any court, except on behalf of the state or the
3 commissioner in an action or proceeding under the provisions of this
4 chapter or in any other action or proceeding involving the collection of
5 a tax due under this chapter to which the state or the commissioner is a
6 party or a claimant, or on behalf of any party to any action or proceed-
7 ing under the provisions of this article when the reports or facts shown
8 thereby are directly involved in such action or proceeding, in any of
9 which events the court may require the production of, and may admit in
10 evidence, so much of said reports or of the facts shown thereby as are
11 pertinent to the action or proceeding, and no more. The commissioner
12 may, nevertheless, publish a copy or a summary of any determination or
13 decision rendered after the formal hearing provided for in section one
14 thousand eighty-nine of this chapter. Nothing herein shall be construed
15 to prohibit the delivery to a corporation or its duly authorized repre-
16 sentative of a copy of any report filed by it, nor to prohibit the
17 publication of statistics so classified as to prevent the identification
18 of particular reports and the items thereof; or the publication of
19 delinquent lists showing the names of taxpayers who have failed to pay
20 their taxes at the time and in the manner provided by section two
21 hundred thirteen of this chapter together with any relevant information
22 which in the opinion of the commissioner may assist in the collection of
23 such delinquent taxes; or the inspection by the attorney general or
24 other legal representatives of the state of the report of any corpo-
25 ration which shall bring action to set aside or review the tax based
26 thereon, or against which an action or proceeding under this chapter has
27 been recommended by the commissioner of taxation and finance or the
28 attorney general or has been instituted; or the inspection of the
29 reports of any corporation by the comptroller or duly designated officer
30 or employee of the state department of audit and control, for purposes
31 of the audit of a refund of any tax paid by such corporation under this
32 article~~[, and nothing in this chapter shall be construed to prohibit the~~
33 ~~publication of the issuer's allocation percentage of any corporation, as~~
34 ~~such term "issuer's allocation percentage" is defined in subparagraph~~
35 ~~one of paragraph (b) of subdivision three of section two hundred ten of~~
36 ~~this article].~~

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

40 (a) First installments for certain taxpayers.--In privilege periods of
41 twelve months ending at any time during the calendar year nineteen
42 hundred seventy and thereafter, every taxpayer subject to the tax
43 imposed by section two hundred nine of this chapter must pay with the
44 report required to be filed for the preceding privilege period, or with
45 an application for extension of the time for filing the report, for
46 taxable years beginning before January first, two thousand sixteen, and
47 must pay on or before the fifteenth day of the third month of such priv-
48 ilege periods, for taxable years beginning on or after January first,
49 two thousand sixteen, an amount equal to (i) twenty-five percent of the
50 second preceding year's tax if the second preceding year's tax exceeded
51 one thousand dollars but was equal to or less than one hundred thousand
52 dollars, or (ii) forty percent of the second preceding year's tax if the
53 second preceding year's tax exceeded one hundred thousand dollars. If
54 the second preceding year's tax under section two hundred nine of this
55 chapter exceeded one thousand dollars and the taxpayer is subject to the
56 tax surcharge imposed by section two hundred nine-B of this chapter, the

1 taxpayer must also pay with the tax surcharge report required to be
2 filed for the second preceding privilege period, or with an application
3 for extension of the time for filing the report, for taxable years
4 beginning before January first, two thousand sixteen, and must pay on or
5 before the fifteenth day of the third month of such privilege periods,
6 for taxable years beginning on or after January first, two thousand
7 sixteen, an amount equal to (i) twenty-five percent of the tax surcharge
8 imposed for the second preceding year if the second preceding year's tax
9 was equal to or less than one hundred thousand dollars, or (ii) forty
10 percent of the tax surcharge imposed for the second preceding year if
11 the second preceding year's tax exceeded one hundred thousand dollars.
12 Provided, however, that every taxpayer that is [~~an~~] a New York S corpo-
13 ration must pay with the report required to be filed for the preceding
14 privilege period, or with an application for extension of the time for
15 filing the report, an amount equal to (i) twenty-five percent of the
16 preceding year's tax if the preceding year's tax exceeded one thousand
17 dollars but was equal to or less than one hundred thousand dollars, or
18 (ii) forty percent of the preceding year's tax if the preceding year's
19 tax exceeded one hundred thousand dollars. [~~If the preceding year's tax
20 under section two hundred nine of this article exceeded one thousand
21 dollars and such taxpayer that is an S corporation is subject to the tax
22 surcharge imposed by section two hundred nine B of this article, the
23 taxpayer must also pay with the tax surcharge report required to be
24 filed for the preceding privilege period, or with an application for
25 extension of the time for filing the report, an amount equal to (i)
26 twenty five percent of the tax surcharge imposed for the preceding year
27 if the preceding year's tax was equal equal to or less than one hundred
28 thousand dollars, or (ii) forty percent of the tax surcharge imposed for
29 the preceding year if the preceding year's tax exceeded one hundred
30 thousand dollars.~~]

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

35 (e) Interest on certain installments based on the second preceding
36 year's tax.--Notwithstanding the provisions of section one thousand
37 eighty-eight of this chapter or of section sixteen of the state finance
38 law, if an amount paid pursuant to subdivision (a) exceeds the tax or
39 tax surcharge, respectively, shown on the report required to be filed by
40 the taxpayer for the privilege period during which the amount was paid,
41 interest shall be allowed and paid on the amount by which the amount so
42 paid pursuant to such subdivision exceeds such tax or tax surcharge. In
43 the case of amounts so paid pursuant to subdivision (a), such interest
44 shall be allowed and paid at the overpayment rate set by the commis-
45 sioner of taxation and finance pursuant to section one thousand ninety-six
46 of this chapter, or if no rate is set, at the rate of six per centum per
47 annum from the date of payment of the amount so paid pursuant to such
48 subdivision to the fifteenth day of the [~~third~~] fourth month following
49 the close of the taxable year, provided, however, that no interest shall
50 be allowed or paid under this subdivision if the amount thereof is less
51 than one dollar or if such interest becomes payable solely because of a
52 carryback of a net operating loss in a subsequent privilege period.

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

55 (a) The entire net income of a taxpayer shall be its total net income
56 from all sources which shall be presumably the same as the life insur-

1 ance company taxable income (which shall include, in the case of a stock
2 life insurance company [~~which~~] that has a balance, as determined as of
3 the close of such company's last taxable year beginning before January
4 first, two thousand eighteen, in an existing policyholders surplus
5 account, as such term is defined in section 815 of the internal revenue
6 code as such section was in effect for taxable years beginning before
7 January first, two thousand eighteen, the amount of [~~direct and indirect~~
8 ~~distributions during the taxable year to shareholders from such account~~]
9 one-eighth of such balance), taxable income of a partnership or taxable
10 income, but not alternative minimum taxable income, as the case may be,
11 which the taxpayer is required to report to the United States treasury
12 department, for the taxable year or, in the case of a corporation exempt
13 from federal income tax (other than the tax on unrelated business tax-
14 able income imposed under section 511 of the internal revenue code) but
15 not exempt from tax under section fifteen hundred one, the taxable
16 income which such taxpayer would have been required to report but for
17 such exemption, except as hereinafter provided.

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

21 (a) The tax shown on the return of the taxpayer for the preceding
22 taxable year or the second preceding taxable year, as applicable with
23 respect to the taxpayer's declaration of estimated tax, if a return
24 showing a liability for tax was filed by the taxpayer for [~~the~~] such
25 preceding or second preceding taxable year and such preceding or second
26 preceding year was a taxable year of twelve months, or

27 (b) An amount equal to the tax computed at the rates applicable to the
28 taxable year, but otherwise on the basis of the facts shown on the
29 return of the taxpayer for, and the law applicable to, the preceding
30 taxable year or the second preceding taxable year, as applicable with
31 respect to the taxpayer's declaration of estimated tax, or

32 § 8. Section 2 of chapter 369 of the laws of 2018 amending the tax law
33 relating to unrelated business taxable income of a taxpayer, is amended
34 to read as follows:

35 § 2. This act shall take effect immediately and shall apply to [~~taxa-~~
36 ~~ble years beginning~~] amounts paid or incurred on and after January 1,
37 2018.

38 § 9. Paragraph (b) of subdivision (8) of section 11-602 of the admin-
39 istrative code of the city of New York is amended by adding a new
40 subparagraph (20) to read as follows:

41 (20) the amount of any federal deduction that would have been allowed
42 pursuant to section 250(a)(1)(A) of the internal revenue code if the
43 taxpayer had not made an election under subchapter s of chapter one of
44 the internal revenue code.

45 § 10. Clause (i) of subparagraph (1) of paragraph (b) of subdivision
46 (3) of section 11-604 of the administrative code of the city of New York
47 is amended to read as follows:

48 (i) In the case of an issuer or obligor subject to tax under this
49 subchapter, subchapter three-A or subchapter four of this chapter, or
50 subject to tax as a utility corporation under chapter eleven of this
51 title, the issuer's allocation percentage shall be the percentage of the
52 appropriate measure (as defined hereinafter) which is required to be
53 allocated within the city on the report or reports, if any, required of
54 the issuer or obligor under this title for the preceding year. The
55 appropriate measure referred to in the preceding sentence shall be: in
56 the case of an issuer or obligor subject to this subchapter or subchap-

1 ~~ter three-A~~, entire capital; in the case of an issuer or obligor subject
2 to subchapter four of this chapter, issued capital stock; in the case of
3 an issuer or obligor subject to chapter eleven of this title as a utili-
4 ty corporation, gross income.

5 § 11. This act shall take effect immediately, provided, however, that:

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

9 (ii) sections two and six of this act shall be deemed to have been in
10 full force and effect on and after the effective date of part KK of
11 chapter 59 of the laws of 2018; provided, however, that section six of
12 this act shall apply to taxable years beginning on or after January 1,
13 2018 through taxable years beginning on or before January 1, 2025;

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

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

20 (v) section eight of this act shall be deemed to have been in full
21 force and effect on and after the effective date of chapter 369 of the
22 laws of 2018;

23 (vi) section nine of this act shall apply to taxable years beginning
24 on and after January 1, 2018.

25

PART AA

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

28 10. Notwithstanding the foregoing provisions of this section, on or
29 after April first, two thousand nineteen, real property that comprises
30 or includes a solar or wind energy system, farm waste energy system,
31 microhydroelectric energy system, fuel cell electric generating system,
32 microcombined heat and power generating equipment system, electric ener-
33 gy storage system, or fuel-flexible linear generator as such terms are
34 defined in paragraphs (b), (f), (h), (j), (l), (n), and (o) of subdivi-
35 sion one of this section (hereinafter, individually or collectively,
36 "energy system"), shall be exempt from any taxation, special ad valorem
37 levies, and special assessments to the extent provided in section four
38 hundred ninety of this article, and the owner of such property shall not
39 be subject to any requirement to enter into a contract for payments in
40 lieu of taxes in accordance with subdivision nine of this section, if:
41 (a) the energy system is installed on real property that is owned or
42 controlled by the state of New York, a department or agency thereof, or
43 a state authority as that term is defined by subdivision one of section
44 two of the public authorities law; and (b) the state of New York, a
45 department or agency thereof, or a state authority as that term is
46 defined by subdivision one of section two of the public authorities law
47 has agreed to purchase the energy produced by such energy system or the
48 environmental credits or attributes created by virtue of the energy
49 system's operation, in accordance with a written agreement with the
50 owner or operator of such energy system. Such exemption shall be granted
51 only upon application by the owner of the real property on a form
52 prescribed by the commissioner, which application shall be filed with
53 the assessor of the appropriate county, city, town or village on or
54 before the taxable status date of such county, city, town or village.

1 § 2. Section 490 of the real property tax law, as amended by chapter
2 87 of the laws of 2001, is amended to read as follows:

3 § 490. Exemption from special ad valorem levies and special assess-
4 ments. Real property exempt from taxation pursuant to subdivision two
5 of section four hundred, subdivision one of section four hundred four,
6 subdivision one of section four hundred six, sections four hundred
7 eight, four hundred ten, four hundred ten-a, four hundred ten-b, four
8 hundred eighteen, four hundred twenty-a, four hundred twenty-b, four
9 hundred twenty-two, four hundred twenty-six, four hundred twenty-seven,
10 four hundred twenty-eight, four hundred thirty, four hundred thirty-two,
11 four hundred thirty-four, four hundred thirty-six, four hundred thirty-
12 eight, four hundred fifty, four hundred fifty-two, four hundred fifty-
13 four, four hundred fifty-six, four hundred sixty-four, four hundred
14 seventy-two, four hundred seventy-four, ~~and~~ four hundred eighty-five
15 and subdivision ten of section four hundred eighty-seven of this chapter
16 shall also be exempt from special ad valorem levies and special assess-
17 ments against real property located outside cities and villages for a
18 special improvement or service or a special district improvement or
19 service and special ad valorem levies and special assessments imposed by
20 a county improvement district or district corporation except (1) those
21 levied to pay for the costs, including interest and incidental and
22 preliminary costs, of the acquisition, installation, construction,
23 reconstruction and enlargement of or additions to the following improve-
24 ments, including original equipment, furnishings, machinery or appara-
25 tus, and the replacements thereof: water supply and distribution
26 systems; sewer systems (either sanitary or surface drainage or both,
27 including purification, treatment or disposal plants or buildings);
28 waterways and drainage improvements; street, highway, road and parkway
29 improvements (including sidewalks, curbs, gutters, drainage, landscap-
30 ing, grading or improving the right of way) and (2) special assessments
31 payable in installments on an indebtedness including interest contracted
32 prior to July first, nineteen hundred fifty-three, pursuant to section
33 two hundred forty-two of the town law or pursuant to any other compar-
34 able provision of law.

35 § 3. This act shall take effect immediately.

36

PART BB

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

40 1. No person shall be appointed to or employed by the commission if,
41 during the period commencing three years prior to appointment or employ-
42 ment, ~~said~~ such person held any direct or indirect interest in, or
43 employment by, any corporation, association or person engaged in gaming
44 activity within the state. Prior to appointment or employment, each
45 member, officer or employee of the commission shall swear or affirm that
46 he or she possesses no interest in any corporation or association hold-
47 ing a franchise, license, registration, certificate or permit issued by
48 the commission. Thereafter, no member or officer of the commission shall
49 hold any direct interest in or be employed by any applicant for or by
50 any corporation, association or person holding a license, registration,
51 franchise, certificate or permit issued by the commission for a period
52 of four years commencing on the date his or her membership with the
53 commission terminates. Further, no employee of the commission may
54 acquire any direct or indirect interest in, or accept employment with,

1 any applicant for or any person holding a license, registration, fran-
2 chise, certificate or permit issued by the commission for a period of
3 two years commencing at the termination of employment with the commis-
4 sion. The commission may, by resolution adopted at a properly noticed
5 public meeting, waive for good cause any of its pre-employment
6 restrictions for a prospective employee.

7 § 2. This act shall take effect immediately.

8 PART CC

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

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

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

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

21 § 3. This act shall take effect immediately.

22 PART DD

23 Section 1. This Part enacts into law legislation relating to the
24 office of gaming inspector general, the thoroughbred breeding and devel-
25 opment fund, the Harry M. Zweig memorial fund and prize payment amounts
26 and revenue distributions of lottery game sales. Each component is whol-
27 ly contained within a Subpart identified as Subparts A through D. The
28 effective date for each particular provision contained within such
29 Subpart is set forth in the last section of such Subpart. Any provision
30 in any section contained within a Subpart, including the effective date
31 of the Subpart, which makes a reference to a section "of this act", when
32 used in connection with that particular component, shall be deemed to
33 mean and refer to the corresponding section of the Subpart in which it
34 is found. Section three of this Part sets forth the general effective
35 date of this Part.

36 SUBPART A

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

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

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

45 § 130. Establishment of the office of gaming inspector general. There
46 is hereby created within the commission the office of gaming inspector
47 general. The head of the office shall be the gaming inspector general
48 who shall be appointed by the governor by and with the advice and
49 consent of the senate. The gaming inspector general shall serve at the
50 pleasure of the governor. The gaming inspector general shall report

1 directly to the governor. The person appointed as **gaming** inspector
2 general shall, upon his or her appointment, have not less than ten years
3 professional experience in law, investigation, or auditing. The **gaming**
4 inspector general shall be compensated within the limits of funds avail-
5 able therefor, provided, however, such salary shall be no less than the
6 salaries of certain state officers holding the positions indicated in
7 paragraph (a) of subdivision one of section one hundred sixty-nine of
8 the executive law.

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

13 [~~State gaming~~] **Gaming** inspector general; functions and duties. The
14 [~~state~~] gaming inspector general shall have the following duties and
15 responsibilities:

16 7. establish programs for training commission officers and employees
17 [~~regarding~~] **in regard to** the prevention and elimination of corruption,
18 fraud, criminal activity, conflicts of interest or abuse in the commis-
19 sion.

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

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

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

28 § 133. Responsibilities of the commission and its officers and employ-
29 ees. 1. Every commission officer or employee shall report promptly to
30 the [~~state~~] gaming inspector general any information concerning
31 corruption, fraud, criminal activity, conflicts of interest or abuse by
32 another state officer or employee relating to his or her office or
33 employment, or by a person having business dealings with the commission
34 relating to those dealings. The knowing failure of any officer or
35 employee to so report shall be cause for removal from office or employ-
36 ment or other appropriate penalty under this article. Any officer or
37 employee who acts pursuant to this subdivision by reporting to the
38 [~~state~~] gaming inspector general or other appropriate law enforcement
39 official improper governmental action as defined in section seventy-
40 five-b of the civil service law shall not be subject to dismissal,
41 discipline or other adverse personnel action.

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

46 § 7. This act shall take effect immediately.

47

SUBPART B

48 Section 1. Subdivision 1 of section 252 of the racing, pari-mutuel
49 wagering and breeding law, as amended by section 11 of part A of chapter
50 60 of the laws of 2012, is amended to read as follows:

51 1. A corporation to be known as the New York state thoroughbred breed-
52 ing and development fund corporation is hereby created. Such corporation
53 shall be a body corporate and politic constituting a public benefit
54 corporation. It shall be administered by a board of directors consisting

1 of the chair of the state gaming commission or his or her designee, the
2 commissioner of agriculture and markets, three members of the state
3 gaming commission or other bona fide residents of the state who have a
4 cogent interest in the thoroughbred breeding industry in the state as
5 designated by the governor and six members appointed by the governor,
6 all of whom are experienced or have been actively engaged in the breed-
7 ing of thoroughbred horses in New York state, one, the president or the
8 executive director of the statewide thoroughbred breeders association
9 representing the majority of breeders of registered thoroughbreds in New
10 York state, one upon the recommendation of the majority leader of the
11 senate, one upon the recommendation of the speaker of the assembly, one
12 upon the recommendation of the minority leader of the senate, and one
13 upon the recommendation of the minority leader of the assembly. Two of
14 the appointed members shall initially serve for a two year term, two of
15 the appointed members shall initially serve for a three year term and
16 two of the appointed members shall initially serve for a four year term.
17 All successors appointed members shall serve for a four year term. All
18 members shall continue in office until their successors have been
19 appointed and qualified. The governor shall designate the chair from
20 among the sitting members who shall serve as such at the pleasure of the
21 governor.

22 § 2. This act shall take effect immediately.

23

SUBPART C

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

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

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

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

35 § 3. This act shall take effect immediately.

36

SUBPART D

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

40 (2) [~~sixty-five~~] sixty-four and one-fourth percent of the total amount
41 for which tickets have been sold for the "Instant Cash" game in which
42 the participant purchases a preprinted ticket on which dollar amounts or
43 symbols are concealed on the face or the back of such ticket, provided
44 however up to five new games may be offered during the fiscal year,
45 [~~seventy-five~~] seventy-four and one-fourth percent of the total amount
46 for which tickets have been sold for such five games in which the
47 participant purchases a preprinted ticket on which dollar amounts or
48 symbols are concealed on the face or the back of such ticket; or

49 § 2. The opening paragraph of paragraph 1 of subdivision b of section
50 1612 of the tax law, as amended by chapter 174 of the laws of 2013, is
51 amended to read as follows:

1 Notwithstanding section one hundred twenty-one of the state finance
2 law, on or before the twentieth day of each month, the [~~division~~]
3 commission shall pay into the state treasury, to the credit of the state
4 lottery fund created by section ninety-two-c of the state finance law,
5 not less than forty-five percent of the total amount for which tickets
6 have been sold for games defined in paragraph five of subdivision a of
7 this section during the preceding month, not less than [~~forty-five~~]
8 thirty-five percent of the total amount for which tickets have been sold
9 for games defined in paragraph four of subdivision a of this section
10 during the preceding month, not less than [~~thirty-five~~] thirty percent
11 of the total amount for which tickets have been sold for games defined
12 in paragraph three of subdivision a of this section during the preceding
13 month, not less than twenty and three-fourths percent of the total
14 amount for which tickets have been sold for games defined in paragraph
15 two of subdivision a of this section during the preceding month,
16 provided however that for games with a prize payout of [~~seventy-five~~]
17 seventy-four and one-fourth percent of the total amount for which tick-
18 ets have been sold, the [~~division~~] commission shall pay not less than
19 ten and three-fourths percent of sales into the state treasury and not
20 less than twenty-five percent of the total amount for which tickets have
21 been sold for games defined in paragraph one of subdivision a of this
22 section during the preceding month; and the balance of the total revenue
23 after payout for prizes for games known as "video lottery gaming,"
24 including any joint, multi-jurisdiction, and out-of-state video lottery
25 gaming,

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

28 a. No prize claim shall be valid if submitted to the [~~division~~]
29 commission following the expiration of a one-year time period from the
30 date of the drawing or from the close of the game in which a prize was
31 won, and the person otherwise entitled to such prize shall forfeit any
32 claim or entitlement to such prize moneys. Unclaimed prize money, plus
33 interest earned thereon, shall be retained in the lottery prize account
34 to be used for payment of special [~~lotto~~] or supplemental [~~lotto~~] prizes
35 offered pursuant to the plan or plans specified in this article, [~~or~~]
36 and for promotional purposes to supplement [~~other~~] games on an occa-
37 sional basis [~~not to exceed sixteen weeks within any twelve month period~~
38 ~~pursuant to the plan or plans specified in this article~~].

39 In the event that the director proposes to change any plan for the use
40 of unclaimed prize funds or in the event the director intends to use
41 funds in a game other than the game from which such unclaimed prize
42 funds were derived, the director of the budget, the chairperson of the
43 senate finance committee, and the chairperson of the assembly ways and
44 means committee shall be notified in writing separately detailing the
45 proposed changes to any plan prior to the implementation of the changes.

46 § 4. This act shall take effect immediately.

47 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
48 sion, section or subpart of this act shall be adjudged by any court of
49 competent jurisdiction to be invalid, such judgment shall not affect,
50 impair, or invalidate the remainder thereof, but shall be confined in
51 its operation to the clause, sentence, paragraph, subdivision, section
52 or subpart thereof directly involved in the controversy in which such
53 judgment shall have been rendered. It is hereby declared to be the
54 intent of the legislature that this act would have been enacted even if
55 such invalid provisions had not been included herein.

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

4 PART EE

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

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

13 (A) when a vendor track is located within development zone one as
14 defined by section thirteen hundred ten of the racing, pari-mutuel
15 wagering and breeding law, at a rate of thirty-nine and one-half percent
16 of the total revenue wagered at the vendor track after payout for prizes
17 pursuant to this chapter;

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

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

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

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

32 (4) fifty-six percent for a vendor track located within fifteen miles
33 of a Native American class III gaming facility as defined in 25 U.S.C
34 §2703(8);

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

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

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

51 (D) when a video lottery gaming facility is located in either Nassau
52 or Suffolk counties and is operated by a corporation established pursu-
53 ant to section five hundred two of the racing, pari-mutuel wagering and
54 breeding law, at a rate of forty-five percent of the total revenue

1 wagered at the video lottery gaming facility after payout for prizes
2 pursuant to this chapter.

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

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

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

15 (C) For a vendor track that is located within Saratoga County, within
16 development zone two as defined by section thirteen hundred ten of the
17 racing, pari-mutuel wagering and breeding law, such additional vendor
18 fee shall be ten percent of the total revenue wagered at the vendor
19 track after payout for prizes pursuant to this chapter;

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

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

30 1-a. (i) Notwithstanding any provision of law to the contrary, any
31 operators of a vendor track or the operators of any other video lottery
32 gaming facility eligible to receive a capital award as of December thir-
33 ty-first, two thousand eighteen shall deposit from their vendor fee into
34 a segregated account an amount equal to four percent of the first
35 sixty-two million five hundred thousand dollars of revenue wagered at
36 the vendor track after payout for prizes pursuant to this chapter to be
37 used exclusively for capital investments, except for Aqueduct, which
38 shall deposit into a segregated account an amount equal to one percent
39 of all revenue wagered at the video lottery gaming facility after payout
40 for prizes pursuant to this chapter until the earlier of the designation
41 of one thousand video lottery devices as hosted pursuant to paragraph
42 four of subdivision a of section sixteen hundred seventeen-a of this
43 article or April first, two thousand nineteen, when at such time four
44 percent of all revenue wagered at the video lottery gaming facility
45 after payout for prizes pursuant to this chapter shall be deposited into
46 a segregated account for capital investments.

47 (ii) Vendor tracks and video lottery gaming facilities shall be
48 permitted to withdraw funds for projects approved by the commission to
49 improve the facilities of the vendor track or video lottery gaming
50 facility which enhance or maintain the video lottery gaming facility
51 including, but not limited to hotels, other lodging facilities, enter-
52 tainment facilities, retail facilities, dining facilities, events
53 arenas, parking garages and other improvements and amenities customary
54 to a gaming facility, provided, however, the vendor tracks and video
55 lottery gaming facilities shall be permitted to withdraw funds for unre-

1 imbursed capital awards approved prior to the effective date of this
2 subparagraph.

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

10 (iv) In the event a vendor track or video lottery gaming facility
11 ceases gaming operations, any balance in the account along with an
12 amount equal to the value of all remaining assets acquired through this
13 fund or prior capital awards shall be returned to the state for deposit
14 into the state lottery fund for education aid, except for Aqueduct,
15 which shall return to the state for deposit into the state lottery fund
16 for education aid all amounts in excess of the amount needed to fund a
17 project pursuant to an agreement with the operator to construct an
18 expansion of the facility, hotel, and convention and exhibition space
19 requiring a minimum capital investment of three hundred million dollars
20 and any subsequent amendments to such agreement.

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

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

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

32 1-b. Notwithstanding any provision of law to the contrary, free play
33 allowance credits authorized by the division pursuant to subdivision i
34 of section sixteen hundred seventeen-a of this article shall not be
35 included in the calculation of the total amount wagered on video lottery
36 games, the total amount wagered after payout of prizes, the vendor fees
37 payable to the operators of video lottery gaming facilities, fees paya-
38 ble to the division's video lottery gaming equipment contractors, or
39 racing support payments.

40 1-c. Notwithstanding any provision of law to the contrary, the opera-
41 tor of a vendor track or the operator of any other video lottery gaming
42 facility shall fund a marketing and promotion program out of the
43 vendor's fee. Each operator shall submit an annual marketing plan for
44 the review and approval of the commission and any other required docu-
45 ments detailing promotional activities as prescribed by the commission.
46 The commission shall have the right to reject any advertisement or
47 promotion that does not properly represent the mission or interests of
48 the lottery or its programs.

49 § 3. This act shall take effect immediately; provided, however, claus-
50 es (A), (B) and (C) of subparagraph (iii) of paragraph 1 of subdivision
51 b of section 1612 of the tax law as added by section one of this act
52 shall take effect April 1, 2020 and shall expire and be deemed repealed
53 on March 31, 2023; and provided, however, clause (D) of subparagraph
54 (iii) of paragraph 1 of subdivision b of section 1612 of the tax law as
55 added by section one of this act shall take effect June 30, 2019 and
56 shall expire and be deemed repealed March 31, 2023.

1

PART FF

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

5 25. "Gross gaming revenue". The total of all sums actually received by
6 a gaming facility licensee from gaming operations less the total of all
7 sums paid out as winnings to patrons; provided, however, that the total
8 of all sums paid out as winnings to patrons shall not include the cash
9 equivalent value of any merchandise or thing of value included in a
10 jackpot or payout[~~, provided further, that the issuance to or wagering
11 by patrons of a gaming facility of any promotional gaming credit shall
12 not be taxable for the purposes of determining gross revenue~~].

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

15 2. Permissible deductions. (a) A gaming facility may deduct from gross
16 gaming revenue the amount of approved promotional gaming credits issued
17 to and wagered by patrons of such gaming facility. The amount of
18 approved promotional credits shall be calculated as follows:

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

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

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

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

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

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

44 § 3. This act shall take effect immediately.

45

PART GG

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

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

50 b. Each board member shall receive, not less than seven days in
51 advance of a meeting, documentation necessary to ensure knowledgeable
52 and engaged participation. Such documentation shall include material
53 relevant to each agenda item including background information of

1 discussion items, resolutions to be considered and associated documents,
2 a monthly financial statement which shall include an updated cash flow
3 statement and aged payable listing of industry payables, financial
4 statements, management reports, committee reports and compliance items.

5 c. Staff of the corporation shall annually submit to the board for
6 approval a financial plan accompanied by expenditure, revenue and cash
7 flow projections. The plan shall contain projection of revenues and
8 expenditures based on reasonable and appropriate assumptions and methods
9 of estimations, and shall provide that operations will be conducted
10 within the cash resources available. The financial plan shall also
11 include information regarding projected employment levels, collective
12 bargaining agreements and other actions relating to employee costs,
13 capital construction and such other matters as the board may direct.

14 d. Staff of the corporation shall prepare and submit to the board on a
15 quarterly basis a report of summarized budget data depicting overall
16 trends, by major category within funds, of actual revenues and budget
17 expenditures for the entire budget rather than individual line items, as
18 well as updated quarterly cash flow projections of receipts and
19 disbursements. Such reports shall compare revenue estimates and appro-
20 priations as set forth in such budget and in the quarterly revenue and
21 expenditure projections submitted therewith, with the actual revenues
22 and expenditures made to date. Such reports shall also compare actual
23 receipts and disbursements with the estimates contained in the cash flow
24 projections, together with variances and their explanation. All quarter-
25 ly reports shall be accompanied by recommendations from the president
26 setting forth any remedial action necessary to resolve any unfavorable
27 budget variance including the overestimation of revenues and the under-
28 estimation of appropriations. These reports shall be completed within
29 thirty days after the end of each quarter and shall be submitted to the
30 board by the corporation comptroller.

31 e. Revenue estimates and the financial plan shall be regularly reexam-
32 ined by the board and staff and shall provide a modified financial plan
33 in such detail and within such time periods as the board may require. In
34 the event of reductions in such revenue estimates, the board shall
35 consider and approve such adjustments in revenue estimates and
36 reductions in total expenditures as may be necessary to conform to such
37 revised revenue estimates or aggregate expenditure limitations.

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

40 15. Notwithstanding any inconsistent provision of law, a regional
41 off-track betting corporation may, pursuant to a written plan and agree-
42 ment with another regional off-track betting corporation approved by the
43 commission, assume the off-track betting operations authorized by arti-
44 cle five-A of this chapter of the other regional off-track betting
45 corporation. During the duration of any such agreement, the regions of
46 any regional off-track betting corporations, as defined by section five
47 hundred nineteen of this chapter shall be deemed combined, provided,
48 however, the combining of such regions shall not impact the authori-
49 zation of a regional off-track betting corporation relinquishing off-
50 track betting operations to be incorporated, exercise other powers, or
51 to conduct any other activities permitted or authorized by law.

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

55 (c) The board may authorize a special demonstration project to be
56 located in any facility licensed pursuant to article thirteen of this

1 chapter. Notwithstanding the provisions of paragraph (a) of subdivision
2 five of this section, an admission fee shall not be required for a
3 demonstration project authorized in this paragraph. Provided however, on
4 any day when a regional harness track conducts a live race meeting, a
5 demonstration facility within that region shall predominantly display
6 the live video of such regional harness track.

7 § 4. This act shall take effect immediately.

8 PART HH

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

13 (a) Any racing association or corporation or regional off-track
14 betting corporation, authorized to conduct pari-mutuel wagering under
15 this chapter, desiring to display the simulcast of horse races on which
16 pari-mutuel betting shall be permitted in the manner and subject to the
17 conditions provided for in this article may apply to the commission for
18 a license so to do. Applications for licenses shall be in such form as
19 may be prescribed by the commission and shall contain such information
20 or other material or evidence as the commission may require. No license
21 shall be issued by the commission authorizing the simulcast transmission
22 of thoroughbred races from a track located in Suffolk county. The fee
23 for such licenses shall be five hundred dollars per simulcast facility
24 and for account wagering licensees that do not operate either a simul-
25 cast facility that is open to the public within the state of New York or
26 a licensed racetrack within the state, twenty thousand dollars per year
27 payable by the licensee to the commission for deposit into the general
28 fund. Except as provided in this section, the commission shall not
29 approve any application to conduct simulcasting into individual or group
30 residences, homes or other areas for the purposes of or in connection
31 with pari-mutuel wagering. The commission may approve simulcasting into
32 residences, homes or other areas to be conducted jointly by one or more
33 regional off-track betting corporations and one or more of the follow-
34 ing: a franchised corporation, thoroughbred racing corporation or a
35 harness racing corporation or association; provided (i) the simulcasting
36 consists only of those races on which pari-mutuel betting is authorized
37 by this chapter at one or more simulcast facilities for each of the
38 contracting off-track betting corporations which shall include wagers
39 made in accordance with section one thousand fifteen, one thousand
40 sixteen and one thousand seventeen of this article; provided further
41 that the contract provisions or other simulcast arrangements for such
42 simulcast facility shall be no less favorable than those in effect on
43 January first, two thousand five; (ii) that each off-track betting
44 corporation having within its geographic boundaries such residences,
45 homes or other areas technically capable of receiving the simulcast
46 signal shall be a contracting party; (iii) the distribution of revenues
47 shall be subject to contractual agreement of the parties except that
48 statutory payments to non-contracting parties, if any, may not be
49 reduced; provided, however, that nothing herein to the contrary shall
50 prevent a track from televising its races on an irregular basis primari-
51 ly for promotional or marketing purposes as found by the commission. For
52 purposes of this paragraph, the provisions of section one thousand thir-
53 teen of this article shall not apply. Any agreement authorizing an
54 in-home simulcasting experiment commencing prior to May fifteenth, nine-

1 teen hundred ninety-five, may, and all its terms, be extended until June
2 thirtieth, two thousand [~~nineteen~~] twenty-four; provided, however, that
3 any party to such agreement may elect to terminate such agreement upon
4 conveying written notice to all other parties of such agreement at least
5 forty-five days prior to the effective date of the termination, via
6 registered mail. Any party to an agreement receiving such notice of an
7 intent to terminate, may request the commission to mediate between the
8 parties new terms and conditions in a replacement agreement between the
9 parties as will permit continuation of an in-home experiment until June
10 thirtieth, two thousand [~~nineteen~~] twenty-four; and (iv) no in-home
11 simulcasting in the thoroughbred special betting district shall occur
12 without the approval of the regional thoroughbred track.

13 § 2. Subparagraph (iii) of paragraph d of subdivision 3 of section
14 1007 of the racing, pari-mutuel wagering and breeding law, as amended by
15 section 2 of part GG of chapter 59 of the laws of 2018, is amended to
16 read as follows:

17 (iii) Of the sums retained by a receiving track located in Westchester
18 county on races received from a franchised corporation, for the period
19 commencing January first, two thousand eight and continuing through June
20 thirtieth, two thousand [~~nineteen~~] twenty-four, the amount used exclu-
21 sively for purses to be awarded at races conducted by such receiving
22 track shall be computed as follows: of the sums so retained, two and
23 one-half percent of the total pools. Such amount shall be increased or
24 decreased in the amount of fifty percent of the difference in total
25 commissions determined by comparing the total commissions available
26 after July twenty-first, nineteen hundred ninety-five to the total
27 commissions that would have been available to such track prior to July
28 twenty-first, nineteen hundred ninety-five.

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

33 The provisions of this section shall govern the simulcasting of races
34 conducted at thoroughbred tracks located in another state or country on
35 any day during which a franchised corporation is conducting a race meet-
36 ing in Saratoga county at Saratoga thoroughbred racetrack until June
37 thirtieth, two thousand [~~nineteen~~] twenty-four and on any day regardless
38 of whether or not a franchised corporation is conducting a race meeting
39 in Saratoga county at Saratoga thoroughbred racetrack after June thirti-
40 eth, two thousand [~~nineteen~~] twenty-four. On any day on which a fran-
41 chised corporation has not scheduled a racing program but a thoroughbred
42 racing corporation located within the state is conducting racing, every
43 off-track betting corporation branch office and every simulcasting
44 facility licensed in accordance with section one thousand seven (that
45 [~~have~~] has entered into a written agreement with such facility's repre-
46 sentative horsemen's organization, as approved by the commission), one
47 thousand eight, or one thousand nine of this article shall be authorized
48 to accept wagers and display the live simulcast signal from thoroughbred
49 tracks located in another state or foreign country subject to the
50 following provisions:

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

54 1. The provisions of this section shall govern the simulcasting of
55 races conducted at harness tracks located in another state or country
56 during the period July first, nineteen hundred ninety-four through June

1 thirtieth, two thousand [~~nineteen~~] twenty-four. This section shall
2 supersede all inconsistent provisions of this chapter.

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

7 The provisions of this section shall govern the simulcasting of races
8 conducted at thoroughbred tracks located in another state or country on
9 any day during which a franchised corporation is not conducting a race
10 meeting in Saratoga county at Saratoga thoroughbred racetrack until June
11 thirtieth, two thousand [~~nineteen~~] twenty-four. Every off-track betting
12 corporation branch office and every simulcasting facility licensed in
13 accordance with section one thousand seven that have entered into a
14 written agreement with such facility's representative horsemen's organ-
15 ization as approved by the commission, one thousand eight or one thou-
16 sand nine of this article shall be authorized to accept wagers and
17 display the live full-card simulcast signal of thoroughbred tracks
18 (which may include quarter horse or mixed meetings provided that all
19 such wagering on such races shall be construed to be thoroughbred races)
20 located in another state or foreign country, subject to the following
21 provisions; provided, however, no such written agreement shall be
22 required of a franchised corporation licensed in accordance with section
23 one thousand seven of this article:

24 § 6. The opening paragraph of section 1018 of the racing, pari-mutuel
25 wagering and breeding law, as amended by section 6 of part GG of chapter
26 59 of the laws of 2018, is amended to read as follows:

27 Notwithstanding any other provision of this chapter, for the period
28 July twenty-fifth, two thousand one through September eighth, two thou-
29 sand [~~eighteen~~] twenty-three, when a franchised corporation is conduct-
30 ing a race meeting within the state at Saratoga Race Course, every off-
31 track betting corporation branch office and every simulcasting facility
32 licensed in accordance with section one thousand seven (that has entered
33 into a written agreement with such facility's representative horsemen's
34 organization as approved by the commission), one thousand eight or one
35 thousand nine of this article shall be authorized to accept wagers and
36 display the live simulcast signal from thoroughbred tracks located in
37 another state, provided that such facility shall accept wagers on races
38 run at all in-state thoroughbred tracks which are conducting racing
39 programs subject to the following provisions; provided, however, no such
40 written agreement shall be required of a franchised corporation licensed
41 in accordance with section one thousand seven of this article.

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

46 § 32. This act shall take effect immediately and the pari-mutuel tax
47 reductions in section six of this act shall expire and be deemed
48 repealed on July 1, [~~2019~~] 2024; provided, however, that nothing
49 contained herein shall be deemed to affect the application, qualifica-
50 tion, expiration, or repeal of any provision of law amended by any
51 section of this act, and such provisions shall be applied or qualified
52 or shall expire or be deemed repealed in the same manner, to the same
53 extent and on the same date as the case may be as otherwise provided by
54 law; provided further, however, that sections twenty-three and twenty-
55 five of this act shall remain in full force and effect only until May 1,
56 1997 and at such time shall be deemed to be repealed.

1 § 8. Section 54 of chapter 346 of the laws of 1990, amending the
2 racing, pari-mutuel wagering and breeding law and other laws relating to
3 simulcasting and the imposition of certain taxes, as amended by section
4 8 of part GG of chapter 59 of the laws of 2018, is amended to read as
5 follows:

6 § 54. This act shall take effect immediately; provided, however,
7 sections three through twelve of this act shall take effect on January
8 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breed-
9 ing law, as added by section thirty-eight of this act, shall expire and
10 be deemed repealed on July 1, [~~2019~~ 2024]; and section eighteen of this
11 act shall take effect on July 1, 2008 and sections fifty-one and fifty-
12 two of this act shall take effect as of the same date as chapter 772 of
13 the laws of 1989 took effect.

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

17 (a) The franchised corporation authorized under this chapter to
18 conduct pari-mutuel betting at a race meeting or races run thereat shall
19 distribute all sums deposited in any pari-mutuel pool to the holders of
20 winning tickets therein, provided such tickets be presented for payment
21 before April first of the year following the year of their purchase,
22 less an amount which shall be established and retained by such fran-
23 chised corporation of between twelve to seventeen per centum of the
24 total deposits in pools resulting from on-track regular bets, and four-
25 teen to twenty-one per centum of the total deposits in pools resulting
26 from on-track multiple bets and fifteen to twenty-five per centum of the
27 total deposits in pools resulting from on-track exotic bets and fifteen
28 to thirty-six per centum of the total deposits in pools resulting from
29 on-track super exotic bets, plus the breaks. The retention rate to be
30 established is subject to the prior approval of the gaming commission.

31 Such rate may not be changed more than once per calendar quarter to be
32 effective on the first day of the calendar quarter. "Exotic bets" and
33 "multiple bets" shall have the meanings set forth in section five
34 hundred nineteen of this chapter. "Super exotic bets" shall have the
35 meaning set forth in section three hundred one of this chapter. For
36 purposes of this section, a "pick six bet" shall mean a single bet or
37 wager on the outcomes of six races. The breaks are hereby defined as the
38 odd cents over any multiple of five for payoffs greater than one dollar
39 five cents but less than five dollars, over any multiple of ten for
40 payoffs greater than five dollars but less than twenty-five dollars,
41 over any multiple of twenty-five for payoffs greater than twenty-five
42 dollars but less than two hundred fifty dollars, or over any multiple of
43 fifty for payoffs over two hundred fifty dollars. Out of the amount so
44 retained there shall be paid by such franchised corporation to the
45 commissioner of taxation and finance, as a reasonable tax by the state
46 for the privilege of conducting pari-mutuel betting on the races run at
47 the race meetings held by such franchised corporation, the following
48 percentages of the total pool for regular and multiple bets five per
49 centum of regular bets and four per centum of multiple bets plus twenty
50 per centum of the breaks; for exotic wagers seven and one-half per
51 centum plus twenty per centum of the breaks, and for super exotic bets
52 seven and one-half per centum plus fifty per centum of the breaks.

53 For the period June first, nineteen hundred ninety-five through
54 September ninth, nineteen hundred ninety-nine, such tax on regular
55 wagers shall be three per centum and such tax on multiple wagers shall
56 be two and one-half per centum, plus twenty per centum of the breaks.

1 For the period September tenth, nineteen hundred ninety-nine through
2 March thirty-first, two thousand one, such tax on all wagers shall be
3 two and six-tenths per centum and for the period April first, two thou-
4 sand one through December thirty-first, two thousand [~~nineteen~~] twenty-
5 four, such tax on all wagers shall be one and six-tenths per centum,
6 plus, in each such period, twenty per centum of the breaks. Payment to
7 the New York state thoroughbred breeding and development fund by such
8 franchised corporation shall be one-half of one per centum of total
9 daily on-track pari-mutuel pools resulting from regular, multiple and
10 exotic bets and three per centum of super exotic bets provided, however,
11 that for the period September tenth, nineteen hundred ninety-nine
12 through March thirty-first, two thousand one, such payment shall be
13 six-tenths of one per centum of regular, multiple and exotic pools and
14 for the period April first, two thousand one through December thirty-
15 first, two thousand [~~nineteen~~] twenty-four, such payment shall be
16 seven-tenths of one per centum of such pools.
17 § 10. This act shall take effect immediately.

18

PART II

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

ARTICLE XI-AINTERSTATE COMPACT ON ANTI-DOPING
AND DRUG TESTING STANDARDSSection 1113. Purposes.1114. Definitions.1115. Composition and meetings of compact commission.1116. Operation of compact commission.1117. General powers and duties.1118. Other powers and duties.1119. Compact rule making.1120. Status and relationship to member states.1121. Rights and responsibilities of member states.1122. Enforcement of compact.1123. Legal actions against compact.1124. Restrictions on authority.1125. Construction, savings and severability.§ 1113. Purposes. The purposes of the compact are:

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

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

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

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

b. "Compact rule" means a rule or regulation adopted by a member state
regulating the permitted and prohibited use of drugs and medications for
the health and welfare of the horse and the integrity of racing, and

52

1 testing for such substances, in live pari-mutuel horse racing that
2 occurs in or affects such states;

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

7 d. "Equine drug rule" means a rule or regulation that relates to the
8 administration of drugs, medications, or other substances to a horse
9 that may participate in live horse racing with pari-mutuel wagering
10 including, but not limited to, the regulation of the permissible use of
11 such substances to ensure the integrity of racing and the health, safety
12 and welfare of race horses, appropriate sanctions for rule violations,
13 and quality laboratory testing programs to detect such substances in the
14 bodily system of a race horse;

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

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

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

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

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

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

29 § 1115. Composition and meetings of compact commission. The member
30 states shall create and participate in a compact commission as follows:

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

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

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

54 d. The compact delegate from each state shall participate as an agent
55 of the state racing commission. Each delegate shall have the assistance

1 of the state racing commission in regard to all decision making and
2 actions of the state in and through the compact commission.

3 e. Each member state, by its delegate, shall be entitled to one vote
4 in the compact commission. A majority vote of the total number of deleg-
5 ates shall be required to propose a compact rule, receive and distribute
6 any funds, and to adopt, amend, or rescind the by-laws. A compact rule
7 shall take effect in and for each member state when adopted by a super
8 majority vote of eighty percent of the total number of member states.
9 Other compact actions shall require a majority vote of the delegates who
10 are meeting.

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

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

20 h. Once effective, the compact shall continue in force and remain
21 binding according to its terms upon each member state; provided that, a
22 member state may withdraw from the compact by repealing the statute that
23 enacted the compact into law. The racing commission of a withdrawing
24 state shall give written notice of such withdrawal to the compact chair-
25 person, who shall notify the member state racing commissions. A with-
26 drawing state shall remain responsible for any unfulfilled obligations
27 and liabilities. The effective date of withdrawal from the compact shall
28 be the effective date of the repeal.

29 § 1116. Operation of compact commission. The compact commission is
30 hereby granted, so that it may be an effective means to pursue and
31 achieve the purposes of each member state in the compact, the power and
32 duty:

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

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

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

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

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

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

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

7 § 1117. General powers and duties. To allow each member state, as and
8 when it chooses, to achieve the purpose of the compact through joint and
9 cooperative action, the member states are hereby granted the power and
10 duty, by and through the compact commission:

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

17 b. to collaborate with national industry stakeholders and industry
18 organizations, including the Association of Racing Commissioners Inter-
19 national, Inc. and the Racing Medication and Testing Consortium, in the
20 design and implementation of compact rules in a manner that serves the
21 best interests of racing; and

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

28 § 1118. Other powers and duties. The compact commission may exercise
29 such incidental powers and duties as may be necessary and proper for it
30 to function in a useful manner, including but not limited to the power
31 and duty:

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

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

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

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

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

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

50 § 1119. Compact rule making. In the exercise of its rule making
51 authority, the compact commission shall:

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

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

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

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

27 § 1120. Status and relationship to member states. a. The compact
28 commission, as an interstate governmental entity, shall be exempt from
29 all taxation in and by the member states.

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

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

34 d. No member state, except as provided in section eleven hundred twen-
35 ty-three of this article, shall be held liable for the debts or other
36 financial obligations incurred by the compact commission.

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

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

50 § 1121. Rights and responsibilities of member states. a. Each member
51 state in the compact shall accept the decisions, duly applicable to it,
52 of the compact commission in regard to compact rules and rule making.

53 b. The compact shall not be construed to diminish or limit the powers
54 and responsibilities of the member state racing commission or similar
55 regulatory body, or to invalidate any action it has previously taken,
56 except to the extent it has, by its compact delegate, expressed its

1 consent to a specific rule or other action of the compact commission.
2 The compact delegate from each state shall serve as the agent of the
3 state racing commission and shall possess substantial knowledge and
4 experience as a regulator or participant in the horse racing industry.

5 § 1122. Enforcement of compact. a. The compact commission shall have
6 standing to intervene in any legal action that pertains to the subject
7 matter of the compact and might affect its powers, duties, or actions.

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

13 § 1123. Legal actions against compact. a. Any person may commence a
14 claim, action, or proceeding against the compact commission in state
15 court for damages. The compact commission shall have the benefit of the
16 same limits of liability, defenses, rights to indemnity and defense by
17 the state, and other legal rights and defenses for non-compact matters
18 of the state racing commission in the state. All legal rights and
19 defenses that arise from the compact shall also be available to the
20 compact commission.

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

32 c. Each member state shall be liable for and pay judgments filed
33 against the compact commission to the extent related to its partic-
34 ipation in the compact. Where liability arises from action undertaken
35 jointly with other member states, the liability shall be divided equally
36 among the states for whom the applicable action or omission of the exec-
37 utive director or other employees of the compact commission was under-
38 taken; and no member state shall contribute to or pay, or be jointly or
39 severally or otherwise liable for, any part of any judgment beyond its
40 share as determined in accordance with this section.

41 § 1124. Restrictions on authority. a. New York substantive state laws
42 applicable to pari-mutuel horse racing and wagering shall remain in full
43 force and effect.

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

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

49 § 1125. Construction, savings and severability. a. The compact shall
50 be liberally construed so as to effectuate its purposes. The provisions
51 of the compact shall be severable and if any phrase, clause, sentence,
52 or provision of the compact is declared to be contrary to the constitu-
53 tion of the United States or of any member state, or the applicability
54 of the compact to any government, agency, person, or circumstance is
55 held invalid, the validity of the remainder of the compact and its
56 applicability to any government, agency, person, or circumstance shall

1 not be affected. If all or some portion of the compact is held to be
2 contrary to the constitution of any member state, the compact shall
3 remain in full force and effect as to the remaining member states and in
4 full force and effect as to the state affected as to all severable
5 matters.

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

11 § 2. This act shall take effect immediately.

12 PART JJ

13 Section 1. Section 2 of part EE of chapter 59 of the laws of 2018,
14 amending the racing, pari-mutuel wagering and breeding law, relating to
15 adjusting the franchise payment establishing an advisory committee to
16 review the structure, operations and funding of equine drug testing and
17 research, is amended to read as follows:

18 § 2. An advisory committee shall be established within the New York
19 gaming commission comprised of individuals with demonstrated interest in
20 the performance of thoroughbred and standardbred race horses to review
21 the present structure, operations and funding of equine drug testing and
22 research conducted pursuant to article nine of the racing, pari-mutuel
23 wagering and breeding law. Members of the committee, who shall be
24 appointed by the governor, shall include but not be limited to a desig-
25 nee at the recommendation of each licensed or franchised thoroughbred
26 and standardbred racetrack, a designee at the recommendation of each
27 operating regional off-track betting corporation, a designee at the
28 recommendation of each recognized horsemen's organization at licensed or
29 franchised thoroughbred and standardbred racetracks, a designee at the
30 recommendation of both Morrisville State College and the Cornell Univer-
31 sity School of Veterinary Medicine, and two designees each at the recom-
32 mendation of the speaker of the assembly and temporary president of the
33 senate. The governor shall designate the chair from among the members
34 who shall serve as such at the pleasure of the governor. State agencies
35 shall cooperate with and assist the committee in the fulfillment of its
36 duties and may render informational, non-personnel services to the
37 committee within their respective functions as the committee may reason-
38 ably request. Recommendations shall be delivered to the temporary presi-
39 dent of the senate, speaker of the assembly and governor by December 1,
40 ~~2018~~ 2019 regarding the future of such research, testing and funding.
41 Members of the board shall not be considered policymakers.

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

45 1. In order to assure the public's confidence and continue the high
46 degree of integrity in racing at the pari-mutuel betting tracks, equine
47 drug testing at race meetings shall be conducted by a ~~[state college~~
48 ~~within this state with an approved equine science program]~~ suitable
49 laboratory, as the gaming commission may determine in its discretion.
50 The ~~[state racing and wagering board]~~ gaming commission shall promulgate
51 any rules and regulations necessary to implement the provisions of this
52 section, including administrative penalties of loss of purse money,
53 fines, or denial, suspension^[7] or revocation of a license for racing
54 drugged horses.

1 § 3. This act shall take effect immediately.

2 PART KK

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

5 § 104-a. Registration to engage in gaming activity. Notwithstanding
6 any provision of law to the contrary, the commission may require any
7 person, corporation or association intending to engage in any gaming
8 activity regulated by the commission to submit a primary registration to
9 the commission.

10 1. For the purposes of this section, when a person is required to
11 submit a registration, any and all licenses, registrations, certif-
12 icates, permits or approvals issued to such person as required under
13 this chapter or under article thirty-four of the tax law shall be
14 considered sub-registrations or sub-licenses to the aforementioned
15 registration. No individual shall engage in any gaming activity without
16 a valid sub-registration or sub-license authorizing such activity.

17 2. The primary registration to engage in gaming activities shall sole-
18 ly be an informational return containing such information the commission
19 deems applicable to all sub-registrations or sub-licenses. The commis-
20 sion shall require separate applications for all sub-registrations or
21 sub-licenses containing all supplemental information that the commission
22 deems necessary.

23 All commission determinations shall be made on an applicant's sub-re-
24 gistration or sub-license and not on the primary registration. Any
25 information obtained for or contained in the primary registration and
26 all associated sub-registrations or sub-licenses may be used in any
27 subsequent licensing and registration determinations.

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

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

51 4. Primary registrations shall expire five years from the date of
52 submission, provided, however, any sub-registration or sub-license shall
53 continue through its expiration. Notwithstanding this provision, the
54 commission may suspend any sub-registration or sub-license that has an

1 expired primary registration until such primary registration is renewed.
2 The commission shall establish a schedule to register any individual or
3 entity who possessed a sub-registration or sub-license prior to the
4 implementation of this section.

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

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

11 31-a. "Non-gaming employee". Any natural person, not otherwise
12 included in the definition of casino key employee or gaming employee,
13 who is employed by a gaming facility licensee, or a holding or interme-
14 diary company of a gaming facility licensee, and performs services and
15 duties upon the premises of a gaming facility, whose duties do not
16 relate to the operation of gaming activities, and who is not regularly
17 required to work in restricted areas such that registration of a non-
18 gaming employee is appropriate.

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

22 (c) the conviction of the applicant, or of any person required to be
23 qualified under this article as a condition of a license, of any offense
24 in any jurisdiction which is or would be a [~~felony or other~~] crime
25 involving public integrity, embezzlement, theft, fraud, [~~or~~] perjury,
26 represents a significant threat to public safety, or would otherwise
27 pose a threat to the effective regulation of casino gaming;

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

31 4. All applicants, licensees, registrants, and any other person who
32 shall be qualified pursuant to this article shall have the continuing
33 duty to provide any assistance or information required by the commis-
34 sion, and to cooperate in any inquiry, investigation or hearing
35 conducted by the commission. If, upon issuance of a formal request to
36 answer or produce information, evidence or testimony, any applicant,
37 licensee, registrant, or any other person who shall be qualified pursu-
38 ant to this article refuses to comply, the application, license, regis-
39 tration or qualification of such person may be suspended, denied or
40 revoked.

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

44 3. The commission shall deny a casino key employee license to any
45 applicant who is disqualified on the basis of the criteria contained in
46 section [~~one thousand three~~] thirteen hundred eighteen of this [~~title~~]
47 article, subject to notice and hearing. Provided that, no casino key
48 employee license shall be denied or revoked on the basis of a conviction
49 of any of the offenses enumerated in this article as disqualification
50 criteria or the commission of any act or acts which would constitute any
51 offense under section thirteen hundred eighteen of this article,
52 provided that the applicant has affirmatively demonstrated the appli-
53 cant's rehabilitation, pursuant to article twenty-three-A of the
54 correction law.

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

4 4. Upon ~~[receipt of such criminal history information]~~ determination
5 that an applicant is disqualified on the basis of the applicant's crimi-
6 nal history, the commission shall provide such applicant with a copy of
7 such criminal history information, together with a copy of article twen-
8 ty-three-A of the correction law, and inform such applicant of his or
9 her right to seek correction of any incorrect information contained in
10 such criminal history information pursuant to regulations and procedures
11 established by the division of criminal justice services. Except as
12 otherwise provided by law, such criminal history information shall be
13 confidential and any person who willfully permits the release of such
14 confidential criminal history information to persons not permitted to
15 receive such information shall be guilty of a misdemeanor.

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

19 § 1324. Gaming and non-gaming employee registration. 1. No person may
20 commence employment as a gaming or non-gaming employee unless such
21 person has a valid registration ~~[on file with the]~~ issued by the commis-
22 sion, which registration shall be prepared and filed in accordance with
23 the regulations promulgated hereunder.

24 2. A gaming or non-gaming employee registrant shall produce such
25 information as the commission by regulation may require. ~~[Subsequent to~~
26 ~~the registration of a gaming employee, the executive director may]~~ The
27 commission may deny, revoke, suspend, limit, or otherwise restrict the
28 registration upon a finding that the registrant is disqualified on the
29 basis of the criteria contained in section ~~[one thousand three]~~ thirteen
30 hundred eighteen of this ~~[title]~~ article. If a gaming or non-gaming
31 employee registrant has not been employed in any position within a
32 gaming facility for a period of three years, the registration of that
33 gaming or non-gaming employee shall lapse.

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

42 4. For the purposes of this section, each gaming or non-gaming regis-
43 trant shall submit to the commission the registrant's name, address,
44 fingerprints and written consent for a criminal history information to
45 be performed. The commission is hereby authorized to exchange finger-
46 print data with and receive criminal history information as defined in
47 paragraph (c) of subdivision one of section eight hundred forty-five-b
48 of the executive law from the state division of criminal justice
49 services and the federal bureau of investigation consistent with appli-
50 cable state and federal laws, rules and regulations. The registrant
51 shall pay the fee for such criminal history information as established
52 pursuant to article thirty-five of the executive law. The state division
53 of criminal justice services shall promptly notify the commission in the
54 event a current or prospective licensee or registrant, who was the
55 subject of a criminal history information pursuant to this section, is

1 arrested for a crime or offense in this state after the date the check
2 was performed.

3 5. Upon [~~receipt of such criminal history information~~] determination
4 that an applicant is disqualified on the basis of the applicant's crimi-
5 nal history, the [~~Commission~~] commission shall provide such applicant
6 with a copy of such criminal history information, together with a copy
7 of article twenty-three-A of the correction law, and inform such appli-
8 cant of his or her right to seek correction of any incorrect information
9 contained in such criminal history information pursuant to regulations
10 and procedures established by the division of criminal justice services.
11 Except as otherwise provided by law, such criminal history information
12 shall be confidential and any person who willfully permits the release
13 of such confidential criminal history information to persons not permit-
14 ted to receive such information shall be guilty of a misdemeanor.

15 6. Each applicant for a gaming registration shall produce such infor-
16 mation, documentation and assurances as may be required to establish by
17 clear and convincing evidence the applicant's good character, honesty
18 and integrity. Such information shall include data pertaining to charac-
19 ter, reputation, criminal history information and prior associations
20 with gaming operations in any capacity, position, or employment in a
21 jurisdiction that permits such activity.

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

25 § 1325. Approval, denial and renewal of employee licenses and regis-
26 trations. 1. Upon the filing of an application for a casino key employee
27 license or gaming employee registration required by this article and
28 after submission of such supplemental information as the commission may
29 require, the commission shall conduct or cause to be conducted such
30 investigation into the qualification of the applicant, and the commis-
31 sion shall conduct such hearings concerning the qualification of the
32 applicant, in accordance with its regulations, as may be necessary to
33 determine qualification for such license or registration. Upon the
34 filing of an application for a non-gaming employee registration, and
35 after submission of such supplemental information as the commission may
36 require, the commission may, in its discretion, conduct or cause to be
37 conducted an investigation into the qualification of such applicant.

38 2. After such investigation, the commission may either deny the appli-
39 cation or grant a license or registration to an applicant whom it deter-
40 mines to be qualified to hold such license or registration. The granting
41 of any such license or registration shall apply only to the job title
42 included in the application and to its associated duties. The commission
43 may, upon request and at its sole discretion, allow transfer of the
44 license or registration to another job title upon determination that the
45 original application would have been satisfactory had it been submitted
46 for the new title.

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

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

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

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

10 7. Subsequent to the issuance of a license or registration, the
11 commission may suspend, revoke, or limit the license or registration
12 upon a finding that an applicant is no longer qualified to hold such
13 license or registration in accordance with this article, or as it may
14 deem necessary to protect the public interest, following notice and an
15 opportunity for a hearing. The commission may temporarily suspend a
16 license or registration pending any investigation, prosecution, or hear-
17 ing if it is deemed necessary to do so to protect the integrity of
18 gaming activities.

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

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

25 3. Vendors providing goods and services to gaming facility licensees
26 or applicants ancillary to gaming, including vendors with access to the
27 player database or sensitive player information, vendors with heightened
28 security access or information, and junket enterprises shall be required
29 to be licensed as an ancillary casino vendor enterprise and shall comply
30 with the standards for casino vendor license applicants. The commission
31 may also require any vendor regularly conducting over two hundred fifty
32 thousand dollars of business with a gaming licensee or applicant within
33 a twelve-month period or one hundred thousand dollars of business within
34 a three-month period to be licensed as an ancillary gaming vendor.

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

38 4. Each casino vendor enterprise required to be licensed pursuant to
39 subdivision one of this section, as well as its owners; management and
40 supervisory personnel[~~, and employees if such employees have responsi-~~
41 ~~bility for services to a gaming facility applicant or licensee,] must
42 qualify under the standards, except residency, established for quali-
43 fication of a casino key employee under this article. Employees of such
44 vendors that have responsibility for services to a gaming facility
45 applicant or licensee must qualify under the standards established for
46 qualification of a gaming employee registration under this article.~~

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

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

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

12 Prior to conducting business with any vendor not included in subdivi-
13 sion one or two of this section, which is providing business worth less
14 than the thresholds provided in this subdivision, a gaming facility
15 applicant or licensee shall notify the commission of the intended trans-
16 action, along with any history of transactions with such vendor, to
17 allow for verification that the licensing requirements of this section
18 do not apply.

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

22 Notwithstanding the provisions aforementioned, the executive director
23 may, consistent with the public interest and the policies of this arti-
24 cle, direct that individual vendors registered pursuant to this subdivi-
25 sion be required to apply for either a casino vendor enterprise license
26 pursuant to subdivision one of this section, or an ancillary vendor
27 industry enterprise license pursuant to subdivision three of this
28 section, as directed by the commission. The executive director may also
29 order that any enterprise licensed as or required to be licensed as an
30 ancillary casino vendor enterprise pursuant to subdivision three of this
31 section be required to apply for a casino vendor enterprise license
32 pursuant to subdivision one of this section. The executive director may
33 also, in his or her discretion, order that an independent software
34 contractor not otherwise required to be registered be either registered
35 as a vendor pursuant to this subdivision or be licensed pursuant to
36 either subdivision one or three of this section.

37 [~~Each ancillary casino vendor enterprise required to be licensed~~
38 ~~pursuant to subdivision three of this section, as well as its owners,~~
39 ~~management and supervisory personnel, and employees if such employees~~
40 ~~have responsibility for services to a gaming facility applicant or~~
41 ~~licensee, shall establish their good character, honesty and integrity by~~
42 ~~clear and convincing evidence and shall provide such financial informa-~~
43 ~~tion as may be required by the commission. Any enterprise required to be~~
44 ~~licensed as an ancillary casino vendor enterprise pursuant to this~~
45 ~~section shall be permitted to transact business with a gaming facility~~
46 ~~licensee upon filing of the appropriate vendor registration form and~~
47 ~~application for such licensure.]~~

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

51 6. Any applicant, licensee or qualifier of a casino vendor enterprise
52 license or of an ancillary casino vendor enterprise license under subdivi-
53 sion one of this section, and any vendor registrant under subdivision
54 five of this section shall be disqualified in accordance with the crite-
55 ria contained in section [~~one thousand three~~] thirteen hundred eighteen
56 of this article, except that no such [~~ancillary casino vendor enterprise~~

1 ~~license under subdivision three of this section or vendor registration~~
2 ~~under subdivision five of this section] applicant, licensee or qualifier~~
3 shall be denied or revoked if such [~~vendor registrant~~] applicant, licen-
4 see or qualifier can affirmatively demonstrate rehabilitation pursuant
5 to article twenty-three-A of the correction law.

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

8 11. Notwithstanding the preceding subdivisions, the executive director
9 may, in his or her discretion, waive any of the requirements of this
10 section when a gaming facility applicant or licensee can demonstrate
11 that the business relationship with any individual vendor will be limit-
12 ed in scope and duration and that the public interest and the policies
13 of this article would not be diminished by such waiver. In requesting
14 such waiver, the gaming facility applicant or licensee shall provide any
15 and all information needed to make such determination and any and all
16 information needed as a condition of such waiver. The executive director
17 may revoke any such waiver at any time upon a determination that the
18 circumstances upon which such waiver was granted have changed.

19 § 14. This act shall take effect immediately.

20

PART LL

21 Section 1. Subparagraph (i) of paragraph (a) of subdivision 2 of
22 section 1306-a of the real property tax law, as amended by section 6 of
23 part N of chapter 58 of the laws of 2011, is amended to read as follows:

24 (i) The tax savings for each parcel receiving the exemption authorized
25 by section four hundred twenty-five of this chapter shall be computed by
26 subtracting the amount actually levied against the parcel from the
27 amount that would have been levied if not for the exemption, provided
28 however, that [~~beginning with~~] for the two thousand eleven-two thousand
29 twelve through two thousand eighteen-two thousand nineteen school [~~year~~]
30 years, the tax savings applicable to any "portion" (which as used herein
31 shall mean that part of an assessing unit located within a school
32 district) shall not exceed the tax savings applicable to that portion in
33 the prior school year multiplied by one hundred two percent, with the
34 result rounded to the nearest dollar; and provided further that begin-
35 ning with the two thousand nineteen-two thousand twenty school year: (A)
36 for purposes of the exemption authorized by section four hundred twen-
37 ty-five of this chapter, the tax savings applicable to any portion shall
38 not exceed the tax savings for the prior year, and (B) for purposes of
39 the credit authorized by subsection (eee) of section six hundred six of
40 the tax law, the tax savings applicable to any portion shall not exceed
41 the tax savings applicable to that portion in the prior school year
42 multiplied by one hundred two percent, with the result rounded to the
43 nearest dollar. The tax savings attributable to the basic and enhanced
44 exemptions shall be calculated separately. It shall be the responsibil-
45 ity of the commissioner to calculate tax savings limitations for
46 purposes of this subdivision.

47 § 2. Subparagraph (G) of paragraph 1 of subsection (eee) of section
48 606 of the tax law, as amended by section 8 of part A of chapter 73 of
49 the laws of 2016, is amended to read as follows:

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

1 § 3. This act shall take effect immediately.

2 PART MM

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

5 (c) The information contained within information returns filed under
6 subdivision (b) of this section may be provided by the commissioner to
7 local assessors for use in real property tax administration, and such
8 information shall not be subject to the secrecy provisions set forth in
9 section fourteen hundred eighteen of this chapter, provided, however,
10 that the commissioner shall not disclose social security numbers or
11 employer identification numbers.

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

13 PART NN

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

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

20 If household gross income	Excess real property	The credit amount is
21 for the taxable year is:	taxes are the excess	the following
22	of real property tax	percentage of excess
23	equivalent or the	property taxes:
24	excess of qualifying	
25	real property taxes	
26	over the following	
27	percentage of	
28	household gross	
29	income:	
30 Less than \$100,000	4	4.5
31 \$100,000 to less than	5	3.0
32 \$150,000		
33 \$150,000 to less than	6	1.5
34 \$200,000		

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

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

42 PART OO

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

46 v. 1. On and after April first, nineteen hundred eighty-nine, the
47 commissioner of housing and community renewal shall have the power and
48 duty to enforce and ensure compliance with the provisions of this
49 section. However, the commissioner shall not have the power or duty to

1 enforce manufactured home park rules and regulations established under
2 subdivision f of this section.

3 2. On or before January first, nineteen hundred eighty-nine, each
4 manufactured home park owner or operator shall file a registration
5 statement with the commissioner and shall thereafter file an annual
6 registration statement on or before January first of each succeeding
7 year. The commissioner, by regulation, shall provide that such registra-
8 tion statement shall include only the names of all persons owning an
9 interest in the park, the names of all tenants of the park, all services
10 provided by the park owner to the tenants and a copy of all current
11 manufactured home park rules and regulations. The reporting of such
12 information to the commissioner of taxation and finance pursuant to
13 subparagraph (B) of paragraph six of subsection (eee) of section six
14 hundred six of the tax law shall be deemed to satisfy the requirements
15 of this paragraph.

16 3. Whenever there shall be a violation of this section, an application
17 may be made by the commissioner of housing and community renewal in the
18 name of the people of the state of New York to a court or justice having
19 jurisdiction by a special proceeding to issue an injunction, and upon
20 notice to the defendant of not less than five days, to enjoin and
21 restrain the continuance of such violation; and if it shall appear to
22 the satisfaction of the court or justice that the defendant has, in
23 fact, violated this section, an injunction may be issued by such court
24 or justice, enjoining and restraining any further violation and with
25 respect to this subdivision, directing the filing of a registration
26 statement. In any such proceeding, the court may make allowances to the
27 commissioner of housing and community renewal of a sum not exceeding two
28 thousand dollars against each defendant, and direct restitution. When-
29 ever the court shall determine that a violation of this section has
30 occurred, the court may impose a civil penalty of not more than one
31 thousand five hundred dollars for each violation. Such penalty shall be
32 deposited in the manufactured home cooperative fund, created pursuant to
33 section fifty-nine-h of the private housing finance law. In connection
34 with any such proposed application, the commissioner of housing and
35 community renewal is authorized to take proof and make a determination
36 of the relevant facts and to issue subpoenas in accordance with the
37 civil practice law and rules. The provisions of this subdivision shall
38 not impair the rights granted under subdivision u of this section.

39 § 2. Subparagraph (B) of paragraph 6 of subsection (eee) of section
40 606 of the tax law, as amended by section 8 of part A of chapter 73 of
41 the laws of 2016, is amended to read as follows:

42 (B) (i) In the case of property consisting of a mobile home that is
43 described in paragraph (1) of subdivision two of section four hundred
44 twenty-five of the real property tax law, the amount of the credit
45 allowable with respect to such mobile home shall be equal to the basic
46 STAR tax savings for the school district portion, or the enhanced STAR
47 tax savings for the school district portion, whichever is applicable,
48 that would be applied to a separately assessed parcel in the school
49 district portion with a taxable assessed value equal to twenty thousand
50 dollars multiplied by the latest state equalization rate or special
51 equalization rate for the assessing unit in which the mobile home is
52 located. Provided, however, that if the commissioner is in possession of
53 information, including but not limited to assessment records, that
54 demonstrates to the commissioner's satisfaction that the taxpayer's
55 mobile home is worth more than twenty thousand dollars, or if the
56 taxpayer provides the commissioner with such information, the taxpayer's

1 credit shall be increased accordingly, but in no case shall the credit
2 exceed the basic STAR tax savings or enhanced STAR tax savings, whichever
3 is applicable, for the school district portion.

4 (ii) The commissioner may implement an electronic system for the
5 reporting of information by owners and operators of manufactured home
6 parks, as defined by section two hundred thirty-three of the real prop-
7 erty law. Upon the implementation of such a system, each such owner and
8 operator shall file quarterly electronic statements with the commission-
9 er no later than twenty-one days after the end of each calendar quarter.
10 Such statement shall require reporting of names of all persons owning an
11 interest in the park, the services provided by the park owner to the
12 tenants, the names and addresses of all tenants of the park, whether the
13 tenant leases or owns the home, and such additional information as the
14 commissioner may deem necessary for the proper administration of the
15 STAR exemption established pursuant to section four hundred twenty-five
16 of the real property tax law and the STAR credit and any other property
17 tax-based credit established pursuant to this section. In the case of a
18 registration statement for the first calendar quarter of a year, such
19 statement shall also include a copy of all current manufactured home
20 park rules and regulations. The commissioner shall provide the commis-
21 sioner of housing and community renewal with the information contained
22 in each quarterly report no later than thirty days after the receipt
23 thereof.

24 § 3. This act shall take effect immediately.

25 PART PP

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

29 (iv) (A) Effective with applications for the enhanced exemption on
30 final assessment rolls to be completed in two thousand nineteen, the
31 application form shall indicate that all owners of the property and any
32 owners' spouses residing on the premises must have their income eligi-
33 bility verified annually by the department and must furnish their
34 taxpayer identification numbers in order to facilitate matching with
35 records of the department. The income eligibility of such persons shall
36 be verified annually by the department, and the assessor shall not
37 request income documentation from them. All applicants for the enhanced
38 exemption and all assessing units shall be required to participate in
39 this program, which shall be known as the STAR income verification
40 program.

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

45 (C) Where the commissioner finds that the enhanced exemption should be
46 replaced with a basic exemption because [~~the income limitation applica-~~
47 ~~ble to the enhanced exemption has been exceeded~~] the property is only
48 eligible for a basic exemption, he or she shall provide the property
49 owners with notice and an opportunity to submit to the commissioner
50 evidence to the contrary. Where the commissioner finds that the enhanced
51 exemption should be removed or denied without being replaced with a
52 basic exemption because [~~the income limitation applicable to the basic~~
53 ~~exemption has also been exceeded~~] the property is not eligible for
54 either exemption, he or she shall provide the property owners with

1 notice and an opportunity to submit to the commissioner evidence to the
2 contrary. In either case, if the owners fail to respond to such notice
3 within forty-five days from the mailing thereof, or if their response
4 does not show to the commissioner's satisfaction that the property is
5 eligible for the exemption claimed, the commissioner shall direct the
6 assessor or other person having custody or control of the assessment
7 roll or tax roll to either replace the enhanced exemption with a basic
8 exemption, or to remove or deny the enhanced exemption without replacing
9 it with a basic exemption, as appropriate. The commissioner shall
10 further direct such person to correct the roll accordingly. Such a
11 directive shall be binding upon the assessor or other person having
12 custody or control of the assessment roll or tax roll, and shall be
13 implemented by such person without the need for further documentation or
14 approval.

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

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

38 (c) Additional consequences. A penalty tax may be imposed pursuant to
39 this subdivision whether or not the improper exemption has been revoked
40 in the manner provided by this section. In addition, a person or persons
41 who are found to have made a material misstatement shall be disqualified
42 from further exemption pursuant to this section, and from the credit
43 authorized by subsection (eee) of section six hundred six of the tax
44 law, for a period of [~~five years if such misstatement appears on an~~
45 ~~application filed prior to October first, two thousand thirteen, and~~
46 six years [~~if such misstatement appears on an application filed there-~~
47 ~~after~~]. In addition, such person or persons may be subject to prose-
48 cution pursuant to the penal law.

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

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

54 (E) A taxpayer who is found to have made a material misstatement on an
55 application for the credit authorized by this section shall be disquali-
56 fied from receiving such credit for six years. As used herein, the term

1 "material misstatement" shall have the same meaning as set forth in
2 paragraph (a) of subdivision thirteen of section four hundred twenty-
3 five of the real property tax law.

4 § 4. Subparagraph (E) of paragraph (10) of subsection (eee) of section
5 606 of the tax law, as amended by section 8 of part A of chapter 73 of
6 the laws of 2016, is amended to read as follows:

7 (E) If the commissioner determines after issuing an advance payment
8 that it was issued in an excessive amount or to an ineligible or incor-
9 rect party, the commissioner shall be empowered to utilize any of the
10 procedures for collection, levy and lien of personal income tax set
11 forth in this article, any other relevant procedures referenced within
12 the provisions of this article, and any other law as may be applicable,
13 to recoup the improperly issued amount; provided that in the event such
14 party was determined to be ineligible on the basis that his or her
15 primary residence received the STAR exemption in the associated fiscal
16 year, the improperly issued credit amount shall be deemed a clerical
17 error and shall be paid upon notice and demand without the issuance of a
18 notice of deficiency and shall be assessed, collected and paid in the
19 same manner as taxes.

20 § 5. This act shall take effect immediately.

21 PART QQ

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

24 17. Certain disclosures authorized. (a) Notwithstanding any provision
25 of law to the contrary, when the commissioner has determined that the
26 owner or owners of a parcel of real property are ineligible for either
27 the STAR exemption authorized by this section or the STAR credit author-
28 ized by subsection (eee) of section six hundred six of the tax law, the
29 commissioner may disclose the names of such owner or owners to the
30 assessor of the assessing unit in which the property is located. In
31 addition:

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

36 (ii) Where the commissioner has found that the STAR exemption or cred-
37 it could not be granted because the property is not the primary resi-
38 dence of one or more of the owners thereof, or that the owner's spouse
39 is receiving a STAR exemption or STAR credit on another residence or a
40 comparable benefit on a residence in another state, the commissioner may
41 so advise the assessor. The commissioner may further advise the assessor
42 of the facts supporting that determination, including the location or
43 locations of the property owner's other residence or residences, if any.

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

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

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

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

7 11. (a) Notwithstanding any provision of law to the contrary, upon the
8 request of an assessor, the commissioner may disclose to the assessor
9 the names and addresses of the owners of property in that assessor's
10 assessing unit who are receiving the enhanced STAR exemption or enhanced
11 STAR credit and whose federal adjusted gross income is less than the
12 uppermost amount specified by subparagraph three of paragraph (b) of
13 subdivision one of this section (represented therein as M + \$8,400).
14 Such amount shall be determined without regard to any local options that
15 the municipal corporation may or may not have exercised in relation to
16 increasing or decreasing the maximum income eligibility level authorized
17 by this section, provided that the amount so determined for a city with
18 a population of one million or more shall take into account the distinct
19 maximum income eligibility level established for such city by paragraph
20 (a) of subdivision three of this section. In no case shall the commis-
21 sioner disclose to an assessor the amount of an owner's federal adjusted
22 gross income.

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

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

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

37 5. Information regarding decedents provided by the commissioner to a
38 county director of real property tax services pursuant to subsection (c)
39 of section six hundred fifty-one of the tax law shall be used only for
40 purposes of real property tax administration. The contents of the report
41 may be shared with the assessor and tax collecting officer of the munic-
42 ipal corporation in which the decedent's former residence is located,
43 and with the enforcing officer if such residence is subject to delin-
44 quent taxes. The information shall be deemed confidential otherwise, and
45 shall not be subject to the provisions of article six of the public
46 officers law.

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

49 (c) Decedents. The return for any deceased individual shall be made
50 and filed by his executor, administrator, or other person charged with
51 his property. If a final return of a decedent is for a fractional part
52 of a year, the due date of such return shall be the fifteenth day of the
53 fourth month following the close of the twelve-month period which began
54 with the first day of such fractional part of the year. Notwithstanding
55 any provision of law to the contrary, when a return has been filed for a
56 decedent, the commissioner may disclose the decedent's name, address,

1 and the date of death to the director of real property tax services of
 2 the county in which the address reported on such return is located.

3 § 5. This act shall take effect immediately.

4 PART RR

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

8 (b-1) Income. For final assessment rolls to be used for the levy of
 9 taxes for the two thousand eleven-two thousand twelve through two thou-
 10 sand eighteen-two thousand nineteen school [~~year and thereafter~~] years,
 11 the parcel's affiliated income may be no greater than five hundred thou-
 12 sand dollars, as determined by the commissioner [~~of taxation and~~
 13 ~~finance~~] pursuant to subdivision fourteen of this section or section one
 14 hundred seventy-one-u of the tax law, in order to be eligible for the
 15 basic exemption authorized by this section. Beginning with the two thou-
 16 sand nineteen-two thousand twenty school year, for purposes of the
 17 exemption authorized by this section, the parcel's affiliated income may
 18 be no greater than two hundred fifty thousand dollars, as so determined.

19 As used herein, the term "affiliated income" shall mean the combined
 20 income of all of the owners of the parcel who resided primarily thereon
 21 on the applicable taxable status date, and of any owners' spouses resid-
 22 ing primarily thereon. For exemptions on final assessment rolls to be
 23 used for the levy of taxes for the two thousand eleven-two thousand
 24 twelve school year, affiliated income shall be determined based upon the
 25 parties' incomes for the income tax year ending in two thousand nine. In
 26 each subsequent school year, the applicable income tax year shall be
 27 advanced by one year. The term "income" as used herein shall have the
 28 same meaning as in subdivision four of this section.

29 § 2. Subparagraph (A) of paragraph 3 of subsection (eee) of section
 30 606 of the tax law, as added by section 8 of part A of chapter 73 of the
 31 laws of 2016, is amended to read as follows:

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

40 § 3. This act shall take effect immediately.

41 PART SS

42 Section 1. Subdivision 6 of section 1306-a of the real property tax
 43 law, as amended by section 3 of part TT of chapter 59 of the laws of
 44 2017, is amended to read as follows:

45 6. When the commissioner determines, at least twenty days prior to the
 46 levy of school district taxes, that an advance credit of the personal
 47 income tax credit authorized by subsection (eee) of section six hundred
 48 six of the tax law will be provided to the owners of a parcel in that
 49 school district, he or she shall so notify the assessor, the county
 50 director of real property tax services, and the authorities of the
 51 school district, who shall cause a statement to be placed on the tax
 52 bill for the parcel in substantially the following form: "An estimated

1 STAR check has been or will be mailed to you [~~upon issuance~~] by the NYS
2 Tax Department. Any overpayment or underpayment can be reconciled on
3 your next tax return or STAR credit check."

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

14 § 2. This act shall take effect immediately.

15

PART TT

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

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

48 § 2. Paragraph (d) of subdivision 2 of section 496 of the real proper-
49 ty tax law, as added by section 3 of part A of chapter 60 of the laws of
50 2016, is amended to read as follows:

51 (d) If the applicant is renouncing a STAR exemption in order to quali-
52 fy for the personal income tax credit authorized by subsection (eee) of
53 section six hundred six of the tax law, and no other exemptions are
54 being renounced on the same application, or if the applicant is renounc-

1 ing a STAR exemption before school taxes have been levied on the assess-
 2 ment roll upon which that exemption appears, no processing fee shall be
 3 applicable.

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

7 (a) For each assessment roll on which the renounced exemption appears,
 8 the assessed value that was exempted shall be multiplied by the tax rate
 9 or rates that were applied to that assessment roll, or in the case of a
 10 renounced STAR exemption, the tax savings calculated pursuant to subdi-
 11 vision two of section thirteen hundred six-a of this chapter. Interest
 12 shall then be added to each such product at the rate prescribed by
 13 section nine hundred twenty-four-a of this chapter or such other law as
 14 may be applicable for each month or portion thereon since the levy of
 15 taxes upon such assessment roll.

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

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

30 § 5. This act shall take effect immediately.

31 PART UU

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

35 REGULATION OF TOBACCO PRODUCTS,
 36 VAPOR PRODUCTS, ELECTRONIC CIGARETTES,
 37 HERBAL CIGARETTES AND SMOKING
 38 PARAPHERNALIA; DISTRIBUTION TO [~~MINORS~~] PERSONS UNDER THE
 39 AGE OF TWENTY-ONE

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

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

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

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

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

9 16. "Vapor product" means any noncombustible liquid or gel, regardless
10 of the presence of nicotine therein, that is manufactured into a
11 finished product for use in an electronic cigarette, electronic cigar,
12 electronic cigarillo, electronic pipe, vaping pen, hookah pen or other
13 similar device. "Vapor product" shall not include any product approved
14 by the United States food and drug administration as a drug or medical
15 device, or manufactured and dispensed pursuant to title five-A of arti-
16 cle thirty-three of the public health law.

17 17. "Tobacco and vapor products menu" means a booklet, pamphlet, or
18 other listing of tobacco products, herbal cigarettes, vapor products,
19 and electronic cigarettes offered for sale by the dealer and the price
20 of such products. The tobacco and vapor products menu may contain
21 pictures of and advertisements for tobacco products, herbal cigarettes,
22 vapor products and electronic cigarettes.

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

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

32 § 3. Section 1399-bb of the public health law, as amended by chapter
33 508 of the laws of 2000, the section heading and subdivisions 4 and 5 as
34 amended by chapter 4 of the laws of 2018 and subdivision 2 as amended by
35 chapter 13 of the laws of 2003, is amended to read as follows:

36 § 1399-bb. Distribution of tobacco products, vapor products, electron-
37 ic cigarettes or herbal cigarettes without charge. 1. No person engaged
38 in the business of selling or otherwise distributing tobacco products,
39 vapor products, electronic cigarettes or herbal cigarettes for commer-
40 cial purposes, or any agent or employee of such person, shall knowingly,
41 in furtherance of such business:

42 (a) distribute without charge any tobacco products or herbal ciga-
43 rettes to any individual, provided that the distribution of a package
44 containing tobacco products or herbal cigarettes in violation of this
45 subdivision shall constitute a single violation without regard to the
46 number of items in the package; or

47 (b) distribute [~~coupons~~] price reduction instruments which are redeem-
48 able for tobacco products [~~or~~], herbal cigarettes, vapor products, or
49 electronic cigarettes to any individual, provided that this subdivision
50 shall not apply to coupons contained in newspapers, magazines or other
51 types of publications, coupons obtained through the purchase of tobacco
52 products [~~or~~], herbal cigarettes, vapor products, or electronic ciga-
53 rettes or obtained at locations which sell tobacco products [~~or~~], herbal
54 cigarettes, vapor products, or electronic cigarettes provided that such
55 distribution is confined to a designated area or to coupons sent through
56 the mail.

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

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

8 (b) sell or offer for sale tobacco products, herbal cigarettes, vapor
9 products, or electronic cigarettes to a consumer through any multi-pack-
10 age discount or otherwise provide to a consumer any tobacco products,
11 herbal cigarettes, vapor products, electronic cigarettes for less than
12 the listed price in exchange for the purchase of any other tobacco
13 products, herbal cigarettes, vapor products, or electronic cigarettes by
14 the consumer;

15 (c) sell, offer for sale, or otherwise provide any product other than
16 tobacco products, herbal cigarettes, vapor products, or electronic ciga-
17 rettes to a consumer for less than the listed price in exchange for the
18 purchase of tobacco products, herbal cigarettes, vapor products, or
19 electronic cigarettes by the consumer; or

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

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

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

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

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

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

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

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

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

48 4. No person engaged in the business of selling or otherwise distrib-
49 uting vapor products or electronic cigarettes for commercial purposes,
50 or any agent or employee of such person, shall knowingly, in furtherance
51 of such business, distribute without charge any vapor products or elec-
52 tronic cigarettes to any individual under [~~eighteen~~] twenty-one years of
53 age.

54 5. The distribution of tobacco products or herbal cigarettes pursuant
55 to subdivision two of this section or the distribution without charge of
56 vapor products or electronic cigarettes shall be made only to an indi-

vidual who demonstrates, through (a) a driver's license or [~~other photo-graphic~~ non-driver's identification card issued by [~~a government entity or educational institution~~] the commissioner of motor vehicles, the federal government, any United States territory, commonwealth or possession, the District of Columbia, a state government within the United States or a provincial government of the dominion of Canada, or (b) a valid passport issued by the United States government or any other country, or (c) an identification card issued by the armed forces of the United States, indicating that the individual is at least [~~eighteen~~] twenty-one years of age. Such identification need not be required of any individual who reasonably appears to be at least [~~twenty-five~~] thirty years of age; provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of a tobacco product, vapor product, electronic cigarette or herbal cigarette or the distribution without charge of vapor products or electronic cigarettes to an individual under twenty-one years of age.

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

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

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

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

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

3. Sale of tobacco products, herbal cigarettes, [~~liquid nicotine~~] vapor products, shisha or electronic cigarettes in such places, other than by a vending machine, shall be made only to an individual who demonstrates, through (a) a valid driver's license or non-driver's identification card issued by the commissioner of motor vehicles, the federal government, any United States territory, commonwealth or possession, the District of Columbia, a state government within the United States or a provincial government of the dominion of Canada, or (b) a valid passport issued by the United States government or any other country, or (c) an identification card issued by the armed forces of the United States, indicating that the individual is at least [~~eighteen~~] twenty-one years of age. Such identification need not be required of any individual who reasonably appears to be at least [~~twenty-five~~] thirty years of age, provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of a tobacco product, herbal ciga-

1 rettes, [~~liquid nicotine~~] vapor products, shisha or electronic ciga-
2 rettes to an individual under [~~eighteen~~] twenty-one years of age.

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

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

12 (c) In any proceeding pursuant to section thirteen hundred ninety-
13 nine-ee of this article, it shall be an affirmative defense that such
14 person had produced a driver's license or non-driver identification card
15 apparently issued by a governmental entity, successfully completed that
16 transaction scan, and that the tobacco product, herbal cigarettes or
17 [~~liquid nicotine~~] vapor products had been sold, delivered or given to
18 such person in reasonable reliance upon such identification and trans-
19 action scan. In evaluating the applicability of such affirmative defense
20 the commissioner shall take into consideration any written policy
21 adopted and implemented by the seller to effectuate the provisions of
22 this chapter. Use of a transaction scan shall not excuse any person
23 operating a place of business wherein tobacco products, herbal ciga-
24 rettes, [~~liquid nicotine~~] vapor products, shisha or electronic ciga-
25 rettes are sold, or the agent or employee of such person, from the exer-
26 cise of reasonable diligence otherwise required by this chapter.
27 Notwithstanding the above provisions, any such affirmative defense shall
28 not be applicable in any civil or criminal proceeding, or in any other
29 forum.

30 7. (a) No person operating a place of business wherein tobacco
31 products, herbal cigarettes, [~~liquid nicotine~~] vapor products, shisha or
32 electronic cigarettes are sold or offered for sale shall sell, permit to
33 be sold, offer for sale or display for sale any tobacco product, herbal
34 cigarettes, [~~liquid nicotine~~] vapor products, shisha or electronic ciga-
35 rettes in any manner, unless such products and cigarettes are stored for
36 sale [~~(a)~~] (i) behind a counter in an area accessible only to the
37 personnel of such business, or [~~(b)~~] (ii) in a locked container;
38 provided, however, such restriction shall not apply to tobacco busi-
39 nesses, as defined in subdivision eight of section thirteen hundred
40 ninety-nine-aa of this article, and to places to which admission is
41 restricted to persons [~~eighteen~~] twenty-one years of age or older.

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

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

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

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

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

6 (e) No dealer shall provide any tobacco and vapor products menu or any
7 tobacco product, herbal cigarette, vapor product, or electronic ciga-
8 rette to any individual who has not demonstrated, through identification
9 which meets the requirements of subdivision three of this section, that
10 the individual is at least twenty-one years of age. Such identification
11 need not be required of any individual who reasonably appears to be over
12 the age of thirty, provided, however, that such appearance shall not
13 constitute a defense in any proceeding alleging the sale of such item to
14 an individual under twenty-one years of age. It shall be an affirmative
15 defense to a violation of this paragraph that the dealer successfully
16 performed a transaction scan of an individual's identification and that
17 a tobacco and vapor products menu, tobacco product, herbal cigarette,
18 vapor product, or electronic cigarette was provided to such individual
19 in reasonable reliance upon such identification and transaction scan.

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

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

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

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

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

37 § 7. Section 1399-dd of the public health law, as amended by chapter
38 448 of the laws of 2012, is amended to read as follows:

39 § 1399-dd. Sale of tobacco products, herbal cigarettes, vapor
40 products, or electronic cigarettes in vending machines. No person, firm,
41 partnership, company or corporation shall operate a vending machine
42 which dispenses tobacco products, herbal cigarettes, vapor products, or
43 electronic cigarettes unless such machine is located: (a) in a bar as
44 defined in subdivision one of section thirteen hundred ninety-nine-n of
45 this chapter, or the bar area of a food service establishment with a
46 valid, on-premises full liquor license; (b) in a private club; (c) in a
47 tobacco business as defined in subdivision eight of section thirteen
48 hundred ninety-nine-aa of this article; or (d) in a place of employment
49 which has an insignificant portion of its regular workforce comprised of
50 people under the age of [~~eighteen~~] twenty-one years and only in such
51 locations that are not accessible to the general public; provided,
52 however, that in such locations the vending machine is located in plain
53 view and under the direct supervision and control of the person in
54 charge of the location or his or her designated agent or employee.

55 § 8. Section 1399-ee of the public health law, as amended by chapter
56 162 of the laws of 2002, is amended to read as follows:

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

4 2. If the enforcement officer determines after a hearing that a
5 violation of this article has occurred, he or she shall impose a civil
6 penalty of a minimum of three hundred dollars, but not to exceed one
7 thousand dollars for a first violation, and a minimum of five hundred
8 dollars, but not to exceed one thousand five hundred dollars for each
9 subsequent violation, unless a different penalty is otherwise provided
10 in this article. The enforcement officer shall advise the [~~retail~~] deal-
11 er that upon the accumulation of three or more points pursuant to this
12 section the [~~department~~] commissioner of taxation and finance shall
13 suspend the dealer's registration. If the enforcement officer determines
14 after a hearing that a [~~retail~~] dealer was selling tobacco products,
15 vapor products, or electronic cigarettes while their registration was
16 suspended or permanently revoked pursuant to subdivision three or four
17 of this section, he or she shall impose a civil penalty of twenty-five
18 hundred dollars.

19 3. (a) Imposition of points. If the enforcement officer determines,
20 after a hearing, that the [~~retail~~] dealer violated subdivision [~~one~~] two
21 of section thirteen hundred ninety-nine-cc of this article with respect
22 to a prohibited sale to a [~~minor~~] person under the age of twenty-one, he
23 or she shall, in addition to imposing any other penalty required or
24 permitted pursuant to this section, assign two points to the [~~retail~~]
25 dealer's record where the individual who committed the violation did not
26 hold a certificate of completion from a state certified tobacco sales
27 training program and one point where the [~~retail~~] dealer demonstrates
28 that the person who committed the violation held a certificate of
29 completion from a state certified tobacco sales training program.

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

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

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

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

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

52 4. (a) If the enforcement officer determines, after a hearing, that a
53 [~~retail~~] dealer has violated this article while their registration was
54 suspended pursuant to subdivision three of this section, he or she
55 shall, in addition to imposing any other penalty required or permitted
56 by this section, direct the commissioner of taxation and finance to

1 permanently revoke the dealer's registration and not permit the dealer
2 to obtain a new registration.

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

10 5. The department shall publish a notification of the name and address
11 of any [~~retailer~~] dealer violating the provisions of this section and
12 indicate the number of times the dealer has violated the provisions of
13 this section. The notification shall be published in a newspaper of
14 general circulation in the locality in which the [~~retailer~~] dealer is
15 located.

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

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

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

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

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

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

31 (5) means of identifying fraudulent identification of attempted under-
32 age purchasers;

33 (6) techniques used to refuse a sale;

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

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

40 (c) A tobacco sales training program may be given and administered by
41 a [~~retail~~] dealer duly registered under section four hundred eighty-a of
42 the tax law which operates five or more registered locations, by a trade
43 association whose members are registered as [~~retail~~] dealers, by
44 national and regional franchisors who have granted at least five fran-
45 chises in the state to persons who are registered as such [~~retail~~] deal-
46 ers by a cooperative corporation with five or more members who are
47 registered as [~~retail~~] dealers and are operating in this state, and by a
48 wholesaler supplying fifty or more [~~retail~~] dealers. A person or entity
49 administering such training program shall issue certificates of
50 completion to persons successfully completing such a training program.
51 Such certificates shall be prima facie evidence of the completion of
52 such a training program by the person named therein.

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

1 (e) Entities authorized pursuant to paragraph (c) of this subdivision
2 to give and administer a tobacco sales training program may submit a
3 proposed curriculum, a facsimile of any training aids and materials, and
4 a list of training locations to the department for review. Training aids
5 may include the use of video, computer based instruction, printed mate-
6 rials and other formats deemed acceptable to the department. The depart-
7 ment shall certify programs which provide instruction in the elements
8 set forth in paragraph (b) of this subdivision in a clear and meaningful
9 fashion. Programs approved by the department shall be certified for a
10 period of three years at which time an entity may reapply for certifi-
11 cation. A non-refundable fee in the amount of three hundred dollars
12 shall be paid to the department with each application.

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

15 § 1399-hh. Tobacco vapor product and electronic cigarette enforcement.
16 The commissioner shall develop, plan and implement a comprehensive
17 program to reduce the prevalence of tobacco vapor product and electronic
18 cigarette use, particularly among persons less than [~~eighteen~~] twenty-
19 one years of age. This program shall include, but not be limited to,
20 support for enforcement of article thirteen-F of this chapter.

21 1. An enforcement officer, as defined in section thirteen hundred
22 ninety-nine-t of this chapter, may annually, on such dates as shall be
23 fixed by the commissioner, submit an application for such monies as are
24 made available for such purpose. Such application shall be in such form
25 as prescribed by the commissioner and shall include, but not be limited
26 to, plans regarding random spot checks, including the number and types
27 of compliance checks that will be conducted, and other activities to
28 determine compliance with this article. Each such plan shall include an
29 agreement to report to the commissioner: the names and addresses of
30 [~~tobacco retailers and vendors~~] dealers determined to be unlicensed, if
31 any; the number of complaints filed against licensed [~~tobacco retail~~
32 ~~outlets~~] dealers; and the names of [~~tobacco retailers and vendors~~] deal-
33 ers who have paid fines, or have been otherwise penalized, due to
34 enforcement actions.

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

40 3. Monies made available to enforcement officers pursuant to this
41 section shall only be used for local tobacco, herbal cigarette, vapor
42 products and electronic cigarette enforcement activities approved by the
43 commissioner.

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

47 (b) Any person operating a tobacco business wherein bidis is sold or
48 offered for sale is prohibited from selling such bidis to individuals
49 under [~~eighteen~~] twenty-one years of age, and shall post in a conspicu-
50 ous place a sign upon which there shall be imprinted the following
51 statement, "SALE OF BIDIS TO PERSONS UNDER [~~EIGHTEEN~~] TWENTY-ONE YEARS
52 OF AGE IS PROHIBITED BY LAW." Such sign shall be printed on a white
53 card in red letters at least one-half inch in height.

54 § 11. Subdivision 1 and paragraph (b) of subdivision 2 of section
55 1399-mm of the public health law, as added by chapter 549 of the laws of
56 2003, are amended to read as follows:

1 1. No person shall knowingly sell or provide gutka to any other person
2 under [~~eighteen~~] twenty-one years of age. No other provision of law
3 authorizing the sale of tobacco products, other than subdivision two of
4 this section, shall authorize the sale of gutka. Any person who
5 violates the provisions of this subdivision shall be subject to a civil
6 penalty of not more than five hundred dollars.

7 (b) Any person operating a tobacco business wherein gutka is sold or
8 offered for sale is prohibited from selling such gutka to individuals
9 under [~~eighteen~~] twenty-one years of age, and shall post in a conspicu-
10 ous place a sign upon which there shall be imprinted the following
11 statement, "SALE OF GUTKA TO PERSONS UNDER [~~EIGHTEEN~~] TWENTY-ONE YEARS
12 OF AGE IS PROHIBITED BY LAW." Such sign shall be printed on a white
13 card in red letters at least one-half inch in height.

14 § 12. The public health law is amended by adding a new section
15 1399-mm-1 to read as follows:

16 § 1399-mm-1. Sale in pharmacies. No tobacco products, herbal ciga-
17 rettes, vapor products, or electronic cigarettes shall be sold in a
18 pharmacy or in a retail establishment that contains a pharmacy operated
19 as a department as defined in paragraph f of subdivision two of section
20 sixty-eight hundred eight of the education law.

21 § 13. The public health law is amended by adding a new section
22 1399-mm-2 to read as follows:

23 § 1399-mm-2. Electronic cigarette and vapor products; characterizing
24 flavors. The commissioner is authorized to promulgate regulations
25 governing the sale and distribution of electronic cigarettes or vapor
26 products. Such regulations may, to the extent deemed necessary for the
27 protection of public health, prohibit or restrict: (i) the selling,
28 offering for sale, possessing with intent to sell or offering for sale,
29 or distributing of refills, cartridges, or other components of electron-
30 ic cigarettes or vapor products that imparts a characterizing flavor; or
31 (ii) the use of trademarks, names or descriptions of characterizing
32 flavors that are clearly intended to appeal to minors.

33 § 14. Paragraph n of subdivision 1 of section 1399-o of the public
34 health law, as amended by chapter 335 of the laws of 2017, is amended to
35 read as follows:

36 n. general hospitals and residential health care facilities as defined
37 in article twenty-eight of this chapter, hospitals and residential
38 facilities licensed by or operated by the office of mental health pursu-
39 ant to the mental hygiene law, and other health care facilities licensed
40 by the state in which persons reside; provided, however, that the
41 provisions of this subdivision shall not prohibit smoking [~~and vaping~~]
42 by patients in separate enclosed rooms of residential health care facil-
43 ities, adult care facilities established or certified under title two of
44 article seven of the social services law, [~~community mental health resi-~~
45 ~~dences established under section 41.44 of the mental hygiene law~~], or
46 facilities where day treatment programs are provided, which are desig-
47 nated as smoking [~~and vaping~~] rooms for patients of such facilities or
48 programs;

49 § 15. Subdivision 2 of section 1399-o of the public health law is
50 amended by adding a new paragraph c to read as follows:

51 c. on the grounds of hospitals licensed by or operated by the office
52 of mental health pursuant to the mental hygiene law.

53 § 16. Section 399-gg of the general business law, as added by chapter
54 542 of the laws of 2014, is amended to read as follows:

55 § 399-gg. Packaging of [~~electronic liquid~~] vapor products. 1. No
56 person, firm or corporation shall sell or offer for sale any [~~electronic~~

1 ~~liquid~~ vapor products, as defined in [~~paragraph (e) of~~] subdivision
2 [~~one~~] sixteen of section [~~thirteen hundred ninety nine-ee~~] thirteen
3 hundred ninety-nine-aa of the public health law, unless the [~~electronic~~
4 ~~liquid~~] vapor products is sold or offered for sale in a child resistant
5 bottle which is designed to prevent accidental exposure of children to
6 [~~electronic liquids~~] vapor products.

7 2. Any violation of this section shall be punishable by a civil penal-
8 ty not to exceed one thousand dollars.

9 § 17. The tax law is amended by adding a new article 28-C to read as
10 follows:

11 ARTICLE 28-C
12 SUPPLEMENTAL TAX ON VAPOR PRODUCTS

13 Section 1180. Definitions.

14 1181. Imposition of tax.

15 1182. Imposition of compensating use tax.

16 1183. Vapor products dealer registration and renewal.

17 1184. Administrative provisions.

18 1185. Criminal penalties.

19 1186. Deposit and disposition of revenue.

20 § 1180. Definitions. For the purposes of the taxes imposed by this
21 article, the following terms shall mean:

22 (a) "Vapor product" means any noncombustible liquid or gel, regardless
23 of the presence of nicotine therein, that is manufactured in to a
24 finished product for use in an electronic cigarette, electronic cigar,
25 electronic cigarillo, electronic pipe, vaping pen, hookah pen or other
26 similar device. "Vapor product" shall not include any product approved
27 by the United States food and drug administration as a drug or medical
28 device, or manufactured and dispensed pursuant to title five-A of arti-
29 cle thirty-three of the public health law.

30 (b) "Vapor products dealer" means a person licensed by the commission-
31 er to sell vapor products in this state.

32 § 1181. Imposition of Tax. In addition to any other tax imposed by
33 this chapter or other law, there is hereby imposed a tax of twenty
34 percent on receipts from the retail sale of vapor products sold in this
35 state. The tax is imposed on the purchaser and collected by the vapor
36 products dealer as defined in subdivision (b) of section eleven hundred
37 eighty of this article, in trust for and on account of the state.

38 § 1182. Imposition of compensating use tax. (a) Except to the extent
39 that vapor products have already been or will be subject to the tax
40 imposed by section eleven hundred eighty-one of this article, or are
41 otherwise exempt under this article, there is hereby imposed a use tax
42 on every use within the state of vapor products: (1) purchased at
43 retail; and (2) manufactured or processed by the user if items of the
44 same kind are sold by him or her in the regular course of his or her
45 business.

46 (b) For purposes of paragraph one of subdivision (a) of this section,
47 the tax shall be at the rate of twenty percent of the consideration
48 given or contracted to be given for such vapor product purchased at
49 retail. For purposes of paragraph two of subdivision (a) of this
50 section, the tax shall be at the rate of twenty percent of the price at
51 which such items of the same kind of vapor product are offered for sale
52 by the user, and the mere storage, keeping, retention or withdrawal from
53 storage of such vapor product by the person that manufactured or proc-

1 essed such vapor product shall not be deemed a taxable use by him or
2 her.

3 (c) The tax due pursuant to this section shall be paid and reported no
4 later than twenty days after such use on a form prescribed by the
5 commissioner.

6 § 1183. Vapor products dealer registration and renewal. (a) Every
7 person who intends to sell vapor products in this state must receive
8 from the commissioner a certificate of registration prior to engaging in
9 business. Such person must electronically submit a properly completed
10 application for a certificate of registration for each location at which
11 vapor products will be sold in this state, on a form prescribed by the
12 commissioner, and shall be accompanied by a non-refundable application
13 fee of three hundred dollars.

14 (b) A vapor products dealer certificate of registration shall be
15 valid for the calendar year for which it is issued unless earlier
16 suspended or revoked. Upon the expiration of the term stated on the
17 certificate of registration, such certificate shall be null and void. A
18 certificate of registration shall not be assignable or transferable and
19 shall be destroyed immediately upon the vapor products dealer ceasing to
20 do business as specified in such certificate or in the event that such
21 business never commenced.

22 (c) Every vapor product dealer shall publicly display a vapor products
23 dealer certificate of registration in each place of business in this
24 state where vapor products are sold at retail. A vapor products dealer
25 who has no regular place of business shall publicly display such valid
26 certificate on each of its carts, stands, trucks or other merchandising
27 devices through which it sells vapor products.

28 (d) (1) The commissioner shall refuse to issue a certificate of regis-
29 tration to any applicant who does not possess a valid certificate of
30 authority under section eleven hundred thirty-four of this chapter. In
31 addition, the commissioner may refuse to issue a certificate of regis-
32 tration, or suspend, cancel or revoke a certificate of registration
33 issued to any person who: (A) has a past-due liability as that term is
34 defined in section one hundred seventy-one-v of this chapter; (B) has
35 had a certificate of registration under this article or any license or
36 registration provided for in this chapter revoked within one year from
37 the date on which such application was filed; (C) has been convicted of
38 a crime provided for in this chapter within one year from the date on
39 which such application was filed; (D) willfully fails to file a report
40 or return required by this article; (E) willfully files, causes to be
41 filed, gives or causes to be given a report, return, certificate or
42 affidavit required by this article which is false; (F) willfully fails
43 to collect or truthfully account for or pay over any tax imposed by this
44 article; or (G) whose place of business is at the same premises as that
45 of a person whose vapor products dealer registration has been revoked
46 and where such revocation is still in effect, unless the applicant or
47 vapor products dealer provides the commissioner with adequate documenta-
48 tion demonstrating that such applicant or vapor products dealer acquired
49 the premises or business through an arm's length transaction as defined
50 in paragraph (e) of subdivision one of section four hundred eighty-a of
51 this chapter.

52 (2) In addition to the grounds provided in paragraph one of this
53 subdivision, the commissioner shall refuse to issue a certificate of
54 registration and shall cancel or suspend a certificate of registration
55 as directed by an enforcement officer pursuant to article thirteen-F of
56 the public health law. Notwithstanding any provision of law to the

1 contrary, an applicant whose application for a certificate of registra-
2 tion is refused or a vapor products dealer whose registration is
3 cancelled or suspended under this paragraph shall have no right to a
4 hearing under this chapter and shall have no right to commence a court
5 action or proceeding or to any other legal recourse against the commis-
6 sioner with respect to such refusal, suspension or cancellation;
7 provided, however, that nothing herein shall be construed to deny a
8 vapor products dealer a hearing under article thirteen-F of the public
9 health law or to prohibit vapor products dealers from commencing a court
10 action or proceeding against an enforcement officer as defined in
11 section thirteen hundred ninety-nine-aa of the public health law.

12 (e) If a vapor products dealer is suspended, cancelled or revoked and
13 such vapor products dealer sells vapor products through more than one
14 place of business in this state, the vapor products dealer's certificate
15 of registration issued to that place of business, cart, stand, truck or
16 other merchandising device, where such violation occurred, shall be
17 suspended, revoked or cancelled. Provided, however, upon a vapor
18 products dealer's third suspension, cancellation or revocation within a
19 five-year period for any one or more businesses owned or operated by the
20 vapor products dealer, such suspension, cancellation, or revocation of
21 the vapor products dealer's certificate of registration shall apply to
22 all places of business where he or she sells vapor products in this
23 state.

24 (f) Every holder of a certificate of registration must notify the
25 commissioner of changes to any of the information stated on the certifi-
26 cate or changes to any information contained in the application for the
27 certificate of registration. Such notification must be made on or before
28 the last day of the month in which a change occurs and must be made
29 electronically on a form prescribed by the commissioner.

30 (g) Every vapor products dealer who holds a certificate of registra-
31 tion under this article shall be required to reapply for a certificate
32 of registration for the following calendar year on or before the twenti-
33 eth day of September and such reapplication shall be subject to the same
34 requirements and conditions, including grounds for refusal, as an
35 initial registration under this article, including but not limited to
36 the payment of the three hundred dollar application fee for each retail
37 location.

38 (h) In addition to any other penalty imposed by this chapter, any
39 vapor products dealer who violates the provisions of this section, (1)
40 for a first violation is liable for a civil fine not less than five
41 thousand dollars but not to exceed twenty-five thousand dollars and such
42 certificate of registration may be suspended for a period of not more
43 than six months; and (2) for a second or subsequent violation within
44 three years following a prior violation of this section, is liable for a
45 civil fine not less than ten thousand dollars but not to exceed thirty-
46 five thousand dollars and such certificate of registration may be
47 suspended for a period of up to thirty-six months; or (3) for a third
48 violation within a period of five years, its vapor products certificate
49 or certificates of registration issued to each place of business owned
50 or operated by the vapor products dealer in this state, shall be revoked
51 for a period of up to five years.

52 § 1184. Administrative provisions. (a) Except as otherwise provided
53 for in this article, the taxes imposed by this article shall be adminis-
54 tered and collected in a like manner as and jointly with the taxes
55 imposed by sections eleven hundred five and eleven hundred ten of this
56 chapter. In addition, except as otherwise provided in this article, all

1 of the provisions of article twenty-eight of this chapter (except
2 sections eleven hundred seven, eleven hundred eight, eleven hundred
3 nine, and eleven hundred forty-eight) relating to or applicable to the
4 administration, collection and review of the taxes imposed by such
5 sections eleven hundred five and eleven hundred ten, including, but not
6 limited to, the provisions relating to definitions, returns, exemptions,
7 penalties, tax secrecy, personal liability for the tax, and collection
8 of tax from the customer, shall apply to the taxes imposed by this arti-
9 cle so far as such provisions can be made applicable to the taxes
10 imposed by this article with such limitations as set forth in this arti-
11 cle and such modifications as may be necessary in order to adapt such
12 language to the taxes so imposed. Such provisions shall apply with the
13 same force and effect as if the language of those provisions had been
14 set forth in full in this article except to the extent that any
15 provision is either inconsistent with a provision of this article or is
16 not relevant to the taxes imposed by this article.

17 (b) Notwithstanding the provisions of subdivision (a) of this section,
18 the exemptions provided in paragraph ten of subdivision (a) of section
19 eleven hundred fifteen of this chapter, and the provisions of section
20 eleven hundred sixteen, except those provided in paragraphs one, two,
21 three and six of subdivision (a) of such section, shall not apply to the
22 taxes imposed by this article.

23 (c) Notwithstanding the provisions of this section or section eleven
24 hundred forty-six of this chapter, the commissioner may, in his or her
25 discretion, permit the commissioner of health or his or her authorized
26 representative to inspect any return related to the tax imposed by this
27 article and may furnish to the commissioner of health any such return
28 or supply him or her with information concerning an item contained in
29 any such return, or disclosed by any investigation of a liability under
30 this article.

31 § 1185. Criminal penalties. The criminal penalties in sections eigh-
32 teen hundred one through eighteen hundred seven and eighteen hundred
33 seventeen of this chapter shall apply to this article with the same
34 force and effect as if the language of those provisions had been set
35 forth in full in this article except to the extent that any provision is
36 either inconsistent with a provision of this article or is not relevant
37 to the taxes imposed by this article.

38 § 1186. Deposit and disposition of revenue. The taxes, interest, and
39 penalties imposed by this article and collected or received by the
40 commissioner shall be deposited daily with such responsible banks, bank-
41 ing houses or trust companies, as may be designated by the comptroller,
42 to the credit of the comptroller in trust for the tobacco control and
43 insurance initiatives pool established by section ninety-two-dd of the
44 state finance law and distributed by the commissioner of health in
45 accordance with section twenty-eight hundred seven-v of the public
46 health law. Such deposits will be kept separate and apart from all other
47 money in the possession of the comptroller. The comptroller shall
48 require adequate security from all such depositories. Of the total
49 revenue collected or received under this article, the comptroller shall
50 retain such amount as the commissioner may determine to be necessary for
51 refunds under this article. Provided, however that the commissioner is
52 authorized and directed to deduct from the amounts he or she receives
53 from the registration fees under section eleven hundred eighty-three of
54 this article, before deposit into the tobacco control and insurance
55 initiatives pool, a reasonable amount necessary to effectuate refunds of
56 appropriations of the department to reimburse the department for the

costs incurred to administer, collect and distribute the taxes imposed by this article.

§ 18. Subsection (a) of section 92-dd of the state finance law, as amended by section 3 of part T of chapter 61 of the laws of 2011, is amended to read as follows:

(a) On and after April first, two thousand five, such fund shall consist of the revenues heretofore and hereafter collected or required to be deposited pursuant to paragraph (a) of subdivision eighteen of section twenty-eight hundred seven-c, and sections twenty-eight hundred seven-j, twenty-eight hundred seven-s and twenty-eight hundred seven-t of the public health law, subdivision (b) of section four hundred eighty-two and section eleven hundred eighty-six of the tax law and required to be credited to the tobacco control and insurance initiatives pool, subparagraph (O) of paragraph four of subsection (j) of section four thousand three hundred one of the insurance law, section twenty-seven of part A of chapter one of the laws of two thousand two and all other moneys credited or transferred thereto from any other fund or source pursuant to law.

§ 19. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 20. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however that section seventeen of this act shall take effect on the first day of a quarterly period described in subdivision (b) of section 1136 of the tax law next commencing at least one hundred eighty days after this act shall become a law, and shall apply to sales and uses of vapor products on or after such date.

PART VV

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

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

CHAPTER 7-A OF THE CONSOLIDATED LAWS

CANNABIS LAW

ARTICLE 1

SHORT TITLE; POLICY OF STATE AND PURPOSE OF CHAPTER;

DEFINITIONS

Section 1. Short title.

2. Policy of state and purpose of chapter.

3. Definitions.

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

§ 2. Policy of state and purpose of chapter. It is hereby declared as policy of the state of New York that it is necessary to properly regu-

1 late and control the cultivation, processing, manufacture, wholesale,
2 and retail production, distribution, transportation, and sale of canna-
3 bis, cannabis products, medical cannabis, and hemp cannabis within the
4 state of New York, for the purposes of fostering and promoting temper-
5 ance in their consumption, to properly protect the public health, safe-
6 ty, and welfare, and to promote social equality. It is hereby declared
7 that such policy will best be carried out by empowering the state office
8 of cannabis management and its executive director, to determine whether
9 public convenience and advantage will be promoted by the issuance of
10 registrations, licenses and/or permits granting the privilege to
11 produce, distribute, transport, sell, or traffic in cannabis, medical
12 cannabis, or hemp cannabis, to increase or decrease in the number there-
13 of and the location of premises registered, licensed, or permitted
14 thereby, subject only to the right of judicial review hereinafter
15 provided for. It is the purpose of this chapter to carry out that policy
16 in the public interest. The restrictions, regulations, and provisions
17 contained in this chapter are enacted by the legislature for the
18 protection of the health, safety, and welfare of the people of the
19 state.

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

24 1. "Applicant" means a for-profit entity or not-for-profit corporation
25 and includes: board members, officers, managers, owners, partners, prin-
26 cipal stakeholders and members who submit an application to become a
27 registered organization, licensee or permittee.

28 2. "Bona fide cannabis retailer association" shall mean an association
29 of retailers holding licenses under this chapter, organized under the
30 non-profit or not-for-profit laws of this state.

31 3. "Cannabis" means all parts of the plant of the genus cannabis,
32 whether growing or not; the seeds thereof; the resin extracted from any
33 part of the plant; and every compound, manufacture, salt, derivative,
34 mixture, or preparation of the plant, its seeds or resin.

35 4. "Concentrated cannabis" means: (a) the separated resin, whether
36 crude or purified, obtained from a plant of the genus cannabis; or (b) a
37 material, preparation, mixture, compound or other substance which
38 contains more than three percent by weight of delta-9 tetrahydrocannabi-
39 nol, or its isomer, delta-8 dibenzopyran numbering system, or delta-1
40 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpene numbering
41 system.

42 5. "Cannabis consumer" means a person, twenty-one years of age or
43 older, who purchases cannabis or cannabis products for personal use by
44 persons twenty-one years of age or older, but not for resale to others.

45 6. "Adult-use cannabis processor" means a person licensed by the
46 office to purchase cannabis and concentrated cannabis from cannabis
47 cultivators, to process cannabis, concentrated cannabis, and cannabis
48 infused products, package and label cannabis, concentrated cannabis and
49 cannabis infused products for sale in retail outlets, and sell cannabis,
50 concentrated cannabis and cannabis infused products at wholesale to
51 licensed adult-use cannabis distributors.

52 7. "Cannabis product" or "adult-use cannabis" means cannabis, concen-
53 trated cannabis, and cannabis-infused products for use by a cannabis
54 consumer.

55 8. "Adult-use cannabis retail dispenser" means a person licensed by
56 the executive director to purchase cannabis, concentrated cannabis, and

1 cannabis-infused products from cannabis processors and cannabis distrib-
2 utors, and sell cannabis, concentrated cannabis and cannabis-infused
3 products in a retail outlet.

4 9. "Certified medical use" means the acquisition, possession, use, or
5 transportation of medical cannabis by a certified patient, or the acqui-
6 sition, possession, delivery, transportation or administration of
7 medical cannabis by a designated caregiver or designated caregiver
8 facility, for use as part of the treatment of the patient's serious
9 condition, as authorized in a certification under this chapter including
10 enabling the patient to tolerate treatment for the serious condition.

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

14 11. "Certified patient" means a patient who is a resident of New York
15 state or receiving care and treatment in New York state as determined by
16 the executive director in regulation, and is certified under section
17 thirty of this chapter.

18 12. "Certification" means a certification, made under this chapter.

19 13. "Cultivation" shall include, the planting, growing, cloning,
20 harvesting, drying, curing, grading and trimming of cannabis, or such
21 other cultivation related processes as determined by the executive
22 director in regulation.

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

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

29 16. "Designated caregiver" means an individual designated by a certi-
30 fied patient in a registry application. A certified patient may desig-
31 nate up to five designated caregivers.

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

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

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

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

9 21. "Industrial hemp" means the plant *Cannabis sativa* L. and any part
10 of such plant, including the seeds thereof and all derivatives,
11 extracts, cannabinoids, isomers, acids, salts, and salts of isomers,
12 whether growing or not, with a delta-9 tetrahydrocannabinol concen-
13 tration of not more than three-tenths of one percent on a dry weight
14 basis, used or intended for an industrial purpose or those food and/or
15 food ingredients that are generally recognized as safe, as further
16 defined and regulated in the agriculture and markets law.

17 22. "Hemp cannabis" means the plant *Cannabis sativa* L. and any part of
18 such plant, including the seeds thereof and all derivatives, extracts,
19 cannabinoids, isomers, acids, salts, and salts of isomers, whether grow-
20 ing or not, with a delta-9 tetrahydrocannabinol concentration of not
21 more than an amount determined by the office in regulation, used or
22 intended for human or animal consumption or use for its cannabinoid
23 content, as determined by the executive director in regulation. Hemp
24 cannabis excludes industrial hemp used or intended exclusively for an
25 industrial purpose and those food and/or food ingredients that are
26 generally recognized as safe, as governed by the Agriculture and Markets
27 Law, and shall not be regulated as "hemp" or "hemp cannabis" within the
28 meaning of this section.

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

33 24. "Cannabinoid extractor" means a person licensed by the office to
34 acquire, possess, extract and manufacture hemp cannabis from licensed
35 cannabinoid growers for the manufacture and sale of hemp cannabis
36 products marketed for cannabinoid content and used or intended for human
37 or animal consumption or use.

38 25. "Individual dose" means a single measure of raw cannabis, medical
39 cannabis or non-infused concentrate or medical concentrate.

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

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

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

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

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

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

54 33. "Person" means individual, institution, corporation, government or
55 governmental subdivision or agency, business trust, estate, trust, part-
56 nership or association, or any other legal entity.

1 34. "Practitioner" means a practitioner who: (i) is authorized to
2 prescribe controlled substances within the state, (ii) by training or
3 experience is qualified to treat a serious condition as defined in
4 subdivision forty-four of this section; and (iii) completes, at a mini-
5 mum, a two-hour course as determined by the executive director in regu-
6 lation; provided however, the executive director may revoke a practi-
7 tioner's ability to certify patients for cause.

8 35. "Processing" includes, blending, extracting, infusing, packaging,
9 labeling, branding and otherwise making or preparing cannabis products,
10 or such other related processes as determined by the executive director
11 in regulation. Processing shall not include the cultivation of cannabis.

12 36. "Public place" means a public place as defined in regulation by
13 the executive director.

14 37. "Registered organization" means an organization registered under
15 article three of this chapter.

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

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

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

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

27 42. "Sale" means any transfer, exchange or barter in any manner or by
28 any means whatsoever, and includes and means all sales made by any
29 person, whether principal, proprietor, agent, servant or employee of any
30 cannabis product.

31 43. "To sell" includes to solicit or receive an order for, to keep or
32 expose for sale, and to keep with intent to sell and shall include the
33 transportation or delivery of any cannabis product in the state.

34 44. "Serious condition" means having one of the following severe
35 debilitating or life-threatening conditions: cancer, positive status for
36 human immunodeficiency virus or acquired immune deficiency syndrome,
37 amyotrophic lateral sclerosis, Parkinson's disease, multiple sclerosis,
38 damage to the nervous tissue of the spinal cord with objective neurolog-
39 ical indication of intractable spasticity, epilepsy, inflammatory bowel
40 disease, neuropathies, Huntington's disease, post-traumatic stress
41 disorder, pain that degrades health and functional capability where the
42 use of medical cannabis is an alternative to opioid use, substance use
43 disorder, Alzheimer's, muscular dystrophy, dystonia, rheumatoid arthri-
44 tis, autism, any condition authorized as part of a cannabis research
45 license, or any other condition as added by the executive director.

46 45. "Traffic in" includes to cultivate, process, manufacture, distrib-
47 ute or sell any cannabis, cannabis product, medical cannabis or hemp at
48 wholesale or retail.

49 46. "Terminally ill" means an individual has a medical prognosis that
50 the individual's life expectancy is approximately one year or less if
51 the illness runs its normal course.

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

54 48. "Distributor" means any person who sells at wholesale any cannabis
55 product, except medical cannabis, for the sale of which a license is
56 required under the provisions of this chapter.

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

3 ARTICLE 2

4 NEW YORK STATE OFFICE OF CANNABIS MANAGEMENT

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

6 10. Executive director.

7 11. Executive director's authority.

8 12. Rulemaking authority.

9 13. State cannabis advisory board.

10 14. Disposition of moneys received for license fees.

11 15. Legal presumptions.

12 16. Violations of cannabis laws or regulations; penalties and
13 injunctions.

14 17. Formal hearings; notice and procedure.

15 18. Ethics, transparency and accountability.

16 19. Public health management campaign.

17 § 9. Establishment of an office of cannabis management. Pursuant to a
18 chapter of the laws of two thousand nineteen which added this chapter,
19 there is hereby established, within the division of alcoholic beverage
20 control, an independent office of cannabis management, which shall have
21 exclusive jurisdiction to exercise the powers and duties provided by
22 this chapter. The office shall exercise its authority by and through an
23 executive director.

24 § 10. Executive director. The executive director of the state office
25 of cannabis management shall receive an annual salary not to exceed an
26 amount appropriated therefor by the legislature and his or her expenses
27 actually and necessarily incurred in the performance of his official
28 duties, unless otherwise provided by the legislature.

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

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

34 2. To limit, or not to limit, in the executive director's discretion,
35 the number of registrations, licenses and permits of each class to be
36 issued within the state or any political subdivision thereof, and in
37 connection therewith to prohibit the acceptance of applications for such
38 classes which have been so limited.

39 3. To revoke, cancel or suspend for cause any registration, license,
40 or permit issued under this chapter and/or to impose a civil penalty for
41 cause against any holder of a registration, license, or permit issued
42 pursuant to this chapter. Any civil penalty so imposed shall be in addi-
43 tion to and separate and apart from the terms and provisions of the bond
44 required pursuant to section thirty-six of this chapter.

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

52 5. To hold hearings, subpoena witnesses, compel their attendance,
53 administer oaths, to examine any person under oath and in connection
54 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 6. To limit or prohibit, at any time of public emergency and without
4 previous notice or advertisement, the cultivation, processing, distrib-
5 ution or sale of any or all cannabis products, medical cannabis or hemp
6 cannabis, for and during the period of such emergency.

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

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

18 9. To inspect or provide for the inspection at any time of any prem-
19 ises where cannabis or hemp cannabis is cultivated, processed, stored,
20 distributed or sold.

21 10. To prescribe forms of applications for registrations, licenses and
22 permits under this chapter and of all reports deemed necessary by the
23 office.

24 11. To delegate the powers provided in this section to such other
25 officers or employees or other state agencies as may be deemed appropri-
26 ate by the executive director.

27 12. To appoint such advisory groups and committees as the executive
28 director deems necessary to provide assistance to the office to carry
29 out the purposes and objectives of this chapter.

30 13. To exercise the powers and perform the duties in relation to the
31 administration of the office as are necessary but not specifically vest-
32 ed by this chapter, including but not limited to budgetary and fiscal
33 matters.

34 14. To develop and establish minimum criteria for certifying employees
35 to work in the cannabis industry, including the establishment of a
36 cannabis workers certification program.

37 15. To enter into contracts, memoranda of understanding, and agree-
38 ments as deemed appropriate by the executive director to effectuate the
39 policy and purpose of this chapter.

40 16. To issue and administer low interest or zero-interest loans to
41 qualified social equity applicants provided the office has sufficient
42 funds available for such purposes.

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

53 18. To issue regulations, declaratory rulings, guidance and industry
54 advisories.

55 § 12. Rulemaking authority. 1. The office shall perform such acts,
56 prescribe such forms and propose such rules, regulations and orders as

1 it may deem necessary or proper to fully effectuate the provisions of
2 this chapter.

3 2. The office shall have the power to promulgate any and all necessary
4 rules and regulations governing the production, processing, transporta-
5 tion, distribution, and sale of medical cannabis, recreational cannabis,
6 and hemp cannabis, including but not limited to the registration of
7 organizations authorized to traffic in medical cannabis, the licensing
8 and/or permitting of adult-use cannabis cultivators, processors, cooper-
9 atives, distributors, and retail dispensaries, and the licensing of
10 cannabinoid growers and extractors, including, but not limited to:

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

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

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

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

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

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

33 3. The office shall promulgate rules and regulations that are calcu-
34 lated to:

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

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

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

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

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

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

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

50 (h) prevent the possession and use of cannabis on federal property.

51 4. The office, in consultation with the department of agriculture and
52 markets and the department of environmental conservation, shall promul-
53 gate necessary rules and regulations governing the safe production of
54 cannabis, including environmental and energy standards and restrictions
55 on the use of pesticides.

1 § 13. State cannabis advisory board. 1. The executive director shall
2 have the authority to establish within the office a state cannabis advi-
3 sory board, which may advise the office on cannabis cultivation, proc-
4 essing, distribution, transport, testing and sale and consider all
5 matters submitted to it by the executive director.

6 2. The executive director of the office shall serve as the chairperson
7 of the board. The vice chairperson shall be elected from among the
8 members of the board by the members of such board, and shall represent
9 the board in the absence of the chairperson at all official board func-
10 tions.

11 3. The members of the board shall receive no compensation for their
12 services but shall be allowed their actual and necessary expenses
13 incurred in the performance of their duties as board members.

14 4. The executive director shall be authorized to promulgate regu-
15 lations establishing the number of members on the board, the term of the
16 board members and any other terms or conditions regarding the state
17 cannabis advisory board.

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

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

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

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

31 4. The office shall deposit all fees collected in the New York state
32 cannabis revenue fund established pursuant to section ninety-nine-ff of
33 the state finance law.

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

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

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

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

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

4 5. 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 6. 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 7. 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 cannabis, medical cannabis or hemp is cultivated,
12 processed, distributed or sold; nor shall he or she have any interest,
13 direct or indirect, in any business wholly or partially devoted to the
14 cultivation, processing, distribution, sale, transportation or storage
15 of cannabis, medical cannabis or hemp, or own any stock in any corpo-
16 ration which has any interest, proprietary or otherwise, direct or indi-
17 rect, in any premises where cannabis, medical cannabis or hemp is culti-
18 vated, processed, distributed or sold, or in any business wholly or
19 partially devoted to the cultivation, processing, distribution, sale,
20 transportation or storage of cannabis, medical cannabis or hemp, or
21 receive any commission or profit whatsoever, direct or indirect, from
22 any person applying for or receiving any license or permit provided for
23 in this chapter, or hold any other elected or appointed public office in
24 the state or in any political subdivision. Anyone who violates any of
25 the provisions of this section shall be removed or shall divulge him or
26 herself of such direct or indirect interests.

27 § 19. Public health campaign. The office, in consultation with the
28 commissioners of the department of health, office of alcoholism and
29 substance abuse services and office of mental health, shall develop and
30 implement a comprehensive public health campaign regarding adult-use
31 cannabis.

32 ARTICLE 3
33 MEDICAL CANNABIS

34 Section 30. Certification of patients.

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

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

1 (a) the patient has a serious condition, which shall be specified in
2 the patient's health care record;

3 (b) the practitioner by training or experience is qualified to treat
4 the serious condition;

5 (c) the patient is under the practitioner's continuing care for the
6 serious condition; and

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

11 2. The certification shall include: (a) the name, date of birth and
12 address of the patient; (b) a statement that the patient has a serious
13 condition and the patient is under the practitioner's care for the seri-
14 ous condition; (c) a statement attesting that all requirements of subdi-
15 vision one of this section have been satisfied; (d) the date; and (e)
16 the name, address, telephone number, and the signature of the certifying
17 practitioner. The executive director may require by regulation that the
18 certification shall be on a form provided by the office. The practition-
19 er may state in the certification that, in the practitioner's profes-
20 sional opinion, the patient would benefit from medical cannabis only
21 until a specified date. The practitioner may state in the certification
22 that, in the practitioner's professional opinion, the patient is termi-
23 nally ill and that the certification shall not expire until the patient
24 dies.

25 3. In making a certification, the practitioner may consider the form
26 of medical cannabis the patient should consume, including the method of
27 consumption and any particular strain, variety, and quantity or percent-
28 age of cannabis or particular active ingredient, and appropriate dosage.
29 The practitioner may state in the certification any recommendation or
30 limitation the practitioner makes, in his or her professional opinion,
31 concerning the appropriate form or forms of medical cannabis and dosage.

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

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

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

43 7. A registry identification card based on a certification shall
44 expire one year after the date the certification is signed by the prac-
45 titioner.

46 8. (a) If the practitioner states in the certification that, in the
47 practitioner's professional opinion, the patient would benefit from
48 medical cannabis only until a specified earlier date, then the registry
49 identification card shall expire on that date; (b) if the practitioner
50 states in the certification that in the practitioner's professional
51 opinion the patient is terminally ill and that the certification shall
52 not expire until the patient dies, then the registry identification card
53 shall state that the patient is terminally ill and that the registration
54 card shall not expire until the patient dies; (c) if the practitioner
55 re-issues the certification to terminate the certification on an earlier
56 date, then the registry identification card shall expire on that date

1 and shall be promptly destroyed by the certified patient; (d) if the
2 certification so provides, the registry identification card shall state
3 any recommendation or limitation by the practitioner as to the form or
4 forms of medical cannabis or dosage for the certified patient; and (e)
5 the executive director shall make regulations to implement this subdivi-
6 sion.

7 § 31. Lawful medical use. The possession, acquisition, use, delivery,
8 transfer, transportation, or administration of medical cannabis by a
9 certified patient, designated caregiver or designated caregiver facili-
10 ty, for certified medical use, shall be lawful under this article
11 provided that:

12 (a) the cannabis that may be possessed by a certified patient shall
13 not exceed a sixty-day supply of the dosage as determined by the practi-
14 tioner, consistent with any guidance and regulations issued by the exec-
15 utive director, provided that during the last seven days of any sixty-
16 day period, the certified patient may also possess up to such amount for
17 the next sixty-day period;

18 (b) the cannabis that may be possessed by designated caregivers does
19 not exceed the quantities referred to in paragraph (a) of this subdivi-
20 sion for each certified patient for whom the caregiver possesses a valid
21 registry identification card, up to five certified patients;

22 (c) the cannabis that may be possessed by designated caregiver facili-
23 ties does not exceed the quantities referred to in paragraph (a) of this
24 subdivision for each certified patient under the care or treatment of
25 the facility;

26 (d) the form or forms of medical cannabis that may be possessed by the
27 certified patient, designated caregiver or designated caregiver facility
28 pursuant to a certification shall be in compliance with any recommenda-
29 tion or limitation by the practitioner as to the form or forms of
30 medical cannabis or dosage for the certified patient in the certifi-
31 cation; and

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

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

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

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

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

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

55 (iii) the date of the certification;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 5. No person may be a designated caregiver for more than five certi-
41 fied patients at one time.

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

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

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

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

5 10. A registry identification card shall:

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

8 (b) contain the date of issuance and expiration date of the registry
9 identification card;

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

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

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

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

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

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

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

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

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

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

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

- 1 (a) the facility's full name and address;
- 2 (b) operating certificate or license number where appropriate;
- 3 (c) printed name, title, and signature of an authorized facility
- 4 representative;
- 5 (d) a statement that the facility agrees to secure and ensure proper
- 6 handling of all medical cannabis products;
- 7 (e) an acknowledgement that a false statement in the application is
- 8 punishable under section 210.45 of the penal law; and
- 9 (f) any other information that may be required by the executive direc-
- 10 tor.

11 2. Prior to issuing or renewing a designated caregiver facility regis-

12 tration, the office may verify the information submitted by the appli-

13 cant. The applicant shall provide, at the office's request, such infor-

14 mation and documentation, including any consents or authorizations that

15 may be necessary for the office to verify the information.

16 3. The office shall approve, deny or determine incomplete or inaccur-

17 ate an initial or renewal application within thirty days of receipt of

18 the application. If the application is approved within the 30-day peri-

19 od, the office shall issue a registration as soon as is reasonably prac-

20 ticable.

21 4. An applicant shall have thirty days from the date of a notification

22 of an incomplete or factually inaccurate application to submit the mate-

23 rials required to complete, revise or substantiate information in the

24 application. If the applicant fails to submit the required materials

25 within such thirty-day time period, the application shall be denied by

26 the office.

27 5. Registrations issued under this section shall remain valid for two

28 years from the date of issuance.

29 § 34. Registered organizations. 1. A registered organization shall be

30 a for-profit business entity or not-for-profit corporation organized for

31 the purpose of acquiring, possessing, manufacturing, selling, deliver-

32 ing, transporting, distributing or dispensing cannabis for certified

33 medical use.

34 2. The acquiring, possession, manufacture, sale, delivery, transport-

35 ing, distributing or dispensing of medical cannabis by a registered

36 organization under this article in accordance with its registration

37 under this article or a renewal thereof shall be lawful under this chap-

38 ter.

39 3. Each registered organization shall contract with an independent

40 laboratory permitted by the office to test the medical cannabis produced

41 by the registered organization. The executive director shall approve the

42 laboratory used by the registered organization and may require that the

43 registered organization use a particular testing laboratory.

44 4. (a) A registered organization may lawfully, in good faith, sell,

45 deliver, distribute or dispense medical cannabis to a certified patient

46 or designated caregiver upon presentation to the registered organization

47 of a valid registry identification card for that certified patient or

48 designated caregiver. When presented with the registry identification

49 card, the registered organization shall provide to the certified patient

50 or designated caregiver a receipt, which shall state: the name, address,

51 and registry identification number of the registered organization; the

52 name and registry identification number of the certified patient and the

53 designated caregiver, if any; the date the cannabis was sold; any recom-

54 mendation or limitation by the practitioner as to the form or forms of

55 medical cannabis or dosage for the certified patient; and the form and

56 the quantity of medical cannabis sold. The registered organization shall

1 retain a copy of the registry identification card and the receipt for
2 six years.

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

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

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

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

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

- 31 (a) methods for administering medical cannabis in individual doses,
- 32 (b) any potential dangers stemming from the use of medical cannabis,
- 33 (c) how to recognize what may be problematic usage of medical cannabis
34 and obtain appropriate services or treatment for problematic usage, and
- 35 (d) other information as determined by the executive director.

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

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

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

54 10. A registered organization shall determine the quality, safety, and
55 clinical strength of medical cannabis manufactured or dispensed by the
56 registered organization, and shall provide documentation of that quali-

1 ty, safety and clinical strength to the office and to any person or
2 entity to which the medical cannabis is sold or dispensed.

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

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

20 13. The executive director is authorized to make rules and regulations
21 restricting the advertising and marketing of medical cannabis.

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

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

29 (ii) that the applicant:

30 (A) is of good moral character;

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

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

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

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

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

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

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

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

4 (C) such other information as the executive director may reasonably
5 require.

6 2. The applicant shall be under a continuing duty to report to the
7 office any change in facts or circumstances reflected in the application
8 or any newly discovered or occurring fact or circumstance which is
9 required to be included in the application.

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

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

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

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

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

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

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

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

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

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

32 (E) the affordability medical cannabis products offered by the regis-
33 tered organization;

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

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

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

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

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

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

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

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

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

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

5 (e) Upon application of a registered organization, a registration may
6 be amended to allow the registered organization to relocate within the
7 state or to add or delete permitted registered organization activities
8 or facilities. The fee for such amendment shall be two hundred fifty
9 dollars.

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

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

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

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

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

30 (A) each incident or alleged incident involving the theft, loss, or
31 possible diversion of cannabis manufactured or distributed by the appli-
32 cant; and

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

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

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

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

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

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

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

4 (iv) the applicant has either violated or terminated its labor peace
5 agreement.

6 (b) For purposes of this section, proof that a registered organiza-
7 tion, during the period of its registration, has failed to maintain
8 effective control against diversion, violates any provision of this
9 article, or has knowingly or negligently failed to comply with applica-
10 ble state laws relating to the activities in which it engages under the
11 registration, shall constitute grounds for suspension, termination or
12 limitation of the registered organization's registration or as deter-
13 mined by the executive director. The registered organization shall also
14 be under a continuing duty to report to the authority any material
15 change or fact or circumstance to the information provided in the regis-
16 tered organization's application.

17 7. The office may suspend or terminate the registration of a regis-
18 tered organization, on grounds and using procedures under this article
19 relating to a license, to the extent consistent with this article. The
20 authority shall suspend or terminate the registration in the event that
21 a registered organization violates or terminates the applicable labor
22 peace agreement. Conduct in compliance with this article which may
23 violate conflicting federal law, shall not be grounds to suspend or
24 terminate a registration.

25 8. The office shall begin issuing registrations for registered organ-
26 izations as soon as practicable after the certifications required by
27 this article are given.

28 9. The executive director shall register at least ten registered
29 organizations that manufacture medical cannabis with no more than four
30 dispensing sites wholly owned and operated by such registered organiza-
31 tion. The executive director shall ensure that such registered organiza-
32 tions and dispensing sites are geographically distributed across the
33 state. The executive director may register additional registered organ-
34 izations.

35 § 36. Expedited registration of registered organizations. 1. There is
36 hereby established in the office an emergency medical cannabis access
37 program, referred to in this section as the "program", under this
38 section. The purpose of the program is to expedite the availability of
39 medical cannabis to avoid suffering and loss of life, during the period
40 before full implementation of and production under this article, espe-
41 cially in the case of patients whose serious condition is progressive
42 and degenerative or is such that delay in the patient's medical use of
43 cannabis poses a serious risk to the patient's life or health. The
44 executive director shall implement the program as expeditiously as prac-
45 ticable, including by emergency regulation.

46 2. For the purposes of this section, and for specified limited times,
47 the executive director may waive or modify the requirements of this
48 article relating to registered organizations, consistent with the legis-
49 lative intent and purpose of this article and this section. Where an
50 entity seeking to be a registered organization under the program oper-
51 ates in a jurisdiction other than the state of New York, under licensure
52 or other governmental recognition of that jurisdiction, and the laws of
53 that jurisdiction are acceptable to the executive director as consistent
54 with the legislative intent and purpose of this article and this
55 section, then the executive director may accept that licensure or recog-
56 nition as wholly or partially satisfying the requirements of this arti-

1 cle, for purposes of the registration and operation of the registered
2 organization under the program and this section.

3 3. In considering an application for registration as a registered
4 organization under this section, the executive director shall give pref-
5 erence to the following:

6 (a) an applicant that is currently producing or providing or has a
7 history of producing or providing medical cannabis in another jurisdic-
8 tion in full compliance with the laws of the jurisdiction;

9 (b) an applicant that is able and qualified to both produce, distrib-
10 ute, and dispense medical cannabis to patients expeditiously; and

11 (c) an applicant that proposes a location or locations for dispensing
12 by the registered organization, which ensure, to the greatest extent
13 possible, that certified patients have access to a registered organiza-
14 tion.

15 4. The executive director may make regulations under this section:

16 (a) limiting registered organizations registered under this section;
17 or

18 (b) limiting the allowable levels of cannabidiol and tetrahydrocanna-
19 binol that may be contained in medical cannabis authorized under this
20 article, based on therapeutics and patient safety.

21 5. A registered organization under this section may apply under this
22 article to receive or renew registration.

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

28 2. The executive director shall, by regulation, require each regis-
29 tered organization to adopt and maintain security, tracking, record
30 keeping, record retention and surveillance systems, relating to all
31 medical cannabis at every stage of acquiring, possession, manufacture,
32 sale, delivery, transporting, distributing, or dispensing by the regis-
33 tered organization, subject to regulations of the executive director.

34 § 38. Evaluation; research programs; report by office. 1. The execu-
35 tive director may provide for the analysis and evaluation of the opera-
36 tion of this title. The executive director may enter into agreements
37 with one or more persons, not-for-profit corporations or other organiza-
38 tions, for the performance of an evaluation of the implementation and
39 effectiveness of this title.

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

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

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

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

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

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

1 (d) to conduct genomic or agricultural research.

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

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

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

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

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

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

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

26 (a) application requirements;

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

29 (c) conditions for license revocation;

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

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

34 (f) licensee reporting requirements;

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

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

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

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

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

50 § 40. Registered organizations and adult-use cannabis. 1. The execu-
51 tive director shall have the authority to grant some or all of the
52 registered organizations previously registered with the department of
53 health and currently registered and in good standing with the office,
54 the ability to be licensed to cultivate, process, distribute and sell
55 adult-use cannabis and cannabis products, pursuant to any fees, rules or
56 conditions prescribed by the executive director in regulation, but

1 exempt from the restrictions on licensed adult-use cultivators, process-
2 ors, and distributors from having any ownership interest in a licensed
3 adult-use retail dispensary pursuant to article four of this chapter.

4 2. The office shall have the authority to hold a competitive bidding
5 process, including an auction, to determine the registered
6 organization(s) authorized to be licensed to cultivate, process,
7 distribute and sell adult-use cannabis and to collect the fees generated
8 from such auction to administer incubators and low or zero-interest
9 loans to qualified social equity applicants. The timing and manner in
10 which registered organizations may be granted such authority shall be
11 determined by the executive director in regulation.

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

17 § 41. Home cultivation of medical cannabis. 1. Certified patients and
18 their designated caregiver(s) twenty-one years of age or older may apply
19 for registration with the office to grow, possess or transport no more
20 than four cannabis plants per certified patient with no more than eight
21 cannabis plants per household.

22 2. All medical cannabis cultivated at home must be grown in an
23 enclosed, locked space, not open or viewable to the public. Such home-
24 grown medical cannabis must only be for use by the certified patient and
25 may not be distributed, sold, or gifted.

26 3. The executive director shall develop rules and regulations govern-
27 ing this section.

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

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

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

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

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

55 4. (a) Certification applications, certification forms, any certified
56 patient information contained within a database, and copies of registry

1 identification cards shall be deemed exempt from public disclosure under
2 sections eighty-seven and eighty-nine of the public officers law.

3 (b) The name, contact information, and other information relating to
4 practitioners registered with the office under this article shall be
5 public information and shall be maintained by the executive director on
6 the office's website accessible to the public in searchable form. Howev-
7 er, if a practitioner notifies the office in writing that he or she does
8 not want his or her name and other information disclosed, that practi-
9 tioner's name and other information shall thereafter not be public
10 information or maintained on the office's website, unless the practi-
11 tioner cancels the request.

12 § 44. Regulations. The executive director shall make regulations to
13 implement this article.

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

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

22 2. The executive director is hereby authorized to set the per dose
23 price of each form of medical cannabis sold by any registered organiza-
24 tion. In reviewing the per dose price of each form of medical cannabis,
25 the executive director may consider the fixed and variable costs of
26 producing the form of cannabis and any other factor the executive direc-
27 tor, in his or her discretion, deems relevant in reviewing the per dose
28 price of each form of medical cannabis.

29 § 47. Severability. If any clause, sentence, paragraph, section or
30 part of this article shall be adjudged by any court of competent juris-
31 diction to be invalid, the judgment shall not affect, impair, or invali-
32 date the remainder thereof, but shall be confined in its operation to
33 the clause, sentence, paragraph, section or part thereof directly
34 involved in the controversy in which the judgment shall have been
35 rendered.

36 ARTICLE 4
37 ADULT-USE CANNABIS

38 Section 60. Licenses issued.

39 61. License application.

40 62. Information to be requested in applications for licenses.

41 63. Fees.

42 64. Selection criteria.

43 65. Limitations of licensure; duration.

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47 68. Adult-use cultivator license.

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50 71. Adult-use distributor license.

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- 12 82. Provisions governing adult-use cannabis retail dispensaries.
- 13 83. Adult-use cannabis advertising.
- 14 84. Minority, women-owned businesses and disadvantaged farmers;
- 15 incubator program.
- 16 85. Regulations.

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

- 20 1. Adult-use cultivator license;
- 21 2. Adult-use processor license;
- 22 3. Adult-use cooperative license;
- 23 4. Adult-use distributor license;
- 24 5. Adult-use retail dispensary license;
- 25 6. On-site consumption license; and
- 26 7. Any other type of license as prescribed by the executive director
- 27 in regulation.

28 § 61. License Application. 1. Any person may apply to the office for
29 a license to cultivate, process, distribute or dispense cannabis within
30 this state for sale. Such application shall be in writing and verified
31 and shall contain such information as the office shall require. Such
32 application shall be accompanied by a check or draft for the amount
33 required by this article for such license. If the office shall approve
34 the application, it shall issue a license in such form as shall be
35 determined by its rules. Such license shall contain a description of the
36 licensed premises and in form and in substance shall be a license to the
37 person therein specifically designated to cultivate, process, distribute
38 or dispense cannabis in the premises therein specifically licensed.

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

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

48 § 62. Information to be requested in applications for licenses. 1.
49 The office shall have the authority to prescribe the manner and form in
50 which an application must be submitted to the office for licensure under
51 this article.

52 2. The executive director is authorized to adopt regulations, includ-
53 ing by emergency rule, establishing information which must be included
54 on an application for licensure under this article. Such information may
55 include, but is not limited to: information about the applicant's iden-
56 tity, including racial and ethnic diversity; ownership and investment

1 information, including the corporate structure; evidence of good moral
2 character, including the submission of fingerprints by the applicant to
3 the division of criminal justice services; information about the prem-
4 ises to be licensed; financial statements; and any other information
5 prescribed by in regulation.

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

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

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

21 6. In giving any notice, or taking any action in reference to a regis-
22 tered organization or licensee of a licensed premises, the office may
23 rely upon the information furnished in such application and in any
24 supplemental statement connected therewith, and such information may be
25 presumed to be correct, and shall be binding upon a registered organiza-
26 tions, licensee or licensed premises as if correct. All information
27 required to be furnished in such application or supplemental statements
28 shall be deemed material in any prosecution for perjury, any proceeding
29 to revoke, cancel or suspend any license, and in the office's determi-
30 nation to approve or deny the license.

31 7. The office may, in its discretion, waive the submission of any
32 category of information described in this section for any category of
33 license or permit, provided that it shall not be permitted to waive the
34 requirement for submission of any such category of information solely
35 for an individual applicant or applicants.

36 § 63. Fees. 1. The office shall have the authority to charge appli-
37 cants for licensure under this article a non-refundable application fee
38 and/or to auction licenses to bidders determined by the office to be
39 qualified for such licensure based on the selection criteria in section
40 sixty-four of this article. Such fee may be based on the type of licen-
41 sure sought, cultivation and/or production volume, or any other factors
42 deemed reasonable and appropriate by the office to achieve the policy
43 and purpose of this chapter.

44 2. The office shall have the authority to charge licensees a biennial
45 license fee. Such fee shall be based on the amount of cannabis to be
46 cultivated, processed, distributed and/or dispensed by the licensee or
47 the gross annual receipts of the licensee for the previous license peri-
48 od, and any other factors deemed reasonable and appropriate by the
49 office.

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

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

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

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

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

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

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

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

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

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

21 (vi) the history of violations under the alcoholic beverage control
22 law or the cannabis law at the location, as well as any pattern of
23 violations under the alcoholic beverage control law or the cannabis law,
24 and reported criminal activity at the proposed premises;

25 (vii) the effect on the production, price and availability of cannabis
26 and cannabis products; and

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

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

33 (g) the applicant has entered into a labor peace agreement with a
34 bona-fide labor organization that is actively engaged in representing or
35 attempting to represent the applicant's employees, and the maintenance
36 of such a labor peace agreement shall be an ongoing material condition
37 of licensure. In evaluating applications from entities with twenty-five
38 or more employees, the office shall give priority to applicants that are
39 a party to a collective bargaining agreement with a bona-fide labor
40 organization in New York or in another state, and uses union labor to
41 construct its licensed facility;

42 (h) the applicant will contribute to communities, the workforce and
43 people disproportionately harmed by cannabis law enforcement;

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

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

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

51 3. The executive director shall have authority and sole discretion to
52 determine the number of licenses issued pursuant to this article.

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

1 2. No person shall sell, deliver, or give away or cause or permit or
2 procure to be sold, delivered or given away any cannabis to any person,
3 actually or apparently, under the age of twenty-one years, any visibly
4 intoxicated person, or any habitually intoxicated person known to be
5 such by the person authorized to manufacture, traffic, or sell any
6 cannabis.

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

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

12 § 66. License renewal. 1. Each license, issued pursuant to this arti-
13 cle, may be renewed upon application therefore by the licensee and the
14 payment of the fee for such license as prescribed by this article. In
15 the case of applications for renewals, the office may dispense with the
16 requirements of such statements as it deems unnecessary in view of those
17 contained in the application made for the original license, but in any
18 event the submission of photographs of the licensed premises shall be
19 dispensed with, provided the applicant for such renewal shall file a
20 statement with the office to the effect that there has been no alter-
21 ation of such premises since the original license was issued. The office
22 may make such rules as it deems necessary, not inconsistent with this
23 chapter, regarding applications for renewals of licenses and permits and
24 the time for making the same.

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

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

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

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

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

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

- 44 (a) the name and address of the licensee;
45 (b) the activities permitted by the license;
46 (c) the land, buildings and facilities that may be used for the
47 licensed activities of the licensee;
48 (d) a unique license number issued by the office to the licensee; and
49 (e) such other information as the executive director shall deem neces-
50 sary to assure compliance with this chapter.

51 2. Upon application of a licensee to the office, a license may be
52 amended to allow the licensee to relocate within the state, to add or
53 delete licensed activities or facilities, or to amend the ownership or
54 organizational structure of the entity that is the licensee. The fee for
55 such amendment shall be two hundred fifty dollars.

1 3. A license shall become void by a change in ownership, substantial
2 corporate change or location without prior written approval of the execu-
3 tive director. The executive director may promulgate regulations allow-
4 ing for certain types of changes in ownership without the need for prior
5 written 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; or

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

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

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

29 4. A person holding an adult-use cultivator's license may not also
30 hold a retail dispensary license pursuant to this article and no adult-
31 use cannabis cultivator shall have a direct or indirect interest,
32 including by stock ownership, interlocking directors, mortgage or lien,
33 personal or real property, or any other means, in any premises licensed
34 as an adult-use cannabis retail dispensary or in any business licensed
35 as an adult-use cannabis retail dispensary pursuant to this article.

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

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

42 7. The executive director shall have the authority to issue microbusi-
43 ness cultivator licenses, allowing microbusiness licensees to cultivate,
44 process, and distribute adult-use cannabis direct to licensed cannabis
45 retailers, under a single license. The executive director shall estab-
46 lish through regulation a production limit of total cannabis cultivated,
47 processed and/or distributed annually for microbusiness cultivator
48 licenses.

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

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

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

6 4. No cannabis processor licensee may hold more than three cannabis
7 processor licenses.

8 5. No adult-use cannabis processor shall have a direct or indirect
9 interest, including by stock ownership, interlocking directors, mortgage
10 or lien, personal or real property, or any other means, in any premises
11 licensed as an adult-use cannabis retail dispensary or in any business
12 licensed as an adult-use cannabis retail dispensary pursuant to this
13 article.

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

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

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

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

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

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

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

34 5. No adult-use cannabis cooperative shall have a direct or indirect
35 interest, including by stock ownership, interlocking directors, mortgage
36 or lien, personal or real property, or any other means, in any premises
37 licensed as an adult-use cannabis retail dispensary or in any business
38 licensed as an adult-use cannabis retail dispensary pursuant to this
39 article.

40 6. The executive director shall promulgate regulations governing coop-
41 erative licenses, including, but not limited to, the establishment of
42 canopy limits on the size and scope of cooperative licensees, and other
43 measures designed to incentivize the use and licensure of cooperatives.

44 § 71. Adult-use distributor license. 1. A distributor's license shall
45 authorize the acquisition, possession, distribution and sale of cannabis
46 from the licensed premises of a licensed adult-use processor, microbusi-
47 ness cultivator, or registered organization authorized to sell adult-use
48 cannabis, to duly licensed retail dispensaries.

49 2. No distributor shall have a direct or indirect economic interest in
50 any adult-use retail dispensary licensed pursuant to this article, or in
51 any registered organization registered pursuant to article three of this
52 chapter. This restriction shall not prohibit a registered organization
53 authorized pursuant to section forty of this chapter, from being granted
54 licensure by the office to distribute adult-use cannabis products culti-
55 vated and processed by the registered organization to the registered
56 organization's own licensed adult-use retail dispensaries.

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

4 § 72. Adult-use retail dispensary license. 1. A retail dispensary
5 license shall authorize the acquisition, possession and sale of cannabis
6 from the licensed premises of the retail dispensary by such licensee to
7 cannabis consumers.

8 2. No person may have a direct or indirect financial or controlling
9 interest in more than three retail dispensary licenses issued pursuant
10 to this chapter. This restriction shall not prohibit a registered organ-
11 ization, authorized pursuant to section forty of this chapter, from
12 being granted licensure by the office to sell adult-use cannabis at
13 locations previously registered by the department of health and in oper-
14 ation as of April first, two thousand nineteen; subject to any condi-
15 tions, limitations or restrictions established by the office.

16 3. No person holding a retail dispensary license may also hold an
17 adult-use cultivation, processor, microbusiness cultivator, cooperative
18 or distributor license pursuant to this article.

19 4. No retail license shall be granted for any premises, unless the
20 applicant shall be the owner thereof, or shall be in possession of said
21 premises under a lease, management agreement or other agreement giving
22 the applicant control over the premises, in writing, for a term not less
23 than the license period.

24 5. No premises shall be licensed to sell cannabis products, unless
25 said premises shall be located in a store, the principal entrance to
26 which shall be from the street level and located on a public thorough-
27 fare in premises which may be occupied, operated or conducted for busi-
28 ness, trade or industry or on an arcade or sub-surface thoroughfare
29 leading to a railroad terminal.

30 6. No cannabis retail license shall be granted for any premises where
31 a licensee would not be allowed to sell at retail for consumption of
32 alcohol off the premises based on its proximity to a building occupied
33 exclusively as a school, church, synagogue or other place of worship
34 pursuant to the provisions of section one hundred five of the alcohol
35 beverage control law.

36 § 73. Notification to municipalities of adult-use retail dispensary.
37 1. Not less than thirty days nor more than two hundred seventy days
38 before filing an application for licensure as an adult-use cannabis
39 retail dispensary, an applicant shall notify the municipality in which
40 the premises is located of such applicant's intent to file such an
41 application.

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

45 (a) notification need only be given to the clerk of a village when the
46 premises is located within the boundaries of the village, town or city;
47 and

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

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

54 4. A municipality may express an opinion for or against the granting
55 of such application. Any such opinion shall be deemed part of the record

1 upon which the office makes its determination to grant or deny the
2 application.

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

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

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

12 (b) the full name of the applicant;

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

15 (d) the mailing address of the establishment, if different than the
16 street address;

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

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

20 (i) a new establishment;

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

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

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

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

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

29 (i) the type of license.

30 § 74. On-site consumption license; provisions governing on-site
31 consumption licenses. 1. No licensed adult-use cannabis retail dispen-
32 sary shall be granted a cannabis on-site consumption license for any
33 premises, unless the applicant shall be the owner thereof, or shall be
34 in possession of said premises under a lease, in writing, for a term not
35 less than the license period except, however, that such license may
36 thereafter be renewed without the requirement of a lease as provided in
37 this section. This subdivision shall not apply to premises leased from
38 government agencies, as defined under subdivision twenty of section
39 three of this chapter; provided, however, that the appropriate adminis-
40 trator of such government agency provides some form of written documen-
41 tation regarding the terms of occupancy under which the applicant is
42 leasing said premises from the government agency for presentation to the
43 office at the time of the license application. Such documentation shall
44 include the terms of occupancy between the applicant and the government
45 agency, including, but not limited to, any short-term leasing agreements
46 or written occupancy agreements.

47 2. No adult-use cannabis retail dispensary shall be granted a cannabis
48 on-site consumption license for any premises where a license would not
49 be allowed to sell at retail for consumption of alcohol on the premises
50 based on its proximity to a building occupied exclusively as a school,
51 church, synagogue or other place of worship pursuant to the provisions
52 of section one hundred five of the alcoholic beverage control law.

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

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

3 (b) the number, classes, and character of other licenses in proximity
4 to the location and in the particular municipality or subdivision there-
5 of;

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

8 (d) effect of the grant of the license on pedestrian or vehicular
9 traffic, and parking, in proximity to the location;

10 (e) the existing noise level at the location and any increase in noise
11 level that would be generated by the proposed premises;

12 (f) the history of violations under the alcoholic beverage control law
13 or this chapter at the location, as well as any pattern of violations
14 under the alcoholic beverage control law or this chapter, and reported
15 criminal activity at the proposed premises; and

16 (g) any other factors specified by law or regulation that are relevant
17 to determine that granting a license would promote public convenience
18 and advantage and the public interest of the community;

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

24 5. No adult-use cannabis on-site consumption licensee shall keep upon
25 the licensed premises any adult-use cannabis products except those
26 purchased from a licensed distributor, microbusiness cultivator or
27 registered organization authorized to sell adult-use cannabis, and only
28 in containers approved by the office. Such containers shall have affixed
29 thereto such labels as may be required by the rules of the office. No
30 cannabis retail licensee for on-site consumption shall reuse, refill,
31 tamper with, adulterate, dilute or fortify the contents of any container
32 of cannabis products as received from the manufacturer or distributor.

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

37 7. Except where a permit to do so is obtained pursuant to section
38 405.10 of the penal law, no cannabis on-site consumption licensee shall
39 suffer, permit, or promote an event on its premises wherein any person
40 shall use, explode, or cause to explode, any fireworks or other pyro-
41 technics in a building as defined in paragraph e of subdivision one of
42 section 405.10 of the penal law, that is covered by such license or
43 possess such fireworks or pyrotechnics for such purpose. In addition to
44 any other penalty provided by law, a violation of this subdivision shall
45 constitute an adequate ground for instituting a proceeding to suspend,
46 cancel, or revoke the license of the violator in accordance with the
47 applicable procedures specified in this chapter; provided however, if
48 more than one licensee is participating in a single event, upon approval
49 by the office, only one licensee must obtain such permit.

50 8. No premises licensed to sell adult-use cannabis for on-site
51 consumption under this chapter shall be permitted to have any opening or
52 means of entrance or passageway for persons or things between the
53 licensed premises and any other room or place in the building containing
54 the licensed premises, or any adjoining or abutting premises, unless
55 ingress and egress is restricted by an employee, agent of the licensee,

1 or other method approved by the office of controlling access to the
2 facility.

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

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

28 11. A cannabis on-site consumption licensee shall not provide cannabis
29 products to any person under the age of twenty-one or to anyone visibly
30 intoxicated.

31 § 75. Record keeping and tracking. 1. The executive director shall, by
32 regulation, require each licensee pursuant to this article to adopt and
33 maintain security, tracking, record keeping, record retention and
34 surveillance systems, relating to all cannabis at every stage of acquir-
35 ing, possession, manufacture, sale, delivery, transporting, or distrib-
36 uting by the licensee, subject to regulations of the executive director.

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

41 3. Each sale shall be recorded separately on a numbered invoice, which
42 shall have printed thereon the number, the name of the licensee, the
43 address of the licensed premises, and the current license number.
44 Licensed producers shall deliver to the licensed distributor a true
45 duplicate invoice stating the name and address of the purchaser, the
46 quantity purchased, description and the price of the product, and a
47 true, accurate and complete statement of the terms and conditions on
48 which such sale is made.

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

52 5. Each adult-use cannabis retail dispensary and on-site consumption
53 licensee shall keep and maintain upon the licensed premises, adequate
54 records of all transactions involving the business transacted by such
55 licensee which shall show the amount of cannabis, in weight, purchased
56 by such licensee together with the names, license numbers and places of

1 business of the persons from whom the same were purchased, the amount
2 involved in such purchases, as well as the sales of cannabis made by
3 such licensee.

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

18 § 77. Adult-use cultivators, processors or distributors not to be
19 interested in retail dispensaries. 1. It shall be unlawful for a culti-
20 vator, processor, cooperative or distributor licensed under this article
21 to:

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

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

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

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

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

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

46 § 78. Packaging and labeling of adult-use cannabis products. 1. The
47 office is hereby authorized to promulgate rules and regulations govern-
48 ing the packaging and labeling of cannabis products, sold or possessed
49 for sale in New York state.

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

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

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

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

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

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

9 4. Such rules and regulations shall establish methods and procedures
10 for determining serving sizes for cannabis-infused products, active
11 cannabis concentration per serving size, and number of servings per
12 container. Such regulations shall also require a nutritional fact panel
13 that incorporates data regarding serving sizes and potency thereof.

14 5. The packaging, sale, or possession by any licensee of any cannabis
15 product not labeled or offered in conformity with rules and regulations
16 promulgated in accordance with this section shall be grounds for the
17 imposition of a fine, and/or the suspension, revocation or cancellation
18 of a license.

19 § 79. Laboratory testing. 1. Every processor of adult-use cannabis
20 shall contract with an independent laboratory permitted pursuant to
21 section one hundred twenty-nine of this chapter, to test the cannabis
22 products it produces pursuant to rules and regulations prescribed by the
23 office. The executive director may assign an approved testing laborato-
24 ry, which the processor of adult-use cannabis must use.

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

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

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

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

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

43 § 80. Provisions governing the cultivation and processing of adult-use
44 cannabis. 1. Cultivation of cannabis must not be visible from a public
45 place by normal unaided vision.

46 2. No cultivator or processor of adult-use cannabis shall sell, or
47 agree to sell or deliver in the state any cannabis products, as the case
48 may be, except in sealed containers containing quantities in accordance
49 with size standards pursuant to rules adopted by the office. Such
50 containers shall have affixed thereto such labels as may be required by
51 the rules of the office.

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

1 4. Cultivators of adult-use cannabis shall only use pesticides that
2 are registered by the department of environmental conservation or that
3 specifically meet the United States environmental protection agency
4 registration exemption criteria for minimum risk pesticides, and only in
5 compliance with regulations, standards and guidelines issued by the
6 department of environmental conservation.

7 5. No cultivator or processor of adult-use cannabis shall transport
8 cannabis products in any vehicle owned and operated or hired and oper-
9 ated by such cultivator or processor, unless there shall be attached to
10 or inscribed upon both sides of such vehicle a sign, showing the name
11 and address of the licensee, together with the following inscription:
12 "New York State Cannabis Cultivator (or Processor) License No. _____" in
13 uniform letters not less than three and one-half inches in height. In
14 lieu of such sign a cultivator or processor may have in the cab of such
15 vehicle a photostatic copy of its current license issued by the office,
16 and such copy duly authenticated by the office.

17 6. No cultivator or processor of adult-use cannabis shall deliver any
18 cannabis products, except in vehicles owned and operated by such culti-
19 vator, processor, or hired and operated by such cultivator or processor
20 from a trucking or transportation company registered with the office,
21 and shall only make deliveries at the licensed premises of the purchas-
22 er.

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

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

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

35 10. The use or integration of alcohol or nicotine in cannabis products
36 is strictly prohibited.

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

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

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

1 licensed premises, and the current license number. Such distributor
2 shall deliver to the purchaser a true duplicate invoice stating the name
3 and address of the purchaser, the quantity of cannabis products,
4 description by brands and the price of such cannabis products, and a
5 true, accurate and complete statement of the terms and conditions on
6 which such sale is made. Such books, records and invoices shall be kept
7 for a period of five years and shall be available for inspection by any
8 authorized representative of the office.

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

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

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

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

29 § 82. Provisions governing adult-use cannabis retail dispensaries. 1.
30 No cannabis retail licensee shall sell, deliver, or give away or cause
31 or permit or procure to be sold, delivered or given away any cannabis to
32 any person, actually or apparently, under the age of twenty-one years,
33 any visibly intoxicated person, or any habitually intoxicated person
34 known to be such by the person authorized to sell, deliver, or give away
35 any cannabis.

36 2. No cannabis retail licensee shall sell more than one ounce of
37 cannabis per cannabis consumer per day; nor more than five grams of
38 cannabis concentrate per cannabis consumer per day.

39 3. No cannabis retail licensee shall sell alcoholic beverages, nor
40 have or possess a license or permit to sell alcoholic beverages, on the
41 same premises where cannabis products are sold.

42 4. No sign of any kind printed, painted or electric, advertising any
43 brand shall be permitted on the exterior or interior of such premises,
44 except by permission of the office.

45 5. No cannabis retail licensee shall sell or deliver any cannabis
46 products to any person with knowledge of, or with reasonable cause to
47 believe, that the person to whom such cannabis products are being sold,
48 has acquired the same for the purpose of peddling them from place to
49 place, or of selling or giving them away in violation of the provisions
50 of this chapter or in violation of the rules and regulations of the
51 office.

52 6. All premises licensed under this section shall be subject to
53 inspection by any peace officer described in subdivision four of section
54 2.10 of the criminal procedure law acting pursuant to his or her special
55 duties, or police officer or any duly authorized representative of the

1 office, during the hours when the said premises are open for the trans-
2 action of business.

3 7. No cannabis retail licensee shall be interested, directly or indi-
4 rectly, in any cultivator, processor or distributor licensed pursuant to
5 this article, by stock ownership, interlocking directors, mortgage or
6 lien on any personal or real property or by any other means. Any lien,
7 mortgage or other interest or estate, however, now held by such retailer
8 on or in the personal or real property of such manufacturer or distribu-
9 tor, which mortgage, lien, interest or estate was acquired on or before
10 December thirty-first, two thousand eighteen, shall not be included
11 within the provisions of this subdivision; provided, however, the burden
12 of establishing the time of the accrual of the interest comprehended by
13 this subdivision, shall be upon the person who claims to be entitled to
14 the protection and exemption afforded hereby.

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

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

23 10. No person licensed to sell cannabis products at retail, shall
24 allow or permit any gambling, or offer any gambling on the licensed
25 premises, or allow or permit illicit drug activity on the licensed prem-
26 ises. The use of the licensed premises or any part thereof for the sale
27 of lottery tickets, when duly authorized and lawfully conducted thereon,
28 shall not constitute gambling within the meaning of this subdivision.

29 11. If an employee of a cannabis retail licensee suspects that a
30 cannabis consumer may be abusing cannabis, such an employee shall
31 encourage such cannabis consumer to seek the help of a registered prac-
32 titioner and become a certified patient. Cannabis retail licensees shall
33 develop standard operating procedures and written materials for employ-
34 ees to utilize when consulting consumers for purposes of this subdivi-
35 sion.

36 12. The executive director is authorized to promulgate regulations
37 governing licensed adult-use dispensing facilities, including but not
38 limited to, the hours of operation, size and location of the licensed
39 facility, potency and types of products offered and establishing a mini-
40 mum margin for which a retail dispensary must markup a cannabis
41 product(s) before selling to a cannabis consumer. Any adult-use cannabis
42 product sold by a retail dispensary for less than the minimum markup
43 allowed in regulation, shall be unlawful.

44 § 83. Adult-use cannabis advertising. 1. The office is hereby author-
45 ized to promulgate rules and regulations governing the advertising of
46 licensed adult-use cannabis cultivators, processors, cooperatives,
47 distributors, retailers, and any cannabis products or services.

48 2. The office shall promulgate explicit rules prohibiting advertising
49 that:

- 50 (a) is false, deceptive, or misleading;
51 (b) promotes overconsumption;
52 (c) depicts consumption by children or other minors;
53 (d) is designed in any way to appeal to children or other minors;
54 (e) is within two hundred feet of the perimeter of a school grounds,
55 playground, child care center, public park, or library;
56 (f) is in public transit vehicles and stations;

1 (g) is in the form of an unsolicited internet pop-up;
2 (h) is on publicly owned or operated property; or
3 (i) makes medical claims or promotes adult-use cannabis for a medical
4 or wellness purpose.

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

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

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

12 (a) all advertisements and marketing accurately and legibly identify
13 the licensee responsible for its content; and

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

18 § 84. Minority, women-owned businesses and disadvantaged farmers;
19 incubator program. 1. The office shall implement a social and economic
20 equity plan and actively promote racial, ethnic, and gender diversity
21 when issuing licenses for adult-use cannabis related activities, includ-
22 ing by prioritizing consideration of applications by applicants who
23 qualify as a minority and women-owned business or disadvantaged farmers.
24 Such qualifications shall be determined by the office in regulation.

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

28 (a) minority-owned businesses;

29 (b) women-owned businesses;

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

32 (d) disadvantaged farmers, as defined in subdivision five of this
33 section.

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

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

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

42 (c) was convicted of a cannabis-related offense prior to the effective
43 date of this chapter.

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

49 5. For the purposes of this section, the following definitions shall
50 apply:

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

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

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

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

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

8 (v) an enterprise that is a small business.

9 (b) "minority group member" shall mean a United States citizen or
10 permanent resident alien who is and can demonstrate membership in one of
11 the following groups:

12 (i) black persons having origins in any of the black African racial
13 groups;

14 (ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban,
15 Central or South American of either Indian or Hispanic origin, regard-
16 less of race;

17 (iii) Native American or Alaskan native persons having origins in any
18 of the original peoples of North America; or

19 (iv) Asian and Pacific Islander persons having origins in any of the
20 far east countries, south east Asia, the Indian subcontinent or the
21 Pacific islands.

22 (c) "women-owned business" shall mean a business enterprise, including
23 a sole proprietorship, partnership, limited liability company or corpo-
24 ration that is:

25 (i) at least fifty-one percent owned by one or more United States
26 citizens or permanent resident aliens who are women;

27 (ii) an enterprise in which the ownership interest of such women is
28 real, substantial and continuing;

29 (iii) an enterprise in which such women ownership has and exercises
30 the authority to control independently the day-to-day business decisions
31 of the enterprise;

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

34 (v) an enterprise that is a small business.

35 (d) a firm owned by a minority group member who is also a woman may be
36 defined as a minority-owned business, a women-owned business, or both.

37 (e) "disadvantaged farmer" shall mean a New York state resident or
38 business enterprise, including a sole proprietorship, partnership,
39 limited liability company or corporation, that has reported at least
40 two-thirds of its federal gross income as income from farming, in at
41 least one of the past five preceding tax years, and who:

42 (i) farms in a county that has greater than ten percent rate of pover-
43 ty according to the latest U.S. Census Bureau's American Communities
44 Survey;

45 (ii) has been disproportionately impacted by low commodity prices or
46 faces the loss of farmland through development or suburban sprawl; and

47 (iii) meets any other qualifications as defined in regulation by the
48 office.

49 6. The office shall actively promote applicants that foster racial,
50 ethnic, and gender diversity in their workforce.

51 7. Licenses issued to minority and women-owned businesses or under the
52 social and economic equity plan shall not be transferable except to
53 qualified minority and women-owned businesses or social and economic
54 equity applicants and only upon prior written approval of the executive
55 director.

1 8. The office shall collect demographic data on owners and employees
2 in the adult-use cannabis industry and shall annually publish such data.
3 § 85. Regulations. The executive director shall make regulations to
4 implement this article.

5 ARTICLE 5
6 HEMP CANNABIS

7 Section 90. Cannabinoid related hemp cannabis licensing.
8 91. Cannabinoid grower licenses.
9 92. Cannabinoid extractor license.
10 93. Cannabinoid license applications.
11 94. Information to be requested in applications for licenses.
12 95. Fees.
13 96. Selection criteria.
14 97. Limitations of licensure; duration.
15 98. License renewal.
16 99. Form of license.
17 100. Amendments to license and duty to update information
18 submitted for licensing.
19 101. Record keeping and tracking.
20 102. Inspections and ongoing requirements.
21 103. Packaging and labeling of hemp cannabis.
22 104. Provisions governing the growing and extracting of hemp
23 cannabis.
24 105. Laboratory testing.
25 106. Advertising.
26 107. Research.
27 108. Regulations.

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

34 (a) cannabinoid grower license and/or;
35 (b) cannabinoid extractor license.

36 2. Notwithstanding subsection one of this section, those persons grow-
37 ing, processing or manufacturing food or food ingredients from hemp,
38 which food or food ingredients are generally recognized as safe, shall
39 be subject to regulation and/or licensing under the agriculture and
40 markets law.

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

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

49 3. Persons growing industrial hemp pursuant to article twenty-nine of
50 the agriculture and markets law are not authorized to and shall not sell
51 hemp cannabis for human or animal consumption or use, other than as food
52 or a food ingredient that has been generally recognized as safe in
53 accordance with the U.S. food and drug administration or determined by
54 the state to be safe for human consumption as food or a food ingredient.

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

6 § 92. Cannabinoid extractor license. 1. A cannabinoid extractor
7 license authorizes the licensee's acquisition, possession, extraction
8 and manufacture of hemp from a licensed cannabinoid grower for the proc-
9 essing of hemp cannabis or the production of hemp cannabis products
10 marketed, distributed or sold for cannabinoid content and used or
11 intended for human or animal consumption or use.

12 2. No cannabinoid extractor licensee shall engage in any other busi-
13 ness on the licensed premises; except that nothing contained in this
14 chapter shall prevent a cannabinoid extractor licensee from also being
15 licensed as a cannabinoid grower on the same premises.

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

19 § 93. Cannabinoid license applications. 1. Persons shall apply for a
20 cannabinoid grower license and/or a cannabinoid extractor license by
21 submitting an application upon a form supplied by the office, providing
22 all the requested information, verified by the applicant or an author-
23 ized representative of the applicant.

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

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

28 § 94. Information to be requested in applications for licenses. 1.
29 The office shall have the authority to prescribe the manner and form in
30 which an application must be submitted to the office for licensure under
31 this article.

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

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

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

50 5. If there be any change, after the filing of the application or the
51 granting of a license, in any of the facts required to be set forth in
52 such application, a supplemental statement giving notice of such change,
53 cost and source of money involved in the change, duly verified, shall be
54 filed with the office within ten days after such change. Failure to do
55 so shall, if willful and deliberate, be cause for revocation of the
56 license.

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

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

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

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

22 (a) its ability to effectively maintain a delta-9-tetrahydrocannabinol
23 concentration that does not exceed a percentage of delta-9-tetrahydro-
24 cannabinol cannabis set by the executive director on a dry weight basis
25 of any part of the plant of the genus cannabis, or per volume or weight
26 of cannabis product, or the combined percent of delta-9-tetrahydrocanna-
27 binol and tetrahydrocannabinolic acid in any part of the plant of the
28 genus cannabis regardless of moisture content, for all hemp cannabis and
29 hemp derived products cultivated, processed or extracted by the appli-
30 cant;

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

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 office, in considering whether to grant the license applica-
40 tion, 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 office.

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

52 4. The executive director shall have authority and sole discretion to
53 determine the number of licenses issued pursuant to this article.

54 § 97. 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 office shall have the authority to limit, by canopy, plant
2 count or other means, the amount of hemp cannabis 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 executive director in regulation.

7 § 98. 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 office may dispense
11 with the requirements of such statements as it deems unnecessary in view
12 of those contained in the application made for the original license, but
13 in any event the submission of photographs of the licensed premises
14 shall be dispensed with, provided the applicant for such renewal shall
15 file a statement with the office to the effect that there has been no
16 alteration of such premises since the original license was issued.

17 3. The office may make such rules as may be necessary, not inconsis-
18 tent with this chapter, regarding applications for renewals of licenses
19 and permits and the time for making the same.

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

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

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

32 § 99. Form of license. Licenses issued pursuant to this article shall
33 specify:

34 1. the name and address of the licensee;

35 2. the activities permitted by the license;

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

38 4. a unique license number issued by the office to the licensee; and

39 5. such other information as the executive director shall deem neces-
40 sary to assure compliance with this chapter.

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

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

54 3. A license shall become void by a change in ownership, substantial
55 corporate change or location without prior written approval of the exec-
56 utive director. The executive director may promulgate regulations

1 allowing for certain types of changes in ownership without the need for
2 prior written approval.

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

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

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

14 § 101. Record keeping and tracking. 1. The executive director shall,
15 by regulation, require each licensee pursuant to this article to adopt
16 and maintain security, tracking, record keeping, record retention and
17 surveillance systems, relating to all hemp cannabis at every stage of
18 acquiring, possession, manufacture, transport, sale, or delivery, or
19 distribution by the licensee, subject to regulations of the executive
20 director.

21 2. Every licensee shall keep and maintain upon the licensed premises,
22 adequate books and records of all transactions involving the licensee
23 and sale of its products, which shall include all information required
24 by rules promulgated by the office.

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

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

31 § 102. Inspections and ongoing requirements. All licensees shall be
32 subject to reasonable inspection by the office, and a person who holds a
33 license must make himself or herself, or an agent thereof, available and
34 present for any inspection required by the office. The office shall make
35 reasonable accommodations so that ordinary business is not interrupted
36 and safety and security procedures are not compromised by the
37 inspection.

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

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

47 3. Such rules and regulations shall establish methods and procedures
48 for determining, among other things, serving sizes for hemp cannabis
49 products, active cannabinoid concentration per serving size, and number
50 of servings per container. Such regulations shall also require a nutri-
51 tional fact panel that incorporates data regarding serving sizes and
52 potency thereof.

53 4. The packaging, sale, or possession by any licensee of any hemp
54 product intended for human or animal consumption or use not labeled or
55 offered in conformity with rules and regulations promulgated in accord-

1 ance with this section shall be grounds for the imposition of a fine,
2 and/or the suspension, revocation or cancellation of a license.

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

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

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

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

22 § 105. Laboratory testing. 1. Every cannabinoid extractor shall
23 contract with an independent laboratory to test the cannabis products
24 produced by the licensed extractor. The executive director, in consulta-
25 tion with the commissioner of health, shall approve the laboratory and
26 require that the laboratory report testing results in a manner deter-
27 mined by the executive director. The executive director is authorized to
28 issue regulations requiring the laboratory to perform certain tests and
29 services.

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

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

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

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

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

45 § 108. Regulations. The executive director shall make regulations to
46 implement this article.

47 ARTICLE 6
48 GENERAL PROVISIONS

49 Section 125. General prohibitions and restrictions.

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

52 127. Protections for the use of cannabis; unlawful discrimi-
53 nations prohibited.

54 128. Registrations and licenses.

- 1 129. Laboratory testing permit.
2 130. Special use permits.
3 131. Professional and medical record keeping.
4 132. County opt-out; municipal control and preemption.
5 133. Executive director to be necessary party to certain
6 proceedings.
7 134. Penalties for violation of this chapter.
8 135. Revocation of registrations, licenses and permits for
9 cause; procedure for revocation or cancellation.
10 136. Lawful actions pursuant to this chapter.
11 137. Review by courts.
12 138. Illicit cannabis.
13 139. Injunction for unlawful manufacture, sale or consumption of
14 cannabis.
15 140. Persons forbidden to traffic cannabis products; certain
16 officials not to be interested in manufacture or sale of
17 cannabis products.
18 141. Access to criminal history information through the division
19 of criminal justice services.

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

25 2. No registered organization, licensee, or permittee shall sell, or
26 agree to sell or deliver in this state any cannabis or hemp cannabis for
27 the purposes of resale to any person who is not duly registered,
28 licensed or permitted pursuant to this chapter to sell such product, at
29 wholesale or retail, as the case may be, at the time of such agreement
30 and sale.

31 3. No registered organization, licensee, or permittee shall employ, or
32 permit to be employed, or shall allow to work, on any premises regis-
33 tered or licensed for retail sale hereunder, any person under the age of
34 eighteen years in any capacity where the duties of such person require
35 or permit such person to sell, dispense or handle cannabis or hemp
36 cannabis.

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

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

50 6. No registered organization, licensee, or permittee shall refuse,
51 nor any person holding a registration, license, or permit refuse, nor
52 any officer or director of any corporation or organization holding a
53 registration, license, or permit refuse, to appear and/or testify under
54 oath at an inquiry or hearing held by the office, with respect to any
55 matter bearing upon the registration, license, or permit, the conduct of
56 any people at the licensed premises, or bearing upon the character or

1 fitness of such registrant, licensee, or permittee to continue to hold
2 any registration, license, or permit. Nor shall any of the above offer
3 false testimony under oath at such inquiry or hearing.

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

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

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

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

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

51 12. No registered organization, licensee or any of its agents, serv-
52 ants or employees shall peddle any cannabis product, medical cannabis or
53 hemp cannabis from house to house by means of a truck or otherwise,
54 where the sale is consummated and delivery made concurrently at the
55 residence or place of business of a cannabis consumer. This subdivision
56 shall not prohibit the delivery by a registered organization to certi-

1 fied patients or their designated caregivers, pursuant to article three
2 of this chapter.

3 13. No licensee shall employ any canvasser or solicitor for the
4 purpose of receiving an order from a certified patient, designated care-
5 giver or cannabis consumer for any cannabis product, medical cannabis or
6 hemp cannabis at the residence or place of business of such patient,
7 caregiver or consumer, nor shall any licensee receive or accept any
8 order, for the sale of any cannabis product, medical cannabis or hemp
9 cannabis which shall be solicited at the residence or place of business
10 of a patient, caregiver or consumer. This subdivision shall not prohibit
11 the solicitation by a distributor of an order from any licensee at the
12 licensed premises of such licensee.

13 14. No premises registered, licensed, or permitted by the office
14 shall:

15 (a) permit or allow any gambling on the premises;

16 (b) permit or allow the premises to become disorderly;

17 (c) permit or allow the use, by any person, of any fireworks or other
18 pyrotechnics on the premises; or

19 (d) permit or allow to appear as an entertainer, on any part of the
20 premises registered, licensed, or permitted, any person under the age of
21 eighteen years.

22 § 126. License to be confined to premises licensed; premises for which
23 no license shall be granted; transporting cannabis. 1. A registration,
24 license, or permit issued to any person, pursuant to this chapter, for
25 any registered, licensed, or permitted premises shall not be transfera-
26 ble to any other person, to any other location or premises, or to any
27 other building or part of the building containing the licensed premises
28 except in the discretion of the office. All privileges granted by any
29 registration, license, or permit shall be available only to the person
30 therein specified, and only for the premises licensed and no other
31 except if authorized by the office. Provided, however, that the
32 provisions of this section shall not be deemed to prohibit the amendment
33 of a registration or license as provided for in this chapter. A
34 violation of this section shall subject the registration, license, or
35 permit to revocation for cause.

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

41 3. In determining whether to issue such a proscription against grant-
42 ing any registration, license, or permit for such five-year period, in
43 addition to any other factors deemed relevant to the office, the office
44 shall, in the case of a license revoked due to the illegal sale of
45 cannabis to a minor, determine whether the proposed subsequent licensee
46 has obtained such premises through an arm's length transaction, and, if
47 such transaction is not found to be an arm's length transaction, the
48 office shall deny the issuance of such license.

49 4. For purposes of this section, "arm's length transaction" shall mean
50 a sale of a fee of all undivided interests in real property, lease,
51 management agreement, or other agreement giving the applicant control
52 over the cannabis at the premises, or any part thereof, in the open
53 market, between an informed and willing buyer and seller where neither
54 is under any compulsion to participate in the transaction, unaffected by
55 any unusual conditions indicating a reasonable possibility that the sale
56 was made for the purpose of permitting the original licensee to avoid

1 the effect of the revocation. The following sales shall be presumed not
2 to be arm's length transactions unless adequate documentation is
3 provided demonstrating that the sale, lease, management agreement, or
4 other agreement giving the applicant control over the cannabis at the
5 premises, was not conducted, in whole or in part, for the purpose of
6 permitting the original licensee to avoid the effect of the revocation:

7 (a) a sale between relatives;

8 (b) a sale between related companies or partners in a business; or

9 (c) a sale, lease, management agreement, or other agreement giving the
10 applicant control over the cannabis at the premises, affected by other
11 facts or circumstances that would indicate that the sale, lease, manage-
12 ment agreement, or other agreement giving the applicant control over the
13 cannabis at the premises, is entered into for the primary purpose of
14 permitting the original licensee to avoid the effect of the revocation.

15 5. No registered organization, licensee or permittee shall transport
16 cannabis products or medical cannabis except in vehicles owned and oper-
17 ated by such registered organization, licensee or permittee, or hired
18 and operated by such registered organization, licensee or permittee from
19 a trucking or transportation company permitted and registered with the
20 office.

21 6. No common carrier or person operating a transportation facility in
22 this state, other than the United States government, shall receive for
23 transportation or delivery within the state any cannabis products or
24 medical cannabis unless the shipment is accompanied by copy of a bill of
25 lading, or other document, showing the name and address of the consig-
26 nor, the name and address of the consignee, the date of the shipment,
27 and the quantity and kind of cannabis products or medical cannabis
28 contained therein.

29 § 127. Protections for the use of cannabis; unlawful discriminations
30 prohibited. 1. No person, registered organization, licensee or permit-
31 tee shall be subject to arrest, prosecution, or penalty in any manner,
32 or denied any right or privilege, including but not limited to civil
33 liability or disciplinary action by a business or occupational or
34 professional licensing board or office, solely for conduct permitted
35 under this chapter. For the avoidance of doubt, the appellate division
36 of the supreme court of the state of New York, and any disciplinary or
37 character and fitness committees established by them are occupational
38 and professional licensing boards within the meaning of this section.
39 State or local law enforcement agencies shall not cooperate with or
40 provide assistance to the government of the United States or any agency
41 thereof in enforcing the federal controlled substances act, 21 U.S.C. et
42 seq., solely for actions consistent with this chapter, except as pursu-
43 ant to a valid court order.

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

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

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

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

54 3. For the purposes of medical care, including organ transplants, a
55 certified patient's authorized use of medical cannabis must be consid-
56 ered the equivalent of the use of any other medication under the direc-

1 tion of a practitioner and does not constitute the use of an illicit
2 substance or otherwise disqualify a registered qualifying patient from
3 medical care.

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

8 5. For the purposes of this section, an employer may consider an
9 employee's ability to perform the employee's job responsibilities to be
10 impaired when the employee manifests specific articulable symptoms while
11 working that decrease or lessen the employee's performance of the duties
12 or tasks of the employee's job position.

13 6. Nothing in this section shall restrict an employer's ability to
14 prohibit or take adverse employment action for the possession or use of
15 intoxicating substances during work hours, or require an employer to
16 commit any act that would cause the employer to be in violation of
17 federal law, or that would result in the loss of a federal contract or
18 federal funding.

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

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

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

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

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

43 (a) name of the person to whom the license is issued;

44 (b) kind of license and what kind of traffic in cannabis is thereby
45 permitted;

46 (c) description by street and number, or otherwise, of licensed prem-
47 ises; and

48 (d) a statement in substance that such license shall not be deemed a
49 property or vested right, and that it may be revoked at any time pursu-
50 ant to law.

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

54 2. To be permitted as an independent cannabis laboratory, a laboratory
55 must apply to the office, on a form and in a manner prescribed by the

1 office, and must demonstrate the following to the satisfaction of the
2 executive director:

3 (a) the owners and directors of the laboratory are of good moral char-
4 acter;

5 (b) the laboratory and its staff has the skills, resources and exper-
6 tise needed to accurately and consistently perform all of the testing
7 required for adult-use cannabis, medical cannabis and/or hemp cannabis;

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

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

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

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

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

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

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

32 § 130. Special Use Permits. The office is hereby authorized to issue
33 the following kinds of permits for carrying on activities consistent
34 with the policy and purpose of this chapter with respect to cannabis.
35 The executive director has the authority to set fees for all permits
36 issued pursuant to this section, to establish the periods during which
37 permits are authorized, and to make rules and regulations, including
38 emergency regulations, to implement this section.

39 1. Industrial cannabis permit - to purchase cannabis for use in the
40 manufacture and sale of any of the following, when such cannabis is not
41 otherwise suitable for consumption purposes, namely: (a) apparel, ener-
42 gy, paper, and tools; (b) scientific, chemical, mechanical and indus-
43 trial products; or (c) any other industrial use as determined by the
44 executive director in regulation.

45 2. Nursery permit - to produce clones, immature plants, seeds, and
46 other agricultural products used specifically for the planting, propa-
47 gation, and cultivation of cannabis, and to sell such to licensed
48 adult-use cultivators, registered organizations, and certified patients
49 or their designated caregivers.

50 3. Solicitor's permit - to offer for sale or to solicit orders for the
51 sale of any cannabis products, medical cannabis and/or hemp cannabis, as
52 a representative of a registered organization or licensee under this
53 chapter.

54 4. Broker's permit - to act as a broker in the purchase and sale of
55 cannabis products, medical cannabis and/or hemp cannabis for a fee or
56 commission, for or on behalf of a person authorized to cultivate, proc-

1 ess, distribute or dispense cannabis products, medical cannabis or hemp
2 cannabis within the state.

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

6 6. Warehouse permit - to allow for the storage of cannabis, cannabis
7 products, medical cannabis or hemp cannabis at a location not otherwise
8 registered or licensed by the office.

9 7. Delivery permit - to authorize licensed adult-use cannabis dispen-
10 saries to deliver adult-use cannabis and cannabis products directly to
11 cannabis consumers.

12 8. Cannabinoid permit - to sell cannabinoid products derived from hemp
13 cannabis for off-premises consumption.

14 9. Temporary retail cannabis permit - to authorize the retail sale of
15 adult-use cannabis to cannabis consumers, for a limited purpose or dura-
16 tion.

17 10. Caterer's permit - to authorize the service of cannabis products
18 at a function, occasion or event in a hotel, restaurant, club, ballroom
19 or other premises, which shall authorize within the hours fixed by the
20 office, during which cannabis may lawfully be sold or served on the
21 premises in which such function, occasion or event is held.

22 11. Packaging permit - to authorize a licensed cannabis distributor to
23 sort, package, label and bundle cannabis products from one or more
24 registered organizations or licensed processors, on the premises of the
25 licensed cannabis distributor or at a warehouse for which a permit has
26 been issued under this section.

27 12. Miscellaneous permits - to purchase, receive or sell cannabis,
28 cannabis products or medical cannabis, or receipts, certificates,
29 contracts or other documents pertaining to cannabis, cannabis products,
30 or medical cannabis, in cases not expressly provided for by this chap-
31 ter, when in the judgment of the office it would be appropriate and
32 consistent with the policy and purpose of this chapter.

33 § 131. Professional and medical record keeping. Any professional
34 providing services in connection with a licensed or potentially licensed
35 business under this chapter, or in connection with other conduct permit-
36 ted under this chapter, and any medical professional providing medical
37 care to a patient, other than a certified patient, may agree with their
38 client or patient to maintain no record, or any reduced level of record
39 keeping that professional and client or patient may agree. In case of
40 such agreement, the professional's only obligation shall be to keep such
41 records as agreed, and to keep a record of the agreement. Such reduced
42 record keeping is conduct permitted under this chapter.

43 § 132. County opt-out; municipal control and preemption. 1. The
44 provisions of article four of this chapter, authorizing the cultivation,
45 processing, distribution and sale of adult-use cannabis to cannabis
46 consumers, shall not be applicable to a county, or city having a popu-
47 lation of one-hundred thousand or more residents, which adopts a local
48 law, ordinance or resolution by a majority vote of its governing body to
49 completely prohibit the establishment or operation of one or more types
50 of licenses contained in article four of this chapter, within the juris-
51 diction of the county or city.

52 2. Except as provided for in subdivision one of this section, all
53 county, town, city and village municipalities are hereby preempted from
54 adopting any rule, ordinance, regulation or prohibition pertaining to
55 the operation or licensure of registered organizations, adult-use canna-
56 bis licenses or hemp licenses. However, counties and, municipalities may

1 pass ordinances or regulations governing the time, place and manner of
2 licensed adult-use cannabis retail dispensaries, provided such ordinance
3 or regulation does not make the operation of such licensed retail
4 dispensaries unreasonably impracticable as determined by the executive
5 director in his or her sole discretion.

6 § 133. 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 § 134. 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 guilty of a misdemeanor, and
20 upon first conviction thereof shall be punished by a fine not more than
21 five thousand dollars per instance or by imprisonment in a county jail
22 or penitentiary for a term of not less than thirty days nor more than
23 one year or both and upon second conviction thereof shall be punished by
24 a fine not less than ten thousand dollars or by imprisonment in a county
25 jail or penitentiary for a term of not less than thirty days nor more
26 than one year or both and upon all subsequent convictions thereof shall
27 be punished by a fine not less twenty-five thousand dollars or peniten-
28 tiary for a term of not less than thirty days nor more than one year or
29 both provided, however, that in default of payment of any fine imposed,
30 such person shall be imprisoned in a county jail or penitentiary for a
31 term of not less than thirty days.

32 2. Any registered organization or licensee, whose registration or
33 license has been suspended pursuant to the provisions of this chapter,
34 who sells cannabis, cannabis products, medical cannabis or hemp cannabis
35 during the suspension period, shall be guilty of a misdemeanor, and upon
36 conviction thereof shall be punished by a fine of not more than five
37 thousand dollars per instance or by imprisonment in a county jail or
38 penitentiary for a term of not more than six months, or by both such
39 fine and imprisonment.

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

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

49 § 135. Revocation of registrations, licenses and permits for cause;
50 procedure for revocation or cancellation. 1. Any registration, license
51 or permit issued pursuant to this chapter may be revoked, cancelled,
52 suspended and/or subjected to the imposition of a civil penalty for
53 cause, and must be revoked for the following causes:

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

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

3 2. Notwithstanding the issuance of a registration, license or permit
4 by way of renewal, the office may revoke, cancel or suspend such regis-
5 tration, license or permit and/or may impose a civil penalty against any
6 holder of such registration, license or permit, as prescribed by this
7 section, for causes or violations occurring during the license period
8 immediately preceding the issuance of such registration, license or
9 permit.

10 3. (a) As used in this section, the term "for cause" shall also
11 include the existence of a sustained and continuing pattern of miscon-
12 duct, failure to adequately prevent diversion or disorder on or about
13 the registered, licensed or permitted premises, or in the area in front
14 of or adjacent to the registered or licensed premises, or in any parking
15 lot provided by the registered organization or licensee for use by
16 registered organization or licensee's patrons, which, in the judgment of
17 the office, adversely affects or tends to affect the protection, health,
18 welfare, safety, or repose of the inhabitants of the area in which the
19 registered or licensed premises is located, or results in the licensed
20 premises becoming a focal point for police attention, or is offensive to
21 public decency.

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

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

26 (B) by substantially altering the nature or character of such business
27 during the registration or licensing period without seeking appropriate
28 approvals from the office.

29 (ii) As used in this subdivision, the term "substantially altering the
30 nature or character" of such business shall mean any significant alter-
31 ation in the scope of business activities conducted by a registered
32 organization, licensee or permittee that would require obtaining an
33 alternate form of registration, license or permit.

34 4. As used in this chapter, the existence of a sustained and continu-
35 ing pattern of misconduct, failure to adequately prevent diversion or
36 disorder on or about the premises may be presumed upon the sixth inci-
37 dent reported to the office by a law enforcement agency, or discovered
38 by the office during the course of any investigation, of misconduct,
39 diversion or disorder on or about the premises or related to the opera-
40 tion of the premises, absent clear and convincing evidence of either
41 fraudulent intent on the part of any complainant or a factual error with
42 respect to the content of any report concerning such complaint relied
43 upon by the office.

44 5. Notwithstanding any other provision of this chapter to the contra-
45 ry, a suspension imposed under this section against the holder of a
46 registration issued pursuant to article three of this chapter, shall
47 only suspend the licensed activities related to the type of cannabis,
48 medical cannabis or adult-use cannabis involved in the violation result-
49 ing in the suspension.

50 6. Any registration, license or permit issued by the office pursuant
51 to this chapter may be revoked, cancelled or suspended and/or be
52 subjected to the imposition of a monetary penalty in the manner
53 prescribed by this section and by the executive director in regulation.

54 7. The office may on its own initiative, or on complaint of any
55 person, institute proceedings to revoke, cancel or suspend any adult-use
56 cannabis retail dispensary license or adult-use cannabis on-site

1 consumption license and may impose a civil penalty against the licensee
2 after a hearing at which the licensee shall be given an opportunity to
3 be heard. Such hearing shall be held in such manner and upon such notice
4 as may be prescribed in regulation by the executive director.

5 8. All other registrations, licenses or permits issued under this
6 chapter may be revoked, cancelled, suspended and/or made subject to the
7 imposition of a civil penalty by the office after a hearing to be held
8 in such manner and upon such notice as may be prescribed in regulation
9 by the executive director.

10 9. Where a licensee or permittee is convicted of two or more qualify-
11 ing offenses within a five-year period, the office, upon receipt of
12 notification of such second or subsequent conviction, shall, in addition
13 to any other sanction or civil or criminal penalty imposed pursuant to
14 this chapter, impose on such licensee a civil penalty not to exceed ten
15 thousand dollars. For purposes of this subdivision, a qualifying
16 offense shall mean the unlawful sale of cannabis to a person under the
17 age of twenty-one. For purposes of this subdivision, a conviction of a
18 licensee or an employee or agent of such licensee shall constitute a
19 conviction of such licensee.

20 § 136. Lawful actions pursuant to this chapter. 1. Contracts related
21 to the operation of registered organizations, licenses and permits under
22 this chapter shall be lawful and shall not be deemed unenforceable on
23 the basis that the actions permitted pursuant to the registration,
24 license or permit are prohibited by federal law.

25 2. The following actions are not unlawful as provided under this chap-
26 ter, shall not be an offense under any state or local law, and shall not
27 result in any civil fine, seizure, or forfeiture of assets against any
28 person acting in accordance with this chapter:

29 (a) Actions of a registered organization, licensee, or permittee, or
30 the employees or agents of such registered organization, licensee or
31 permittee, as permitted by this chapter and consistent with rules and
32 regulations of the office, pursuant to a valid registration, license or
33 permit issued by the office.

34 (b) Actions of those who allow property to be used by a registered
35 organization, licensee, or permittee, or the employees or agents of such
36 registered organization, licensee or permittee, as permitted by this
37 chapter and consistent with rules and regulations of the office, pursu-
38 ant to a valid registration, license or permit issued by the office.

39 (c) Actions of any person or entity, their employees, or their agents
40 providing a service to a registered organization, licensee, permittee or
41 a potential registered organization, licensee, or permittee, as permit-
42 ted by this chapter and consistent with rules and regulations of the
43 office, relating to the formation of a business.

44 (d) The purchase, possession, or consumption of cannabis, medical
45 cannabis and hemp, as permitted by this chapter and consistent with
46 rules and regulations of the office, obtained from a validly registered,
47 licensed or permitted retailer.

48 § 137. Review by courts. 1. The following actions by the office, and
49 only the following actions by the office, shall be subject to review by
50 the supreme court in the manner provided in article seventy-eight of the
51 civil practice law and rules:

52 (a) Refusal by the office to issue a registration, license, or a
53 permit.

54 (b) The revocation, cancellation or suspension of a registration,
55 license, or permit by the office.

1 (c) The failure or refusal by the office to render a decision upon any
2 application or hearing submitted to or held by the office within sixty
3 days after such submission or hearing.

4 (d) The transfer by the office of a registration, license, or permit
5 to any other entity or premises, or the failure or refusal by the office
6 to approve such a transfer.

7 (e) Refusal to approve alteration of premises.

8 (f) Refusal to approve a corporate change in stockholders, stockhold-
9 ings, officers or directors.

10 2. No stay shall be granted pending the determination of such matter
11 except on notice to the office and only for a period of less than thirty
12 days. In no instance shall a stay be granted where the office has issued
13 a summary suspension of a registration, license, or permit for the
14 protection of the public health, safety, and welfare.

15 § 138. Illicit cannabis. 1. "Illicit cannabis" means and includes any
16 cannabis product, medical cannabis or hemp cannabis owned, cultivated,
17 distributed, bought, sold, packaged, rectified, blended, treated, forti-
18 fied, mixed, processed, warehoused, possessed or transported, or on
19 which any tax required to have been paid under any applicable state law
20 has not been paid.

21 2. Any person who shall knowingly possess or have under his or her
22 control any illicit cannabis is guilty of a misdemeanor.

23 3. Any person who shall knowingly barter or exchange with, or sell,
24 give or offer to sell or to give another any illicit cannabis is guilty
25 of a misdemeanor.

26 4. Any person who shall possess or have under his or her control or
27 transport any illicit cannabis with intent to barter or exchange with,
28 or to sell or give to another the same or any part thereof is guilty of
29 a misdemeanor. Such intent is presumptively established by proof that
30 the person knowingly possessed or had under his or her control one or
31 more ounces of illicit cannabis. This presumption may be rebutted.

32 5. Any person who, being the owner, lessee, or occupant of any room,
33 shed, tenement, booth or building, float or vessel, or part thereof,
34 knowingly permits the same to be used for the cultivation, processing,
35 distribution, purchase, sale, warehousing, transportation, or storage of
36 any illicit cannabis, is guilty of a misdemeanor.

37 § 139. Injunction for unlawful manufacturing, sale or consumption of
38 cannabis. 1. If any person shall engage or participate or be about to
39 engage or participate in the cultivation, production, distribution,
40 traffic, or sale of cannabis products, medical cannabis or hemp cannabis
41 in this state without obtaining the appropriate registration, license,
42 or permit therefor, or shall traffic in cannabis products, medical
43 cannabis or hemp cannabis contrary to any provision of this chapter, or
44 otherwise unlawfully, or shall traffic in illegal cannabis products,
45 medical cannabis or hemp cannabis, or, operating a place for profit or
46 pecuniary gain, with a capacity for the assemblage of twenty or more
47 persons, shall permit a person or persons to come to such place of
48 assembly for the purpose of consuming cannabis products without having
49 the appropriate license or permit therefor, the office may present a
50 verified petition or complaint to a justice of the supreme court at a
51 special term of the supreme court of the judicial district in which such
52 city, village or town is situated, for an order enjoining such person
53 engaging or participating in such activity or from carrying on such
54 business. Such petition or complaint shall state the facts upon which
55 such application is based. Upon the presentation of the petition or
56 complaint, the justice or court may grant an order temporarily restrain-

1 ing any person from continuing to engage in conduct as specified in the
2 petition or complaint, and shall grant an order requiring such person to
3 appear before such justice or court at or before a special term of the
4 supreme court in such judicial district on the day specified therein,
5 not more than ten days after the granting thereof, to show cause why
6 such person should not be permanently enjoined from engaging or partic-
7 ipating in such activity or from carrying on such business, or why such
8 person should not be enjoined from carrying on such business contrary to
9 the provisions of this chapter. A copy of such petition or complaint and
10 order shall be served upon the person, in the manner directed by such
11 order, not less than three days before the return day thereof. On the
12 day specified in such order, the justice or court before whom the same
13 is returnable shall hear the proofs of the parties and may, if deemed
14 necessary or proper, take testimony in relation to the allegations of
15 the petition or complaint. If the justice or court is satisfied that
16 such person is about to engage or participate in the unlawful traffic in
17 cannabis, medical cannabis or hemp cannabis or has unlawfully culti-
18 vated, processed, or sold cannabis products, medical cannabis or hemp
19 cannabis without having obtained a registration or license or contrary
20 to the provisions of this chapter, or has trafficked in illegal canna-
21 bis, or, is operating or is about to operate such place for profit or
22 pecuniary gain, with such capacity, and has permitted or is about to
23 permit a person or persons to come to such place of assembly for the
24 purpose of consuming cannabis products without having such appropriate
25 license, an order shall be granted enjoining such person from thereafter
26 engaging or participating in or carrying on such activity or business.
27 If, after the entry of such an order in the county clerk's office of the
28 county in which the principal place of business of the corporation or
29 partnership is located, or in which the individual so enjoined resides
30 or conducts such business, and the service of a copy thereof upon such
31 person, or such substituted service as the court may direct, such
32 person, partnership or corporation shall, in violation of such order,
33 cultivate, process, distribute or sell cannabis products, medical canna-
34 bis or hemp cannabis, or illegal cannabis products, medical cannabis or
35 hemp cannabis, or permit a person or persons to come to such place of
36 assembly for the purpose of consuming cannabis products, such activity
37 shall be deemed a contempt of court and be punishable in the manner
38 provided by the judiciary law, and, in addition to any such punishment,
39 the justice or court before whom or which the petition or complaint is
40 heard, may, in his or its discretion, order the seizure and forfeiture
41 of any cannabis products and any fixtures, equipment and supplies used
42 in the operation or promotion of such illegal activity and such property
43 shall be subject to forfeiture pursuant to law. Costs upon the applica-
44 tion for such injunction may be awarded in favor of and against the
45 parties thereto in such sums as in the discretion of the justice or
46 court before whom or which the petition or complaint is heard may seem
47 proper.

48 2. The owner, lessor and lessee of a building, erection or place where
49 cannabis products, medical cannabis or hemp cannabis is unlawfully
50 cultivated, processed, distributed, sold, consumed or permitted to be
51 unlawfully cultivated, processed, distributed, sold or consumed may be
52 made a respondent or defendant in the proceeding or action.

53 § 140. Persons forbidden to traffic cannabis; certain officials not to
54 be interested in manufacture or sale of cannabis products. 1. The
55 following are forbidden to traffic in cannabis:

1 (a) Except as provided in subdivision one-a of this section, a person
2 who has been convicted of a felony, unless subsequent to such conviction
3 such person shall have received an executive pardon therefor removing
4 this disability, a certificate of good conduct granted by the department
5 of corrections and community supervision, or a certificate of relief
6 from disabilities granted by the department of corrections and community
7 supervision or a court of this state pursuant to the provisions of arti-
8 cle twenty-three of the correction law to remove the disability under
9 this section because of such conviction;

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, and has not been convicted of any felony, or if so
18 convicted has received, subsequent to such conviction, an executive
19 pardon therefor removing this disability a certificate of good conduct
20 granted by the department of corrections and community supervision, or a
21 certificate of relief from disabilities granted by the department of
22 corrections and community supervision or a court of this state pursuant
23 to the provisions of article twenty-three of the correction law to
24 remove the disability under this section because of such conviction;
25 provided however that a corporation which otherwise conforms to the
26 requirements of this section and chapter may be licensed if each of its
27 principal officers and more than one-half of its directors are citizens
28 of the United States or aliens lawfully admitted for permanent residence
29 in the United States; and provided further that a corporation organized
30 under the not-for-profit corporation law or the education law which
31 otherwise conforms to the requirements of this section and chapter may
32 be licensed if each of its principal officers and more than one-half of
33 its directors are not less than twenty-one years of age and none of its
34 directors are less than eighteen years of age; and provided further that
35 a corporation organized under the not-for-profit corporation law or the
36 education law and located on the premises of a college as defined by
37 section two of the education law which otherwise conforms to the
38 requirements of this section and chapter may be licensed if each of its
39 principal officers and each of its directors are not less than eighteen
40 years of age;

41 (e) A person who shall have had any registration or license issued
42 under this chapter revoked for cause, until the expiration of two years
43 from the date of such revocation;

44 (f) A person not registered or licensed under the provisions of this
45 chapter, who has been convicted of a violation of this chapter, until
46 the expiration of two years from the date of such conviction; or

47 (g) A corporation or partnership, if any officer and director or any
48 partner, while not licensed under the provisions of this chapter, has
49 been convicted of a violation of this chapter, or has had a registration
50 or license issued under this chapter revoked for cause, until the expi-
51 ration of two years from the date of such conviction or revocation.

52 1-a. Notwithstanding the provision of subdivision one of this section,
53 a corporation holding a registration or license to traffic cannabis
54 products or medical cannabis shall not, upon conviction of a felony be
55 automatically forbidden to traffic in cannabis products or medical
56 cannabis, but the application for a registered organization or license

1 by such a corporation shall be subject to denial, and the registration
2 or license of such a corporation shall be subject to revocation or
3 suspension by the office pursuant, consistent with the provisions of
4 article twenty-three-A of the correction law. For any felony conviction
5 by a court other than a court of this state, the office may request the
6 department of corrections and community supervision to investigate and
7 review the facts and circumstances concerning such a conviction, and
8 such department shall, if so requested, submit its findings to the
9 office as to whether the corporation has conducted itself in a manner
10 such that discretionary review by the office would not be inconsistent
11 with the public interest. The department of corrections and community
12 supervision may charge the registered organization, licensee or appli-
13 cant a fee equivalent to the expenses of an appropriate investigation
14 under this subdivision. For any conviction rendered by a court of this
15 state, the office may request the corporation, if the corporation is
16 eligible for a certificate of relief from disabilities, to seek such a
17 certificate from the court which rendered the conviction and to submit
18 such a certificate as part of the office's discretionary review process.

19 2. Except as may otherwise be provided for in regulation, it shall be
20 unlawful for any police commissioner, police inspector, captain,
21 sergeant, roundsman, patrolman or other police official or subordinate
22 of any police department in the state, to be either directly or indi-
23 rectly interested in the cultivation, processing, distribution, or sale
24 of cannabis products or to offer for sale, or recommend to any regis-
25 tered organization or licensee any cannabis products. A person may not
26 be denied any registration or license granted under the provisions of
27 this chapter solely on the grounds of being the spouse of a public serv-
28 ant described in this section. The solicitation or recommendation made
29 to any registered organization or licensee, to purchase any cannabis
30 products by any police official or subordinate as hereinabove described,
31 shall be presumptive evidence of the interest of such official or subor-
32 dinate in the cultivation, processing, distribution, or sale of cannabis
33 products.

34 3. No elective village officer shall be subject to the limitations set
35 forth in subdivision two of this section unless such elective village
36 officer shall be assigned duties directly relating to the operation or
37 management of the police department.

38 § 141. Access to criminal history information through the division of
39 criminal justice services. In connection with the administration of
40 this chapter, the executive director is authorized to request, receive
41 and review criminal history information through the division of criminal
42 justice services with respect to any person seeking a registration,
43 license, permit or authorization to cultivate, process, distribute or
44 sell medical cannabis, adult use cannabis or hemp cannabis. At the exec-
45 utive director's request, each person, member, principal and/or officer
46 of the applicant shall submit to the office his or her fingerprints in
47 such form and in such manner as specified by the division, for the
48 purpose of conducting a criminal history search and returning a report
49 thereon in accordance with the procedures and requirements established
50 by the division pursuant to the provisions of article thirty-five of the
51 executive law, which shall include the payment of the prescribed proc-
52 essing fees for the cost of the division's full search and retain proce-
53 dures and a national criminal history record check. The executive direc-
54 tor, or his or her designee, shall submit such fingerprints and the
55 processing fee to the division. The division shall forward to the execu-
56 tive director a report with respect to the applicant's previous criminal

1 history, if any, or a statement that the applicant has no previous crim-
2 inal history according to its files. Fingerprints submitted to the divi-
3 sion pursuant to this subdivision may also be submitted to the federal
4 bureau of investigation for a national criminal history record check. If
5 additional copies of fingerprints are required, the applicant shall
6 furnish them upon request.

7 § 3. Intentionally omitted.

8 § 4. Section 3302 of the public health law, as added by chapter 878 of
9 the laws of 1972, subdivisions 1, 14, 16, 17 and 27 as amended and
10 subdivisions 4, 5, 6, 7, 8, 11, 12, 13, 15, 18, 19, 20, 21, 22, 23, 24,
11 25, 26, 28, 29 and 30 as renumbered by chapter 537 of the laws of 1998,
12 subdivisions 9 and 10 as amended and subdivisions 34, 35, 36, 37, 38, 39
13 and 40 as added by chapter 178 of the laws of 2010, paragraph (a) of
14 subdivision 20, the opening paragraph of subdivision 22 and subdivision
15 29 as amended by chapter 163 of the laws of 1973, subdivision 31 as
16 amended by section 4 of part A of chapter 58 of the laws of 2004, subdi-
17 vision 41 as added by section 6 of part A of chapter 447 of the laws of
18 2012, and subdivisions 42 and 43 as added by section 13 of part D of
19 chapter 60 of the laws of 2014, is amended to read as follows:

20 § 3302. Definitions of terms of general use in this article. Except
21 where different meanings are expressly specified in subsequent
22 provisions of this article, the following terms have the following mean-
23 ings:

24 1. "Addict" means a person who habitually uses a controlled substance
25 for a non-legitimate or unlawful use, and who by reason of such use is
26 dependent thereon.

27 2. "Administer" means the direct application of a controlled
28 substance, whether by injection, inhalation, ingestion, or any other
29 means, to the body of a patient or research subject.

30 3. "Agent" means an authorized person who acts on behalf of or at the
31 direction of a manufacturer, distributor, or dispenser. No person may be
32 authorized to so act if under title VIII of the education law such
33 person would not be permitted to engage in such conduct. It does not
34 include a common or contract carrier, public warehouseman, or employee
35 of the carrier or warehouseman when acting in the usual and lawful
36 course of the carrier's or warehouseman's business.

37 4. ~~["Concentrated Cannabis" means~~
38 ~~(a) the separated resin, whether crude or purified, obtained from a~~
39 ~~plant of the genus Cannabis; or~~
40 ~~(b) a material, preparation, mixture, compound or other substance~~
41 ~~which contains more than two and one-half percent by weight of delta-9~~
42 ~~tetrahydrocannabinol, or its isomer, delta-8-dibenzopyran numbering~~
43 ~~system, or delta-1-tetrahydrocannabinol or its isomer, delta-1-(6)-mono-~~
44 ~~terpene numbering system.~~

45 5.] "Controlled substance" means a substance or substances listed in
46 section thirty-three hundred six of this [chapter] title.

47 [6.] 5. "Commissioner" means commissioner of health of the state of
48 New York.

49 [7.] 6. "Deliver" or "delivery" means the actual, constructive or
50 attempted transfer from one person to another of a controlled substance,
51 whether or not there is an agency relationship.

52 [8.] 7. "Department" means the department of health of the state of
53 New York.

54 [9.] 8. "Dispense" means to deliver a controlled substance to an ulti-
55 mate user or research subject by lawful means, including by means of the

1 internet, and includes the packaging, labeling, or compounding necessary
2 to prepare the substance for such delivery.

3 [~~10.~~] 9. "Distribute" means to deliver a controlled substance, includ-
4 ing by means of the internet, other than by administering or dispensing.

5 [~~11.~~] 10. "Distributor" means a person who distributes a controlled
6 substance.

7 [~~12.~~] 11. "Diversion" means manufacture, possession, delivery or use
8 of a controlled substance by a person or in a manner not specifically
9 authorized by law.

10 [~~13.~~] 12. "Drug" means

11 (a) substances recognized as drugs in the official United States Phar-
12 macopoeia, official Homeopathic Pharmacopoeia of the United States, or
13 official National Formulary, or any supplement to any of them;

14 (b) substances intended for use in the diagnosis, cure, mitigation,
15 treatment, or prevention of disease in man or animals; and

16 (c) substances (other than food) intended to affect the structure or a
17 function of the body of man or animal. It does not include devices or
18 their components, parts, or accessories.

19 [~~14.~~] 13. "Federal agency" means the Drug Enforcement Administration,
20 United States Department of Justice, or its successor agency.

21 [~~15.~~] 14. "Federal controlled substances act" means the Comprehensive
22 Drug Abuse Prevention and Control Act of 1970, Public Law 91-513, and
23 any act or acts amendatory or supplemental thereto or regulations
24 promulgated thereunder.

25 [~~16.~~] 15. "Federal registration number" means such number assigned by
26 the Federal agency to any person authorized to manufacture, distribute,
27 sell, dispense or administer controlled substances.

28 [~~17.~~] 16. "Habitual user" means any person who is, or by reason of
29 repeated use of any controlled substance for non-legitimate or unlawful
30 use is in danger of becoming, dependent upon such substance.

31 [~~18.~~] 17. "Institutional dispenser" means a hospital, veterinary
32 hospital, clinic, dispensary, maternity home, nursing home, mental
33 hospital or similar facility approved and certified by the department as
34 authorized to obtain controlled substances by distribution and to
35 dispense and administer such substances pursuant to the order of a prac-
36 titioner.

37 [~~19.~~] 18. "License" means a written authorization issued by the
38 department or the New York state department of education permitting
39 persons to engage in a specified activity with respect to controlled
40 substances.

41 [~~20.~~] 19. "Manufacture" means the production, preparation, propa-
42 gation, compounding, cultivation, conversion or processing of a
43 controlled substance, either directly or indirectly or by extraction
44 from substances of natural origin, or independently by means of chemical
45 synthesis, or by a combination of extraction and chemical synthesis, and
46 includes any packaging or repackaging of the substance or labeling or
47 relabeling of its container, except that this term does not include the
48 preparation, compounding, packaging or labeling of a controlled
49 substance:

50 (a) by a practitioner as an incident to his administering or dispens-
51 ing of a controlled substance in the course of his professional prac-
52 tice; or

53 (b) by a practitioner, or by his authorized agent under his super-
54 vision, for the purpose of, or as an incident to, research, teaching, or
55 chemical analysis and not for sale; or

1 (c) by a pharmacist as an incident to his dispensing of a controlled
2 substance in the course of his professional practice.

3 ~~[21. "Marihuana" means all parts of the plant of the genus Cannabis,~~
4 ~~whether growing or not; the seeds thereof; the resin extracted from any~~
5 ~~part of the plant; and every compound, manufacture, salt, derivative,~~
6 ~~mixture, or preparation of the plant, its seeds or resin. It does not~~
7 ~~include the mature stalks of the plant, fiber produced from the stalks,~~
8 ~~oil or cake made from the seeds of the plant, any other compound, manu-~~
9 ~~facture, salt, derivative, mixture, or preparation of the mature stalks~~
10 ~~(except the resin extracted therefrom), fiber, oil, or cake, or the~~
11 ~~sterilized seed of the plant which is incapable of germination.~~

12 ~~22.]~~ 20. "Narcotic drug" means any of the following, whether produced
13 directly or indirectly by extraction from substances of vegetable
14 origin, or independently by means of chemical synthesis, or by a combi-
15 nation of extraction and chemical synthesis:

16 (a) opium and opiate, and any salt, compound, derivative, or prepara-
17 tion of opium or opiate;

18 (b) any salt, compound, isomer, derivative, or preparation thereof
19 which is chemically equivalent or identical with any of the substances
20 referred to in [~~subdivision~~] paragraph (a) of this subdivision, but not
21 including the isoquinoline alkaloids of opium;

22 (c) opium poppy and poppy straw.

23 ~~[23.]~~ 21. "Opiate" means any substance having an addiction-forming or
24 addiction-sustaining liability similar to morphine or being capable of
25 conversion into a drug having addiction-forming or addiction-sustaining
26 liability. It does not include, unless specifically designated as
27 controlled under section [~~3306~~] thirty-three hundred six of this [~~arti-~~
28 ~~cle~~] title, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and
29 its salts (dextromethorphan). It does include its racemic and levorota-
30 tory forms.

31 ~~[24.]~~ 22. "Opium poppy" means the plant of the species *Papaver*
32 *somniferum* L., except its seeds.

33 ~~[25.]~~ 23. "Person" means individual, institution, corporation, govern-
34 ment or governmental subdivision or agency, business trust, estate,
35 trust, partnership or association, or any other legal entity.

36 ~~[26.]~~ 24. "Pharmacist" means any person licensed by the state depart-
37 ment of education to practice pharmacy.

38 ~~[27.]~~ 25. "Pharmacy" means any place registered as such by the New
39 York state board of pharmacy and registered with the Federal agency
40 pursuant to the federal controlled substances act.

41 ~~[28.]~~ 26. "Poppy straw" means all parts, except the seeds, of the
42 opium poppy, after mowing.

43 ~~[29.]~~ 27. "Practitioner" means:

44 A physician, dentist, podiatrist, veterinarian, scientific investi-
45 gator, or other person licensed, or otherwise permitted to dispense,
46 administer or conduct research with respect to a controlled substance in
47 the course of a licensed professional practice or research licensed
48 pursuant to this article. Such person shall be deemed a "practitioner"
49 only as to such substances, or conduct relating to such substances, as
50 is permitted by his license, permit or otherwise permitted by law.

51 ~~[30.]~~ 28. "Prescribe" means a direction or authorization, by
52 prescription, permitting an ultimate user lawfully to obtain controlled
53 substances from any person authorized by law to dispense such
54 substances.

1 ~~[31-]~~ 29. "Prescription" shall mean an official New York state
2 prescription, an electronic prescription, an oral prescription~~[7]~~ or an
3 out-of-state prescription~~[, or any one]~~.

4 ~~[32-]~~ 30. "Sell" means to sell, exchange, give or dispose of to another,
5 or offer or agree to do the same.

6 ~~[33-]~~ 31. "Ultimate user" means a person who lawfully obtains and
7 possesses a controlled substance for his own use or the use by a member
8 of his household or for an animal owned by him or in his custody. It
9 shall also mean and include a person designated, by a practitioner on a
10 prescription, to obtain such substance on behalf of the patient for whom
11 such substance is intended.

12 ~~[34-]~~ 32. "Internet" means collectively computer and telecommuni-
13 cations facilities which comprise the worldwide network of networks that
14 employ a set of industry standards and protocols, or any predecessor or
15 successor protocol to such protocol, to exchange information of all
16 kinds. "Internet," as used in this article, also includes other
17 networks, whether private or public, used to transmit information by
18 electronic means.

19 ~~[35-]~~ 33. "By means of the internet" means any sale, delivery,
20 distribution, or dispensing of a controlled substance that uses the
21 internet, is initiated by use of the internet or causes the internet to
22 be used.

23 ~~[36-]~~ 34. "Online dispenser" means a practitioner, pharmacy, or person
24 in the United States that sells, delivers or dispenses, or offers to
25 sell, deliver, or dispense, a controlled substance by means of the
26 internet.

27 ~~[37-]~~ 35. "Electronic prescription" means a prescription issued with
28 an electronic signature and transmitted by electronic means in accord-
29 ance with regulations of the commissioner and the commissioner of educa-
30 tion and consistent with federal requirements. A prescription generated
31 on an electronic system that is printed out or transmitted via facsimile
32 is not considered an electronic prescription and must be manually
33 signed.

34 ~~[38-]~~ 36. "Electronic" means of or relating to technology having elec-
35 trical, digital, magnetic, wireless, optical, electromagnetic or similar
36 capabilities. "Electronic" shall not include facsimile.

37 ~~[39-]~~ 37. "Electronic record" means a paperless record that is
38 created, generated, transmitted, communicated, received or stored by
39 means of electronic equipment and includes the preservation, retrieval,
40 use and disposition in accordance with regulations of the commissioner
41 and the commissioner of education and in compliance with federal law and
42 regulations.

43 ~~[40-]~~ 38. "Electronic signature" means an electronic sound, symbol, or
44 process, attached to or logically associated with an electronic record
45 and executed or adopted by a person with the intent to sign the record,
46 in accordance with regulations of the commissioner and the commissioner
47 of education.

48 ~~[41-]~~ 39. "Registry" or "prescription monitoring program registry"
49 means the prescription monitoring program registry established pursuant
50 to section thirty-three hundred forty-three-a of this article.

51 ~~[42-]~~ 40. "Compounding" means the combining, admixing, mixing, dilut-
52 ing, pooling, reconstituting, or otherwise altering of a drug or bulk
53 drug substance to create a drug with respect to an outsourcing facility
54 under section 503B of the federal Food, Drug and Cosmetic Act and
55 further defined in this section.

56 ~~[43-]~~ 41. "Outsourcing facility" means a facility that:

1 (a) is engaged in the compounding of sterile drugs as defined in
2 section sixty-eight hundred two of the education law;

3 (b) is currently registered as an outsourcing facility pursuant to
4 article one hundred thirty-seven of the education law; and

5 (c) complies with all applicable requirements of federal and state
6 law, including the Federal Food, Drug and Cosmetic Act.

7 Notwithstanding any other provision of law to the contrary, when an
8 outsourcing facility distributes or dispenses any drug to any person
9 pursuant to a prescription, such outsourcing facility shall be deemed to
10 be providing pharmacy services and shall be subject to all laws, rules
11 and regulations governing pharmacies and pharmacy services.

12 § 5. Paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25,
13 26, 27, 28, 29, 30, 31 and 32 of subdivision (d) of schedule I of
14 section 3306 of the public health law, paragraphs 13, 14, 15, 16, 17,
15 18, 19, 20, 21, 22, 23 and 24 as added by chapter 664 of the laws of
16 1985, paragraphs 25, 26, 27, 28, 29 and 30 as added by chapter 589 of
17 the laws of 1996 and paragraphs 31 and 32 as added by chapter 457 of the
18 laws of 2006, are amended to read as follows:

19 (13) [~~Marihuana-~~

20 ~~(14)] Mescaline.~~

21 [~~(15)] (14) Parahexyl. Some trade or other names: 3-Hexyl-1-hydroxy-
22 7,8,9,10-tetra hydro-6,6,9-trimethyl-6H-dibenfo{b,d} pyran.~~

23 [~~(16)] (15) Peyote. Meaning all parts of the plant presently classi-
24 fied botanically as Lophophora williamsii Lemaire, whether growing or
25 not, the seeds thereof, any extract from any part of such plant, and
26 every compound, manufacture, salts, derivative, mixture, or preparation
27 of such plant, its seeds or extracts.~~

28 [~~(17)] (16) N-ethyl-3-piperidyl benzilate.~~

29 [~~(18)] (17) N-methyl-3-piperidyl benzilate.~~

30 [~~(19)] (18) Psilocybin.~~

31 [~~(20)] (19) Psilocyn.~~

32 [~~(21)] (20) Tetrahydrocannabinols. Synthetic tetrahydrocannabinols not
33 derived from the cannabis plant that are equivalents of the substances
34 contained in the plant, or in the resinous extractives of cannabis, sp.
35 and/or synthetic substances, derivatives, and their isomers with similar
36 chemical structure and pharmacological activity such as the following:~~

37 [~~(22)] delta 1 cis or trans tetrahydrocannabinol, and their optical
38 isomers~~

39 [~~(23)] delta 6 cis or trans tetrahydrocannabinol, and their optical
40 isomers~~

41 [~~(24)] delta 3, 4 cis or trans tetrahydrocannabinol, and its optical
42 isomers (since nomenclature of these substances is not internationally
43 standardized, compounds of these structures, regardless of numerical
44 designation of atomic positions covered).~~

45 [~~(25)] (21) Ethylamine analog of phencyclidine. Some trade or other
46 names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethyla-
47 mine, N-(1-phenylcyclohexyl) ethylamine cyclohexamine, PCE.~~

48 [~~(26)] (22) Pyrrolidine analog of phencyclidine. Some trade or other
49 names 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy, PHP.~~

50 [~~(27)] (23) Thiophene analog of phencyclidine. Some trade or other
51 names: 1-{1-(2-thienyl)-cyclohexyl}-piperidine, 2-thienylanalog of
52 phencyclidine, TPCP, TCP.~~

53 [~~(28)] (24) 3,4-methylenedioxymethamphetamine (MDMA).~~

54 [~~(29)] (25) 3,4-methylenedioxy-N-ethylamphetamine (also known as
55 N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA,
56 MDE, MDEA.~~

1 ~~[(27)]~~ (26) N-hydroxy-3,4-methylenedioxyamphetamine (also known as
2 N-hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and
3 N-hydroxy MDA.

4 ~~[(28)]~~ (27) 1-{1- (2-thienyl) cyclohexyl} pyrrolidine. Some other
5 names: TCPY.

6 ~~[(29)]~~ (28) Alpha-ethyltryptamine. Some trade or other names: etryp-
7 tamine; Monase; Alpha-ethyl-1H-indole-3-ethanamine; 3- (2-aminobutyl)
8 indole; Alpha-ET or AET.

9 ~~[(30)]~~ (29) 2,5-dimethoxy-4-ethylamphetamine. Some trade or other
10 names: DOET.

11 ~~[(31)]~~ (30) 4-Bromo-2,5-dimethoxyphenethylamine. Some trade or other
12 names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl
13 DOB; 2C-B, Nexus.

14 ~~[(32)]~~ (31) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7), its
15 optical isomers, salts and salts of isomers.

16 § 6. Title 5-A of article 33 of the public health law is REPEALED.

17 § 7. Section 3382 of the public health law, as added by chapter 878 of
18 the laws of 1972, is amended to read as follows:

19 § 3382. Growing of the plant known as Cannabis by unlicensed persons.
20 A person who, without being licensed so to do under this article or
21 articles three, four or five of the cannabis law, grows the plant of the
22 genus Cannabis or knowingly allows it to grow on his land without
23 destroying the same, shall be guilty of a class A misdemeanor.

24 § 8. Subdivision 1 of section 3397-b of the public health law, as
25 added by chapter 810 of the laws of 1980, is amended to read as follows:

26 1. ~~["Marijuana"]~~ "Cannabis" means ~~[marijuana]~~ cannabis as defined in
27 ~~[section thirty three hundred two of this chapter]~~ subdivision three of
28 section three of the cannabis law and shall also include tetrahydrocan-
29 nabinols or a chemical derivative of tetrahydrocannabinol.

30 § 9. Subdivision 8 of section 1399-n of the public health law, as
31 amended by chapter 13 of the laws of 2003, is amended to read as
32 follows:

33 8. "Smoking" means the burning of a lighted cigar, cigarette, pipe or
34 any other matter or substance which contains tobacco or cannabis.

35 § 10. Subdivisions 5, 6 and 9 of section 220.00 of the penal law,
36 subdivision 5 as amended by chapter 537 of the laws of 1998, subdivision
37 6 as amended by chapter 1051 of the laws of 1973 and subdivision 9 as
38 amended by chapter 664 of the laws of 1985, are amended and a new subdi-
39 vision 21 is added to read as follows:

40 5. "Controlled substance" means any substance listed in schedule I,
41 II, III, IV or V of section thirty-three hundred six of the public
42 health law other than ~~[marihuana]~~ cannabis as defined in subdivision six
43 of this section, but including concentrated cannabis as defined in
44 ~~[paragraph (a) of subdivision four of section thirty-three hundred two~~
45 ~~of such law]~~ subdivision twenty-one of this section.

46 6. ~~["Marihuana"]~~ "Cannabis" means ~~["marihuana" or "concentrated canna-
47 bis" as those terms are defined in section thirty three hundred two of
48 the public health law]~~ all parts of the plant of the genus cannabis,
49 whether growing or not; the seeds thereof; and every compound, manufac-
50 ture, salt, derivative, mixture, or preparation of the plant, or its
51 seeds. It does not include the mature stalks of the plant, fiber
52 produced from the stalks, oil or cake made from the seeds of the plant,
53 any other compound, manufacture, salt, derivative, mixture, or prepara-
54 tion of the mature stalks, fiber, oil, or cake, or the sterilized seed
55 of the plant which is incapable of germination. It does not include all

1 parts of the plant cannabis sativa l., whether growing or not, having no
2 more than three-tenths of one percent tetrahydrocannabinol (THC).

3 9. "Hallucinogen" means any controlled substance listed in schedule
4 I(d) (5), [~~(18), (19), (20), (21) and (22)~~] (17), (18), (19), (20) and
5 (21).

6 21. "Concentrated cannabis" means: (a) the separated resin, whether
7 crude or purified, obtained from a plant of the genus cannabis; or (b) a
8 material, preparation, mixture, compound or other substance which
9 contains more than three percent by weight of delta-9 tetrahydrocannabi-
10 nol, or its isomer, delta-8 dibenzopyran numbering system, or delta-1
11 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpene numbering
12 system.

13 § 11. Subdivision 4 of section 220.06 of the penal law is REPEALED.

14 § 12. Subdivision 10 of section 220.09 of the penal law is REPEALED.

15 § 13. Subdivision 3 of section 220.34 of the penal law is REPEALED.

16 3. concentrated cannabis as defined in [~~paragraph (a) of subdivision~~
17 ~~four of section thirty three hundred two of the public health law~~]
18 subdivision twenty-one of section 220.00 of this article; or

19 § 14. Section 220.50 of the penal law, as amended by chapter 627 of
20 the laws of 1990, is amended to read as follows:

21 § 220.50 Criminally using drug paraphernalia in the second degree.

22 A person is guilty of criminally using drug paraphernalia in the
23 second degree when he knowingly possesses or sells:

24 1. Diluents, dilutants or adulterants, including but not limited to,
25 any of the following: quinine hydrochloride, mannitol, mannite, lactose
26 or dextrose, adapted for the dilution of narcotic drugs or stimulants
27 under circumstances evincing an intent to use, or under circumstances
28 evincing knowledge that some person intends to use, the same for
29 purposes of unlawfully mixing, compounding, or otherwise preparing any
30 narcotic drug or stimulant, other than cannabis or concentrated
31 cannabis; or

32 2. Gelatine capsules, glassine envelopes, vials, capsules or any other
33 material suitable for the packaging of individual quantities of narcotic
34 drugs or stimulants under circumstances evincing an intent to use, or
35 under circumstances evincing knowledge that some person intends to use,
36 the same for the purpose of unlawfully manufacturing, packaging or
37 dispensing of any narcotic drug or stimulant, other than cannabis or
38 concentrated cannabis; or

39 3. Scales and balances used or designed for the purpose of weighing or
40 measuring controlled substances, under circumstances evincing an intent
41 to use, or under circumstances evincing knowledge that some person
42 intends to use, the same for purpose of unlawfully manufacturing, pack-
43 aging or dispensing of any narcotic drug or stimulant, other than canna-
44 bis or concentrated cannabis.

45 Criminally using drug paraphernalia in the second degree is a class A
46 misdemeanor.

47 § 15. Section 221.00 of the penal law, as amended by chapter 90 of the
48 laws of 2014, is amended to read as follows:

49 § 221.00 [~~Marihuana~~] Cannabis; definitions.

50 Unless the context in which they are used clearly otherwise requires,
51 the terms occurring in this article shall have the same meaning ascribed
52 to them in article two hundred twenty of this chapter. Any act that is
53 lawful under [~~title five-A of article thirty three of the public health~~]
54 articles three, four or five, of the cannabis law is not a violation of
55 this article.

1 § 15-a. Section 221.00 of the penal law, as added by chapter 360 of
2 the laws of 1977, is amended to read as follows:

3 § 221.00 [~~Marihuana~~] Cannabis; definitions.

4 Unless the context in which they are used clearly otherwise requires,
5 the terms occurring in this article shall have the same meaning ascribed
6 to them in article two hundred twenty of this chapter.

7 § 16. Section 221.05 of the penal law, as added by chapter 360 of the
8 laws of 1977, is amended to read as follows:

9 § 221.05 Unlawful possession of [~~marihuana~~] cannabis.

10 A person is guilty of unlawful possession of [~~marihuana~~] cannabis when
11 he or she knowingly and unlawfully possesses [~~marihuana~~]:

- 12 1. cannabis and is less than twenty-one years of age; or
13 2. cannabis in a public place, as defined in section 240.00 of this
14 part, and such cannabis is burning.

15 Unlawful possession of [~~marihuana~~] cannabis is a violation punishable
16 only by a fine of not more than [~~one hundred~~] fifty dollars [~~-. However,~~
17 ~~where the defendant has previously been convicted of an offense defined~~
18 ~~in this article or article 220 of this chapter, committed within the~~
19 ~~three years immediately preceding such violation, it shall be punishable~~
20 ~~(a) only by a fine of not more than two hundred dollars, if the defend-~~
21 ~~ant was previously convicted of one such offense committed during such~~
22 ~~period, and (b) by a fine of not more than two hundred fifty dollars or~~
23 ~~a term of imprisonment not in excess of fifteen days or both, if the~~
24 ~~defendant was previously convicted of two such offenses committed during~~
25 ~~such period] when such possession is by a person less than twenty-one
26 years of age and of an aggregate weight of less than one-half of one
27 ounce or a fine of not more than one hundred dollars when such
28 possession is by a person less than twenty-one years of age and of an
29 aggregate weight more than one-half of one ounce but not more than one
30 ounce. Unlawful possession of marijuana is punishable by a fine of not
31 more than one hundred twenty-five dollars when such possession is in a
32 public place and such cannabis is burning. The term burning in this
33 section shall have the same meaning as the term vaping as defined in
34 subdivision eight of section thirteen hundred ninety-nine-n of the
35 public health law.~~

36 § 17. Section 221.15 of the penal law, as amended by chapter 265 of
37 the laws of 1979, the opening paragraph as amended by chapter 75 of the
38 laws of 1995, is amended to read as follows:

39 § 221.15 Criminal possession of [~~marihuana~~] cannabis in the [~~fourth~~]
40 third degree.

41 A person is guilty of criminal possession of [~~marihuana~~] cannabis in
42 the [~~fourth~~] third degree when he or she knowingly and unlawfully
43 possesses [~~one or more preparations, compounds, mixtures or substances~~
44 ~~containing marihuana and the preparations, compounds, mixtures or~~
45 ~~substances are of] an aggregate weight of more than [~~two ounces~~] one
46 ounce of cannabis or more than five grams of concentrated cannabis.~~

47 Criminal possession of [~~marihuana~~] cannabis in the [~~fourth~~] third
48 degree is a [~~class A misdemeanor~~] violation punishable by a fine of not
49 more than one hundred twenty-five dollars. The provisions of this
50 section shall not apply to certified patients or designated caregivers
51 as lawfully registered under article three of the cannabis law.

52 § 18. Section 221.20 of the penal law, as amended by chapter 265 of
53 the laws of 1979, the opening paragraph as amended by chapter 75 of the
54 laws of 1995, is amended to read as follows:

55 § 221.20 Criminal possession of [~~marihuana~~] cannabis in the [~~third~~]
56 second degree.

1 A person is guilty of criminal possession of [~~marihuana~~] cannabis in
2 the [~~third~~] second degree when he or she knowingly and unlawfully
3 possesses [~~one or more preparations, compounds, mixtures or substances~~
4 ~~containing marihuana and the preparations, compounds, mixtures or~~
5 ~~substances are of~~] an aggregate weight of more than [~~eight~~] two ounces
6 of cannabis or more than ten grams of concentrated cannabis.

7 Criminal possession of [~~marihuana~~] cannabis in the [~~third~~] second
8 degree is a class [~~E-felony~~] A misdemeanor punishable by a fine not more
9 than one hundred twenty-five dollars per ounce possessed in excess of
10 two ounces. However, where the defendant has previously been convicted
11 of an offense defined in this article or article two hundred twenty of
12 this title, committed within the three years immediately preceding such
13 violation, it shall be punishable (a) only by a fine of not more than
14 two hundred dollars per ounce possessed in excess of two ounces, if the
15 defendant was previously convicted of one such offense committed during
16 such period, and (b) by a fine of not more than two hundred fifty
17 dollars per ounce possessed in excess of two ounces or a term of impri-
18 sonment not in excess of fifteen days or both, if the defendant was
19 previously convicted of two such offenses committed during such period.
20 The provisions of this section shall not apply to certified patients or
21 designated caregivers as lawfully registered under article three of the
22 cannabis law.

23 § 19. Section 221.25 of the penal law, as amended by chapter 265 of
24 the laws of 1979, the opening paragraph as amended by chapter 75 of the
25 laws of 1995, is amended to read as follows:

26 § 221.25 Criminal possession of [~~marihuana~~] cannabis in the [~~second~~]
27 first degree.

28 A person is guilty of criminal possession of [~~marihuana~~] cannabis in
29 the [~~second~~] first degree when he or she knowingly and unlawfully
30 possesses [~~one or more preparations, compounds, mixtures or substances~~
31 ~~containing marihuana and the preparations, compounds, mixtures or~~
32 ~~substances are of~~] an aggregate weight of more than [~~sixteen~~] sixty-four
33 ounces of cannabis or more than eighty grams of concentrated cannabis.

34 Criminal possession of [~~marihuana~~] cannabis in the [~~second~~] first
35 degree is a class [~~D~~] E felony.

36 § 20. Sections 221.10 and 221.30 of the penal law are REPEALED.

37 § 21. Section 221.35 of the penal law, as amended by chapter 265 of
38 the laws of 1979, the opening paragraph as amended by chapter 75 of the
39 laws of 1995, is amended to read as follows:

40 § 221.35 Criminal sale of [~~marihuana~~] cannabis in the fifth degree.

41 A person is guilty of criminal sale of [~~marihuana~~] cannabis in the
42 fifth degree when he or she knowingly and unlawfully sells, [~~without~~]
43 for consideration[~~, one or more preparations, compounds, mixtures or~~
44 ~~substances containing marihuana and the preparations, compounds,~~
45 ~~mixtures or substances are~~] cannabis or cannabis concentrate of [~~an~~
46 ~~aggregate weight of two grams or less, or one cigarette containing mari-~~
47 ~~huana~~] any weight.

48 Criminal sale of [~~marihuana~~] cannabis in the fifth degree is a [~~class~~
49 ~~B-misdemeanor~~] violation punishable by a fine not more than the greater
50 of two-hundred and fifty dollars or two times the value of the sale.

51 § 22. Section 221.40 of the penal law, as added by chapter 360 of the
52 laws of 1977, is amended to read as follows:

53 § 221.40 Criminal sale of [~~marihuana~~] cannabis in the fourth degree.

54 A person is guilty of criminal sale of [~~marihuana~~] cannabis in the
55 fourth degree when he or she knowingly and unlawfully sells [~~marihuana~~
56 ~~except as provided in section 221.35 of this article~~] cannabis of an

1 aggregate weight of more than one ounce or more than five grams of
2 cannabis concentrate.

3 Criminal sale of [~~marihuana~~] cannabis in the fourth degree is a [~~class~~
4 ~~A~~] misdemeanor punishable by a fine of not more than the greater of five
5 hundred dollars or two times the value of the sale or a maximum of three
6 months imprisonment, or both.

7 § 23. Section 221.45 of the penal law, as amended by chapter 265 of
8 the laws of 1979, the opening paragraph as amended by chapter 75 of the
9 laws of 1995, is amended to read as follows:

10 § 221.45 Criminal sale of [~~marihuana~~] cannabis in the third degree.

11 A person is guilty of criminal sale of [~~marihuana~~] cannabis in the
12 third degree when he or she knowingly and unlawfully sells [~~one or more~~
13 ~~preparations, compounds, mixtures or substances containing marihuana and the~~
14 ~~preparations, compounds, mixtures or substances are of an aggregate~~
15 ~~weight of more than twenty-five grams~~] four ounces of cannabis or more
16 than twenty grams of concentrated cannabis.

17 Criminal sale of [~~marihuana~~] cannabis in the third degree is a [~~class~~
18 ~~E felony~~] misdemeanor punishable by a fine of not more than the greater
19 of one thousand dollars or two times the value of the sale or a maximum
20 of one year imprisonment or both.

21 § 24. Section 221.50 of the penal law, as amended by chapter 265 of
22 the laws of 1979, the opening paragraph as amended by chapter 75 of the
23 laws of 1995, is amended to read as follows:

24 § 221.50 Criminal sale of [~~marihuana~~] cannabis in the second degree.

25 A person is guilty of criminal sale of [~~marihuana~~] cannabis in the
26 second degree when he knowingly and unlawfully sells [~~one or more prepa-~~
27 ~~rations, compounds, mixtures or substances containing marihuana and the~~
28 ~~preparations, compounds, mixtures or substances are of an aggregate~~
29 ~~weight of~~] more than [~~four ounces, or knowingly and unlawfully sells one~~
30 ~~or more preparations, compounds, mixtures or substances containing mari-~~
31 ~~huana to a person less than eighteen years of age~~] sixteen ounces of
32 cannabis or more than eighty grams of concentrated cannabis or any
33 amount of cannabis or concentrated cannabis to any person under twenty-
34 one years of age.

35 Criminal sale of [~~marihuana~~] cannabis in the second degree is a class
36 D felony.

37 § 25. Section 221.55 of the penal law, as amended by chapter 265 of
38 the laws of 1979, the opening paragraph as amended by chapter 75 of the
39 laws of 1995, is amended to read as follows:

40 § 221.55 Criminal sale of [~~marihuana~~] cannabis in the first degree.

41 A person is guilty of criminal sale of [~~marihuana~~] cannabis in the
42 first degree when he knowingly and unlawfully sells [~~one or more prepa-~~
43 ~~rations, compounds, mixtures or substances containing marihuana and the~~
44 ~~preparations, compounds, mixtures or substances are of an aggregate~~
45 ~~weight of~~] more than [~~sixteen~~] sixty-four ounces of cannabis or three
46 hundred and twenty grams of cannabis concentrate.

47 Criminal sale of [~~marihuana~~] cannabis in the first degree is a class C
48 felony.

49 § 26. The penal law is amended by adding a new section 221.60 to read
50 as follows:

51 § 221.60 Licensing of cannabis production and distribution.

52 The provisions of this article and of article two hundred twenty of
53 this title shall not apply to any person exempted from criminal penal-
54 ties pursuant to the provisions of this chapter or possessing, manufac-
55 turing, transporting, distributing, selling or transferring cannabis or

1 concentrated cannabis, or engaged in any other action that is in compli-
2 ance with articles three, four or five of the cannabis law.

3 § 27. Paragraphs (i), (j) and (k) of subdivision 3 of section 160.50
4 of the criminal procedure law, paragraphs (i) and (j) as added by chap-
5 ter 905 of the laws of 1977, paragraph (k) as added by chapter 835 of
6 the laws of 1977 and as relettered by chapter 192 of the laws of 1980
7 and such subdivision as renumbered by chapter 142 of the laws of 1991,
8 are amended to read as follows:

9 (i) prior to the filing of an accusatory instrument in a local crimi-
10 nal court against such person, the prosecutor elects not to prosecute
11 such person. In such event, the prosecutor shall serve a certification
12 of such disposition upon the division of criminal justice services and
13 upon the appropriate police department or law enforcement agency which,
14 upon receipt thereof, shall comply with the provisions of paragraphs
15 (a), (b), (c) and (d) of subdivision one of this section in the same
16 manner as is required thereunder with respect to an order of a court
17 entered pursuant to said subdivision one~~[-]~~; or

18 (j) following the arrest of such person, the arresting police agency,
19 prior to the filing of an accusatory instrument in a local criminal
20 court but subsequent to the forwarding of a copy of the fingerprints of
21 such person to the division of criminal justice services, elects not to
22 proceed further. In such event, the head of the arresting police agency
23 shall serve a certification of such disposition upon the division of
24 criminal justice services which, upon receipt thereof, shall comply with
25 the provisions of paragraphs (a), (b), (c) and (d) of subdivision one of
26 this section in the same manner as is required thereunder with respect
27 to an order of a court entered pursuant to said subdivision one~~[-]~~; or

28 (k) (i) The accusatory instrument alleged a violation of article two
29 hundred twenty or section 240.36 of the penal law, prior to the taking
30 effect of article two hundred twenty-one of the penal law and the sole
31 controlled substance involved is cannabis, or a violation of [~~article two~~
32 ~~hundred twenty-one~~] section 221.05, 221.10 or 221.35 of the penal law;
33 [~~(ii) the sole controlled substance involved is marijuana; (iii) the~~
34 ~~conviction was only for a violation or violations; and (iv) at least~~
35 ~~three years have passed since the offense occurred.~~] No defendant shall
36 be required or permitted to waive eligibility for sealing pursuant to
37 this paragraph as part of a plea of guilty, sentence or any agreement.

38 § 27-a. Paragraph (h) and subparagraph (ii) of paragraph (i) of subdi-
39 vision 1 of section 440.10 of the criminal procedure law, paragraph (h)
40 as amended by chapter 332 of the laws of 2010 and subparagraph (ii) of
41 paragraph (i) as amended by chapter 368 of the laws of 2015, are amended
42 and a new paragraph (j) is added to read as follows:

43 (h) The judgment was obtained in violation of a right of the defendant
44 under the constitution of this state or of the United States; [~~or~~]

45 (ii) official documentation of the defendant's status as a victim of
46 trafficking, compelling prostitution or trafficking in persons at the
47 time of the offense from a federal, state or local government agency
48 shall create a presumption that the defendant's participation in the
49 offense was a result of having been a victim of sex trafficking, compel-
50 ling prostitution or trafficking in persons, but shall not be required
51 for granting a motion under this paragraph~~[-]~~; or

52 (j) The judgment occurred prior to the effective date of this para-
53 graph and is a conviction for: (i) an offense as defined by section
54 221.05 or 221.10 of the penal law as in effect prior to the effective
55 date of this paragraph, provided that the accusatory instrument that

1 underlies the judgment does not include an allegation that the defendant
2 possessed more than twenty-five grams of cannabis.

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. Section 114-a of the vehicle and traffic law, as added by chap-
12 ter 163 of the laws of 1973, is amended to read as follows:

13 § 114-a. Drug. The term "drug" when used in this chapter, means and
14 includes any substance listed in section thirty-three hundred six of the
15 public health law and any substance or combination of substances that
16 impair, to any extent, physical or mental abilities.

17 § 31. The article heading of article 20-B of the tax law, as added by
18 chapter 90 of the laws of 2014, is amended to read as follows:

19 ARTICLE 20-B

20 EXCISE TAX ON MEDICAL [~~MARIHUANA~~] CANNABIS

21 § 32. The paragraph heading and subparagraph (i) of paragraph (b) of
22 subdivision 1 of section 1193 of the vehicle and traffic law, as amended
23 by chapter 169 of the laws of 2013, are amended to read as follows:

24 Driving while intoxicated or while ability impaired by drugs or while
25 ability impaired by the combined influence of drugs or of alcohol and
26 any drug or drugs; aggravated driving while intoxicated; misdemeanor
27 offenses. (i) A violation of subdivision two, three, or four [~~or four-a~~]
28 of section eleven hundred ninety-two of this article shall be a misde-
29 meanor and shall be punishable by a fine of not less than five hundred
30 dollars nor more than one thousand dollars, or by imprisonment in a
31 penitentiary or county jail for not more than one year, or by both such
32 fine and imprisonment. A violation of paragraph (a) of subdivision two-a
33 of section eleven hundred ninety-two of this article shall be a misde-
34 meanor and shall be punishable by a fine of not less than one thousand
35 dollars nor more than two thousand five hundred dollars or by imprison-
36 ment in a penitentiary or county jail for not more than one year, or by
37 both such fine and imprisonment.

38 § 33. Paragraph (c) of subdivision 1 of section 1193 of the vehicle
39 and traffic law, as amended by chapter 169 of the laws of 2013, is
40 amended by adding a new subparagraph (i-a) to read as follows:

41 (i-a) A violation of subdivision four-a of section eleven hundred
42 ninety-two of this article shall be a class E felony, and shall be
43 punishable by a fine of not less than one thousand dollars nor more than
44 five thousand dollars or by a period of imprisonment as provided in the
45 penal law, or by both such fine and imprisonment.

46 § 33-a. Paragraph (b) of subdivision 1 of section 1194 of the vehicle
47 and traffic law, as amended by chapter 406 of the laws of 1988, is
48 amended to read as follows:

49 (b) Every person operating a motor vehicle which has been involved in
50 an accident or which is operated in violation of any of the provisions
51 of this chapter shall, at the request of a police officer, submit to a
52 breath and/or saliva test to be administered by the police officer. If
53 such test or tests indicate[s] that such operator has consumed alcohol
54 or drug or drugs, the police officer may request such operator to submit
55 to a chemical test in the manner set forth in subdivision two of this
56 section.

1 § 34. Subdivision 1 of section 171-a of the tax law, as amended by
2 section 3 of part MM of chapter 59 of the laws of 2018, is amended to
3 read as follows:

4 1. All taxes, interest, penalties and fees collected or received by
5 the commissioner or the commissioner's duly authorized agent under arti-
6 cles nine (except section one hundred eighty-two-a thereof and except as
7 otherwise provided in section two hundred five thereof), nine-A,
8 twelve-A (except as otherwise provided in section two hundred eighty-
9 four-d thereof), thirteen, thirteen-A (except as otherwise provided in
10 section three hundred twelve thereof), eighteen, nineteen, twenty
11 (except as otherwise provided in section four hundred eighty-two there-
12 of), twenty-B, twenty-C, twenty-one, twenty-two, twenty-four, twenty-
13 six, twenty-eight (except as otherwise provided in section eleven
14 hundred two or eleven hundred three thereof), twenty-eight-A, twenty-
15 nine-B, thirty-one (except as otherwise provided in section fourteen
16 hundred twenty-one thereof), thirty-three and thirty-three-A of this
17 chapter shall be deposited daily in one account with such responsible
18 banks, banking houses or trust companies as may be designated by the
19 comptroller, to the credit of the comptroller. Such an account may be
20 established in one or more of such depositories. Such deposits shall be
21 kept separate and apart from all other money in the possession of the
22 comptroller. The comptroller shall require adequate security from all
23 such depositories. Of the total revenue collected or received under such
24 articles of this chapter, the comptroller shall retain in the comp-
25 troller's hands such amount as the commissioner may determine to be
26 necessary for refunds or reimbursements under such articles of this
27 chapter out of which amount the comptroller shall pay any refunds or
28 reimbursements to which taxpayers shall be entitled under the provisions
29 of such articles of this chapter. The commissioner and the comptroller
30 shall maintain a system of accounts showing the amount of revenue
31 collected or received from each of the taxes imposed by such articles.
32 The comptroller, after reserving the amount to pay such refunds or
33 reimbursements, shall, on or before the tenth day of each month, pay
34 into the state treasury to the credit of the general fund all revenue
35 deposited under this section during the preceding calendar month and
36 remaining to the comptroller's credit on the last day of such preceding
37 month, (i) except that the comptroller shall pay to the state department
38 of social services that amount of overpayments of tax imposed by article
39 twenty-two of this chapter and the interest on such amount which is
40 certified to the comptroller by the commissioner as the amount to be
41 credited against past-due support pursuant to subdivision six of section
42 one hundred seventy-one-c of this article, (ii) and except that the
43 comptroller shall pay to the New York state higher education services
44 corporation and the state university of New York or the city university
45 of New York respectively that amount of overpayments of tax imposed by
46 article twenty-two of this chapter and the interest on such amount which
47 is certified to the comptroller by the commissioner as the amount to be
48 credited against the amount of defaults in repayment of guaranteed
49 student loans and state university loans or city university loans pursu-
50 ant to subdivision five of section one hundred seventy-one-d and subdivi-
51 sion six of section one hundred seventy-one-e of this article, (iii)
52 and except further that, notwithstanding any law, the comptroller shall
53 credit to the revenue arrearage account, pursuant to section
54 ninety-one-a of the state finance law, that amount of overpayment of tax
55 imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B
56 or thirty-three of this chapter, and any interest thereon, which is

1 certified to the comptroller by the commissioner as the amount to be
2 credited against a past-due legally enforceable debt owed to a state
3 agency pursuant to paragraph (a) of subdivision six of section one
4 hundred seventy-one-f of this article, provided, however, he shall cred-
5 it to the special offset fiduciary account, pursuant to section ninety-
6 one-c of the state finance law, any such amount creditable as a liabil-
7 ity as set forth in paragraph (b) of subdivision six of section one
8 hundred seventy-one-f of this article, (iv) and except further that the
9 comptroller shall pay to the city of New York that amount of overpayment
10 of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A,
11 thirty-B or thirty-three of this chapter and any interest thereon that
12 is certified to the comptroller by the commissioner as the amount to be
13 credited against city of New York tax warrant judgment debt pursuant to
14 section one hundred seventy-one-l of this article, (v) and except
15 further that the comptroller shall pay to a non-obligated spouse that
16 amount of overpayment of tax imposed by article twenty-two of this chap-
17 ter and the interest on such amount which has been credited pursuant to
18 section one hundred seventy-one-c, one hundred seventy-one-d, one
19 hundred seventy-one-e, one hundred seventy-one-f or one hundred seven-
20 ty-one-l of this article and which is certified to the comptroller by
21 the commissioner as the amount due such non-obligated spouse pursuant to
22 paragraph six of subsection (b) of section six hundred fifty-one of this
23 chapter; and (vi) the comptroller shall deduct a like amount which the
24 comptroller shall pay into the treasury to the credit of the general
25 fund from amounts subsequently payable to the department of social
26 services, the state university of New York, the city university of New
27 York, or the higher education services corporation, or the revenue
28 arrearage account or special offset fiduciary account pursuant to
29 section ninety-one-a or ninety-one-c of the state finance law, as the
30 case may be, whichever had been credited the amount originally withheld
31 from such overpayment, and (vii) with respect to amounts originally
32 withheld from such overpayment pursuant to section one hundred seventy-
33 one-l of this article and paid to the city of New York, the comptroller
34 shall collect a like amount from the city of New York.

35 § 35. Section 490 of the tax law, as added by chapter 90 of the laws
36 of 2014, is amended to read as follows:

37 § 490. [~~Definitions~~] Excise tax on medical cannabis. 1. (a) [~~All~~
38 ~~definitions of terms applicable to title five-A of article thirty-three~~
39 ~~of the public health law shall apply to this article.~~] For purposes of
40 this article, the terms "medical cannabis," "registered organization,"
41 "certified patient," and "designated caregiver" shall have the same
42 definitions as in section three of the cannabis law.

43 (b) As used in this section, where not otherwise specifically defined
44 and unless a different meaning is clearly required "gross receipt" means
45 the amount received in or by reason of any sale, conditional or other-
46 wise, of medical [~~marihuana~~] cannabis or in or by reason of the furnish-
47 ing of medical [~~marihuana~~] cannabis from the sale of medical [~~marihuana~~]
48 cannabis provided by a registered organization to a certified patient or
49 designated caregiver. Gross receipt is expressed in money, whether paid
50 in cash, credit or property of any kind or nature, and shall be deter-
51 mined without any deduction therefrom on account of the cost of the
52 service sold or the cost of materials, labor or services used or other
53 costs, interest or discount paid, or any other expenses whatsoever.
54 "Amount received" for the purpose of the definition of gross receipt, as
55 the term gross receipt is used throughout this article, means the amount
56 charged for the provision of medical [~~marihuana~~] cannabis.

1 2. There is hereby imposed an excise tax on the gross receipts from
2 the sale of medical [~~marihuana~~ cannabis] by a registered organization to
3 a certified patient or designated caregiver, to be paid by the regis-
4 tered organization, at the rate of seven percent. The tax imposed by
5 this article shall be charged against and be paid by the registered
6 organization and shall not be added as a separate charge or line item on
7 any sales slip, invoice, receipt or other statement or memorandum of the
8 price given to the retail customer.

9 3. The commissioner may make, adopt and amend rules, regulations,
10 procedures and forms necessary for the proper administration of this
11 article.

12 4. Every registered organization that makes sales of medical [~~marihua-~~
13 ~~na~~] cannabis subject to the tax imposed by this article shall, on or
14 before the twentieth date of each month, file with the commissioner a
15 return on forms to be prescribed by the commissioner, showing its
16 receipts from the retail sale of medical [~~marihuana~~ cannabis] during the
17 preceding calendar month and the amount of tax due thereon. Such returns
18 shall contain such further information as the commissioner may require.
19 Every registered organization required to file a return under this
20 section shall, at the time of filing such return, pay to the commission-
21 er the total amount of tax due on its retail sales of medical [~~marihua-~~
22 ~~na~~] cannabis for the period covered by such return. If a return is not
23 filed when due, the tax shall be due on the day on which the return is
24 required to be filed.

25 5. Whenever the commissioner shall determine that any moneys received
26 under the provisions of this article were paid in error, he may cause
27 the same to be refunded, with interest, in accordance with such rules
28 and regulations as he may prescribe, except that no interest shall be
29 allowed or paid if the amount thereof would be less than one dollar.
30 Such interest shall be at the overpayment rate set by the commissioner
31 pursuant to subdivision twenty-sixth of section one hundred seventy-one
32 of this chapter, or if no rate is set, at the rate of six percent per
33 annum, from the date when the tax, penalty or interest to be refunded
34 was paid to a date preceding the date of the refund check by not more
35 than thirty days. Provided, however, that for the purposes of this
36 subdivision, any tax paid before the last day prescribed for its payment
37 shall be deemed to have been paid on such last day. Such moneys received
38 under the provisions of this article which the commissioner shall deter-
39 mine were paid in error, may be refunded out of funds in the custody of
40 the comptroller to the credit of such taxes provided an application
41 therefor is filed with the commissioner within two years from the time
42 the erroneous payment was made.

43 6. The provisions of article twenty-seven of this chapter shall apply
44 to the tax imposed by this article in the same manner and with the same
45 force and effect as if the language of such article had been incorpo-
46 rated in full into this section and had expressly referred to the tax
47 imposed by this article, except to the extent that any provision of such
48 article is either inconsistent with a provision of this article or is
49 not relevant to this article.

50 7. All taxes, interest and penalties collected or received by the
51 commissioner under this article shall be deposited and disposed of
52 pursuant to the provisions of section one hundred seventy-one-a of this
53 chapter, provided that an amount equal to one hundred percent collected
54 under this article less any amount determined by the commissioner to be
55 reserved by the comptroller for refunds or reimbursements shall be paid
56 by the comptroller to the credit of the medical [~~marihuana~~ cannabis]

1 trust fund established by section eighty-nine-h of the state finance
2 law.

3 8. A registered organization that dispenses medical [~~marihuana~~] canna-
4 bis shall provide to the department information on where the medical
5 [~~marihuana~~] cannabis was dispensed and where the medical [~~marihuana~~]
6 cannabis was manufactured. A registered organization that obtains [~~mari-~~
7 ~~huana~~] cannabis from another registered organization shall obtain from
8 such registered organization information on where the medical [~~marihua-~~
9 ~~na~~] cannabis was manufactured.

10 § 36. Section 491 of the tax law, as added by chapter 90 of the laws
11 of 2014, subdivision 1 as amended by section 1 of part II of chapter 60
12 of the laws of 2016, is amended to read as follows:

13 § 491. Returns to be secret. 1. Except in accordance with proper judi-
14 cial order or as in this section or otherwise provided by law, it shall
15 be unlawful for the commissioner, any officer or employee of the depart-
16 ment, or any officer or person who, pursuant to this section, is permit-
17 ted to inspect any return or report or to whom a copy, an abstract or a
18 portion of any return or report is furnished, or to whom any information
19 contained in any return or report is furnished, or any person engaged or
20 retained by such department on an independent contract basis or any
21 person who in any manner may acquire knowledge of the contents of a
22 return or report filed pursuant to this article to divulge or make known
23 in any manner the contents or any other information relating to the
24 business of a distributor, owner or other person contained in any return
25 or report required under this article. The officers charged with the
26 custody of such returns or reports shall not be required to produce any
27 of them or evidence of anything contained in them in any action or
28 proceeding in any court, except on behalf of the state, [~~the state~~
29 ~~department of health~~] office of cannabis management, or the commissioner
30 in an action or proceeding under the provisions of this chapter or on
31 behalf of the state or the commissioner in any other action or proceed-
32 ing involving the collection of a tax due under this chapter to which
33 the state or the commissioner is a party or a claimant or on behalf of
34 any party to any action or proceeding under the provisions of this arti-
35 cle, when the returns or the reports or the facts shown thereby are
36 directly involved in such action or proceeding, or in an action or
37 proceeding relating to the regulation or taxation of medical [~~marihuana~~]
38 cannabis on behalf of officers to whom information shall have been
39 supplied as provided in subdivision two of this section, in any of which
40 events the court may require the production of, and may admit in
41 evidence so much of said returns or reports or of the facts shown there-
42 by as are pertinent to the action or proceeding and no more. Nothing
43 herein shall be construed to prohibit the commissioner, in his or her
44 discretion, from allowing the inspection or delivery of a certified copy
45 of any return or report filed under this article or of any information
46 contained in any such return or report by or to a duly authorized offi-
47 cer or employee of the [~~state department of health~~] office of cannabis
48 management; or by or to the attorney general or other legal represen-
49 tatives of the state when an action shall have been recommended or
50 commenced pursuant to this chapter in which such returns or reports or
51 the facts shown thereby are directly involved; or the inspection of the
52 returns or reports required under this article by the comptroller or
53 duly designated officer or employee of the state department of audit and
54 control, for purposes of the audit of a refund of any tax paid by a
55 registered organization or other person under this article; nor to
56 prohibit the delivery to a registered organization, or a duly authorized

1 representative of such registered organization, a certified copy of any
2 return or report filed by such registered organization pursuant to this
3 article, nor to prohibit the publication of statistics so classified as
4 to prevent the identification of particular returns or reports and the
5 items thereof. This section shall also not be construed to prohibit the
6 disclosure, for tax administration purposes, to the division of the
7 budget and the office of the state comptroller, of information aggre-
8 gated from the returns filed by all the registered organizations making
9 sales of, or manufacturing, medical [~~marihuana~~] cannabis in a specified
10 county, whether the number of such registered organizations is one or
11 more. Provided further that, notwithstanding the provisions of this
12 subdivision, the commissioner may, in his or her discretion, permit the
13 proper officer of any county entitled to receive an allocation, follow-
14 ing appropriation by the legislature, pursuant to this article and
15 section eighty-nine-h of the state finance law, or the authorized repre-
16 sentative of such officer, to inspect any return filed under this arti-
17 cle, or may furnish to such officer or the officer's authorized repre-
18 sentative an abstract of any such return or supply such officer or such
19 representative with information concerning an item contained in any such
20 return, or disclosed by any investigation of tax liability under this
21 article.

22 2. The commissioner, in his or her discretion and pursuant to such
23 rules and regulations as he or she may adopt, may permit [~~the commis-~~
24 ~~sioner of internal revenue of the United States, or~~] the appropriate
25 officers of any other state which regulates or taxes medical [~~marihuana~~]
26 cannabis, or the duly authorized representatives of such [~~commissioner~~
27 ~~or of any such~~] officers, to inspect returns or reports made pursuant to
28 this article, or may furnish to such [~~commissioner or~~] other officers,
29 or duly authorized representatives, a copy of any such return or report
30 or an abstract of the information therein contained, or any portion
31 thereof, or may supply [~~such commissioner or~~] any such officers or such
32 representatives with information relating to the business of a regis-
33 tered organization making returns or reports hereunder. The commissioner
34 may refuse to supply information pursuant to this subdivision [~~to the~~
35 ~~commissioner of internal revenue of the United States or~~] to the offi-
36 cers of any other state if the statutes [~~of the United States, or~~] of
37 the state represented by such officers, do not grant substantially simi-
38 lar privileges to the commissioner, but such refusal shall not be manda-
39 tory. Information shall not be supplied to [~~the commissioner of internal~~
40 ~~revenue of the United States or~~] the appropriate officers of any other
41 state which regulates or taxes medical [~~marihuana~~] cannabis, or the duly
42 authorized representatives [~~of such commissioner or~~] of any of such
43 officers, unless such [~~commissioner,~~] officer or other representatives
44 shall agree not to divulge or make known in any manner the information
45 so supplied, but such officers may transmit such information to their
46 employees or legal representatives when necessary, who in turn shall be
47 subject to the same restrictions as those hereby imposed upon such
48 [~~commissioner,~~] officer or other representatives.

49 3. (a) Any officer or employee of the state who willfully violates the
50 provisions of subdivision one or two of this section shall be dismissed
51 from office and be incapable of holding any public office in this state
52 for a period of five years thereafter.

53 (b) Cross-reference: For criminal penalties, see article thirty-seven
54 of this chapter.

55 § 37. The tax law is amended by adding a new article 20-C to read as
56 follows:

ARTICLE 20-CTAX ON ADULT-USE CANNABIS PRODUCTSSection 492. Definitions.493. Tax on cannabis.494. Registration and renewal.495. Returns and payment of tax.496. Returns to be kept secret.

§ 492. Definitions. For purposes of this article, the following definitions shall apply:

(a) "Cannabis" means all parts of a plant of the genus cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. For purposes of this article, cannabis does not include medical cannabis or hemp as defined in section three of the cannabis law.

(b) "Cannabis flower" means the flower of a plant of the genus cannabis that has been harvested, dried, and cured, and prior to any processing whereby the plant material is transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients. Cannabis flower excludes leaves and stem.

(c) "Cannabis trim" means all parts of a plant of the genus cannabis other than cannabis flowers that have been harvested, dried, and cured, and prior to any processing whereby the plant material is transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis and other ingredients.

(d) "Adult-use cannabis product" means a cannabis product as defined in section three of the cannabis law. For purposes of this article, under no circumstances shall adult-use cannabis product include medical cannabis or hemp cannabis as defined in section three of the cannabis law.

(e) "Person" means every individual, partnership, limited liability company, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of the foregoing.

(f) "Wholesaler" means any person that sells or transfers adult-use cannabis products to a retail dispensary licensed pursuant to section seventy-two of the cannabis law. Where the cultivator or processor is also the retail dispensary, the retail dispensary shall be the wholesaler for purposes of this article.

(g) "Cultivation" has the same meaning as described in subdivision two of section sixty-eight of the cannabis law.

(h) "Retail dispensary" means a dispensary licensed to sell adult-use cannabis products pursuant to section seventy-two of the cannabis law.

(i) "Transfer" means to grant, convey, hand over, assign, sell, exchange or barter, in any manner or by any means, with or without consideration.

(j) "Sale" means any transfer of title, possession or both, exchange or barter, rental, lease or license to use or consume, conditional or otherwise, in any manner or by any means whatsoever for a consideration or any agreement therefor.

(k) "Processor" has the same meaning as described in subdivision two of section sixty-nine of the cannabis law.

1 § 493. Tax on cannabis. (a) There is hereby imposed and shall be paid
2 a tax on the cultivation of cannabis flower and cannabis trim at the
3 rate of one dollar per dry-weight gram of cannabis flower and twenty-
4 five cents per dry-weight gram of cannabis trim. Where the wholesaler is
5 not the cultivator, such tax shall be collected from the cultivator by
6 the wholesaler at the time such flower or trim is transferred to the
7 wholesaler. Where the wholesaler is the cultivator, such tax shall be
8 paid by the wholesaler and shall accrue at the time of sale or transfer
9 to a retail dispensary. Where the cultivator is also the retail dispen-
10 sary, such tax shall accrue at the time of the sale to the retail
11 customer.

12 (b) In addition to the tax imposed by subdivision (a) of this section,
13 there is hereby imposed a tax on the sale or transfer by a wholesaler to
14 a retail dispensary of adult-use cannabis products, to be paid by such
15 wholesaler. Where the wholesaler is not the retail dispensary, such tax
16 shall be at the rate of twenty percent of the invoice price charged by
17 the wholesaler to a retail dispensary, and shall accrue at the time of
18 such sale. Where the wholesaler is the retail dispensary, such tax shall
19 be at the rate of twenty percent of the price charged to the retail
20 customer and shall accrue at the time of such sale.

21 (c) In addition to the taxes imposed by subdivisions (a) and (b) of
22 this section, there is hereby imposed a tax on the sale or transfer by a
23 wholesaler to a retail dispensary of adult-use cannabis products, in
24 trust for and on account of the county in which the retail dispensary is
25 located. Such tax shall be paid by the wholesaler and shall accrue at
26 the time of such sale. Where the wholesaler is not the retail dispen-
27 sary, such tax shall be at the rate of two percent of the invoice price
28 charged by the wholesaler to a retail dispensary. Where the wholesaler
29 is the retail dispensary, such tax shall be at the rate of two percent
30 of the price charged to the retail customer.

31 (d) Notwithstanding any other provision of law to the contrary, the
32 taxes imposed by article twenty of this chapter shall not apply to any
33 product subject to tax under this article.

34 § 494. Registration and renewal. (a) Every wholesaler must file with
35 the commissioner a properly completed application for a certificate of
36 registration before engaging in business. In order to apply for such
37 certificate of registration, such person must first be in possession of
38 a valid license from the office of cannabis management. An application
39 for a certificate of registration must be submitted electronically, on a
40 form prescribed by the commissioner, and must be accompanied by a non-
41 refundable application fee of six hundred dollars. A certificate of
42 registration shall not be assignable or transferable and shall be
43 destroyed immediately upon such person ceasing to do business as speci-
44 fied in such certificate, or in the event that such business never
45 commenced.

46 (b) The commissioner shall refuse to issue a certificate of registra-
47 tion to any applicant and shall revoke the certificate of registration
48 of any such person who does not possess a valid license from the office
49 of cannabis management. The commissioner may refuse to issue a certif-
50 icate of registration to any applicant where such applicant: (1) has a
51 past-due liability as that term is defined in section one hundred seven-
52 ty-one-v of this chapter; (2) has had a certificate of registration
53 under this article, a license from the office of cannabis management, or
54 any license or registration provided for in this chapter revoked within
55 one year from the date on which such application was filed; (3) has been
56 convicted of a crime provided for in this chapter within one year from

1 the date on which such application was filed of the certificate's issu-
2 ance; (4) willfully fails to file a report or return required by this
3 article; (5) willfully files, causes to be filed, gives or causes to be
4 given a report, return, certificate or affidavit required by this arti-
5 cle which is false; or (6) willfully fails to collect or truthfully
6 account for or pay over any tax imposed by this article.

7 (c) A certificate of registration shall be valid for the period speci-
8 fied thereon, unless earlier suspended or revoked. Upon the expiration
9 of the term stated on a certificate of registration, such certificate
10 shall be null and void.

11 (d) Every holder of a certificate of registration must notify the
12 commissioner of changes to any of the information stated on the certif-
13 icate, or of changes to any information contained in the application for
14 the certificate of registration. Such notification must be made on or
15 before the last day of the month in which a change occurs and must be
16 made electronically on a form prescribed by the commissioner.

17 (e) Every holder of a certificate of registration under this article
18 shall be required to reapply prior to such certificate's expiration,
19 during a reapplication period established by the commissioner. Such
20 reapplication period shall not occur more frequently than every two
21 years. Such reapplication shall be subject to the same requirements and
22 conditions, including grounds for refusal, as an initial application,
23 including the payment of the application fee.

24 (f) Penalties. A person to whom adult-use cannabis products have been
25 transferred or who sells adult-use cannabis products without a valid
26 certificate of registration pursuant to subdivision (a) of this section
27 shall be subject to a penalty of five hundred dollars for each month or
28 part thereof during which such person continues to possess adult-use
29 cannabis products that have been transferred to such person or who sells
30 such products after the expiration of the first month after which such
31 person operates without a valid certificate of registration, not to
32 exceed ten thousand dollars in the aggregate.

33 § 495. Returns and payment of tax. (a) 1. Every wholesaler shall, on
34 or before the twentieth date of the month, file with the commissioner a
35 return on forms to be prescribed by the commissioner, showing the total
36 weight of cannabis flower and cannabis trim subject to tax pursuant to
37 subdivision (a) of section four hundred ninety-three of this article and
38 the total amount of tax due thereon in the preceding calendar month, and
39 the total amount of tax due under subdivisions (b) and (c) of such
40 section on its sales to a retail dispensary during the preceding calen-
41 dar month, along with such other information as the commissioner may
42 require. Every person required to file a return under this section
43 shall, at the time of filing such return, pay to the commissioner the
44 total amount of tax due for the period covered by such return. If a
45 return is not filed when due, the tax shall be due on the day on which
46 the return is required to be filed.

47 2. The wholesaler shall maintain such records in such form as the
48 commissioner may require regarding such items as: where the wholesaler
49 is not the cultivator, the weight of the cannabis flower and cannabis
50 trim transferred to it by a cultivator or, where the wholesaler is the
51 cultivator, the weight of such flower and trim produced by it; the
52 geographic location of every retail dispensary to which it sold adult-
53 use cannabis products; and any other record or information required by
54 the commissioner. This information must be kept by such person for a
55 period of three years after the return was filed.

1 (b) The provisions of article twenty-seven of this chapter shall apply
2 to the tax imposed by this article in the same manner and with the same
3 force and effect as if the language of such article had been incorpo-
4 rated in full into this section and had expressly referred to the tax
5 imposed by this article, except to the extent that any provision of such
6 article is either inconsistent with a provision of this article or is
7 not relevant to this article.

8 (c) 1. All taxes, interest, and penalties collected or received by the
9 commissioner under this article shall be deposited and disposed of
10 pursuant to the provisions of section one hundred seventy-one-a of this
11 chapter, provided that an amount equal to one hundred percent collected
12 under this article less any amount determined by the commissioner to be
13 reserved by the comptroller for refunds or reimbursements shall be paid
14 by the comptroller to the credit of the cannabis revenue fund estab-
15 lished by section ninety-nine-ff of the state finance law. Of the total
16 revenue collected or received under this article, the comptroller shall
17 retain such amount as the commissioner may determine to be necessary for
18 refunds. The commissioner is authorized and directed to deduct from the
19 registration fees under subdivision (a) of section four hundred ninety-
20 four of this article, before deposit into the cannabis revenue fund
21 designated by the comptroller, a reasonable amount necessary to effectuate
22 refunds of appropriations of the department to reimburse the depart-
23 ment for the costs incurred to administer, collect, and distribute the
24 taxes imposed by this article.

25 2. Notwithstanding the foregoing, the commissioner shall certify to
26 the comptroller the total amount of tax, penalty and interest received
27 by him or her on account of the tax imposed by subdivision (c) of
28 section four hundred ninety-three of this article in trust for and on
29 account of each county in which a retail dispensary is located. On or
30 before the twelfth day of each month, the comptroller, after reserving
31 such refund fund, shall pay to the appropriate fiscal officer of each
32 such county the taxes, penalties and interest received and certified by
33 the commissioner for the preceding calendar month.

34 § 496. Returns to be kept secret. (a) Except in accordance with proper
35 judicial order or as in this section or otherwise provided by law, it
36 shall be unlawful for the commissioner, any officer or employee of the
37 department, or any officer or person who, pursuant to this section, is
38 permitted to inspect any return or report or to whom a copy, an abstract
39 or a portion of any return or report is furnished, or to whom any infor-
40 mation contained in any return or report is furnished, or any person who
41 in any manner may acquire knowledge of the contents of a return or
42 report filed pursuant to this article to divulge or make known in any
43 manner the content or any other information related to the business of
44 the wholesaler contained in any return or report required under this
45 article. The officers charged with the custody of such returns or
46 reports shall not be required to produce any of them or evidence of
47 anything contained in them in any action or proceeding in any court,
48 except on behalf of the state, the office of cannabis management, or the
49 commissioner in an action or proceeding involving the collection of tax
50 due under this chapter to which the state or the commissioner is a party
51 or a claimant or on behalf of any party to any action or proceeding
52 under the provisions of this article, when the returns or the reports or
53 the facts shown thereby are directly involved in such action or proceed-
54 ing, or in an action or proceeding related to the regulation or taxation
55 of adult-use cannabis products on behalf of officers to whom information
56 shall have been supplied as provided in this section, in any of which

1 events the courts may require the production of, and may admit in
2 evidence so much of said returns or reports or of the facts shown there-
3 by as are pertinent to the action or proceeding and no more. Nothing
4 herein shall be construed to prohibit the commissioner, in his or her
5 discretion, from allowing the inspection or delivery of a certified copy
6 of any return or report filed under this article or of any information
7 contained in any such return or report by or to a duly authorized offi-
8 cer or employee of the office of cannabis management or by or to the
9 attorney general or other legal representatives of the state when an
10 action shall have been recommended or commenced pursuant to this chapter
11 in which such returns or reports or the facts shown thereby are directly
12 involved; or the inspection of the returns or reports required under
13 this article by the comptroller or duly designated officer or employee
14 of the state department of audit and control, for purposes of the audit
15 of a refund of any tax paid by the wholesaler under this article; nor to
16 prohibit the delivery to such person or a duly authorized representative
17 of such person, a certified copy of any return or report filed by such
18 person pursuant to this article, nor to prohibit the publication of
19 statistics so classified as to prevent the identification of particular
20 returns or reports and the items thereof. This section shall also not be
21 construed to prohibit the disclosure, for tax administration purposes,
22 to the division of the budget and the office of the state comptroller,
23 of information aggregated from the returns filed by all wholesalers
24 purchasing and selling such products in the state, whether the number of
25 such persons is one or more. Provided further that, notwithstanding the
26 provisions of this subdivision, the commissioner may in his or her
27 discretion, permit the proper officer of any county entitled to receive
28 any distribution of the monies received on account of the tax imposed by
29 subdivision (c) of section four hundred ninety-three of this article, or
30 the authorized representative of such officer, to inspect any return
31 filed under this article, or may furnish to such officer or the offi-
32 cer's authorized representative an abstract of any such return or supply
33 such officer or representative with information concerning an item
34 contained in any such return, or disclosed by any investigation of tax
35 liability under this article.

36 (b) The commissioner, in his or her discretion, may permit the appro-
37 priate officers of any other state that regulates or taxes cannabis or
38 the duly authorized representatives of such commissioner or of any such
39 officers, to inspect returns or reports made pursuant to this article,
40 or may furnish to the commissioner or other officer, or duly authorized
41 representatives, a copy of any such return or report or an abstract of
42 the information therein contained, or any portion thereof, or may supply
43 such commissioner or any such officers or such representatives with
44 information relating to the business of a wholesaler making returns or
45 reports hereunder solely for purposes of tax administration. The commis-
46 sioner may refuse to supply information pursuant to this subdivision to
47 the officers of any other state if the statutes of the state represented
48 by such officers do not grant substantially similar privileges to the
49 commissioner, but such refusal shall not be mandatory. Information shall
50 not be supplied to the appropriate officers of any state that regulates
51 or taxes cannabis, or the duly authorized representatives of such
52 commissioner or of any such officers, unless such commissioner, officer,
53 or other representatives shall agree not to divulge or make known in any
54 manner the information so supplied, but such officers may transmit such
55 information to their employees or legal representatives when necessary,

1 who in turn shall be subject to the same restrictions as those hereby
2 imposed upon such commissioner, officer or other representatives.

3 (c) 1. Any officer or employee of the state who willfully violates the
4 provisions of subdivision one or two of this section shall be dismissed
5 from office and be incapable of holding any public office in the state
6 for a period of five years thereafter.

7 2. For criminal penalties, see article thirty-seven of this chapter.

8 § 38. Subdivision (a) of section 1115 of the tax law is amended by
9 adding a new paragraph 3-b to read as follows:

10 (3-b) Adult-use cannabis products as defined by article twenty-C of
11 this chapter.

12 § 39. Section 1825 of the tax law, as amended by section 3 of part NNN
13 of chapter 59 of the laws of 2018, is amended to read as follows:

14 § 1825. Violation of secrecy provisions of the tax law.--Any person
15 who violates the secrecy provisions of [~~subdivision (b) of section twen-~~
16 ~~ty one, subdivision one of section two hundred two, subdivision eight of~~
17 ~~section two hundred eleven, subdivision (a) of section three hundred~~
18 ~~fourteen, subdivision one or two of section four hundred thirty-seven,~~
19 ~~section four hundred eighty-seven, subdivision one or two of section~~
20 ~~five hundred fourteen, subsection (c) of section six hundred ninety sev-~~
21 ~~en, subsection (a) of section nine hundred ninety four, subdivision (a)~~
22 ~~of section eleven hundred forty six, section twelve hundred eighty sev-~~
23 ~~en, section twelve hundred ninety six, section twelve hundred ninety~~
24 ~~nine-F, subdivision (a) of section fourteen hundred eighteen, subdivi-~~
25 ~~sion (a) of section fifteen hundred eighteen, subdivision (a) of section~~
26 ~~fifteen hundred fifty five of] this chapter, [~~and~~] or subdivision (e) of
27 section 11-1797 of the administrative code of the city of New York shall
28 be guilty of a misdemeanor.~~

29 § 40. Section 12 of chapter 90 of the laws of 2014 amending the public
30 health law, the tax law, the state finance law, the general business
31 law, the penal law and the criminal procedure law relating to medical
32 use of marihuana, is amended to read as follows:

33 § 12. This act shall take effect immediately [~~and~~]; provided, however
34 that sections one, three, five, six, seven-a, eight, nine, ten and elev-
35 en of this act shall expire and be deemed repealed seven years after
36 such date; provided that the amendments to section 171-a of the tax law
37 made by section seven of this act shall take effect on the same date and
38 in the same manner as section 54 of part A of chapter 59 of the laws of
39 2014 takes effect and shall not expire and be deemed repealed; and
40 provided, further, that the amendments to subdivision 5 of section
41 410.91 of the criminal procedure law made by section eleven of this act
42 shall not affect the expiration and repeal of such section and shall
43 expire and be deemed repealed therewith.

44 § 41. The office of cannabis management, in consultation with the
45 division of the budget, the department of taxation and finance, the
46 department of health, office of alcoholism and substance abuse services,
47 office of mental health, New York state police and the division of crim-
48 inal justice services, shall conduct a study of the effectiveness of
49 this act. Such study shall examine all aspects of this act, including
50 economic and fiscal impacts, the impact on the public health and safety
51 of New York residents and the progress made in achieving social justice
52 goals and toward eliminating the illegal market for cannabis products in
53 New York. The office shall make recommendations regarding the appropri-
54 ate level of taxation of adult-use cannabis, as well as changes, if any,
55 necessary to improve and protect the public health and safety of New
56 Yorkers. Such study shall be conducted two years after the effective

1 date of this act and shall be presented to the governor, the majority
2 leader of the senate and the speaker of the assembly, no later than
3 October 1, 2022.

4 § 42. Section 102 of the alcoholic beverage control law is amended by
5 adding a new subdivision 8 to read as follows:

6 8. No alcoholic beverage retail licensee shall sell cannabis, nor have
7 or possess a license or permit to sell cannabis, on the same premises
8 where alcoholic beverages are sold.

9 § 43. Subdivisions 1, 4, 5, 6, 7 and 13 of section 12-102 of the
10 general obligations law, as added by chapter 406 of the laws of 2000,
11 are amended to read as follows:

12 1. "Illegal drug" means any controlled substance [~~or marijuana~~] the
13 possession of which is an offense under the public health law or the
14 penal law.

15 4. "Grade one violation" means possession of one-quarter ounce or
16 more, but less than four ounces, or distribution of less than one ounce
17 of an illegal drug [~~other than marijuana, or possession of one pound or~~
18 ~~twenty-five plants or more, but less than four pounds or fifty plants,~~
19 ~~or distribution of less than one pound of marijuana~~].

20 5. "Grade two violation" means possession of four ounces or more, but
21 less than eight ounces, or distribution of one ounce or more, but less
22 than two ounces, of an illegal drug [~~other than marijuana, or possession~~
23 ~~of four pounds or more or fifty plants or distribution of more than one~~
24 ~~pound but less than ten pounds of marijuana~~].

25 6. "Grade three violation" means possession of eight ounces or more,
26 but less than sixteen ounces, or distribution of two ounces or more, but
27 less than four ounces, of a specified illegal drug [~~or possession of~~
28 ~~eight pounds or more or seventy-five plants or more, but less than~~
29 ~~sixteen pounds or one hundred plants, or distribution of more than five~~
30 ~~pounds but less than ten pounds of marijuana~~].

31 7. "Grade four violation" means possession of sixteen ounces or more
32 or distribution of four ounces or more of a specified illegal drug [~~or~~
33 ~~possession of sixteen pounds or more or one hundred plants or more or~~
34 ~~distribution of ten pounds or more of marijuana~~].

35 13. "Drug trafficker" means a person convicted of a class A or class B
36 felony controlled substance [~~or marijuana offense~~] who, in connection
37 with the criminal conduct for which he or she stands convicted,
38 possessed, distributed, sold or conspired to sell a controlled substance
39 [~~or marijuana~~] which, by virtue of its quantity, the person's prominent
40 role in the enterprise responsible for the sale or distribution of such
41 controlled substance and other circumstances related to such criminal
42 conduct indicate that such person's criminal possession, sale or
43 conspiracy to sell such substance was not an isolated occurrence and was
44 part of an ongoing pattern of criminal activity from which such person
45 derived substantial income or resources and in which such person played
46 a leadership role.

47 § 44. Paragraph (g) of subdivision 1 of section 488 of the social
48 services law, as added by section 1 of part B of chapter 501 of the laws
49 of 2012, is amended to read as follows:

50 (g) "Unlawful use or administration of a controlled substance," which
51 shall mean any administration by a custodian to a service recipient of:
52 a controlled substance as defined by article thirty-three of the public
53 health law, without a prescription; or other medication not approved for
54 any use by the federal food and drug administration, except for the
55 administration of medical cannabis when such administration is in
56 accordance with article three of the cannabis law and any regulations

1 promulgated thereunder as well as the rules, regulations, policies, or
2 procedures of the state oversight agency or agencies governing such
3 custodians. It also shall include a custodian unlawfully using or
4 distributing a controlled substance as defined by article thirty-three
5 of the public health law, at the workplace or while on duty.

6 § 45. Paragraphs (e) and (f) of subdivision 1 of section 490 of the
7 social services law, as added by section 1 of part B of chapter 501 of
8 the laws of 2012, are amended and a new paragraph (g) is added to read
9 as follows:

10 (e) information regarding individual reportable incidents, incident
11 patterns and trends, and patterns and trends in the reporting and
12 response to reportable incidents is shared, consistent with applicable
13 law, with the justice center, in the form and manner required by the
14 justice center and, for facilities or provider agencies that are not
15 state operated, with the applicable state oversight agency which shall
16 provide such information to the justice center; ~~and~~

17 (f) incident review committees are established; provided, however,
18 that the regulations may authorize an exemption from this requirement,
19 when appropriate, based on the size of the facility or provider agency
20 or other relevant factors. Such committees shall be composed of members
21 of the governing body of the facility or provider agency and other
22 persons identified by the director of the facility or provider agency,
23 including some members of the following: direct support staff, licensed
24 health care practitioners, service recipients and representatives of
25 family, consumer and other advocacy organizations, but not the director
26 of the facility or provider agency. Such committee shall meet regularly
27 to: (i) review the timeliness, thoroughness and appropriateness of the
28 facility or provider agency's responses to reportable incidents; (ii)
29 recommend additional opportunities for improvement to the director of
30 the facility or provider agency, if appropriate; (iii) review incident
31 trends and patterns concerning reportable incidents; and (iv) make
32 recommendations to the director of the facility or provider agency to
33 assist in reducing reportable incidents. Members of the committee shall
34 be trained in confidentiality laws and regulations, and shall comply
35 with section seventy-four of the public officers law~~[-]; and~~

36 (g) safe storage, administration, and diversion prevention policies
37 regarding controlled substances and medical marihuana.

38 § 46. Subdivision 1 of section 505 of the agriculture and markets law,
39 as added by chapter 524 of the laws of 2014, is amended to read as
40 follows:

41 1. "Industrial hemp" means the plant Cannabis sativa L. and any part
42 of such plant, including the seeds thereof and all derivatives,
43 extracts, cannabinoids, isomers, acids, salts, and salts of isomers,
44 whether growing or not, with a delta-9 tetrahydrocannabinol concen-
45 tration of not more than 0.3 percent on a dry weight basis.

46 § 47. Section 506 of the agriculture and markets law, as amended by
47 section 1 of part 00 of chapter 58 of the laws of 2017, is amended to
48 read as follows:

49 § 506. Growth, sale, distribution, transportation and processing of
50 industrial hemp and products derived from such hemp permitted. ~~[Notwith-~~
51 ~~standing any provision of law to the contrary, industrial]~~ 1. Industrial
52 hemp and products derived from such hemp are agricultural products which
53 may be grown, produced ~~[and]~~, possessed ~~[in the state, and]~~, sold,
54 distributed, transported ~~[or]~~ and/or processed ~~[either]~~ in ~~[or out of]~~
55 state ~~[as part of agricultural pilot programs pursuant to authorization~~
56 ~~under federal law and the provisions of this article]~~ pursuant to

1 authorization under federal law, the provisions of this article and/or
 2 the the cannabis law. [~~Notwithstanding any provision of law to the~~
 3 ~~contrary restricting the growing or cultivating, sale, distribution,~~
 4 ~~transportation or processing of industrial hemp and products derived~~
 5 ~~from such hemp, and subject to 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. In addition to the department's licensing authority hereinafter
 14 provided in this article, the office of cannabis management shall
 15 license and regulate the growth, extraction, processing and/or manufac-
 16 turing of hemp for derivatives, extracts, cannabinoids, isomers, acids,
 17 salts and salts or isomers and/or hemp products for human or animal
 18 consumption or use (except for those food and/or food ingredients that
 19 are generally recognized as safe).

20 4. Nothing in this section shall limit the jurisdiction of the depart-
 21 ment under any other article of the agriculture and markets law.

22 § 48. Section 507 of the agriculture and markets law is REPEALED and a
 23 new section 507 is added to read as follows:

24 § 507. Licensing; fees. 1. No person shall: (a) grow industrial hemp
 25 in the state and/or sell or distribute industrial hemp grown in the
 26 state unless licensed biennially by the commissioner or (b) grow, proc-
 27 ess and/or produce industrial hemp and products derived from hemp in the
 28 state or sell or distribute unless authorized by the commissioner as
 29 part of an agricultural research pilot program established under this
 30 article.

31 2. Application for a license to grow industrial hemp shall be made
 32 upon a form prescribed by the commissioner, accompanied by a non-refund-
 33 able application fee of five hundred 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 also be
 39 required to obtain a license from the office of cannabis management.

40 5. A renewal application shall be submitted to the commissioner at
 41 least thirty days prior to the commencement of the next license period.

42 § 49. Section 508 of the agriculture and markets law is REPEALED and a
 43 new section 508 is added to read as follows:

44 § 508. Compliance action plan. If the commissioner determines, after
 45 notice and an opportunity for hearing, that a licensee has negligently
 46 violated a provision of this article, that licensee shall be required to
 47 comply with a corrective action plan established by the commissioner to
 48 correct the violation by a reasonable date and to periodically report to
 49 the commissioner with respect to the licensee's compliance with this
 50 article for a period of no less than the next two calendar years follow-
 51 ing the commencement date of the compliance action plan. The provisions
 52 of this section shall not be applicable to research partners conducting
 53 hemp research pursuant to a research partner agreement, the terms of
 54 which shall control.

55 § 50. Section 509 of the agriculture and markets law is REPEALED and a
 56 new section 509 is added to read as follows:

1 § 509. Granting, suspending or revoking licenses. The commissioner
2 may decline to grant a new license, may decline to renew a license, may
3 suspend or revoke a license already granted after due notice and oppor-
4 tunity for hearing whenever he or she finds that:

5 (1) any statement contained in an application for an applicant or
6 licensee is or was false or misleading;

7 (2) the applicant or licensee does not have good character, the
8 required experience and/or competency, adequate facilities, equipment,
9 process controls, testing capability and/or security to produce hemp or
10 products derived from hemp;

11 (3) the applicant or licensee has failed or refused to produce any
12 records or provide any information demanded by the commissioner reason-
13 ably related to the administration and enforcement of this article; or

14 (4) the applicant or licensee, or any officer, director, partner,
15 holder of ten percent of the voting stock, or any other person exercis-
16 ing any position of management or control has failed to comply with any
17 of the provisions of this article or rules and regulations promulgated
18 pursuant thereto.

19 § 51. Section 510 of the agriculture and markets law is REPEALED and a
20 new section 510 is added to read as follows:

21 § 510. Regulations. The commissioner may develop regulations consist-
22 ent with the provisions of this article for the growing and cultivation,
23 sale, distribution, and transportation of industrial hemp grown in the
24 state, including:

25 (a) the authorization or licensing of any person who may: acquire or
26 possess hemp plants or seeds; grow or cultivate hemp plants; and/or
27 sell, purchase, distribute, or transport such plants, plant parts, or
28 seeds;

29 (b) maintaining relevant information regarding land on which indus-
30 trial hemp is produced within the state, including the legal description
31 of the land, for a period of not less than three calendar years;

32 (c) the procedure for testing of industrial hemp produced in the state
33 for delta-9 tetrahydrocannabinol levels, using post decarboxylation or
34 other similarly reliable methods;

35 (d) the procedure for effective disposal of industrial hemp plants or
36 products derived from hemp that are produced in violation of this arti-
37 cle;

38 (e) a procedure for conducting at least a random sample of industrial
39 hemp producers to verify that hemp is not produced in violation of this
40 article;

41 (f) any required security measures; and

42 (g) such other and further regulation as the commissioner deems appro-
43 priate or necessary.

44 § 52. Section 511 of the agriculture and markets law is REPEALED and a
45 new section 511 is added to read as follows:

46 § 511. Prohibitions. Except as authorized by state law, and regu-
47 lations promulgated thereunder, the growth, cultivation, processing,
48 sale, and/or distribution of industrial hemp is prohibited.

49 § 53. Section 512 of the agriculture and markets law is REPEALED and a
50 new section 512 is added to read as follows:

51 § 512. Industrial hemp data collection and best farming practices.
52 The commissioner shall have the power to collect and publish data and
53 research concerning, among other things, the growth, cultivation,
54 production and processing methods of industrial hemp and products
55 derived from industrial hemp and work with the cornell cooperative
56 extension to promote best farming practices for industrial hemp which

1 are compatible with state water quality and other environmental objec-
2 tives.

3 § 54. Sections 513 and 514 of the agriculture and markets law are
4 REPEALED and a new section 513 is added to read as follows:

5 § 513. Access to criminal history information through the division of
6 criminal justice services. In connection with the administration of
7 this article, the commissioner is authorized to request, receive and
8 review criminal history information through the division of criminal
9 justice services (division) with respect to any person seeking a license
10 or authorization to undertake a hemp pilot project. At the commis-
11 ioner's request, each researcher, principal and/or officer of the applicant
12 shall submit to the department his or her fingerprints in such form and
13 in such manner as specified by the division, for the purpose of conduct-
14 ing a criminal history search and returning a report thereon in accord-
15 ance with the procedures and requirements established by the division
16 pursuant to the provisions of article thirty-five of the executive law,
17 which shall include the payment of the prescribed processing fees for
18 the cost of the division's full search and retain procedures and a
19 national criminal history record check. The commissioner, or his or her
20 designee, shall submit such fingerprints and the processing fee to the
21 division. The division shall forward to the commissioner a report with
22 respect to the applicant's previous criminal history, if any, or a
23 statement that the applicant has no previous criminal history according
24 to its files. Fingerprints submitted to the division of criminal justice
25 services pursuant to this subdivision may also be submitted to the
26 federal bureau of investigation for a national criminal history record
27 check. If additional copies of fingerprints are required, the applicant
28 shall furnish them upon request.

29 § 55. Sections 179.00, 179.05, 179.10, 179.11 and 179.15 of the penal
30 law, as added by chapter 90 of the laws of 2014, are amended to read as
31 follows:

32 § 179.00 Criminal diversion of medical [~~marihuana~~] cannabis; defi-
33 nitions.

34 The following definitions are applicable to this article:

35 1. "Medical [~~marihuana~~] cannabis" means medical [~~marihuana~~] cannabis
36 as defined in [~~subdivision eight of section thirty-three hundred sixty~~
37 ~~of the public health law~~] section three of the cannabis law.

38 2. "Certification" means a certification, made under section [~~thirty-~~
39 ~~three hundred sixty-one of the public health law~~] thirty of the cannabis
40 law.

41 § 179.05 Criminal diversion of medical [~~marihuana~~] cannabis; limita-
42 tions.

43 The provisions of this article shall not apply to:

44 1. a practitioner authorized to issue a certification who acted in
45 good faith in the lawful course of his or her profession; or

46 2. a registered organization as that term is defined in [~~subdivision~~
47 ~~nine of section thirty-three hundred sixty of the public health law~~]
48 section thirty-four of the cannabis law who acted in good faith in the
49 lawful course of the practice of pharmacy; or

50 3. a person who acted in good faith seeking treatment for a medical
51 condition or assisting another person to obtain treatment for a medical
52 condition.

53 § 179.10 Criminal diversion of medical [~~marihuana~~] cannabis in the first
54 degree.

55 A person is guilty of criminal diversion of medical [~~marihuana~~] canna-
56 bis in the first degree when he or she is a practitioner, as that term

1 is defined in [~~subdivision twelve of section thirty three hundred sixty~~
2 ~~of the public health law~~] section three of the cannabis law, who issues
3 a certification with knowledge of reasonable grounds to know that (i)
4 the recipient has no medical need for it, or (ii) it is for a purpose
5 other than to treat a serious condition as defined in [~~subdivision seven~~
6 ~~of section thirty three hundred sixty of the public health law~~] section
7 three of the cannabis law.

8 Criminal diversion of medical [~~marihuana~~] cannabis in the first degree
9 is a class E felony.

10 § 179.11 Criminal diversion of medical [~~marihuana~~] cannabis in the
11 second degree.

12 A person is guilty of criminal diversion of medical [~~marihuana~~] canna-
13 bis in the second degree when he or she sells, trades, delivers, or
14 otherwise provides medical [~~marihuana~~] cannabis to another with know-
15 ledge or reasonable grounds to know that the recipient is not registered
16 under [~~title five A of article thirty three of the public health law~~]
17 article three of the cannabis law.

18 Criminal diversion of medical [~~marihuana~~] cannabis in the second
19 degree is a class B misdemeanor.

20 § 179.15 Criminal retention of medical [~~marihuana~~] cannabis.

21 A person is guilty of criminal retention of medical [~~marihuana~~] canna-
22 bis when, being a certified patient or designated caregiver, as those
23 terms are defined in [~~subdivisions three and five of section thirty-~~
24 ~~three hundred sixty of the public health law, respectively~~] section
25 three of the cannabis law, he or she knowingly obtains, possesses,
26 stores or maintains an amount of [~~marihuana~~] cannabis in excess of the
27 amount he or she is authorized to possess under the provisions of [~~title~~
28 ~~five A of article thirty three of the public health law~~] article three
29 of the cannabis law.

30 Criminal retention of medical [~~marihuana~~] cannabis is a class A misde-
31 meanor.

32 § 56. Section 220.78 of the penal law, as added by chapter 154 of the
33 laws of 2011, is amended to read as follows:

34 § 220.78 Witness or victim of drug or alcohol overdose.

35 1. A person who, in good faith, seeks health care for someone who is
36 experiencing a drug or alcohol overdose or other life threatening
37 medical emergency shall not be charged or prosecuted for a controlled
38 substance offense under article two hundred twenty or a [~~marihuana~~]
39 cannabis offense under article two hundred twenty-one of this title,
40 other than an offense involving sale for consideration or other benefit
41 or gain, or charged or prosecuted for possession of alcohol by a person
42 under age twenty-one years under section sixty-five-c of the alcoholic
43 beverage control law, or for possession of drug paraphernalia under
44 article thirty-nine of the general business law, with respect to any
45 controlled substance, [~~marihuana~~] cannabis, alcohol or paraphernalia
46 that was obtained as a result of such seeking or receiving of health
47 care.

48 2. A person who is experiencing a drug or alcohol overdose or other
49 life threatening medical emergency and, in good faith, seeks health care
50 for himself or herself or is the subject of such a good faith request
51 for health care, shall not be charged or prosecuted for a controlled
52 substance offense under this article or a [~~marihuana~~] cannabis offense
53 under article two hundred twenty-one of this title, other than an
54 offense involving sale for consideration or other benefit or gain, or
55 charged or prosecuted for possession of alcohol by a person under age
56 twenty-one years under section sixty-five-c of the alcoholic beverage

1 control law, or for possession of drug paraphernalia under article thir-
2 ty-nine of the general business law, with respect to any substance,
3 [~~marihuana~~] cannabis, alcohol or paraphernalia that was obtained as a
4 result of such seeking or receiving of health care.

5 3. Definitions. As used in this section the following terms shall have
6 the following meanings:

7 (a) "Drug or alcohol overdose" or "overdose" means an acute condition
8 including, but not limited to, physical illness, coma, mania, hysteria
9 or death, which is the result of consumption or use of a controlled
10 substance or alcohol and relates to an adverse reaction to or the quan-
11 tity of the controlled substance or alcohol or a substance with which
12 the controlled substance or alcohol was combined; provided that a
13 patient's condition shall be deemed to be a drug or alcohol overdose if
14 a prudent layperson, possessing an average knowledge of medicine and
15 health, could reasonably believe that the condition is in fact a drug or
16 alcohol overdose and (except as to death) requires health care.

17 (b) "Health care" means the professional services provided to a person
18 experiencing a drug or alcohol overdose by a health care professional
19 licensed, registered or certified under title eight of the education law
20 or article thirty of the public health law who, acting within his or her
21 lawful scope of practice, may provide diagnosis, treatment or emergency
22 services for a person experiencing a drug or alcohol overdose.

23 4. It shall be an affirmative defense to a criminal sale controlled
24 substance offense under this article or a criminal sale of [~~marihuana~~]
25 cannabis offense under article two hundred twenty-one of this title, not
26 covered by subdivision one or two of this section, with respect to any
27 controlled substance or [~~marihuana~~] cannabis which was obtained as a
28 result of such seeking or receiving of health care, that:

29 (a) the defendant, in good faith, seeks health care for someone or for
30 him or herself who is experiencing a drug or alcohol overdose or other
31 life threatening medical emergency; and

32 (b) the defendant has no prior conviction for the commission or
33 attempted commission of a class A-I, A-II or B felony under this arti-
34 cle.

35 5. Nothing in this section shall be construed to bar the admissibility
36 of any evidence in connection with the investigation and prosecution of
37 a crime with regard to another defendant who does not independently
38 qualify for the bar to prosecution or for the affirmative defense; nor
39 with regard to other crimes committed by a person who otherwise quali-
40 fies under this section; nor shall anything in this section be construed
41 to bar any seizure pursuant to law, including but not limited to pursu-
42 ant to section thirty-three hundred eighty-seven of the public health
43 law.

44 6. The bar to prosecution described in subdivisions one and two of
45 this section shall not apply to the prosecution of a class A-I felony
46 under this article, and the affirmative defense described in subdivision
47 four of this section shall not apply to the prosecution of a class A-I
48 or A-II felony under this article.

49 § 57. Subdivision 1 of section 260.20 of the penal law, as amended by
50 chapter 362 of the laws of 1992, is amended as follows:

51 1. He knowingly permits a child less than eighteen years old to enter
52 or remain in or upon a place, premises or establishment where sexual
53 activity as defined by article one hundred thirty, two hundred thirty or
54 two hundred sixty-three of this [~~chapter~~] part or activity involving
55 controlled substances as defined by article two hundred twenty of this
56 [~~chapter or involving marihuana as defined by article two hundred twen-~~

1 ~~ty one of this chapter~~ part is maintained or conducted, and he knows or
2 has reason to know that such activity is being maintained or conducted;
3 or

4 § 58. Section 89-h of the state finance law, as added by chapter 90 of
5 the laws of 2014, is amended to read as follows:

6 § 89-h. Medical [~~marihuana~~] cannabis trust fund. 1. There is hereby
7 established in the joint custody of the state comptroller and the
8 commissioner of taxation and finance a special fund to be known as the
9 "medical [~~marihuana~~] cannabis trust fund."

10 2. The medical [~~marihuana~~] cannabis trust fund shall consist of all
11 moneys required to be deposited in the medical [~~marihuana~~] cannabis
12 trust fund pursuant to the provisions of section four hundred ninety of
13 the tax law.

14 3. The moneys in the medical [~~marihuana~~] cannabis trust fund shall be
15 kept separate and shall not be commingled with any other moneys in the
16 custody of the commissioner of taxation and finance and the state comp-
17 troller.

18 4. The moneys of the medical [~~marihuana~~] cannabis trust fund, follow-
19 ing appropriation by the legislature, shall be allocated upon a certifi-
20 cate of approval of availability by the director of the budget as
21 follows: (a) Twenty-two and five-tenths percent of the monies shall be
22 transferred to the counties in New York state in which the medical
23 [~~marihuana~~] cannabis was manufactured and allocated in proportion to the
24 gross sales originating from medical [~~marihuana~~] cannabis manufactured
25 in each such county; (b) twenty-two and five-tenths percent of the
26 moneys shall be transferred to the counties in New York state in which
27 the medical [~~marihuana~~] cannabis was dispensed and allocated in propor-
28 tion to the gross sales occurring in each such county; (c) five percent
29 of the monies shall be transferred to the office of alcoholism and
30 substance abuse services, which shall use that revenue for additional
31 drug abuse prevention, counseling and treatment services; and (d) five
32 percent of the revenue received by the department shall be transferred
33 to the division of criminal justice services, which shall use that
34 revenue for a program of discretionary grants to state and local law
35 enforcement agencies that demonstrate a need relating to [~~title five A~~
36 ~~of article thirty three of the public health law~~] article three of the
37 cannabis law; said grants could be used for personnel costs of state and
38 local law enforcement agencies. For purposes of this subdivision, the
39 city of New York shall be deemed to be a county.

40 § 59. Intentionally omitted.

41 § 60. The state finance law is amended by adding a new section 99-ff
42 to read as follows:

43 § 99-ff. New York state cannabis revenue fund. 1. There is hereby
44 established in the joint custody of the state comptroller and the
45 commissioner of taxation and finance a special fund to be known as the
46 "New York state cannabis revenue fund" (the "fund").

47 2. Monies in the fund shall be kept separate from and shall not be
48 commingled with any other monies in the custody of the comptroller or
49 the commissioner of taxation and finance. Provided, however that any
50 monies of the fund not required for immediate use may, at the discretion
51 of the comptroller, in consultation with the director of the budget, be
52 invested by the comptroller in obligations of the United States or the
53 state. The proceeds of any such investment shall be retained by the fund
54 as assets to be used for purposes of the fund.

55 3. Except as set forth in subdivisions two and four of this section,
56 monies from the fund shall not be used to make payments for any purpose

1 other than the purposes set forth in subdivisions two and four of this
2 section.

3 4. The "New York state cannabis revenue fund" shall consist of monies
4 received by the commissioner of taxation and finance pursuant to subdivi-
5 visions (a) and (b) of section four hundred ninety-three of the tax law
6 and all other monies credited or transferred thereto from any other fund
7 or source. Monies of such fund shall be expended for the following
8 purposes: administration of the regulated cannabis program, data gather-
9 ing, monitoring and reporting, the governor's traffic safety committee,
10 small business development and loans, substance abuse, harm reduction
11 and mental health treatment and prevention, public health education and
12 intervention, research on cannabis uses and applications, program evalu-
13 ation and improvements, and any other identified purpose recommended by
14 the executive director of the office of cannabis management and approved
15 by the director of the budget.

16 § 61. Subdivision 2 of section 3371 of the public health law, as
17 amended by chapter 90 of the laws of 2014, is amended to read as
18 follows:

19 2. The prescription monitoring program registry may be accessed, under
20 such terms and conditions as are established by the department for
21 purposes of maintaining the security and confidentiality of the informa-
22 tion contained in the registry, by:

23 (a) a practitioner, or a designee authorized by such practitioner
24 pursuant to paragraph (b) of subdivision two of section thirty-three
25 hundred forty-three-a or section thirty-three hundred sixty-one of this
26 article, for the purposes of: (i) informing the practitioner that a
27 patient may be under treatment with a controlled substance by another
28 practitioner; (ii) providing the practitioner with notifications of
29 controlled substance activity as deemed relevant by the department,
30 including but not limited to a notification made available on a monthly
31 or other periodic basis through the registry of controlled substances
32 activity pertaining to his or her patient; (iii) allowing the practi-
33 tioner, through consultation of the prescription monitoring program
34 registry, to review his or her patient's controlled substances history
35 as required by section thirty-three hundred forty-three-a [~~or section~~
36 ~~thirty-three hundred sixty-one~~] of this article; and (iv) providing to
37 his or her patient, or person authorized pursuant to paragraph (j) of
38 subdivision one of this section, upon request, a copy of such patient's
39 controlled substance history as is available to the practitioner through
40 the prescription monitoring program registry; or

41 (b) a pharmacist, pharmacy intern or other designee authorized by the
42 pharmacist pursuant to paragraph (b) of subdivision three of section
43 thirty-three hundred forty-three-a of this article, for the purposes of:
44 (i) consulting the prescription monitoring program registry to review
45 the controlled substances history of an individual for whom one or more
46 prescriptions for controlled substances or certifications for marihuana
47 is presented to the pharmacist, pursuant to section thirty-three hundred
48 forty-three-a of this article; and (ii) receiving from the department
49 such notifications of controlled substance activity as are made avail-
50 able by the department; or

51 (c) an individual employed by a registered organization for the
52 purpose of consulting the prescription monitoring program registry to
53 review the controlled substances history of an individual for whom one
54 or more certifications for [~~marihuana~~ cannabis] is presented to that
55 registered organization[~~, pursuant to section thirty-three hundred~~
56 ~~sixty-four of this article~~]. Unless otherwise authorized by this arti-

1 cle, an individual employed by a registered organization will be
2 provided access to the prescription monitoring program in the sole
3 discretion of the commissioner.

4 § 62. Subdivision 3 of section 853 of the general business law, as
5 added by chapter 90 of the laws of 2014, is amended to read as follows:

6 3. This article shall not apply to any sale, furnishing or possession
7 which is for a lawful purpose under [~~title five A of article thirty~~
8 ~~three of the public health law~~] the cannabis law.

9 § 63. Subdivision 5 of section 410.91 of the criminal procedure law,
10 as amended by chapter 90 of the laws of 2014, is amended to read as
11 follows:

12 5. For the purposes of this section, a "specified offense" is an
13 offense defined by any of the following provisions of the penal law:
14 burglary in the third degree as defined in section 140.20, criminal
15 mischief in the third degree as defined in section 145.05, criminal
16 mischief in the second degree as defined in section 145.10, grand larceny
17 in the fourth degree as defined in subdivision one, two, three, four,
18 five, six, eight, nine or ten of section 155.30, grand larceny in the
19 third degree as defined in section 155.35 (except where the property
20 consists of one or more firearms, rifles or shotguns), unauthorized use
21 of a vehicle in the second degree as defined in section 165.06, criminal
22 possession of stolen property in the fourth degree as defined in subdi-
23 vision one, two, three, five or six of section 165.45, criminal
24 possession of stolen property in the third degree as defined in section
25 165.50 (except where the property consists of one or more firearms,
26 rifles or shotguns), forgery in the second degree as defined in section
27 170.10, criminal possession of a forged instrument in the second degree
28 as defined in section 170.25, unlawfully using slugs in the first degree
29 as defined in section 170.60, criminal diversion of medical [~~marihuana~~
30 cannabis in the first degree as defined in section 179.10 or an attempt
31 to commit any of the aforementioned offenses if such attempt constitutes
32 a felony offense; or a class B felony offense defined in article two
33 hundred twenty where a sentence is imposed pursuant to paragraph (a)
34 subdivision two of section 70.70 of the penal law; or any class C, class
35 D or class E controlled substance [~~or marihuana~~] cannabis felony offense
36 as defined in article two hundred twenty or two hundred twenty-one.

37 § 63-a. Subdivision 5 of section 410.91 of the criminal procedure law,
38 as amended by section 8 of part AAA of chapter 56 of the laws of 2009,
39 is amended to read as follows:

40 5. For the purposes of this section, a "specified offense" is an
41 offense defined by any of the following provisions of the penal law:
42 burglary in the third degree as defined in section 140.20, criminal
43 mischief in the third degree as defined in section 145.05, criminal
44 mischief in the second degree as defined in section 145.10, grand larceny
45 in the fourth degree as defined in subdivision one, two, three, four,
46 five, six, eight, nine or ten of section 155.30, grand larceny in the
47 third degree as defined in section 155.35 (except where the property
48 consists of one or more firearms, rifles or shotguns), unauthorized use
49 of a vehicle in the second degree as defined in section 165.06, criminal
50 possession of stolen property in the fourth degree as defined in subdi-
51 vision one, two, three, five or six of section 165.45, criminal
52 possession of stolen property in the third degree as defined in section
53 165.50 (except where the property consists of one or more firearms,
54 rifles or shotguns), forgery in the second degree as defined in section
55 170.10, criminal possession of a forged instrument in the second degree
56 as defined in section 170.25, unlawfully using slugs in the first degree

1 as defined in section 170.60, or an attempt to commit any of the afore-
2 mentioned offenses if such attempt constitutes a felony offense; or a
3 class B felony offense defined in article two hundred twenty where a
4 sentence is imposed pursuant to paragraph (a) of subdivision two of
5 section 70.70 of the penal law; or any class C, class D or class E
6 controlled substance or [~~marihuana~~] cannabis felony offense as defined
7 in article two hundred twenty or two hundred twenty-one.

8 § 63-b. 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 resentencing; persons convicted of certain mari-
11 huana offenses. 1. A person currently serving a sentence for a
12 conviction, whether by trial or by open or negotiated plea, who would
13 not have been guilty of an offense or who would have been guilty of a
14 lesser offense on and after the effective date of this section had this
15 section been in effect at the time of his or her conviction may petition
16 for a recall or dismissal of sentence before the trial court that
17 entered the judgment of conviction in his or her case to request resen-
18 tencing or dismissal in accordance with article two hundred twenty-one
19 of the penal law. 2. Upon receiving a motion under subdivision one of
20 this section the court shall presume the movant satisfies the criteria
21 in subdivision one of this section unless the party opposing the motion
22 proves by clear and convincing evidence that the movant does not satisfy
23 the criteria. If the movant satisfies the criteria in subdivision one of
24 this section, the court shall grant the motion to vacate the sentence or
25 to resentence because it is legally invalid. In exercising its
26 discretion, the court may consider, but shall not be limited to, the
27 following: a) the movant's criminal conviction history, including the
28 type of crimes committed, the extent of injury to victims, the length of
29 prior prison commitments, and the remoteness of the crimes. (b) the
30 movant's disciplinary record and record of rehabilitation while incar-
31 cerated. 3. A person who is serving a sentence and resentenced pursuant
32 to subdivision two of this section shall be given credit for any time
33 already served and shall be subject to supervision for one year follow-
34 ing completion of his or her time in custody or shall be subject to
35 whatever supervision time he or she would have otherwise been subject to
36 after release, whichever is shorter, unless the court, in its
37 discretion, as part of its resentencing order, releases the person from
38 supervision. Such person is subject to parole supervision under section
39 60.04 of the penal law or post-release supervision under section 70.45
40 of the penal law by the designated agency and the jurisdiction of the
41 court in the county in which the offender is released or resides, or in
42 which an alleged violation of supervision has occurred, for the purpose
43 of hearing petitions to revoke supervision and impose a term of custody.
44 4. Under no circumstances may resentencing under this section result in
45 the imposition of a term longer than the original sentence, or the rein-
46 statement of charges dismissed pursuant to a negotiated plea agreement.
47 5. A person who has completed his or her sentence for a conviction under
48 the former article two hundred twenty-one of the penal law, whether by
49 trial or open or negotiated plea, who would not have been guilty of an
50 offense or who would have been guilty of a lesser offense on and after
51 the effective date of this section had this section been in effect at
52 the time of his or her conviction, may file an application before the
53 trial court that entered the judgment of conviction in his or her case
54 to have the conviction, in accordance with article two hundred twenty-
55 one of the penal law:(a) dismissed because the prior conviction is now
56 legally invalid and sealed in accordance with section 160.50 of this

1 chapter;(b) redesignated (or "reclassified") as a violation and sealed
2 in accordance with section 160.50 of this chapter; or(c) redesignated
3 (reclassified) as a misdemeanor. 6. The court shall presume the peti-
4 tioner satisfies the criteria in subdivision five unless the party
5 opposing the application proves by clear and convincing evidence that
6 the petitioner does not satisfy the criteria in subdivision five. Once
7 the applicant satisfies the criteria in subdivision five, the court
8 shall redesignate (or "reclassify") the conviction as a misdemeanor,
9 redesignate (reclassify) the conviction as a violation and seal the
10 conviction, or dismiss and seal the conviction as legally invalid under
11 this section had this section been in effect at the time of his or her
12 conviction. 7. Unless requested by the applicant, no hearing is neces-
13 sary to grant or deny an application filed under subdivision five of
14 this section. 8. Any felony conviction that is vacated and resentenced
15 under subdivision two or designated as a misdemeanor or violation under
16 subdivision six of this section shall be considered a misdemeanor or
17 violation for all purposes. Any misdemeanor conviction that is vacated
18 and resentenced under subdivision two of this section or designated as a
19 violation under subdivision six of this section shall be considered a
20 violation for all purposes. 9. If the court that originally sentenced
21 the movant is not available, the presiding judge shall designate another
22 judge to rule on the petition or application. 10. Nothing in this
23 section is intended to diminish or abrogate any rights or remedies
24 otherwise available to the petitioner or applicant. 11. Nothing in this
25 and related sections is intended to diminish or abrogate the finality of
26 judgements in any case not falling within the purview of this section.
27 12. The provisions of this section shall apply equally to juvenile
28 delinquency adjudications and dispositions under section five hundred
29 one-e of the executive law if the juvenile would not have been guilty of
30 an offense or would have been guilty of a lesser offense under this
31 section had this section been in effect at the time of his or her
32 conviction. 13. The office of court administration shall promulgate and
33 make available all necessary forms to enable the filing of the petitions
34 and applications provided in this section no later than sixty days
35 following the effective date of this section.

36 § 64. This act shall take effect immediately; provided, however that
37 sections thirty-seven and thirty-eight of this act shall take effect on
38 April 1, 2020, and shall apply on and after such date: (a) to the culti-
39 vation of cannabis flower and cannabis trim transferred by a cultivator
40 who is not a wholesaler; (b) to the cultivation of cannabis flower and
41 cannabis trim sold or transferred to a retail dispensary by a cultivator
42 who is a wholesaler; and (c) to the sale or transfer of adult use canna-
43 bis products to a retail dispensary; provided, further, that the amend-
44 ments to article 179 of the penal law made by section fifty-five of this
45 act shall not affect the repeal of such article and shall be deemed to
46 be repealed therewith; provided further, that the amendments to section
47 89-h of the state finance law made by section fifty-eight of this act
48 shall not affect the repeal of such section and shall be deemed repealed
49 therewith; provided further, that the amendments to section 221.00 of
50 the penal law made by section fifteen of this act shall be subject to
51 the expiration of such section when upon such date the provisions of
52 section fifteen-a of this act shall take effect; provided, however, that
53 the amendments to subdivision 2 of section 3371 of the public health law
54 made by section sixty-one of this act shall not affect the expiration of
55 such subdivision and shall be deemed to expire therewith; provided
56 further, that the amendments to subdivision 3 of section 853 of the

1 general business law made by section sixty-two of this act shall not
2 affect the repeal of such subdivision and shall be deemed to be repealed
3 therewith; and provided further, that the amendments to subdivision 5 of
4 section 410.91 of the penal law made by section sixty-three of this act
5 shall be subject to the expiration and reversion of such subdivision
6 when upon such date the provisions of section sixty-three-a of this act
7 shall take effect.

8

PART WW

9 Section 1. Section 1166-a of the tax law, as added by section 1 of
10 part F of chapter 25 of the laws of 2009, is amended to read as follows:

11 § 1166-a. Special supplemental tax on passenger car rentals within the
12 metropolitan commuter transportation district. (a) In addition to the
13 tax imposed under section eleven hundred sixty of this article and in
14 addition to any tax imposed under any other article of this chapter,
15 there is hereby imposed and there shall be paid a tax at the rate of
16 five percent upon the receipts from every rental of a passenger car
17 which is a retail sale of such passenger car within the metropolitan
18 commuter transportation district as defined in [~~subdivision~~] subsection
19 (a) of section eight hundred of this chapter.

20 (b) Except to the extent that a passenger car rental described in
21 subdivision (a) of this section, or section eleven hundred sixty-six-b
22 of this article, has already been or will be subject to the tax imposed
23 under such subdivision or section and except as otherwise exempted under
24 this article, there is hereby imposed on every person and there shall be
25 paid a use tax for the use within the metropolitan commuter transporta-
26 tion district as defined in [~~subdivision~~] subsection (a) of section
27 eight hundred of this chapter; of any passenger car rented by the user
28 [~~which~~] that is a purchase at retail of such passenger car, but not
29 including any lease of a passenger car to which subdivision (i) of
30 section eleven hundred eleven of this chapter applies. For purposes of
31 this [~~paragraph~~] subsection, the tax shall be at the rate of five
32 percent of the consideration given or contracted to be given for such
33 property, or for the use of such property, including any charges for
34 shipping or delivery as described in paragraph three of subdivision (b)
35 of section eleven hundred one of this chapter, but excluding any credit
36 for tangible personal property accepted in part payment and intended for
37 resale.

38 § 2. The tax law is amended by adding a new section 1166-b to read as
39 follows:

40 § 1166-b. Special supplemental tax on passenger car rentals outside of
41 the metropolitan commuter transportation district. (a) In addition to
42 the tax imposed under section eleven hundred sixty of this article and
43 in addition to any tax imposed under any other article of this chapter,
44 there is hereby imposed and there shall be paid a tax at the rate of
45 five percent upon the receipts from every rental of a passenger car that
46 is not subject to the tax described in section eleven hundred
47 sixty-six-a of this article, but which is a retail sale of such passen-
48 ger car within the state.

49 (b) Except to the extent that a passenger car rental described in
50 subdivision (a) of this section or in section eleven hundred
51 sixty-six-a of this article, has already been subject to the tax imposed
52 under such subdivision or section, and except as otherwise exempted
53 under this article, there is hereby imposed on every person and there
54 shall be paid a use tax for the use within the state of any passenger

car rented by the user that is a purchase at retail of such passenger car, but not including any lease of a passenger car to which subdivision (i) of section eleven hundred eleven of this chapter applies. For purposes of this subdivision, the tax shall be at the rate of five percent of the consideration given or contracted to be given for such property, or for the use of such property, including any charges for shipping or delivery as described in paragraph three of subdivision (b) of section eleven hundred one of this chapter, but excluding any credit for tangible personal property accepted in part payment and intended for resale.

§ 3. Section 1167 of the tax law, as amended by section 3 of part F of chapter 25 of the laws of 2009, is amended to read as follows:

§ 1167. Deposit and disposition of revenue. All taxes, interest and penalties collected or received by the commissioner under this article shall be deposited and disposed of pursuant to the provisions of section one hundred seventy-one-a of this chapter, except that after reserving amounts in accordance with such section one hundred seventy-one-a of this chapter, the remainder shall be paid by the comptroller to the credit of the highway and bridge trust fund established by section eighty-nine-b of the state finance law, provided, however[7]: (a) taxes, interest and penalties collected or received pursuant to section eleven hundred sixty-six-a of this article shall be paid to the credit of the metropolitan transportation authority aid trust account of the metropolitan transportation authority financial assistance fund established by section ninety-two-ff of the state finance law; and (b) taxes, interest and penalties collected or received pursuant to section eleven hundred sixty-six-b of this article shall be paid to the credit of the public transportation systems operating assistance account established by section eighty-eight-a of the state finance law.

§ 4. This act shall take effect September 1, 2019, and shall apply to rentals of passenger cars commencing on and after such date whether or not under a prior contract; provided, however where such passenger car rentals are billed on a monthly, quarterly or other period basis, the tax imposed by this act shall apply to the rental for such period if more than half of the days included in such period are days subsequent to such effective date.

PART XX

Section 1. The tax law is amended by adding a new article 20-D to read as follows:

ARTICLE 20-D

EXCISE TAX ON SALE OF OPIOIDS

Section 497. Definitions.

498. Imposition of excise tax.

499. Returns to be secret.

§ 497. Definitions. The following terms shall have the following meanings when used in this article.

(a) "Opioid" shall mean an "opiate" as defined by subdivision twenty-three of section thirty-three hundred two of the public health law and any natural, synthetic, or semisynthetic "narcotic drug" as defined by subdivision twenty-two of such section that has agonist, partial agonist, or agonist/antagonist morphine-like activities or effects similar to natural opium alkaloids, and any derivative, congener, or combination thereof listed in schedules II-V of section thirty-three hundred six of

1 the public health law. The term "opioid" shall not mean buprenorphine,
2 methadone, or morphine.

3 (b) "Unit" shall mean a single finished dosage form of an opioid, such
4 as a pill, tablet, capsule, suppository, transdermal patch, buccal film,
5 milliliter of liquid, milligram of topical preparation, or any other
6 form.

7 (c) "Strength per unit" shall mean the amount of opioid in a unit, as
8 measured by weight, volume, concentration or other metric.

9 (d) "Morphine milligram equivalent conversion factor" shall mean that
10 reference standard of a particular opioid as it relates in potency to
11 morphine as determined by the commissioner of health.

12 (e) "Morphine milligram equivalent" shall mean a unit multiplied by
13 its strength per unit multiplied by the morphine milligram equivalent
14 conversion factor.

15 (f) "Registrant" shall mean any person, firm, corporation or associ-
16 ation required to be registered with the education department as a
17 wholesaler, manufacturer, or outsourcing facility pursuant to section
18 sixty-eight hundred eight or section sixty-eight hundred eight-b of the
19 education law, as well as any person, firm, corporation or association
20 that would be required to be registered with the education department as
21 a wholesaler, manufacturer, or outsourcing facility pursuant to such
22 section sixty-eight hundred eight-b but for the exception in subdivision
23 two of such section; and any person, firm, corporation or association
24 required to be registered with the health department as a manufacturer
25 or distributor of a controlled substance pursuant to section thirty-
26 three hundred ten of the public health law.

27 (g) "Wholesale acquisition cost" shall mean the manufacturer's list
28 price for an opioid unit to wholesalers or direct purchasers in the
29 United States, not including prompt pay or other discounts, rebates or
30 reductions in price, for the most recent month for which the information
31 is available, as reported in wholesale price guides or other publica-
32 tions of drug or biological pricing data.

33 (h) "Sale" shall mean any transfer of title to an opioid for a consid-
34 eration where actual or constructive possession of such opioid is trans-
35 ferred to the purchaser or its designee in this state. A sale shall not
36 include the dispensing of an opioid pursuant to a prescription to an
37 ultimate consumer.

38 § 498. Imposition of excise tax. (a) There is hereby imposed an excise
39 tax on the first sale of any opioid in the state at the following rates:
40 (1) a quarter of a cent per morphine milligram equivalent where the
41 wholesale acquisition cost is less than fifty cents, or (2) one and
42 one-half cents per morphine milligram equivalent where the wholesale
43 acquisition cost is fifty cents or more. The tax imposed by this article
44 shall be charged against and paid by the registrant making such first
45 sale, and shall accrue at the time of such sale. The economic incidence
46 of the tax imposed by this article may be passed to a purchaser. For the
47 purpose of the proper administration of this article and to prevent
48 evasion of the tax hereby imposed, it shall be presumed that any sale of
49 an opioid in this state by a registrant is the first sale of such in the
50 state until the contrary is established, and the burden of proving that
51 any sale is not the first sale in the state shall be upon the regis-
52 trant.

53 (b) Every registrant liable for the tax imposed by this article shall
54 file with the commissioner a return on forms to be prescribed by the
55 commissioner showing the total morphine milligram equivalent and whole-
56 sale acquisition costs of such opioids that are subject to the tax

1 imposed by this article, the amount of tax due thereon, and such further
2 information as the commissioner may require. Such returns shall be filed
3 for quarterly periods ending on the last day of March, June, September
4 and December of each year. Each return shall be filed within twenty days
5 after the end of such quarterly period and shall cover all opioid sales
6 in the state made in the prior quarter, except that the first return
7 required to be filed pursuant to this section shall be due on January
8 twentieth, two thousand twenty, and shall cover all opioid sales occur-
9 ring in the period between the effective date of this article and Decem-
10 ber thirty-first, two thousand nineteen. Every registrant required to
11 file a return under this section shall, at the time of filing such
12 return, pay to the commissioner the total amount of tax due for the
13 period covered by such return. If a return is not filed when due, the
14 tax shall be due the day on which the return is required to be filed.
15 The commissioner may require that the returns and payments required by
16 this section be filed or paid electronically.

17 (c) Where a sale of an opioid by a registrant has been cancelled by
18 the purchaser and tax under this article has previously been paid by the
19 registrant, the commissioner shall allow a credit or refund of such tax
20 on a return for a later period within the limitations period for claim-
21 ing a credit or refund as prescribed by section one thousand eighty-sev-
22 en of this chapter.

23 (d) All sales slips, invoices, receipts, or other statements or memo-
24 randa of sale from any sale or purchase of opioids by registrants must
25 be retained for a period of six years after the due date of the return
26 to which they relate, unless the commissioner provides for a different
27 retention period by rule or regulation. Such records must be sufficient
28 to determine the number of units transferred along with the morphine
29 milligram equivalent of the units transferred, and otherwise be suitable
30 to determine the correct amount of tax due. Such records must also
31 record either (1) the address from which the units are shipped or deliv-
32 ered, along with the address to which the units are shipped or deliv-
33 ered, or (2) the place at which actual physical possession of the units
34 is transferred. Such records shall be produced upon demand by the
35 commissioner.

36 (e) The provisions of article twenty-seven of this chapter shall apply
37 to the tax imposed by this article in the same manner and with the same
38 force and effect as if the language of such article had been incorpo-
39 rated in full into this article and had expressly referred to the tax
40 imposed by this article, except to the extent that any provision of such
41 article twenty-seven is either inconsistent with a provision of this
42 article or is not relevant to this article.

43 (f) The commissioners of education and health shall cooperate with the
44 commissioner in administering this tax, including sharing with the
45 commissioner pertinent information about registrants upon the request of
46 the commissioner.

47 (g) Each registrant shall provide a report to the department of health
48 detailing all opioids sold by such registrant in the state of New York.
49 Such report shall include:

50 (i) the registrant's name, address, phone number, federal Drug
51 Enforcement Agency (DEA) registration number, education department
52 registration number, and controlled substance license number issued by
53 the department of health, if applicable;

54 (ii) the name, address and DEA registration number of the entity to
55 whom the opioid was sold;

56 (iii) the date of the sale of the opioid;

1 (iv) the gross receipt total, in dollars, for each opioid sold;
2 (v) the name and National Drug Code of the opioid sold;
3 (vi) the number of containers and the strength and metric quantity of
4 controlled substance in each container of the opioid sold;
5 (vii) the total number of morphine milligram equivalents sold; and
6 (viii) any other elements as deemed necessary by the commissioner of
7 health.

8 Such information shall be reported annually in such form as defined by
9 the commissioner of health and shall not be subject to the provisions of
10 section four hundred ninety-nine of this article.

11 § 499. Returns to be secret. (a) Except in accordance with a proper
12 judicial order or as otherwise provided for by law, it shall be unlawful
13 for the commissioner, any officer or employee of the department, or any
14 person engaged or retained by such department on an independent contract
15 basis or any other person who in any manner may acquire knowledge of the
16 contents of a return or report filed pursuant to this article to divulge
17 or make known in any manner the contents or any other information
18 relating to the business of a registrant contained in any return or
19 report required under this article. The officers charged with the
20 custody of such returns or reports shall not be required to produce any
21 of them or evidence of anything contained in them in any action or
22 proceeding in any court, except on behalf of the state, the state
23 department of health, the state department of education or the commis-
24 sioner in an action or proceeding under the provisions of this chapter
25 or on behalf of the state or the commissioner in any other action or
26 proceeding involving the collection of a tax due under this chapter to
27 which the state or the commissioner is a party or a claimant or on
28 behalf of any party to any action or proceeding under the provisions of
29 this article, when the returns or the reports or the facts shown thereby
30 are directly involved in such action or proceeding, in any of which
31 events the court may require the production of, and may admit in
32 evidence so much of said returns or reports or of the facts shown there-
33 by as are pertinent to the action or proceeding and no more. Nothing
34 herein shall be construed to prohibit the commissioner, in his or her
35 discretion, from allowing the inspection or delivery of a certified copy
36 of any return or report filed under this article, or from providing any
37 information contained in any such return or report, by or to a duly
38 authorized officer or employee of the state department of health or the
39 state department of education; nor to prohibit the inspection or deliv-
40 ery of a certified copy of any return or report filed under this arti-
41 cle, or the provision of any information contained therein, by or to the
42 attorney general or other legal representatives of the state when an
43 action shall have been recommended or commenced pursuant to this chap-
44 ter in which such returns or reports or the facts shown thereby are
45 directly involved; nor to prohibit the commissioner from providing or
46 certifying to the division of budget or the comptroller the total number
47 of returns or reports filed under this article in any reporting period
48 and the total collections received therefrom; nor to prohibit the
49 inspection of the returns or reports required under this article by the
50 comptroller or duly designated officer or employee of the state depart-
51 ment of audit and control, for purposes of the audit of a refund of any
52 tax paid by a registrant or other person under this article; nor to
53 prohibit the delivery to a registrant, or a duly authorized represen-
54 tative of such registrant, a certified copy of any return or report
55 filed by such registrant pursuant to this article, nor to prohibit the

1 publication of statistics so classified as to prevent the identification
2 of particular returns or reports and the items thereof.

3 (b)(1) Any officer or employee of the state who willfully violates the
4 provisions of subdivision (a) of this section shall be dismissed from
5 office and be incapable of holding any public office in this state for a
6 period of five years thereafter.

7 (2) Cross-reference: For criminal penalties, see article thirty-seven
8 of this chapter.

9 § 2. Section 1825 of the tax law, as amended by section 3 of part NNN
10 of chapter 59 of the laws of 2018, is amended to read as follows:

11 § 1825. Violation of secrecy provisions of the tax law.--Any person
12 who violates the secrecy provisions of [~~subdivision (b) of section twen-~~
13 ~~ty-one, subdivision one of section two hundred two, subdivision eight of~~
14 ~~section two hundred eleven, subdivision (a) of section three hundred~~
15 ~~fourteen, subdivision one or two of section four hundred thirty-seven,~~
16 ~~section four hundred eighty-seven, subdivision one or two of section~~
17 ~~five hundred fourteen, subsection (c) of section six hundred ninety-sev-~~
18 ~~en, subsection (a) of section nine hundred ninety-four, subdivision (a)~~
19 ~~of section eleven hundred forty-six, section twelve hundred eighty-sev-~~
20 ~~en, section twelve hundred ninety-six, section twelve hundred ninety-~~
21 ~~nine F, subdivision (a) of section fourteen hundred eighteen, subdivi-~~
22 ~~sion (a) of section fifteen hundred eighteen, subdivision (a) of section~~
23 ~~fifteen hundred fifty-five of] this chapter[, and] or subdivision (e) of
24 section 11-1797 of the administrative code of the city of New York shall
25 be guilty of a misdemeanor.~~

26 § 3. Subdivision 1 of section 171-a of the tax law, as amended by
27 section 3 of part MM of chapter 59 of the laws of 2018, is amended to
28 read as follows:

29 1. All taxes, interest, penalties and fees collected or received by
30 the commissioner or the commissioner's duly authorized agent under arti-
31 cles nine (except section one hundred eighty-two-a thereof and except as
32 otherwise provided in section two hundred five thereof), nine-A,
33 twelve-A (except as otherwise provided in section two hundred eighty-
34 four-d thereof), thirteen, thirteen-A (except as otherwise provided in
35 section three hundred twelve thereof), eighteen, nineteen, twenty
36 (except as otherwise provided in section four hundred eighty-two there-
37 of), twenty-B, twenty-D, twenty-one, twenty-two, twenty-four, twenty-
38 six, twenty-eight (except as otherwise provided in section eleven
39 hundred two or eleven hundred three thereof), twenty-eight-A, twenty-
40 nine-B, thirty-one (except as otherwise provided in section fourteen
41 hundred twenty-one thereof), thirty-three and thirty-three-A of this
42 chapter shall be deposited daily in one account with such responsible
43 banks, banking houses or trust companies as may be designated by the
44 comptroller, to the credit of the comptroller. Such an account may be
45 established in one or more of such depositories. Such deposits shall be
46 kept separate and apart from all other money in the possession of the
47 comptroller. The comptroller shall require adequate security from all
48 such depositories. Of the total revenue collected or received under such
49 articles of this chapter, the comptroller shall retain in the comp-
50 troller's hands such amount as the commissioner may determine to be
51 necessary for refunds or reimbursements under such articles of this
52 chapter out of which amount the comptroller shall pay any refunds or
53 reimbursements to which taxpayers shall be entitled under the provisions
54 of such articles of this chapter. The commissioner and the comptroller
55 shall maintain a system of accounts showing the amount of revenue
56 collected or received from each of the taxes imposed by such articles.

1 The comptroller, after reserving the amount to pay such refunds or
2 reimbursements, shall, on or before the tenth day of each month, pay
3 into the state treasury to the credit of the general fund all revenue
4 deposited under this section during the preceding calendar month and
5 remaining to the comptroller's credit on the last day of such preceding
6 month, (i) except that the comptroller shall pay to the state department
7 of social services that amount of overpayments of tax imposed by article
8 twenty-two of this chapter and the interest on such amount which is
9 certified to the comptroller by the commissioner as the amount to be
10 credited against past-due support pursuant to subdivision six of section
11 one hundred seventy-one-c of this article, (ii) and except that the
12 comptroller shall pay to the New York state higher education services
13 corporation and the state university of New York or the city university
14 of New York respectively that amount of overpayments of tax imposed by
15 article twenty-two of this chapter and the interest on such amount which
16 is certified to the comptroller by the commissioner as the amount to be
17 credited against the amount of defaults in repayment of guaranteed
18 student loans and state university loans or city university loans pursu-
19 ant to subdivision five of section one hundred seventy-one-d and subdivi-
20 sion six of section one hundred seventy-one-e of this article, (iii)
21 and except further that, notwithstanding any law, the comptroller shall
22 credit to the revenue arrearage account, pursuant to section
23 ninety-one-a of the state finance law, that amount of overpayment of tax
24 imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B
25 or thirty-three of this chapter, and any interest thereon, which is
26 certified to the comptroller by the commissioner as the amount to be
27 credited against a past-due legally enforceable debt owed to a state
28 agency pursuant to paragraph (a) of subdivision six of section one
29 hundred seventy-one-f of this article, provided, however, he shall cred-
30 it to the special offset fiduciary account, pursuant to section ninety-
31 one-c of the state finance law, any such amount creditable as a liabil-
32 ity as set forth in paragraph (b) of subdivision six of section one
33 hundred seventy-one-f of this article, (iv) and except further that the
34 comptroller shall pay to the city of New York that amount of overpayment
35 of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A,
36 thirty-B or thirty-three of this chapter and any interest thereon that
37 is certified to the comptroller by the commissioner as the amount to be
38 credited against city of New York tax warrant judgment debt pursuant to
39 section one hundred seventy-one-l of this article, (v) and except
40 further that the comptroller shall pay to a non-obligated spouse that
41 amount of overpayment of tax imposed by article twenty-two of this chap-
42 ter and the interest on such amount which has been credited pursuant to
43 section one hundred seventy-one-c, one hundred seventy-one-d, one
44 hundred seventy-one-e, one hundred seventy-one-f or one hundred seven-
45 ty-one-l of this article and which is certified to the comptroller by
46 the commissioner as the amount due such non-obligated spouse pursuant to
47 paragraph six of subsection (b) of section six hundred fifty-one of this
48 chapter; and (vi) the comptroller shall deduct a like amount which the
49 comptroller shall pay into the treasury to the credit of the general
50 fund from amounts subsequently payable to the department of social
51 services, the state university of New York, the city university of New
52 York, or the higher education services corporation, or the revenue
53 arrearage account or special offset fiduciary account pursuant to
54 section ninety-one-a or ninety-one-c of the state finance law, as the
55 case may be, whichever had been credited the amount originally withheld
56 from such overpayment, and (vii) with respect to amounts originally

1 withheld from such overpayment pursuant to section one hundred seventy-
2 one-1 of this article and paid to the city of New York, the comptroller
3 shall collect a like amount from the city of New York.

4 § 4. Subdivision 1 of section 171-a of the tax law, as amended by
5 section 4 of part MM of chapter 59 of the laws of 2018, is amended to
6 read as follows:

7 1. All taxes, interest, penalties and fees collected or received by
8 the commissioner or the commissioner's duly authorized agent under arti-
9 cles nine (except section one hundred eighty-two-a thereof and except as
10 otherwise provided in section two hundred five thereof), nine-A,
11 twelve-A (except as otherwise provided in section two hundred eighty-
12 four-d thereof), thirteen, thirteen-A (except as otherwise provided in
13 section three hundred twelve thereof), eighteen, nineteen, twenty
14 (except as otherwise provided in section four hundred eighty-two there-
15 of), twenty-D, twenty-one, twenty-two, twenty-four, twenty-six, twenty-
16 eight (except as otherwise provided in section eleven hundred two or
17 eleven hundred three thereof), twenty-eight-A, twenty-nine-B, thirty-one
18 (except as otherwise provided in section fourteen hundred twenty-one
19 thereof), thirty-three and thirty-three-A of this chapter shall be
20 deposited daily in one account with such responsible banks, banking
21 houses or trust companies as may be designated by the comptroller, to
22 the credit of the comptroller. Such an account may be established in one
23 or more of such depositories. Such deposits shall be kept separate and
24 apart from all other money in the possession of the comptroller. The
25 comptroller shall require adequate security from all such depositories.
26 Of the total revenue collected or received under such articles of this
27 chapter, the comptroller shall retain in the comptroller's hands such
28 amount as the commissioner may determine to be necessary for refunds or
29 reimbursements under such articles of this chapter out of which amount
30 the comptroller shall pay any refunds or reimbursements to which taxpay-
31 ers shall be entitled under the provisions of such articles of this
32 chapter. The commissioner and the comptroller shall maintain a system of
33 accounts showing the amount of revenue collected or received from each
34 of the taxes imposed by such articles. The comptroller, after reserving
35 the amount to pay such refunds or reimbursements, shall, on or before
36 the tenth day of each month, pay into the state treasury to the credit
37 of the general fund all revenue deposited under this section during the
38 preceding calendar month and remaining to the comptroller's credit on
39 the last day of such preceding month, (i) except that the comptroller
40 shall pay to the state department of social services that amount of
41 overpayments of tax imposed by article twenty-two of this chapter and
42 the interest on such amount which is certified to the comptroller by the
43 commissioner as the amount to be credited against past-due support
44 pursuant to subdivision six of section one hundred seventy-one-c of this
45 article, (ii) and except that the comptroller shall pay to the New York
46 state higher education services corporation and the state university of
47 New York or the city university of New York respectively that amount of
48 overpayments of tax imposed by article twenty-two of this chapter and
49 the interest on such amount which is certified to the comptroller by the
50 commissioner as the amount to be credited against the amount of defaults
51 in repayment of guaranteed student loans and state university loans or
52 city university loans pursuant to subdivision five of section one
53 hundred seventy-one-d and subdivision six of section one hundred seven-
54 ty-one-e of this article, (iii) and except further that, notwithstanding
55 any law, the comptroller shall credit to the revenue arrearage account,
56 pursuant to section ninety-one-a of the state finance law, that amount

1 of overpayment of tax imposed by article nine, nine-A, twenty-two, thir-
2 ty, thirty-A, thirty-B or thirty-three of this chapter, and any interest
3 thereon, which is certified to the comptroller by the commissioner as
4 the amount to be credited against a past-due legally enforceable debt
5 owed to a state agency pursuant to paragraph (a) of subdivision six of
6 section one hundred seventy-one-f of this article, provided, however, he
7 shall credit to the special offset fiduciary account, pursuant to
8 section ninety-one-c of the state finance law, any such amount credita-
9 ble as a liability as set forth in paragraph (b) of subdivision six of
10 section one hundred seventy-one-f of this article, (iv) and except
11 further that the comptroller shall pay to the city of New York that
12 amount of overpayment of tax imposed by article nine, nine-A, twenty-
13 two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any
14 interest thereon that is certified to the comptroller by the commission-
15 er as the amount to be credited against city of New York tax warrant
16 judgment debt pursuant to section one hundred seventy-one-l of this
17 article, (v) and except further that the comptroller shall pay to a
18 non-obligated spouse that amount of overpayment of tax imposed by arti-
19 cle twenty-two of this chapter and the interest on such amount which has
20 been credited pursuant to section one hundred seventy-one-c, one hundred
21 seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or
22 one hundred seventy-one-l of this article and which is certified to the
23 comptroller by the commissioner as the amount due such non-obligated
24 spouse pursuant to paragraph six of subsection (b) of section six
25 hundred fifty-one of this chapter; and (vi) the comptroller shall deduct
26 a like amount which the comptroller shall pay into the treasury to the
27 credit of the general fund from amounts subsequently payable to the
28 department of social services, the state university of New York, the
29 city university of New York, or the higher education services corpo-
30 ration, or the revenue arrearage account or special offset fiduciary
31 account pursuant to section ninety-one-a or ninety-one-c of the state
32 finance law, as the case may be, whichever had been credited the amount
33 originally withheld from such overpayment, and (vii) with respect to
34 amounts originally withheld from such overpayment pursuant to section
35 one hundred seventy-one-l of this article and paid to the city of New
36 York, the comptroller shall collect a like amount from the city of New
37 York.

38 § 5. This act shall take effect July 1, 2019; provided, however, that
39 the amendments to subdivision 1 of section 171-a of the tax law made by
40 section three of this act shall not affect the expiration of such subdivi-
41 sion and shall expire therewith, when upon such date the provisions of
42 section four of this act shall take effect.

43 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
44 sion, section or part of this act shall be adjudged by any court of
45 competent jurisdiction to be invalid, such judgment shall not affect,
46 impair, or invalidate the remainder thereof, but shall be confined in
47 its operation to the clause, sentence, paragraph, subdivision, section
48 or part thereof directly involved in the controversy in which such judg-
49 ment shall have been rendered. It is hereby declared to be the intent of
50 the legislature that this act would have been enacted even if such
51 invalid provisions had not been included herein.

52 § 3. This act shall take effect immediately provided, however, that
53 the applicable effective date of Parts A through XX of this act shall be
54 as specifically set forth in the last section of such Parts.